



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 Alexander
Town Attorney Mitchell Bierman
Town Attorney Chad Friedman
Town Clerk Erika 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 days prior to the meeting.

TOWN COUNCIL MEETING AGENDA

Wednesday, June 20, 2007

7:00 PM

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

1. **CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE, MOMENT OF SILENCE**
2. **PROCLAMATIONS, AWARDS, PRESENTATIONS**
 - A. Proclamation presentation to Brandon Wendel, Eagle Scout
3. **APPROVAL OF MINUTES**
 - A. Regular Council Meeting – May 16, 2007
 - B. Special Council Meeting – May 21, 2007
4. **REPORTS**
 - A. TOWN MANAGER'S REPORT
 - B. TOWN ATTORNEY'S REPORT
 - C. BOARD AND COMMITTEE REPORTS
5. **CONSENT AGENDA**

ANY ITEMS SHALL BE REMOVED FROM THE CONSENT AGENDA FOR DISCUSSION OR SEPARATE VOTE IF REQUESTED OR PULLED BY A COUNCIL MEMBER OR THE TOWN MANAGER.

TAB 1

A. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, IN SUPPORT OF THE SOUTH WATER MANAGEMENT DISTRICT'S REQUEST FOR CONGRESSIONAL APPROPRIATION OF FUNDS NECESSARY TO BRING THE HERBERT HOOVER DIKE INTO COMPLIANCE WITH CURRENT LEVEE PROTECTION SAFETY STANDARDS AND TO EXPIDITE FUNDING FOR THE IMPROVEMENTS THROUGH PROMPT ENACTMENT OF THE ENERGY AND WATER APPROPRIATIONS BILL OR SOME OTHER MECHANISM; AND PROVIDING AN EFFECTIVE DATE. **(VROOMAN)**

TAB 2

B. A RESOLUTION OF THE TOWN OF CUTLER BAY, FLORIDA, EXPRESSING SUPPORT OF THE HAITIAN IMMIGRANTS BASED ON THE "WET-FOOT/DRY-FOOT" POLICY AND URGING PRESIDENT GEORGE W. BUSH AND THE UNITED STATES CONGRESS TO RESCIND THE DISCRIMINATORY IMMIGRATION POLICIES AGAINST HAITIAN IMMIGRANTS AND CALLING FOR THE EQUAL TREATMENT OF ALL IMMIGRANTS; AND PROVIDING FOR AN EFFECTIVE DATE AND ALL OTHER PURPOSES. **(SOCHIN)**

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 PROPOSALS (RFP) FOR LEGISLATIVE CONSULTING SERVICES; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 4

D. A RESOLUTION OF THE MAYOR AND THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING CLOSURE OF THE PORTIONS OF SOUTHWEST 97TH AVENUE, SOUTHWEST 224TH STREET, AND SOUTHWEST 232ND STREET LOCATED WITHIN THE BOUNDARIES OF THE TOWN OF CUTLER BAY TO NON-OFFICIAL VEHICULAR TRAFFIC; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; AND, PROVIDING FOR AN EFFECTIVE DATE.

TAB 5

6. **QUASI-JUDICIAL HEARINGS (PUBLIC HEARING REQUIRED)**

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. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING A REQUEST BY NATIONAL INVESTMENT GROUP TO WAIVE 15 FEET OF THE ZONED RIGHT-OF-WAY FOR PROPERTY GENERALLY LOCATED NORTH OF THE INTERSECTION OF S.W. 213TH STREET AND OLD

TAB 6

CUTLER ROAD (FOLIO# 36-6008-005-0090); AND PROVIDING FOR AN EFFECTIVE DATE.

- B. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL CUTLER BAY, FLORIDA, GRANTING FINAL PLAT APPROVAL FOR MPG 216TH STREET LIMITED, CONSISTING OF APPROXIMATELY 18.52 ACRES, GENERALLY LOCATED SOUTH S.W. 216TH STREET, WEST S.W. 87TH AVENUE, EAST S.W. 97TH AVENUE, AND NORTH OF S.W. 224TH STREET, AS LEGALLY DESCRIBED IN EXHIBIT "A;" AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 7

7. ORDINANCES FOR FIRST READING (PUBLIC HEARING NOT REQUIRED)

- A. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, PROVIDING FOR COMPREHENSIVE REGULATIONS RELATING TO GARAGE SALES; PROVIDING FOR PENALTIES; AND PROVIDING FOR AN EFFECTIVE DATE. **(VROOMAN)**

TAB 8

- B. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, FORMALLY REPEALING CERTAIN PROVISIONS RELATED TO NONRESIDENTIAL SETBACKS WITHIN CHAPTER 33 "ZONING," ARTICLE II "BUILDING CONTENT, SETBACKS AND AREA OF SITES;" AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 9

8. ORDINANCES FOR FIRST READING (PUBLIC HEARING REQUIRED)

9. ORDINANCES FOR SECOND READING (PUBLIC HEARING REQUIRED)

- A. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING A SENIOR CITIZEN HOMESTEAD TAX EXEMPTION RELATING TO AD VALOREM TAXATION; PROVIDING FOR AN ADDITIONAL HOMESTEAD EXEMPTION FOR CERTAIN QUALIFYING LOW INCOME SENIOR CITIZENS TO BE APPLIED TO MILLAGE RATES LEVIED BY THE TOWN; PROVIDING FOR THE SUBMISSION OF AN ANNUAL APPLICATION AND SUPPORTING DOCUMENTATION TO THE MIAMI-DADE COUNTY PROPERTY APPRAISER; PROVIDING FOR WAIVER OF EXEMPTION; PROVIDING FOR AN ANNUAL INCREASE IN THE INCOME LIMITATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE. **(VROOMAN)**

TAB 10

TAB 11

- B.** AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA COMPREHENSIVELY UPDATING AND REVISING CHAPTER 33 "ZONING" ARTICLE IV "TOWERS, POLES AND MASTS" RELATING TO WIRELESS SUPPORTED SERVICE FACILITIES; AMENDING THE LIST OF THE PERMITTED USES IN THE RU-3M, RU-4, RU-4L, RU-4M ZONING DISTRICTS RELATING TO WIRELESS SUPPORTED SERVICE FACILITIES; AND PROVIDING FOR AN EFFECTIVE DATE. **(BELL)**

TAB 12

- C.** AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, GRANTING THE REQUEST OF SIRE USA CORP. FOR A REZONING FROM AU (AGRICULTURAL) TO RU-1 (SINGLE-FAMILY RESIDENTIAL) FOR PROPERTY GENERALLY LOCATED SOUTH OF S.W. 198TH STREET, NORTH OF S.W. 199TH STREET, EAST OF S.W. 87TH AVENUE, AND WEST OF S.W. 85TH AVENUE, AS LEGALLY DESCRIBED IN EXHIBIT "A," CONSISTING OF APPROXIMATELY 41,885 SQ. FT.; AND PROVIDING FOR AN EFFECTIVE DATE.

10. PUBLIC COMMENTS

THE PRESIDING OFFICER SHALL HAVE THE DISCRETION TO LIMIT THE LENGTH OF PUBLIC COMMENTS IN THE INTEREST OF TIME IN ORDER TO ALLOW ALL PERSONS WHO WISH TO SPEAK AN OPPORTUNITY TO DO SO.

11. MAYOR AND COUNCIL COMMENTS

12. OTHER BUSINESS

13. ADJOURNMENT

- A.** Regular Town Council Meeting
Wednesday, July 18, 2007, 7:00 P.M.
South Dade Regional Library
10750 SW 211th ST, 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 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, May 16, 2007

7:00 PM

Cutler Ridge Park
10100 Southwest 200th Street
Cutler Bay, Florida 33189

1. CALL TO ORDER/ROLL CALL OF MEMBERS: The meeting was called to order by the mayor at 7:05 PM. Present were the following:

Councilmember Peggy R. Bell
Councilmember Timothy J. Meerbott
Mayor Paul S. Vrooman

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

Councilmember Ernest N. Sochin was absent.
Vice Mayor Edward P. MacDougall was absent

Mayor Vrooman led the pledge of allegiance.

2. PROCLAMATIONS, AWARDS, PRESENTATIONS:

- A. The Mayor presented Luis Kruger, Code Compliance Officer with the Town of Cutler Bay with a proclamation for his service and dedication to the Armed Forces. The Mayor, Town Council, and Town Staff wished Mr. Kruger much luck on his deployment to Iraq.

3. APPROVAL OF MINUTES:

- A. Councilmember Bell made a motion approving the minutes of the meeting of April 11, 2007. The motion was seconded by Councilmember Meerbott and adopted by a unanimous 3-0 voice vote. The vote was as follows: Councilmembers Bell, Meerbott, and Mayor Vrooman voting Yes.

4. REPORTS

A. TOWN MANAGER'S REPORT

The Town Manager reported that due to a successful legislative initiative there will be funding for parks, capital improvements, and Old Cutler Road and Caribbean Boulevard improvements. Town signage will shortly be showing up around the Town, Town banners will be placed on light poles. He discussed that staff is looking into purchasing Kiosks to post notices and announcements on behalf of the Town. He mentioned that the Parks Interlocal agreement is ready to go forward and the Town will officially acquire the parks within Town limits. The manager recommended that Item 5F under the Consent Agenda be deferred until

June 20, 2007 since its sponsor, Member Sochin, is unavailable to discuss it. He reminded Council that Hurricane season is approaching and Town Staff are diligently working on ways to improve communication and response tactics before, during, and after a hurricane.

B. TOWN ATTORNEY'S REPORT

The Town Attorney reported that a few months ago the Council passed and adopted a full financial disclosure ordinance. Cities around the County, such as the City of Miami, City of Miami Beach, and Palmetto Bay have passed a similar ordinance. He added that the City of West Palm Beach has also requested a copy of the ordinance to place on their agenda in their upcoming meeting.

C. BOARD AND COMMITTEE REPORTS

5. CONSENT AGENDA:

- A.** A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA (THE "TOWN"); NOTIFYING THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA (THE "COUNTY") AND THE DIRECTOR OF THE MIAMI-DADE COUNTY DEPARTMENT OF ENVIRONMENTAL RESOURCES MANAGEMENT ("DERM") AS REQUIRED BY SECTION 24-61 OF THE MIAMI-DADE COUNTY CODE (THE "CODE"); THAT THE TOWN EXERCISES ITS OPTION TO EXEMPT THE TOWN FROM INCLUSION IN THE COUNTY'S STORMWATER UTILITY; COMMITTING TO ESTABLISH A STORMWATER UTILITY WITHIN THE MUNICIPAL BOUNDARIES OF THE TOWN IN ACCORDANCE WITH SECTIONS 403.0893 (1) (2) or (3), FLORIDA STATUTES; AUTHORIZING THE TOWN MANAGER TO NEGOTIATE AN INTERLOCAL AGREEMENT WITH THE COUNTY FOR THE COLLECTION OF THE TOWN'S STORMWATER UTILITY FEES; AUTHORIZING THE TOWN CLERK TO SEND COPIES OF THIS RESOLUTION TO THE APPROPRIATE OFFICIALS; AND PROVIDING FOR AN EFFECTIVE DATE.
- B.** A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING THE INTERLOCAL AGREEMENT BETWEEN CO-PERMITTEES NAMED IN NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT NO. FLS000003; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.
- C.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, PROVIDING FOR POLICE CONFISCATION FUND EXPENDITURES IN THE AMOUNT OF

\$4,334.65 TO BE FUNDED BY PROCEEDS OF CONFISCATED FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE.

- D. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING A TOWN EVENTS COMMITTEE; PROVIDING FOR AN APPOINTMENT PROCEDURE FOR MEMBERS OF THE TOWN EVENTS COMMITTEE; PROVIDING FOR DISSOLUTION OF THE COMMITTEE; PROVIDING FOR AN EFFECTIVE DATE.

- E. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, REQUESTING THE INSTALLATION OF A TRAFFIC CONTROL SIGNAL AT THE INTERSECTION OF S.W. 211TH STREET AND EAST FRONTAGE ROAD ADJACENT TO THE NORTHBOUND ENTRANCE RAMP OF THE HOMESTEAD EXTENSION OF THE FLORIDA TURNPIKE; PROVIDING FOR DISTRIBUTION OF THE RESOLUTION TO THE FLORIDA TURNPIKE AUTHORITY; AND PROVIDING FOR AN EFFECTIVE DATE.

- F. A RESOLUTION OF THE TOWN OF CUTLER BAY, FLORIDA, EXPRESSING SUPPORT OF THE HAITIAN IMMIGRANTS BASED ON THE "WET-FOOT/DRY-FOOT" POLICY AND URGING PRESIDENT GEORGE W. BUSH AND THE UNITED STATES CONGRESS TO RESCIND THE DISCRIMINATORY IMMIGRATION POLICIES AGAINST HAITIAN IMMIGRANTS AND CALLING FOR THE EQUAL TREATMENT OF ALL IMMIGRANTS; AND PROVIDING FOR AN EFFECTIVE DATE AND ALL OTHER PURPOSES.

The Town Manager requested that Item F should be deferred from the consent agenda until June 20, 2007.

Councilmember Meerbott made a motion to approve the Consent Agenda as amended, which included deferring Item F until June 20, 2007. The motion was seconded by Councilmember Bell and Resolutions 07-18 through 07-22 was adopted by unanimous 3-0 voice vote. The vote was as follows: Councilmembers Bell, Meerbott and Mayor Vrooman voting Yes.

6. QUASI-JUDICIAL HEARINGS (PUBLIC HEARING REQUIRED)

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.

7. ORDINANCES FOR FIRST READING (PUBLIC HEARING NOT REQUIRED)

The clerk read the following ordinance, on first reading, by title:

- A.** AN EMERGENCY ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING A SENIOR CITIZEN HOMESTEAD TAX EXEMPTION RELATING TO AD VALOREM TAXATION; PROVIDING FOR AN ADDITIONAL HOMESTEAD EXEMPTION FOR CERTAIN QUALIFYING LOW INCOME SENIOR CITIZENS TO BE APPLIED TO MILLAGE RATES LEVIED BY THE TOWN; PROVIDING FOR THE SUBMISSION OF AN ANNUAL APPLICATION AND SUPPORTING DOCUMENTATION TO THE MIAMI-DADE COUNTY PROPERTY APPRAISER; PROVIDING FOR WAIVER OF EXEMPTION; PROVIDING FOR AN ANNUAL INCREASE IN THE INCOME LIMITATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Meerbott made a motion to approve the Consent Agenda as amended, which included deferring Item F until June 20, 2007. The motion was seconded by Councilmember Bell and Emergency Ordinance 07-15 was adopted by unanimous 3-0 roll call vote. The vote was as follows: Councilmembers Bell, Meerbott and Mayor Vrooman voting Yes.

The clerk read the following ordinance, on first reading, by title:

- B.** AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING A SENIOR CITIZEN HOMESTEAD TAX EXEMPTION RELATING TO AD VALOREM TAXATION; PROVIDING FOR AN ADDITIONAL HOMESTEAD EXEMPTION FOR CERTAIN QUALIFYING LOW INCOME SENIOR CITIZENS TO BE APPLIED TO MILLAGE RATES LEVIED BY THE TOWN; PROVIDING FOR THE SUBMISSION OF AN ANNUAL APPLICATION AND SUPPORTING DOCUMENTATION TO THE MIAMI-DADE COUNTY PROPERTY APPRAISER; PROVIDING FOR WAIVER OF EXEMPTION; PROVIDING FOR AN ANNUAL INCREASE IN THE INCOME LIMITATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Bell made a motion to approve the ordinance on first reading. The motion was seconded by Councilmember Meerbott and the ordinance was approved by unanimous 3-0 roll call vote. The vote was as follows: Councilmembers Bell, Meerbott and Mayor Vrooman voting Yes.

The ordinance will be on second reading June 20, 2007.

The clerk read the following ordinance, on first reading, by title:

- C.** AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, GRANTING THE REQUEST OF SIRE USA CORP. FOR A REZONING FROM AU (AGRICULTURAL) TO

RU-1 (SINGLE-FAMILY RESIDENTIAL) FOR PROPERTY GENERALLY LOCATED SOUTH OF S.W. 198TH STREET, NORTH OF S.W. 199TH STREET, EAST OF S.W. 87TH AVENUE, AND WEST OF S.W. 85TH AVENUE, AS LEGALLY DESCRIBED IN EXHIBIT "A," CONSISTING OF APPROXIMATELY 41,885 SQ. FT.; AND PROVIDING FOR AN EFFECTIVE DATE.

The Local Planning Agency submitted a recommendation for adoption of the ordinance.

Don O'Donniley, the Planning Director, gave a brief report on the ordinance.

Councilmember Meerbott made a motion to approve the ordinance on first reading. The motion was seconded by Councilmember Bell and the ordinance was approved by unanimous 3-0 roll call vote. The vote was as follows: Councilmembers Bell, Meerbott and Mayor Vrooman voting Yes.

The ordinance will be on second reading June 20, 2007.

8. ORDINANCES FOR FIRST READING (PUBLIC HEARING REQUIRED)

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 COMPREHENSIVELY UPDATING AND REVISING CHAPTER 33 "ZONING" ARTICLE IV "TOWERS, POLES AND MASTS" RELATING TO WIRELESS SUPPORTED SERVICE FACILITIES; AMENDING THE LIST OF THE PERMITTED USES IN THE RU-3M, RU-4, RU-4L, RU-4M ZONING DISTRICTS RELATING TO WIRELESS SUPPORTED SERVICE FACILITIES; AND PROVIDING FOR AN EFFECTIVE DATE.

The Local Planning Agency submitted a recommendation for adoption of the ordinance.

Don O'Donniley, the Planning Director, gave a brief report on the ordinance.

The Mayor opened the public hearing. Stephen Zarzecki, 9640 Martinique Drive, Bill Mickeljohn, 9311 Sterling Drive, Louise Lockwood, 9071 Ridgeland Drive, David Feinberg, 9161 Caribbean Boulevard, and Bob Jefferies, 8870 Southwest 200 Street, addressed Council.

Councilmember Bell made a motion to approve the ordinance on first reading. The motion was seconded by Councilmember Meerbott and the ordinance was approved by unanimous 3-0 roll call vote. The vote was as follows: Councilmembers Bell, Meerbott and Mayor Vrooman voting Yes.

The ordinance will be on second reading June 20, 2007.

9. ORDINANCES FOR SECOND READING (PUBLIC HEARING REQUIRED)

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 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 WHICH PROVIDES FOR A PROHIBITION AGAINST PARKING IN THE SWALE AREAS WITHIN RESIDENTIAL ZONING DISTRICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

After much discussion, the Mayor passed the gavel to Councilmember Bell. The Mayor made a motion to delete the ordinance from the agenda and to discontinue the ordinance indefinitely. The motion was seconded by Councilmember Meerbott and the ordinance was deleted from the agenda and discontinued indefinitely by unanimous 3-0 roll call vote. The vote was as follows: Councilmembers Bell, Meerbott and Mayor Vrooman voting Yes.

10. PUBLIC COMMENTS

THE PRESIDING OFFICER SHALL HAVE THE DISCRETION TO LIMIT THE LENGTH OF PUBLIC COMMENTS IN THE INTEREST OF TIME IN ORDER TO ALLOW ALL PERSONS WHO WISH TO SPEAK AN OPPORTUNITY TO DO SO.

The following individuals spoke: Stephen Zarzecki, 9640 Martinique Drive, Lillian Gomez Reyes, 10210 Southwest 215 Street, Padraig Rousseau, 19791 Southwest 101 Court, Louise Lockwood, 9071 Ridgeland Drive, John Hart 8440 Southwest 198 Street, Carmen Figueroa, 9781 Southwest 211 Street, Terry Crappello, 9770 Bel Aire Drive, Laura Oswald, 20520 Jacaranda Road, Barry Holmes, 9870 Jamaica Drive, Bob Jefferies, 8870 Southwest 200 Street, Joy Cooper, 9665 Nassau Drive, Frances de Nike, 9841 Bel Aire Drive, Sharon Martin, 9770 Haitian Drive, McKinney, 10250 Caribbean Boulevard, Janice Rowton, 19410 Christmas Road, Sandra Wong, 19630 Southwest 87 Avenue, Ed Wolmers, 9370 Dominican Drive, Steven Taylor, 20804 Southwest 103 Place, Don Kuiper, 9981 Southwest 197 Street, Carol Gallagher, 18755 Southwest 99 Road, and Adrian Alexandrino, 9760 Haitian Drive.

11. MAYOR AND COUNCIL COMMENTS

Councilmember Meerbott spoke of his meeting with constituents prior to the Council Meeting. He encouraged all members of Council to conduct a local citizens meeting that would encourage those residents who cannot attend the regular Council meetings. He also discussed that he had the opportunity to tour the FP&L Turkey Point facility. The visit was to communicate concerns of FP&L installing an additional reactor at the facility. Member Meerbott advocated that he is concerned and stressed that he would continue to be involved with all steps of this project. He will continue communication with representatives of FP&L through this whole process.

Councilmember Bell stated that she recognizes the need to conduct a Town Hall meeting in order to discuss Town accomplishments and provide a forum that is to include question and answer from the residents. Member Bell mentioned that Cutler Ridge Middle School will be dedicating their gymnasium in honor of John Cosgrove. She also discussed that she had been honored to attend the

induction of Eagle Scout member Brandon Wendel, who will attend the June meeting and lead the meeting with the Pledge of Allegiance.

Councilmember Bell made a motion to create and schedule a Town Hall meeting once a year. The motion was seconded by Councilmember Meerbott. All Councilmembers voted in favor of the motion.

Mayor Vrooman reminded staff to prepare an ordinance for garage/yard sales for the next meeting. The Mayor addressed the comments of one of the residents that spoke during the public comments forum.

12. OTHER BUSINESS: None at this time.

13. ADJOURNMENT

The next council meeting will be held on June 20, 2007, at Cutler Ridge Park.

The meeting was officially adjourned at 9:35 P.M.

Respectfully submitted:

*Erika Gonzalez-Santamaria, CMC
Town Clerk*

*Adopted by the Town Council on
this 20th day of June, 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.

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

Wednesday, May 21, 2007

5:30 PM

Cutler Ridge Park
10100 Southwest 200th Street
Cutler Bay, Florida 33189

1. CALL TO ORDER, ROLL CALL: The special meeting was called to order by the mayor at 5:35 p.m. Present were the following charter officials:

Councilmember Peggy R. Bell
Councilmember Timothy J. Meerbott
Councilmember Ernest N. Sochin
Mayor Paul S. Vrooman

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

Vice Mayor Edward P. MacDougall was absent.

2. PLEDGE OF ALLEGIANCE: The mayor led the Pledge of Allegiance.

3. SPECIAL ORDER: The Council discussed the following resolutions:

- A.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPOINTING _____ AS THE TOWN ATTORNEY OF THE TOWN; PROVIDING FOR A RETAINER AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

The three firms, KnoxSeaton with Broad and Cassel, Nagin Gallop and Figuerdo, and Weiss Serota Helfman Pastoriza Cole & Boniske, P.L. whom responded to the Request for Proposals for Town Attorney Services, each gave fifteen minute presentations that entailed their qualifications in the profession and answered questions that were provided by the Council.

Councilmember Sochin made a motion approving Weiss Serota Helfman Pastoriza Cole & Boniske, P.L. as the permanent Town Attorney for Cutler Bay. The motion was seconded by Councilmember Bell and Resolution 07-23 was approved unanimously by 4-0 voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, and Mayor Vrooman voting Yes.

- B.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING THE "INTERLOCAL AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE TOWN OF CUTLER BAY" RELATING TO THE TRANSFER OF COUNTY PARKS TO THE TOWN OF CUTLER BAY; AUTHORIZING THE MAYOR TO EXECUTE THE SAME AND PROVIDING FOR AN EFFECTIVE DATE.

Alan Ricke, Parks and Recreation Director, addressed Council.

Councilmember Meerbott made a motion to approve the resolution. The motion was seconded by Councilmember Sochin and Resolution 07-24 was approved unanimously by 4-0 voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, and Mayor Vrooman voting Yes.

- C.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RELATING TO GRANTS, AUTHORIZING THE TOWN MANAGER TO APPLY FOR GRANT FUNDING FROM THE SAFE NEIGHBORHOOD PARKS BOND PROGRAM; AND PROVIDING FOR AN EFFECTIVE DATE.

Alan Ricke, Parks and Recreation Director, addressed Council.

Councilmember Bell made a motion to approve the resolution. The motion was seconded by Councilmember Meerbott and Resolution 07-25 was approved unanimously by 4-0 voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, and Mayor Vrooman voting Yes.

- D.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING THE "INTERLOCAL AGREEMENT BETWEEN MIAMI-DADE COUNTY AND TOWN OF CUTLER BAY FOR DISTRIBUTION OF QUALITY NEIGHBORHOOD IMPROVEMENT FUNDS (QNIP)" RELATING TO THE DISBURSEMENT OF QNIP FUNDS TO THE TOWN OF CUTLER BAY; AUTHORIZING THE MAYOR TO EXECUTE THE SAME AND PROVIDING FOR AN EFFECTIVE DATE.

Alan Ricke, Parks and Recreation Director, addressed Council.

Councilmember Sochin made a motion to approve the resolution. The motion was seconded by Councilmember Bell and Resolution 07-26 was approved unanimously by 4-0 voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, and Mayor Vrooman voting Yes.

- E.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, SUPPORTING AND ADOPTING THE MIAMI DADE COUNTY ALTERNATE PROPERTY TAX REFORM LEGISLATIVE PROPOSAL; AND PROVIDING AN EFFECTIVE DATE.

The Town Manager, addressed Council.

Councilmember Bell made a motion to approve the resolution. The motion was seconded by Councilmember Sochin and Resolution 07-27 was approved unanimously by 4-0 voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, and Mayor Vrooman voting Yes.

4. ADJOURNMENT

The meeting was officially adjourned at 7:50 P.M.

Respectfully submitted:

*Erika Gonzalez-Santamaria, CMC
Town Clerk*

*Adopted by the Town Council on
this 20th day of June, 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

RESOLUTION NO. 07-

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, IN SUPPORT OF THE SOUTH WATER MANAGEMENT DISTRICT'S REQUEST FOR CONGRESSIONAL APPROPRIATION OF FUNDS NECESSARY TO BRING THE HERBERT HOOVER DIKE INTO COMPLIANCE WITH CURRENT LEVEE PROTECTION SAFETY STANDARDS AND TO EXPIDITE FUNDING FOR THE IMPROVEMENTS THROUGH PROMPT ENACTMENT OF THE ENERGY AND WATER APPROPRIATIONS BILL OR SOME OTHER MECHANISM; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Lake Okeechobee was impacted by four hurricanes during the 2004 and 2005 hurricane seasons; and

WHEREAS, subsequently, at the request of local community leaders, the Governing Board of the South Florida Water Management District commissioned an independent, expert review panel to evaluate all U.S. Army Corps of Engineers documents concerning the structural integrity of the 140 mile-long Herbert Hoover Dike surrounding Lake Okeechobee; and

WHEREAS, the report found that the dike does not meet current levee protection safety standards; and

WHEREAS, the failure of the dike poses a clear and imminent threat of catastrophic proportion to the communities surrounding Lake Okeechobee; and

WHEREAS, the dike was not built to current levee engineering standards and therefore needs expedited Congressional appropriations to be brought into compliance with such standards; and

WHEREAS, the Governing Board of the South Florida Water Management District has drafted the attached resolution requesting the Congress of the United States to appropriate funds necessary to bring the Herbert Hoover Dike into compliance with current levee protection safety standards and to expedite funding for the improvements through prompt enactment of the Energy and Water Appropriations Bill or some other mechanism; and

WHEREAS, the Governing Board of the South Florida Water Management District has requested South Florida local governments to enact resolutions supporting the actions requested in the attached resolution.

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. **Support.** The Town hereby supports the South Florida Water Management District's resolution requesting that the Congress of the United States appropriate funds necessary to bring the Herbert Hoover Dike into compliance with current levee protection safety standards and to expedite funding for the improvements through prompt enactment of the Energy and Water Appropriations Bill or some other mechanism.

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.L.
Town Attorney

Moved By:
Seconded By:

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 3



Office of the Mayor and Town Council

Paul S. Vrooman
Mayor

Edward P. MacDougall
Vice Mayor

Timothy J. Meerbott
Councilmember - Seat 1

Ernest N. Sochin
Councilmember - Seat 2

Peggy R. Bell
Councilmember - Seat 3

MEMORANDUM

To: Mayor and Town Council, Town of Cutler Bay

From: Councilman Ernie Sochin

cc: Steven J. Alexander, Town Manager
Mitchell A. Bierman, Town Attorney

Date: May 1, 2007

Ref.: Resolution Expressing Support of the Haitian Immigrants Based on the "Wet-Foot/Dry-Foot" Policy

I wish to put forth this resolution on behalf of the Town of Cutler Bay in support of a similar resolution by The City of North Miami. I truly believe that the Haitian community deserves our support based on the totally unjust treatment of their immigrants trying to escape from one of the most oppressive countries in the Caribbean basin and the unbalanced treatment of others with similar goals.

RESOLUTION NO. 07-_____

A RESOLUTION OF THE TOWN OF CUTLER BAY, FLORIDA, EXPRESSING SUPPORT OF THE HAITIAN IMMIGRANTS BASED ON THE “WET-FOOT/DRY-FOOT” POLICY AND URGING PRESIDENT GEORGE W. BUSH AND THE UNITED STATES CONGRESS TO RESCIND THE DISCRIMINATORY IMMIGRATION POLICIES AGAINST HAITIAN IMMIGRANTS AND CALLING FOR THE EQUAL TREATMENT OF ALL IMMIGRANTS; AND PROVIDING FOR AN EFFECTIVE DATE AND ALL OTHER PURPOSES.

WHEREAS, the Town of Cutler Bay, Florida (“Town”) is home to a vibrant and involved immigrant community; and

WHEREAS, the immigrants who reside in the Town are concerned about the welfare and safety of immigrants in the United States; and

WHEREAS, the United States immigration laws provide for disparate treatment against Haitian immigrants; and

WHEREAS, certain nationals are granted credible fear interviews and often paroled into the community once they touch dry land, while Haitian migrants are incarcerated indefinitely and denied due process; and

WHEREAS, the current immigration policy is unfair, discriminatory and inhumane; and

WHEREAS, the Mayor and City Council call upon the Bush Administration and Members of Congress to issue the necessary directives providing for equal treatment and due process for all immigrants, including Haitian nationals, and the immediate release of the unjustly incarcerated Haitian migrants; and

WHEREAS, the Mayor and City Council of the City of North Miami wish to support the application of the “wet-foot/dry-foot” immigration policy to Haitian migrants.

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

Section 1. Recitals Adopted. That the recitals set forth above are hereby adopted and confirmed.

Section 2. Support for Equal Treatment of Immigrants. The Mayor and City Council supports the application of the “wet-foot/dry foot” immigration policy to Haitian migrants and strongly encourage President George W. Bush and Members of Congress to issue the necessary directives providing for due process for all immigrants and the immediate release of the incarcerated Haitian migrants.

Section 3. Direction to the Clerk. The City Clerk is directed to forward a certified copy of this Resolution to the United States President, all Members of Congress of the United

States, Florida Governor Charlie Crist and all members of the Legislature of the State of Florida, all Mayors of Miami-Dade County and to the local communications media.

Section 4. Severability. That the provisions of this Resolution are declared to be severable and if any section, sentence, clause or phrase of this Resolution 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 Resolution but they shall remain in effect, it being the legislative intent that this Resolution shall stand notwithstanding the invalidity of any part.

Section 5. 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.
Town Attorney

Moved By:
Seconded By:

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 4

RESOLUTION NO. 07-

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE ISSUANCE OF A REQUEST FOR PROPOSALS (RFP) FOR APPROPRIATIONS AND INTERGOVERNMENTAL CONSULTING SERVICES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town Cutler Bay, (the "Town") approved Resolution 06-17 providing for a temporary agreement for appropriations and intergovernmental consulting services for a period not to exceed eighteen (18) months; and

WHEREAS, as this temporary agreement expires, the Town Council seeks to issue a Request For Proposals (RFP) to identify the best available appropriations and intergovernmental consultant; and

WHEREAS, Town Ordinance 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 (RFP) Advertising Approved. The Town Manager is hereby authorized to advertise and issue a Request For Proposals (RFP) for appropriations and intergovernmental consulting services in 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 _____, 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.
Town Attorney

Moved By:
Seconded By:

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 PROPOSAL
for
APPROPRIATIONS AND
INTERGOVERNMENTAL
CONSULTING

RFP # 07-04



ISSUED BY:
Town of Cutler Bay

Purchasing Department
10720 Caribbean Boulevard, Suite 105
Cutler Bay, FL 33189

Date Issued: 6/21/07

TABLE OF CONTENTS

I. GENERAL INFORMATION.....	3
INTRODUCTION	3
II. SCOPE OF SERVICES	3
III. MINIMUM QUALIFICATION REQUIREMENTS:	4
IV. PROPOSAL DUE DATE.....	4
V. SUBMISSION OF PROPOSAL.....	4
L.Proposal Pricing:	6
VI. INFORMATION REQUIRED OF PROPOSER.....	6
VII. PROPOSAL EVALUATION COMMITTEE AND PROCEDURES FOR REVIEW OF PROPOSALS	7
VIII. QUESTIONS REGARDING SPECIFICATIONS OR PROPOSAL PROCESS:	8
PROPOSER'S CERTIFICATION	12

I. GENERAL INFORMATION

The Town of Cutler Bay invites you to submit a Proposal in ten (10) copies in response to our Request for Proposal. All questions must be addressed as outlined herein. Oral answers will not be authoritative unless confirmed by addendum to the RFP.

The proposals are to be submitted in a sealed envelope bearing the name of the proposer, and the address as well as the title of the RFP no later than 10:00 A.M. on Tuesday, July 17, 2007. Address your proposal to Purchasing Director, Town of Cutler Bay, 10720 Caribbean Boulevard, Suite 105, Town of Cutler Bay, FL 33189.

INTRODUCTION

The Town of Cutler Bay is seeking proposals for the services of a qualified firm to assist in the development and implementation of legislative strategies, on both state and federal levels, for the purposes of obtaining lawmakers' authorizations and appropriations as may be determined.

II. SCOPE OF SERVICES

In addition to assisting the Town obtain authorizations and appropriations; the Consultant will be responsible for performing the following functions:

1. Monitor, analyze and track authorizations and appropriation bills and recommend appropriate strategies.
2. Meet with members of legislative bodies (county, state and federal), agencies and staff as may be required to secure designated authorizations, appropriations or amending bill language as necessary.
3. Advise members of legislative bodies (county, state and federal), agencies and their staff, of the Town's objectives with regards to all manner of legislation as it relates to the Town's operation.
4. Identify pertinent hearings, before which the Town should appear and testify.
5. Maintain good working relationships with representatives of various state and federal departments and agencies.
6. Provide oral and written testimony, upon request, for hearings.
7. Prepare and submit monthly reports on the status of major legislation, in particular those bills, which contain authorizations and/or appropriations of interest to the Town, as well as changes within the legislature and administration, with respect to priorities and personnel.
8. Identify and notify the Town regarding relevant grants and aid the Town in obtaining these grants.
9. Identify, advise and represent the Town in legislative issues relating to small- to mid-sized Municipalities.
10. Identify, advise and represent the Town on legislative issues regarding rural environments and the delicate balance between economic development and environmental preservation.
11. Perform other duties related to legislation as may be periodically required.

The Town reserves the right to expand the scope of services as the need may arise. Therefore, the successful firm should have extensive experience in all aspects of legislative authorizations and appropriations.

III. MINIMUM QUALIFICATION REQUIREMENTS:

1. Give the general background and experience of the proposing firm.
2. Attach a summary showing the Proposer's organization and principal staff members who will be involved in the Town's engagement. Provide resumes of such principal staff members. List the Town's primary contact along with the person's background, training, experience, qualifications and authority.
3. Describe the firms' background and experience relating to both state and federal lobbyist services as well as consulting. Provide a list of client references delineating what type of services were performed for each client.
4. Describe previous experience relating to testifying before Congress and other hearings.
5. Has the firm worked for other governmental entities, particularly municipalities? If so, please describe the work performed and include represented agencies references, the time the firm was engaged and a list of accomplishment for each.

IV. PROPOSAL DUE DATE

Sealed proposals in ten (10) complete copies must be received at Cutler Bay Town Hall no later than 10:00 a.m., Tuesday, July 17, 2007. Proposals should be addressed as follows for mail or hand delivery:

Yani Ramos, Purchasing Director
Town of Cutler Bay
10720 Caribbean Blvd., Suite 105
Cutler Bay, FL 33189

Submitted envelopes should be marked "RFP # 07-04 — Appropriations and Intergovernmental Consulting"

V. SUBMISSION OF PROPOSAL

- A. Incurred Expenses:
The Town is not responsible for any expenses which proposers may incur preparing and submitting proposals called for in this Request for Proposals.
- B. Interviews:
The Town reserves the right to conduct personal interviews or require presentations prior to selection. The Town will not be liable for any costs incurred by the proposer in connection with such interviews/presentations (i.e. travel, accommodations, etc.).
- C. Request for Modification: The Town reserves the right to request that the proposer modify his proposal to more fully meet the needs of the Town.

D. Proposal Acknowledgment:

By submitting a proposal, the proposer certifies that he has fully read and understands the proposal method and has full knowledge of the scope, nature, and quality of work to be performed.

E. Request for Additional Information:

The proposer shall furnish such additional information as the Town of Cutler Bay may reasonably require. This includes information, which indicates financial resources as well as ability to provide the system and/or services. The Town reserves the right to make investigations of the qualifications of the proposer as it deems appropriate, including but not limited to, a background investigation conducted by the Cutler Bay Police Department.

F. Acceptance/Rejection/Modification to Proposals:

The Town reserves the right to negotiate modifications to proposals that it deems acceptable, reject any and all proposals, and to waive minor irregularities in the proposals.

G. Proposals Binding:

All proposals submitted shall be binding for one hundred twenty (120) calendar days following opening.

H. Alternate Proposals:

An ultimate proposal is viewed by the Town as a proposal describing an approach to accomplishing the requirements of the Request for Proposal, which differs from the approach set forth in the solicitation.

An alternate proposal may also be a second proposal submitted by the same proposer, which differs in some degree from its basic or prime proposal.

Alternate proposals may be in the area of technical approach, or other provisions or requirements of the solicitation.

The Town will, during the initial evaluation process, consider all alternate proposals submitted.

I. Addendum or Amendment to Request for Proposal:

If it becomes necessary to revise or amend any part of this Request for Proposal, the Town Purchasing Director will furnish the revision by written Addendum to all prospective proposers who received an original Request for Proposal.

J. Economy of Preparation: Proposals should be prepared simply and economically, providing a straightforward, concise description of the proposer's ability to fulfill the requirements of the proposal.

K. Proprietary Information:

In accordance with Chapter 119 of the Florida Statutes (Public Records Law) and except as may be provided by other applicable State and Federal Law, all proposers should be aware that Request for Proposals and the responses are in the public domain. However, the proposers are requested to identify specifically any information contained in their proposals which they consider confidential and/or proprietary and which they believe to be exempt from disclosure, citing

specifically the applicable exempting law.

All proposals received from proposers in response to this Request for Proposal will become the property of the Town of Cutler Bay and will not be returned to the proposers. In the event of contract award, all documentation produced as part of the contract will become the exclusive property of the Town.

L. Proposal Pricing:

The intent of this proposal is to enter into an agreement with a firm, which can provide the services as specified herein. A firm, fixed, all-inclusive price proposal shall be submitted. Invoices should be submitted on a monthly basis for the duration of the contract.

VI. INFORMATION REQUIRED OF PROPOSER

In order to insure a uniform review process and to obtain the maximum degree of comparability, it is required that the proposals be organized in the manner specified.

A. Title Page:

Show the name of proposer's agency/firm, address, telephone number, name of contact person, date, and the subject: "RFP #07-04 — Appropriations and Intergovernmental Consulting"

B. Table of Contents:

Include a clear identification of the material by section and by page number.

C. Letter of Transmittal:

1. Briefly state the proposer's understanding of the work to be done and make a positive commitment to perform the work.
2. Give the name of the person(s) who will be authorized to make representations for the proposer, their titles, addresses and telephone numbers.

D. General Information:

1. Name of business.
2. Mailing address/phone number.
3. Names of persons to be contacted for information or services if different from name of person in charge.
4. Business hours.
5. State if business is local, national, or international and indicate the business legal status (corporation, partnership, etc.).
6. Give the date business was organized and/or incorporated, and where.
7. Give the location of the office from which the work is to be done and the number of professional staff employees at the office.
8. Indicate whether the business is a parent or subsidiary in a group of firms/agencies.
9. State if the business is licensed, permitted and/or certified to do business in the State of Florida and attach copies of all such licenses issued to the business entity.

E. Proposer's Certification Form:

The attached Proposer's Certification Form must be completed and submitted with proposal.

VII. PROPOSAL EVALUATION COMMITTEE AND PROCEDURES FOR REVIEW OF PROPOSALS

- A. A Committee has been established to review and evaluate all proposals submitted in response to this Request for Proposals (RFP). The Committee shall conduct a preliminary evaluation of all proposals on the basis of the information provided and other evaluation criteria as set forth in this Request for Proposals or as reasonably determined by the Committee.
- B. The Committee will first review each proposal for compliance with the minimum qualifications and mandatory requirements of the RFP. Failure to comply with any mandatory requirements may disqualify a proposal.
- C. Proposals will be evaluated and rated as (1) acceptable, (2) reasonably susceptible of being acceptable, or (3) unacceptable. If there are enough Category (1) proposals to ensure adequate competition, the Town Purchasing Director will proceed as described in paragraph "D" to follow.

If there are not enough Category (1) proposals, those in Category (2) will be discussed with the proposers in an attempt to make them acceptable.

- D. The Town Purchasing Director will confirm all responsible proposers whose proposals are within competitive range. The competitive range is determined by the Town Purchasing Director. It must include all proposals with a reasonable chance of being selected for award, considering experience, technical, and other pertinent factors.
- E. The Town Purchasing Director reserves the right to conduct pre-award discussion and/or pre-contract negotiations with any or all responsive and responsible proposers who submit proposals determined to be reasonably acceptable of being selected for award. Proposers shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submission of proposals and prior to award of a contract.
- F. The Town reserves the right to reject any and all proposals and to waive minor irregularities in the proposals. The Town further reserves the right to seek new proposals when such a procedure is reasonably in the best interest of the Town to do so.
- G. Protests, appeals and disputes: A contract may not be awarded to a Proposer, unless prior to scheduled award, the committee ranking is posted in the Purchasing Department, 10720 Caribbean Blvd., Suite 205, Town of Cutler Bay, Florida, 33189 ten (10) working days prior to the scheduled award by the Town Council. Protest must be submitted in writing to the Purchasing Director no later than five (5) working days prior to the scheduled award by the Town Council. Should the matter not be resolved to the satisfaction of the Proposer, the appeal shall be heard by the Town Council. The Purchasing Director shall act as the Town's representative, in the issuance and administration of all contracts, and shall issue and receive all documents, notices, and all correspondence. Any documentation not issued by or

received by the Purchasing Director shall be null and void. All costs accruing from a Request for Proposal or award challenged as to quality, etc. (test, etc.) shall be assumed by the challenger. The decision of the Town Council shall be final and conclusive. Its decision shall be binding on all parties concerned, reviewable by a court of competent jurisdiction in Miami-Dade County in accordance with laws of the State of Florida.

- G. Any award made shall be subject to execution of a contract in a form and substance, which is approved by the Town Attorney.

VIII. QUESTIONS REGARDING SPECIFICATIONS OR PROPOSAL PROCESS:

- A. Notwithstanding *any* other provision of these specifications, the provisions of Section 2.11.1 "Conflict of Interest and Code of Ethics Ordinance," as set forth in subsection (t) "Cone of Silence," of the Miami-Dade County Code are applicable to this purchase transaction. The "Cone of Silence" prohibits the following activities:
 - 1. Any communication regarding this RFP between a potential vendor, service provider, bidder, lobbyist, or consultant and the Town 's professional staff including, but not limited to, the Town Manager, and his or her staff; and
 - 2. Any communication regarding this RFP between the Mayor, Town Council members or their respective staffs and any member of the Town 's professional staff including, but not limited to, the Town Manager and his or her staff.
- B. The prohibitions do not apply to communications with the Town Attorney and his or her staff. Further, the "Cone of Silence" shall not be applicable to duly noticed site visits to determine the competency of bidders regarding a particular bid during the time period between the opening of bids and the time the Town Manager makes his or her written recommendation.
- C. The "Cone of Silence" is imposed upon this RFP after the advertisement of said RFP. The "Cone of Silence" shall terminate at the time that the Town Manager makes his or her written recommendation to the Town Council, unless the Council refers the Manager's recommendation back to the Manager or staff for further review.
- D. The "Cone of Silence" shall not apply to:
 - 1. oral communications at pre-bid conferences;
 - 2. oral presentations before selection committees;
 - 3. contract negotiation during any duly noticed public meeting;
 - 4. Public presentations made to the Town Council during any duly noticed public meeting; or
 - 5. Communications made in writing at any time to a Town employee, official or member

of the Town Council, unless specifically prohibited by the RFP documents. The bidder or proposer shall file a copy of any such written communication with the Town Clerk. The Town Clerk shall make copies available to any person upon request.

- E. Please contact the Town Atomic for any questions concerning "Cone of Silence" compliance.
- F. Any questions relative to interpretation of specifications or the proposal process shall be addressed to the Town Purchasing Director, in writing, in ample time before the period set for the receipt and opening of proposals. No inquiries, submitted within ten (10) days of the date set for receipt of proposals will be given any consideration. Any interpretation made to prospective proposers will be expressed in the form of an addendum to the specifications which, if issued, will be conveyed in writing to all prospective proposers no later than five (5) days before the date set for receipt of proposals.
- G It will be the responsibility of the proposer to contact the Purchasing Director's Office prior to submitting a proposal to ascertain if any addenda have been issued, to obtain all such addenda, and to return executed addenda with the proposal.
- H. Direct inquiries to: PURCHASING DIRECTOR
 Town of Cutler Bay
 10720 Caribbean Blvd.
 Cutler Bay, F133189
 Telephone: (305) 234 4262

Other Matters:

(a) CONDITIONS OF PROPOSALS:

- 1. Late Proposals — Proposals received by the Town after the time specified for receipt will not be considered. Proposers shall assume full responsibility for timely delivery at the location designated for receipt of proposals.
- 2. Completeness — All information required by the Request for Proposal must be supplied to constitute a regular proposal.
- 3. Award Presentation — The Purchasing Director will present to Town Council for acceptance and final award, one of the proposals, or reject all proposals, within ninety (90) calendar days from the date of opening of proposals.
- 4. ONLY ONE PROPOSAL WILL BE ACCEPTED PER APPLICANT. NO SUBCONTRACTING OR JOINT VENTURE PROPOSALS WILL BE ACCEPTED. THE TOWN RETAINS THE ABILITY TO NEGOTIATE A TEAM APPROACH FROM VARIOUS PROPOSERS OR FIRMS NOT RESPONDING TO THIS RFP.

(b) TERMS AND CONDITIONS OF AGREEMENT:

The Agreement to be entered into with the successful proposer will include, but not be limited to, the following terms and conditions.

- I The proposer shall agree to indemnify and save harmless the Town, its officers, agents,

and employees, from and against any and all liability, claims, demands, damages, fines, fees, expenses, penalties, suits, proceedings, actions and cost of action, including attorney's fees for trial and on appeal, and of any kind and nature arising or growing out of or in any way connected with the performance of the Agreement whether by act or omission of the proposer, its agents, servants, employees or others, or because of or due to the mere existence of the Agreement between the parties; unless said claim for liability is caused by the negligence, misfeasance, malfeasance of the Town or its agents or employees.

2. The proposers shall pay all royalties and assume all costs arising from the use of any invention, design, process materials, equipment, product or device which is the subject of patent rights or copyrights. Proposer shall, at its own expense, hold harmless and defend the Town against any claim, suit or proceeding brought against the Town which is based upon a claim, whether rightful or otherwise, that the goods or services, or any part thereof, furnished under the contract, constitute an infringement of any patent or copyright of the United States. The proposer shall pay all damages and costs awarded against the Town.
3. An understanding and agreement, by and between the proposer and the Town, that the completion time as specified in proposer's submission will be met and that all work shall be prosecuted regularly, diligently, and uninterrupted at such rate of progress as will ensure full completion thereof within the time specified.

(c) INSURANCE

Proposers must submit with their Proposal, proof of insurance meeting or exceeding the following requirements:

- Workmen's Compensation Insurance — as required by law.
- Employer's Liability Insurance — \$500,000.
- General Liability Insurance — \$1,000,000/occurrence for BI/PD.
- Automobile Liability Insurance — \$500,000/occurrence for BI/PD.

The successful proposer must submit, prior to commencement of any work, a Certificate of Insurance showing the Town of Cutler Bay as additional insured.

(d) REFERENCES:

Please provide a list of five (5) clients that have utilized the services being proposed to the Town. Include: name, address, contact and telephone number.

Indicate at least three clients with whom we may speak during the evaluation phase.

(e) EVALUATION OF PROPOSALS:

Award shall be made to the responsible offeror whose proposals is determined to be the most advantageous to the Town, taking into consideration the evaluation factors set forth below:

1. Evidence of ability, capacity & skill of firm to perform on a timely basis.

2. Quality, depth and scope of response to proposal.
3. Experience, qualifications and backgrounds of individual members in successfully performing similar services.
4. Background and experience of personnel assigned to this project.
5. Sufficiency of financial condition and resources, and ability of business to perform the contract.
6. Graphic examples.
7. Responses of the client references.
8. Total Price.
9. The reputation, stability, longevity and independence of the Proposer's organization.
10. The quality, availability and adaptability of the services to the particular need requested.
11. Such other information as may be required or secured.
12. Previous experience preparing oral and written testimony for legislative hearings and proceedings.

(f) PROPOSER'S CERTIFICATION FORM:

Each proposer shall complete the "Proposer's Certification" form included with this request for proposal, and submit the form with the proposal.

The failure of a proposer to submit this document will be cause for rejection of the proposal.

The form must be acknowledged before a notary public with notary seal affixed on the document.

PROPOSER'S CERTIFICATION

I have carefully examined the Request for Proposal, Instructions to Bidders, General and/or Special Conditions, Vendor's Notes, Specifications, proposed agreement and any other documents accompanying or made a part of this Request for Proposal.

I hereby propose to furnish the goods or services specified in the Request for Proposal. I agree that my proposal will remain firm for a period of 120 days in order to allow the Town adequate time to evaluate the proposals.

I certify that all information contained in this proposal is truthful to the best of my knowledge and belief. I further certify that I am duly authorized to submit this proposal on behalf of the firm as its act and deed and that the firm is ready, willing and able to perform if awarded the contract.

I further certify, under oath, that this proposal is made without prior understanding, agreement, connection, discussion, or collusion with any other person, firm or corporation submitting a proposal for the same product or service; no officer, employee or agent of the Town of Cutler Bay or any other proposer is interested in said proposal; and that the undersigned executed this Proposer's Certification with full knowledge and understanding of the matters therein contained and was duly authorized to do so.

A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crimes may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to public entity, may not be awarded or perform work as a contractor, supplier, sub-contractor, or consultant under a contract with a public entity , and may not transact business with any public entity in excess of the threshold amount provided in Sec. 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

Name of Business

BY:

Sworn to and subscribed before me

This day of _____, 2007

Signature

Name and Title, Typed or Printed

Mailing Address

Town, State, Zip Code

Telephone Number

Notary Public

STATE OF _____

My Commission Expires

g) DISCUSSION WITH RESPONSIBLE PROPOSERS AND REVISIONS TO PROPOSAL

Discussions may be conducted with responsible proposers who submit proposals determined to be reasonably acceptable of being selected for award for the purpose of clarification and to assure full understanding of, and responsiveness to, the solicitation requirements. Proposers shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted -after- submission prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing proposers except as may be required by the Florida Public Records Law, Chapter 119, Florida Statutes.

TAB 5

RESOLUTION NO. 07-

A RESOLUTION OF THE MAYOR AND THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING CLOSURE OF THE PORTIONS OF SOUTHWEST 97TH AVENUE, SOUTHWEST 224TH STREET, AND SOUTHWEST 232ND STREET LOCATED WITHIN THE BOUNDARIES OF THE TOWN OF CUTLER BAY TO NON-OFFICIAL VEHICULAR TRAFFIC; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Cutler Bay (“Town Council”) desires to close the portions of Southwest 97th Avenue, Southwest 224th Street, and Southwest 232nd Street, located within the boundaries of the Town of Cutler Bay (“Designated Rights-of-Way”) as shown on Exhibit “A” to non-official vehicular traffic; and

WHEREAS, the Town has determined that closure of the Designated Rights of Way to non-official vehicular traffic will contribute to the preservation of certain Town natural resources by enabling the Town to work with the South Florida Water Management District (“SFWMD”) on its program to Save the Everglades through SWFMD’s Acceler8 Program which it is planning to spend over \$22,000,000.00 to restore more appropriate water flows to the Biscayne Bay coastal wetlands (“SFWMD Program”); and

WHEREAS, as part of the SFWMD Program, SFWMD has expressed an interest in providing an environmental education pathway or a linear park on or near the Designated Rights –of-Way to provide the Town’s local residents and its visitors with greater accessibility to the SFWMD Project, including the wetlands and flow ways; and

WHEREAS, the Town Council finds that the closure of the Designated Rights-of-Way and the removal of pavement thereon will also serve to curtail illegal acts such as pollution, improper disposal of roadway debris, and illegal dumping by minimizing access to the Designated Rights of Way; and

WHEREAS, the Town finds that the closure of the Designated Rights-of-Way will not have a significant adverse impact on traffic flow within the area since the traffic use on the Designated Rights-of-Way is relatively light; and

WHEREAS, the Town finds that the closure of the Designated Rights-of-Way shall contribute to the public’s health, safety, and welfare, by prohibiting non-official vehicular traffic on the Designated Rights-of-Way; and

WHEREAS, the Town of Cutler Bay’s staff has met with various Miami-Dade County agencies, including Public Works, Solid Waste, the Department of Environmental Resources and

Management, the Water and Sewer Authority and SFWMD, who have expressed preliminary unofficial support for the closure of the Designated Rights-of-Way; and

WHEREAS, the Town Council deems it in the Town's best interest to close the Designated Rights-of-Way to non-official vehicular traffic; and

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE TOWN MAYOR 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. Approval. The Town Council hereby approves and requests and recommends that the Miami-Dade Board of County Commissioners also approve the closure of the portions of Southwest 97th Avenue, Southwest 224th Street, and Southwest 232nd Street located within the Town of Cutler Bay's boundaries to non-official vehicular traffic as shown on Exhibit "A" attached hereto.

Section 3. Implementation. The Mayor and the Town Manager are authorized to take any and all action which is necessary to implement this Resolution including, but not limited to, executing and processing any and all applications and documentation required to close the Designated Rights of Way to non-official vehicular traffic and paying required fees and costs associated therewith.

Section 4. Severability. That the provisions of this Resolution are declared to be severable and if any section, sentence, clause, or phrase of this Resolution shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, clauses, sentences, and phrases of this Resolution, but they shall remain in effect, not withstanding the invalidity of any part.

Section 5. Conflict. That all Resolutions or parts of Resolutions in conflict with this Resolution are hereby repealed to the extent of such conflict.

Section 6. Effective Date. This Resolution shall become effective immediately upon approval of Town Council.

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.L.
Town Attorney

Moved by:
Seconded by:

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 _____

TOWN OF CUTLER BAY
EXHIBIT A

DESIGNATED RIGHTS OF WAY
TO BE CLOSED TO NON-OFFICIAL VEHICULAR TRAFFIC

The following portions of S.W. 97th Avenue, S.W. 224th Street and S.W. 232nd Street located within the boundaries of the Town of Cutler Bay are to be closed to non-official vehicular traffic:

- a. Southwest 97th Avenue between Southwest 224th Street and Southwest 232nd Street;
- b. Southwest 224th Street between approximately 99th Avenue and Southwest 97th Avenue; and,
- c. Southwest 232nd Street between Southwest 97th Avenue and the entrance to the Miami-Dade County Water and Sewer Authority Facility on Southwest 232nd Street

TAB 6



Planning & Zoning Department

R. Don O'Donniley, AICP
Planning Director

MEMORANDUM

To: Steven J. Alexander, Town Manager

From: Don O'Donniley, AICP, Planning Director 

Date: June 20, 2007

Re: Application No. 06-08
Waiver of Zoning Regulations (Variance from Required Right-of-Way
Dedication)
National Investment Group/Rosa Polatnick
(Folio No. 36-6008-005-0090)

APPLICANT REQUEST:

To waive the zoning right-of-way regulations, as provided for in Section 33-133, requiring Old Cutler Road to be 100' in width; to permit 35' of dedication (50' required; therefore a 15' waiver) on the west side of Old Cutler Road.

LOCATION:

The property is generally located northeast of the intersection of SW 213th Street Road and Old Cutler Road.

Lot 9, Block 60 Lincoln City Section "G", according to the plat thereof, as recorded in Plat Book 48 at Page 75, of the Public Records of Miami-Dade County, Florida.

BACKGROUND:

The applicant applied for the above referenced request with Miami-Dade County in May, 2006. Since that time all planning and zoning functions have been taken over by the Town.



Planning & Zoning Department

Town staff has reviewed this application and met with the applicant on numerous occasions.

Additionally, this application was held in abeyance due to the property location within the Old Cutler Road Charrette boundaries.

On January 17, 2007, the Town Council adopted the "Old Cutler Road Overlay District" which allows an alternate form of residential development along the southerly portion of Old Cutler Road.

At this time the applicant is bringing forth **only** this request for the waiver of right-of-way and therefore is not subject to site plan review.

RECOMMENDATION:

Approval with conditions under Section 33-311(A)(4)(b).

Please note that, if this waiver is approved, any future site plan will be approved administratively as long as the following conditions are met.

CONDITIONS:

1. That any future site plans be submitted to and meet with the approval of the Town of Cutler Bay upon the submittal of an application for a building permit; said plan shall include, but not be limited to, location of structure or structures, exits and entrances, drainage, walls, fences, landscaping, and other requirements.
2. That a post waiver survey be submitted to the Town.

RESOLUTION NO. 07-

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING A REQUEST BY NATIONAL INVESTMENT GROUP TO WAIVE 15 FEET OF THE ZONED RIGHT-OF-WAY FOR PROPERTY GENERALLY LOCATED NORTH OF THE INTERSECTION OF S.W. 213TH STREET AND OLD CUTLER ROAD (FOLIO# 36-6008-005-0090); AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 33-133 of the Town of Cutler Bay (the “Town”) Code of Ordinances (the “Code”), Old Cutler Road is required to have a 100 foot (50 feet on each side) zoned right-of-way; and

WHEREAS, pursuant to Section 33-311(A)(4)(b) of the Town Code, National Investment Group (the “Applicant”) has requested that the Town Council waive 15 feet of the required 50 feet of zoned right-of-way on the west side of Old Cutler Road located north of the intersection of S.W. 213th Street & Old Cutler Road (Folio# 36-6008-005-0090); and

WHEREAS, Town Staff has reviewed the requirements of Section 33-311(A)(4)(b) of the Town Code and has recommended approval of this request with conditions; and

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

WHEREAS, the Town Council finds that this waiver of zoned right-of-way is consistent with the provisions of the Town’s Comprehensive Plan.

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. Approval of Waiver of Zoned Right-of-Way. The Town Council hereby approves the request by the Applicant, subject to the conditions below, to waive 15 feet of the zoned right-of-way on the west side of Old Cutler Road located north of the intersection of S.W. 213th Street & Old Cutler Road (Folio# 36-6008-005-0090).

Section 3. Conditions. The approvals granted by this Resolution are subject to the Applicant’s compliance with the following conditions, to which the Applicant stipulated at the public hearing:

1. That any future site plans be submitted to and meet with the approval of the Town of Cutler Bay upon the submittal of an application for a building permit; said plan

shall include, but not be limited to, location of structure or structures, exits and entrances, drainage, walls, fences, landscaping, and other requirements.

2. That a post waiver survey be submitted to the Town.

Section 4. **Effective Date.** This Resolution shall be effective immediately upon adoption.

PASSED and ADOPTED on 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.
Town Attorney

Moved By:
Seconded By:

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 _____

My Home
Miami-Dade County, Florida

miamidade.gov



Property Information Map



Digital Orthophotography - 2006

0 113 ft

This map was created on 5/29/2007 10:19:02 AM for reference purposes only.

Web Site © 2002 Miami-Dade County. All rights reserved.



Close

Summary Details:

Folio No.:	36-6008-005-0090
Property:	
Mailing Address:	NATIONAL INVEST GRP INC 2707 SW 37 AVE MIAMI FL 33183-

Property Information:

Primary Zone:	0100 SINGLE FAMILY RESIDENCE
CLUC:	0081 VACANT LAND
Beds/Baths:	0/0
Floors:	0
Living Units:	0
Adj Sq Footage:	0
Lot Size:	7,500 SQ FT
Year Built:	0
Legal Description:	8 56 40 .17 AC LINCOLN CITY SEC G PB 48-75 LOT 9 BLK 60 LOT SIZE 75.000 X 100 OR 20987-3422 012003 2 (3) COC 22506-3693 07 2004 1

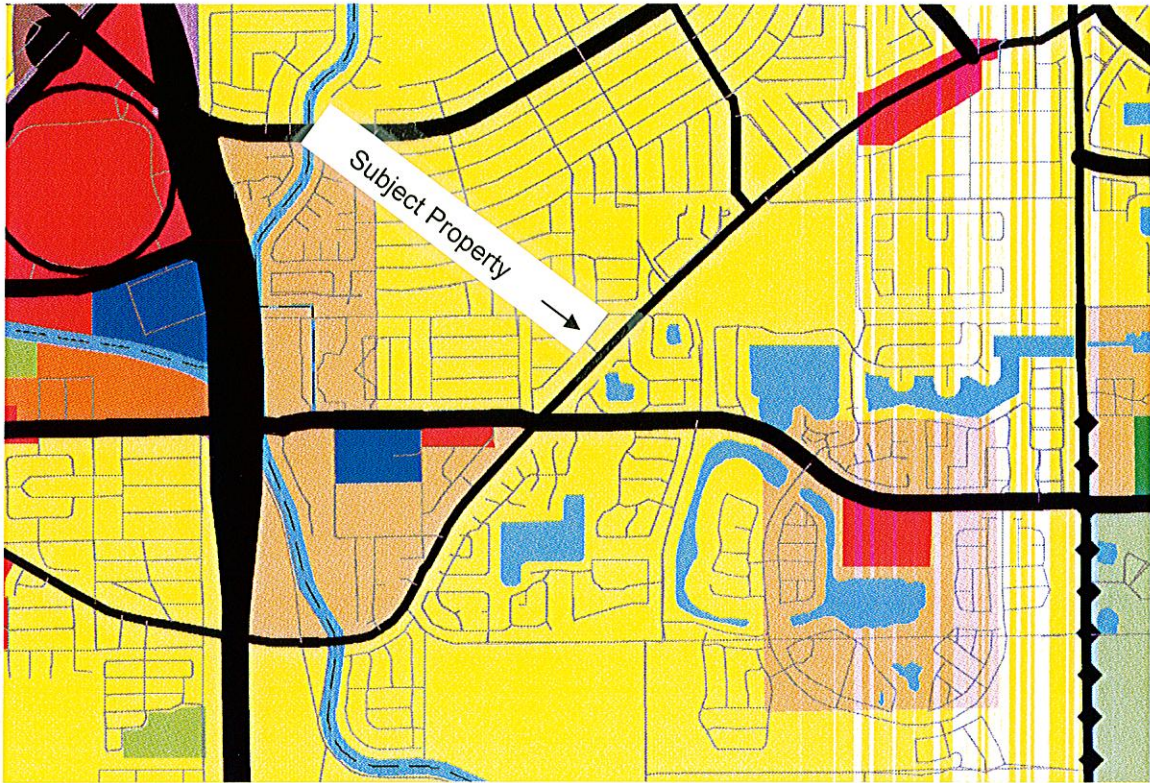
Sale Information:

Sale O/R:	22506-3693
Sale Date:	7/2004
Sale Amount:	\$55,000

Assessment Information:

Year:	2006
Land Value:	\$67,990
Building Value:	\$0
Market Value:	\$67,990
Assessed Value:	\$67,990
Total Exemptions:	\$0
Taxable Value:	\$67,990
Past Assessment:	30-6008-005-0090

National Investment Group
Application No. 06-08



SKETCH OF SURVEY

LEGAL DESCRIPTION:

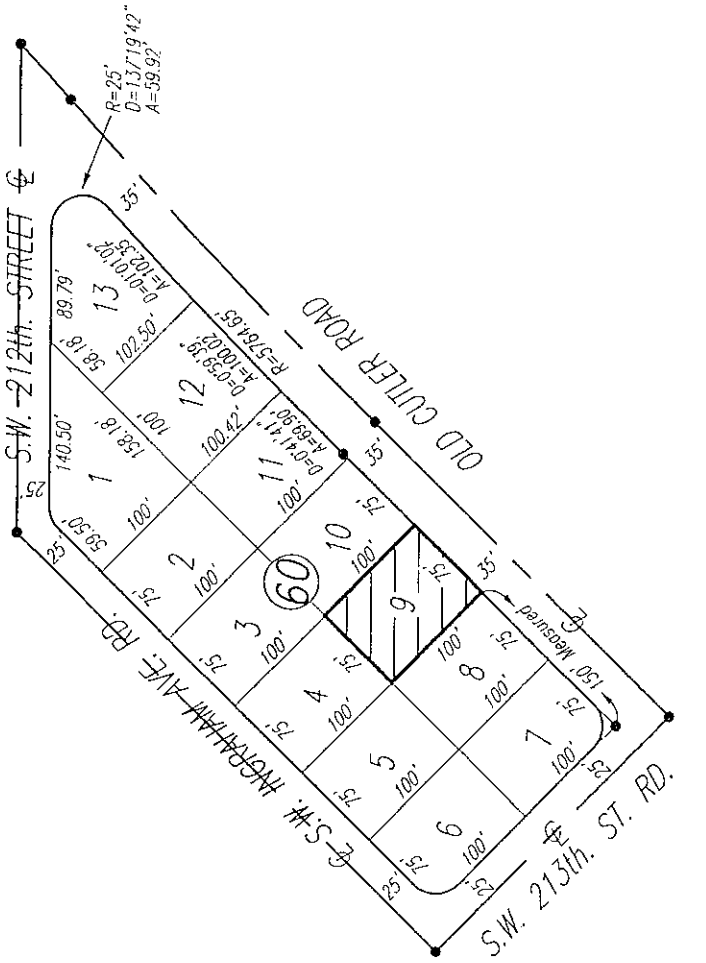
LOT 9, BLOCK 60, "LINCOLN CITY SECTION 'C'" ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 48 AT PAGE 75, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

CERTIFIED TO:

- 1) TRANSATLANTIC BANK
- 2) AFFORDABLE DREAM HOMES DEVELOPMENT CORPORATION
- 3) ATTORNEYS' TITLE INSURANCE FUND, INC.
- 4) WEINTRAUB & ROSEN, P.A.
- 5) FIELDSTONE LESTER SHEAR & DENBERG, LLP

BENCHMARK No.1 (ELEVATION= 14.92 N.G.V.D.)
 DEPT. OF TRANSPORTATION BRASS DISC IN TOP OF CONCRETE GUARDRAIL AT THE N.E. CORNER OF BRIDGE OVER CANAL ON S.W. 107th AVENUE 356' NORTH OF S.W. 216th STREET.

BENCHMARK No.2 (ELEVATION= 12.08 N.G.V.D.)
 2" SQUARE ON TOP OF CURB ON THE NORTH SIDE OF WEST BULLNOSE ON S.W. 216th STREET AT THE ENTRANCE ROAD TO "RIVERSIDE APARTMENTS".



LOCATION SKETCH

SCALE: 1" = 150'

FILE: UNSECC
 SECTION 8-56-40

SURVEYOR'S NOTES:

1. THIS SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
2. DISTANCES SHOWN ALONG PROPERTY LINES ARE RECORD AND MEASURED, UNLESS OTHERWISE NOTED.
3. ELEVATIONS, WHEN SHOWN, RELATE TO NATIONAL GEODETIC VERTICAL DATUM (N.G.V.D.) OF 1929.
4. UNLESS OTHERWISE NOTED, THIS FIRM HAS NOT ATTEMPTED TO LOCATE UNDERGROUND UTILITY ITEMS.
5. THIS SURVEY IS SUBJECT TO EASEMENTS, RIGHTS-OF-WAY, AND OTHER MATTERS WHICH MAY BE REFLECTED BY A SEARCH OF TITLE TO THE SUBJECT LANDS.
6. THIS SURVEY HAS BEEN PREPARED FOR THE EXCLUSIVE USE OF THE ENTITY (ENTITIES) NAMED HEREON. THE CERTIFICATION SHOWN HEREON DOES NOT EXTEND TO ANY UNNAMED PARTY.
7. THERE ARE NO VISIBLE ENCROACHMENTS, OTHER THAN THOSE SHOWN HEREON.
8. BEARINGS RELATE TO AN ASSUMED BEARING (N.A.) ALONG N.A.
9. PROPERTY FALLS WITHIN FEDERAL FLOOD HAZARD ZONE " X " PER FLOOD INSURANCE RATE MAP No. 120635 0357 J MAP DATED: MARCH 2, 1994 INDEX MAP DATED: JULY 17, 1995 ELEVATION: N.A.

TYPE OF SURVEY: LAND/TOPOGRAPHIC SURVEY PREPARED FOR: AFFORDABLE DREAM HOMES DEVELOPMENT CORP.

SCHWEBKE-SHISKIN & ASSOCIATES, INC. (LB-87)
 LAND SURVEYORS • ENGINEERS • ARCHITECTS • LAND PLANNERS • SOILS
 3240 CORPORATE WAY MIRAMAR, FLORIDA 33025 TEL:(954)435-7010 DADE:(305)652-8284
 11941 S.W. 144th STREET MIAMI, FLORIDA 33186 TEL:(305)233-9210 FAX:(305)251-1183

ORDER No.: 442552 DATE: 11-20-02 FIELD BOOK: SD-483 PAGE: 31

I HEREBY CERTIFY:

THAT THE ATTACHED "SKETCH OF SURVEY" OF THE PROPERTY SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS RECENTLY SURVEYED AND DRAWN UNDER MY SUPERVISION AND DIRECTION. THIS SURVEY COMPLIES WITH THE MINIMUM TECHNICAL STANDARDS ADOPTED BY THE FLORIDA STATE BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS PURSUANT TO CHAPTER 61G17-6, FLORIDA ADMINISTRATIVE CODE.

Mark Steven Johnson
 MARK STEVEN JOHNSON, VICE PRES.
 MARK STEVEN JOHNSON, VICE PRES.
 STATE OF FLORIDA

LEGEND:

- ξ denotes CENTERLINE
- Meas. denotes MEASURED
- N & D denotes NAIL & DISC
- C.B.S. denotes CONCRETE BLOCK STRUCTURE
- OHW denotes OVERHEAD WIRES
- CB denotes CATCH BASIN
- R denotes RADIUS
- C.L.F. denotes CHAIN LINK FENCE
- D denotes DELTA ANGLE
- Conc. denotes CONCRETE
- A denotes ARC DISTANCE
- Esmt. denotes EASEMENT
- Rec. denotes RECORD
- I.P. denotes IRON PIPE
- W.F. denotes WOOD FENCE
- L.P. denotes LIGHT POLE
- W.M. denotes WATER METER

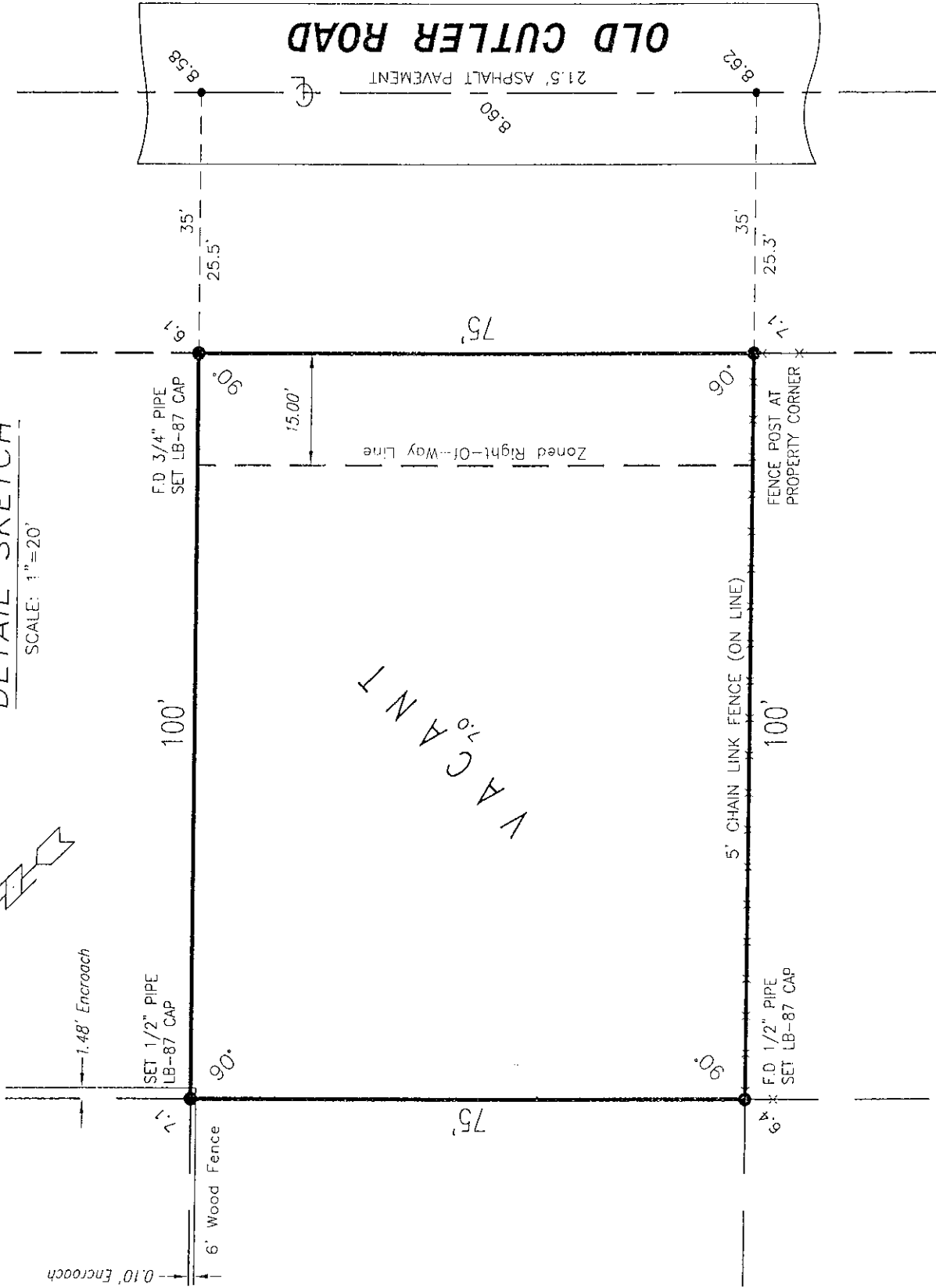
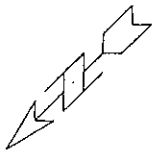
- 90° or 90° denotes EXISTING ELEVATIONS
- Meas. denotes MEASURED
- N & D denotes NAIL & DISC
- OHW denotes OVERHEAD WIRES
- R denotes RADIUS
- D denotes DELTA ANGLE
- A denotes ARC DISTANCE
- Rec. denotes RECORD
- W.F. denotes WOOD FENCE
- W.M. denotes WATER METER

REVISIONS

ORDER No.	DATE	ORDER No.	DATE
443769	6-3-05		

FIELD BOOK	REMARKS	CERTIFIED BY:
SD-483 Pg.31	Up-Date Survey	MARK STEVEN JOHNSON PLS No.4775 V.P.
		MARK STEVEN JOHNSON PLS No.4775 V.P.
		MARK STEVEN JOHNSON PLS No.4775 V.P.
		MARK STEVEN JOHNSON PLS No.4775 V.P.

DETAIL SKETCH
SCALE: 1"=20'



FLOOR ELEVATIONS:
 FLOOR: _____
 GARAGE: _____
 OTHER FLOOR: _____

PROPERTY ADDRESS: _____

Hearing Number: 06-08

Applicant Name: National Investment Group

Location: Generally Located Northeast Of The Intersection of SW 213th Street Road
and Old Cutler Road (Folio No. 36-6008-005-0090)

Size of property: 7,500 square feet

Request: To Waive 15 Feet Of The Zoned Right-Of-Way of Old Cutler Road

Hearing Location: South Dade Regional Library, 2nd Floor, 10750 SW 211th Street

Hearing Date: June 20, 2007

Hearing Time: 7:00 p.m.

Plans are on file with the Town and may be examined at Town Hall. These plans may be modified at the public hearing.

TAB 7



Planning & Zoning Department

R. Don O'Donniley, AICP
Planning Director

M E M O R A N D U M

To: Steven J. Alexander, Town Manager

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

Date: June 15, 2007

Re: Application No. 06-18
Vista del Lago
MPG 216th Street, Ltd.
(Folio No. 36-6016-000-0027)

APPLICANT REQUEST:

The applicant, MPG 216th Street, Limited, is requesting final plat approval for an 18.52 acre property.

LOCATION:

The property is generally located south of SW 216th Street, west of SW 87th Avenue, east of SW 97th Avenue and north of SW 224th Street.

A portion of the NW1/4, and a portion of the NE1/4 of Section 16, Township 56 Range 40, Miami-Dade County, Florida.

BACKGROUND:

This parcel is a part of the Lakes by the Bay development and is zoned BU-2 (Special Business District) The purpose of the BU-2 District, Regional Shopping Center and Office Park District, is to provide for large scale commercial and/or office facilities which service the needs of large urban areas.

Town staff has reviewed this application and met with the applicant on numerous occasions.

The plat submitted consists of two pages entitled "Vista Del Lago, A Subdivision of a Portion of the NW1/4, and a Portion of the NE1/4 if Section 16, Township 56, Range 40, Miami-Dade County, Florida" by Ludovici & Orange Consulting Engineers, Inc.

10720 Caribbean Boulevard, Suite 110
Cutler Bay, FL 33189
(305) 234-4262 Office
(305) 234-4251 Fax
www.cutlerbay-fl.gov



Planning & Zoning Department

RECOMMENDATION:

Approval with conditions.

CONDITIONS:

1. That recordation of the final plat shall not occur until the Town surveyor has provided written confirmation that the final plat meets the County Code and state law requirements.
2. That any future site plans be submitted to and meet with the approval of the Town of Cutler Bay upon the submittal of an application for a building permit; said plan shall include, but not be limited to, location of structure or structures, exits and entrances, drainage, walls, fences, landscaping, and other requirements; and
3. That the Applicant agreed to provide street lighting as part of the site plan approval process along the south side of S.W. 216th Street abutting the applicant's property.

RESOLUTION NO. 07-

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, GRANTING FINAL PLAT APPROVAL FOR MPG 216TH STREET LIMITED, CONSISTING OF APPROXIMATELY 18.52 ACRES, GENERALLY LOCATED SOUTH S.W. 216TH STREET, WEST S.W. 87TH AVENUE, EAST S.W. 97TH AVENUE, AND NORTH OF S.W. 224TH STREET, AS LEGALLY DESCRIBED IN EXHIBIT “A;” AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, MPG 216th Street Limited (the “Applicant”) applied to the Town of Cutler Bay (the “Town”) for approval of a final plat attached as Exhibit “B,” for property legally described in Exhibit “A;” and

WHEREAS, the provisions of Chapter 28 “Subdivisions” of the County Code of Ordinances regulates the subdivision of land in both the incorporated and unincorporated areas of the County; and

WHEREAS, Town staff has reviewed the final plat, and has recommended approval of the final plat, subject to the conditions set forth in Section 4 of the this Resolution; and

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

WHEREAS, the Town Council finds that the proposed final plat is consistent with the Miami-Dade County Comprehensive Development Master Plan, which now functions as the Town’s Comprehensive Plan.

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. **Approval of Final Plat.** Pursuant to the requirements set forth in Chapter 28 “Subdivisions,” Section 28-8 “Plats and Platting—Final Plat,” of the County Code, the requested final plat, attached hereto as Exhibit “B,” is hereby approved subject to the conditions set forth in Section 4 below.

Section 3. **Violation.** The Miami-Dade County Code of Ordinances, as applicable to the Town, functions as the Town’s Code of Ordinances (the “Town Code”). Failure to adhere to the terms of approval shall be considered a violation of the Town Code. Persons found violating the approval shall be subject to the penalties prescribed by the Town Code including, but not limited to, the revocation of the approvals granted by this Resolution. The Applicant understands and acknowledges that it must comply with all other applicable requirements of the Town before it may

commence construction or operation, and this Resolution may be revoked by the Town Council at any time upon a determination that Applicant is not in compliance with the Town Code.

Section 4. Conditions. The approvals granted by this Resolution are subject to the Applicant's compliance with the following conditions, to which the Applicant stipulated at the public hearing:

1. That recordation of the final plat shall not occur until the Town surveyor has provided written confirmation that the final plat meets the County Code and state law requirements.
2. That any future site plans be submitted to and meet with the approval of the Town of Cutler Bay upon the submittal of an application for a building permit; said plan shall include, but not be limited to, location of structure or structures, exits and entrances, drainage, walls, fences, landscaping, and other requirements; and
3. That the Applicant agreed to provide street lighting as part of the site plan approval process along the south side of S.W. 216th Street abutting the applicant's property.

Section 5. Recording. The Town, or the Applicant if so requested by the Town Clerk, shall record this Resolution at the Applicant's sole expense in the Public Records of Miami-Dade County, Florida.

Section 6. Effective Date. This Resolution shall be effective 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.
Town Attorney

Moved By:
Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman _____

Vice Mayor Edward P. MacDougall _____

Councilmember Peggy R. Bell _____

Councilmember Timothy J. Meerbott _____

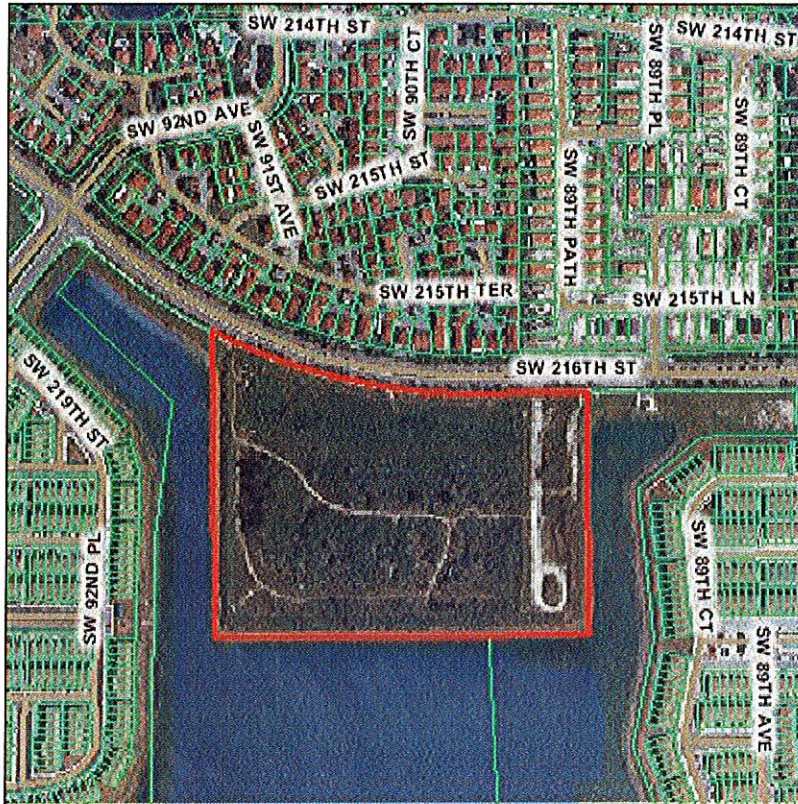
Councilmember Ernest N. Sochin _____

My Home
Miami-Dade County, Florida

miamidade.gov



Property Information Map



Digital Orthophotography - 2006

0 — 231 ft

This map was created on 6/12/2007 10:26:18 AM for reference purposes only.

Web Site © 2002 Miami-Dade County. All rights reserved.



Close

Summary Details:

Folio No.:	36-6016-000-0027
Property:	
Mailing Address:	MPG 216TH STREET LTD 1803 BRIAR CREEK BLVD SAFETY HARBOR FL 34695-

Property Information:

Primary Zone:	6400 COMMERCIAL, MEDIUM INTENSITY
CLUC:	0081 VACANT LAND
Beds/Baths:	0/0
Floors:	0
Living Units:	0
Adj Sq Footage:	0
Lot Size:	808,909 SQ FT
Year Built:	0
Legal Description:	16 56 40 18.52 AC M/L PORT OF N1/2 OF SEC DESC BEG 1098.80FTS & 1812.02FTW OF NE COR OF SEC TH S 00 DEG E 698FT S 89 DEG W 1090.15FTN 00 DEG W 886.77FT SELY-ELY NELY AD

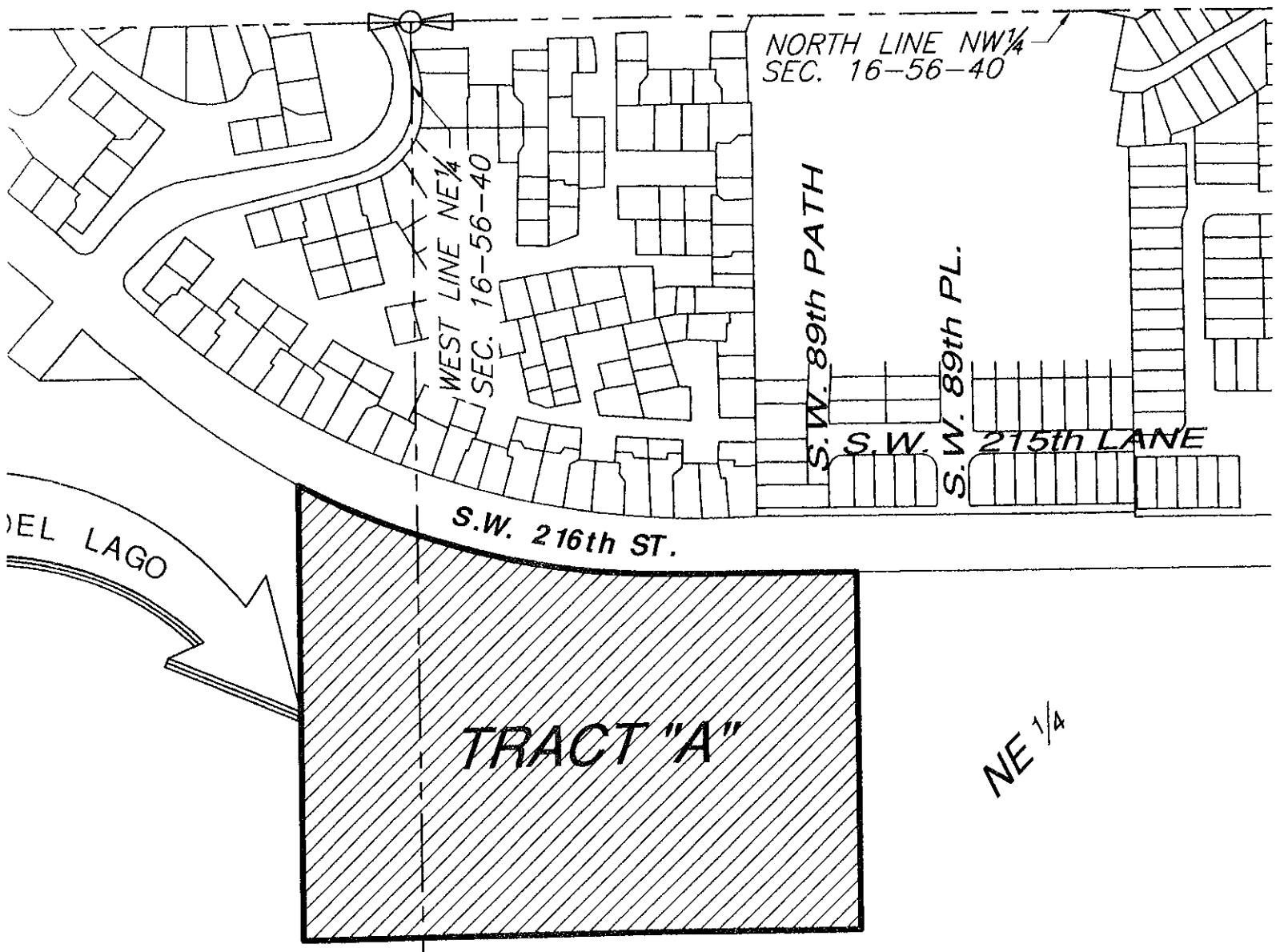
Sale Information:

Sale O/R:	21855-3380
Sale Date:	11/2003
Sale Amount:	\$6,969,600

Assessment Information:

Year:	2006
Land Value:	\$6,471,272
Building Value:	\$0
Market Value:	\$6,471,272
Assessed Value:	\$6,471,272
Total Exemptions:	\$0
Taxable Value:	\$6,471,272
Past Assessment:	30-6016-000-0027

RANGE
RS INC.
LORIDA 33134
05) 446-3876

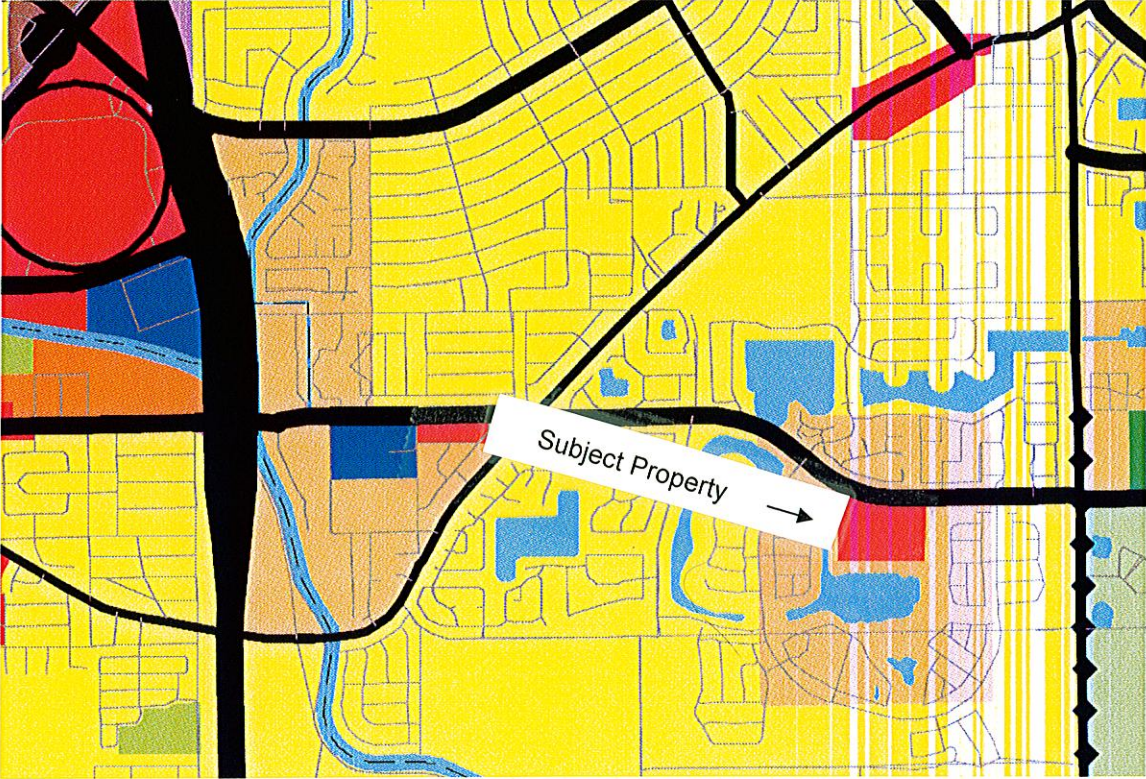


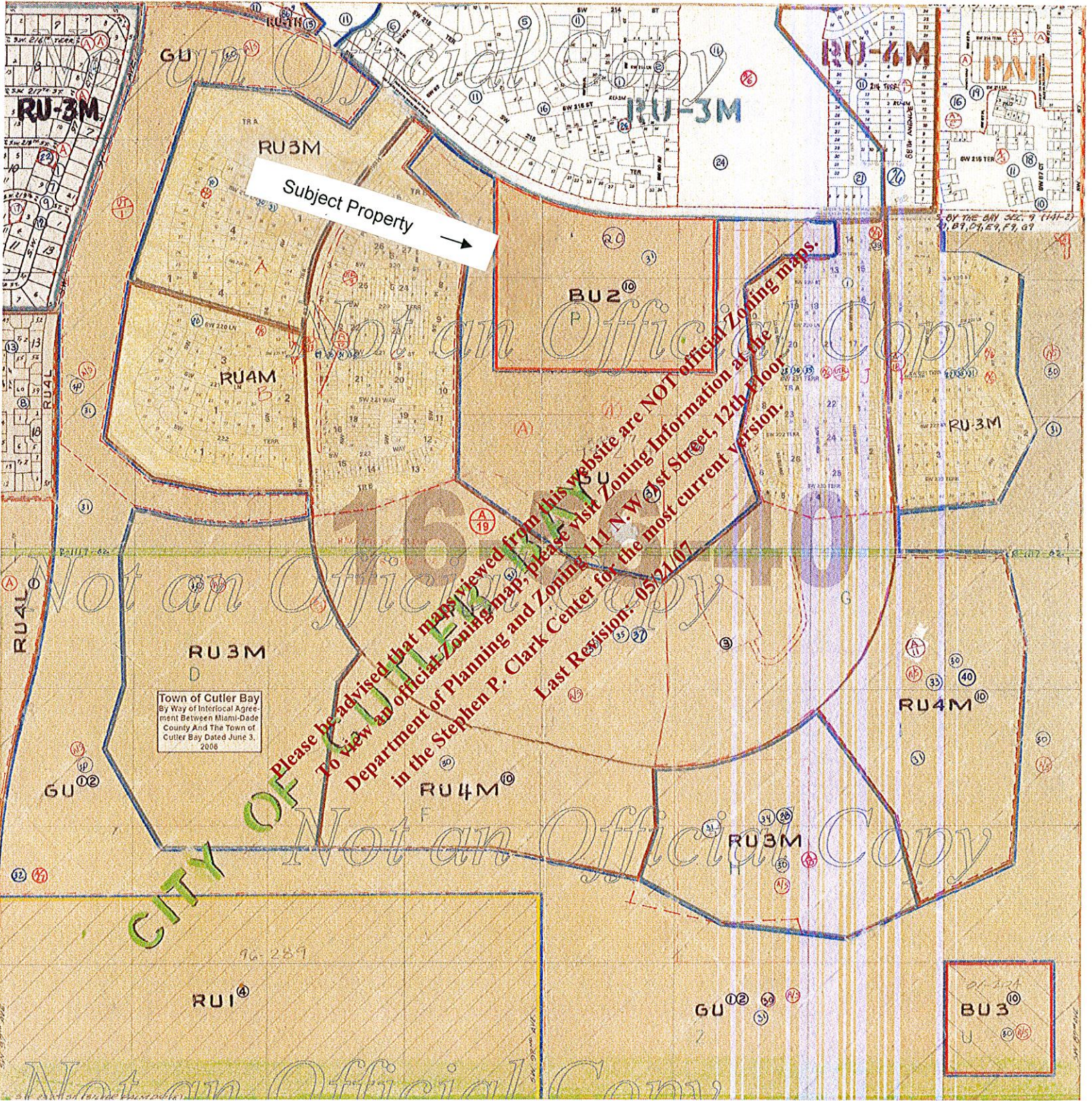
LOCATION SKETCH

NW1/4, AND A PORTION OF THE
6, TOWNSHIP 56, RANGE 40 EAST,
DE COUNTY, FLORIDA.

SCALE: 1"=300'

Vista Del Lago
Application No. 06-18





Subject Property →

Town of Cutler Bay
By Way of Interlocal Agreement
Between Miami-Dade
County And The Town of
Cutler Bay Dated June 3,
2006

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. 21st Street, 12th Floor.
Last Revision: 05/21/07

BU-3
U

Hearing Number: 06-18

Applicant Name: MPG 216th Street, Ltd.

Location: Generally Located South of SW 216th Street, West of SW 87th Avenue,
East of SW 97th Avenue and North of SW 224th Street
(Folio No. 36-6016-000-0027)

Size of property: 18.52 acres

Request: Final Plat Approval

Hearing Location: South Dade Regional Library, 2nd Floor, 10750 SW 211th Street

Hearing Date: June 20, 2007

Hearing Time: 7:00 p.m.

Plans are on file with the Town and may be examined at Town Hall. These plans may be modified at the public hearing.

TAB 8



Planning & Zoning Department

R. Don O'Donniley, AICP
Planning Director

MEMORANDUM

To: Steven Alexander, Town Manager
From: Don O'Donniley, AICP, Planning Director
Date: June 20, 2007
Re: Standards for Garage Sales

REQUEST

That the Town Code be amended to add the following provisions as outlined in the accompanying ordinance.

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

- That new standards be added to allow up to four garage sales each calendar year.
- That new standards be added to provide that garage sales that occur over two consecutive days are considered one sales event
- Each applicant for a garage sale may place up to three directional signs on private property with the owner's permission and one sign on the location of the sale

BACKGROUND AND ANALYSIS

Background

Several citizens have requested the Town review the current ordinance regulating garage sales and the standards within it. The Mayor has requested staff to prepare a revised Ordinance.

One new provision increases the number of allowed garage sales to four a calendar year. The ordinance also clarifies any two consecutive days are considered one

10720 Caribbean Boulevard, Suite 110
Cutler Bay, FL 33189
(305) 234-4262 Office
(305) 234-4251 Fax
www.cutlerbay-fl.gov

sales event. Last, the Ordinance allows up to three directional signs to be located on private property to help direct traffic to the sale site.

Analysis

The original provisions of the Dade County Code regulating garage sales, as written several years ago, now acts as the Town Code (Section 2-103.15). The County attempts to limit garage sales to two a year as a policy. In addition, it is not clear if a sale conducted during two days of a weekend constitutes one sales event or two. Enforcement may have been uneven and the citizens have asked for clearer rules that can be understood. The proposed ordinance clarifies that sales occurring during two consecutive days are one garage sale event. It also expands the number of sales events to four during any calendar year. Last, the provision of directional signs is clarified and revised to allow up to three signs located on private property to direct traffic to the sale site. There is also a provision that allows for a sign on the site where the sale is actually occurring.

The proposed ordinance also establishes minimum standards for operation of the sale. The proposed ordinance does not require any fee but does provide for an application and permit procedure.

RECOMMENDATION

Approval of the proposed revisions that pertain to garage sales in residential districts.

ORDINANCE NO. 07-__

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, PROVIDING FOR COMPREHENSIVE REGULATIONS RELATING TO GARAGE SALES; PROVIDING FOR PENALTIES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is the intent of the Town Council of the Town of Cutler Bay (the “Town”) to permit and regulate garage sales within the Town; and

WHEREAS, regulating garage sales will permit residents to continue to have such sales, while minimizing the secondary impacts of such sales on the surrounding neighborhood; 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. Residential Garage Sales.

(A) Definition.

A “garage sale” shall mean the sale of personal property at the residential property on which the sale is occurring. The term includes lawn sale, yard sale, front yard sale, backyard sale, home sale, attic sale, rummage sale, patio sale, driveway sale, estate sale, or any similar designation.

(B) Number of sales.

Each residential homeowner or tenant may be permitted for up to four (4) garage sales per calendar year, with two (2) consecutive days of sales being defined as a garage sale.

(C) Permit required.

Prior to holding a garage sale, the homeowner or tenant shall obtain a permit from the planning department. There shall be no fee for the permit. The garage sale permit shall be prominently displayed on the premises while the sale is in progress. Applicants for garage sale permits shall provide the following information to the Town at the time of application:

(1) Name of the person conducting the sale or owner of the property at which the sale will be located;

(2) Location where the garage sale is to be conducted;

(3) Dates the sale is to be held;

(4) Dates of any past garage sales at the subject location within the past 12 months;

(5) Nature of the personal property to be sold; and

(6) Proof of residence.

Applications for garage sales to be located at multifamily residential buildings shall be accompanied by the written permission of the property owner or manager.

(D) Time.

It shall be unlawful for any person to conduct a garage sale other than between the hours of 7:00 a.m. and 7:00 p.m. It shall likewise be unlawful for any person to attend a garage sale, without regard to whether any goods are purchased by that person, other than between the hours of 7:00 a.m. and 7:00 p.m. A garage sale shall consist of a maximum of two (2) consecutive days and shall only take place on a Friday, Saturday, Sunday, or a national holiday.

(E) Merchandise display

Merchandise to be sold at a garage sale shall be displayed in a garage, carport, private driveway, or yard. Merchandise shall not be displayed within the public right-of-way or swale area. All items shall be removed by the end of the last day of the sale. In the event that a garage sale consists of two (2) days, all items kept overnight between the first and second day shall be covered in a water proof material.

(F) Signs.

Signs advertising garage sales shall be displayed only during the times of the sale and shall be permitted as follows:

(1) Only (1) sign may be located on the residential property on which the sale is occurring;

(2) Up to three (3) signs advertising a garage sale are permitted to be placed on private property, with the consent of the property owner, off-site from the location of the garage sale; and

(3) Signs shall not be larger than 22 inches by 28 inches.

Garage sale signs shall not be permitted within the public right-of-way or swale and shall be subject to the provisions set forth in Section 2-103.15 of the Code. Signs advertising such sales must be removed within twelve (12) hours after the completion of the sale.

(G) Penalties.

Failure to comply with the provisions of this Ordinance shall subject the violator to the provisions of Chapter 8CC of the Code. In the event that a violation of the Ordinance is not provided for in Chapter 8CC of the Code, the failure to comply with the provisions in this Ordinance shall result in a fine of fifty dollars (\$50.00) for the first offense; one hundred dollars (\$100.00) for the second offense; and one hundred and fifty dollars (\$150.00) for the third offense.

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.
Town Attorney

Moved By:
Seconded By:

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 9

ORDINANCE NO. 07-

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, FORMALLY REPEALING CERTAIN PROVISIONS RELATED TO NONRESIDENTIAL SETBACKS WITHIN CHAPTER 33 "ZONING," ARTICLE II "BUILDING CONTENT, SETBACKS AND AREA OF SITES;" AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Cutler Bay (the "Town") adopted Ordinance 07-07 relating to nonresidential establishments within the Town; and

WHEREAS, it was the intent of the Town Council that in adopting Ordinance 07-07 that all nonresidential setbacks be removed in the Town; and

WHEREAS, this intent is evidenced by the regulations in Ordinance 07-07 which provide for no off-street parking in the front of such establishments, encroachments into the right-of-way, and sidewalks along the façade of buildings; and

WHEREAS, to further clarify this intent and in the abundance of caution, the Town Council desires to adopt this Ordinance; and

WHEREAS, public notice was provided in accordance with law; 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. Repealing of Certain Provisions in Chapter 33 of the Town Code. Chapter 33 "Zoning," Article II "Building Content, Setbacks and Area of Sites" is hereby repealed as follows:

ARTICLE II. BUILDING CONTENT, SETBACKS AND AREA OF SITES

Sec. 33-41. Setbacks--Application of tables.

The minimum lot area and dimensions of sites and setbacks shown by tables in this article shall apply to the districts indicated.

~~Front building lines for all structures shall be set back from the nearest highway right of way according to sections on official right of way plan and minimum widths and tables in this article. The setback from all side and rear property lines shall be not less than ten (10) percent of the average width of the lot, provided such setback is not less than five (5) feet, but in no case shall such setback requirements exceed seven and one-half (7 1/2) feet, except where greater distance is required for a specified district by tables in this article and for corner lots.~~

~~Sec. 33-42. Same--Survey required when property line in doubt.~~

~~Applications for permit to erect, move or alter a structure which is to be located within ten (10) feet of any property line, or which is to be located within twenty-five (25) feet of any existing or proposed highway right of way, or where there is any doubt in the minds of the Director and the Director of the Public Works Department about the location of a property line, shall be accompanied by a certified map from a survey of the premises prepared by a land surveyor, registered in the State, and markers showing the boundary corners, corresponding to the survey, shall be left undisturbed until a certificate of occupancy is issued.~~

~~Sec. 33-47. Front street setbacks for commercial uses in BU and IU Districts; pump islands at service stations; light poles.~~

~~(a) Front setback and yard area requirements for commercial structures in Business (BU) and Industrial (IU) Districts shall be twenty (20) feet, provided that front setback of pump islands for gasoline service stations shall be only fifteen (15) feet, and provided, further, that light standards (poles) shall meet the setback requirements for class B detached signs.~~

~~(b) Detached, freestanding canopies to cover pump islands at gasoline service stations shall be permitted, provided:~~

~~(1) That the nearest edge of the detached canopy to the front property line (measured to the official right of way line) is at least seventeen (17) feet therefrom.~~

~~(2) That the nearest edge of the detached canopy to the side street property line (measured to the official right of way line) is at least twelve (12) feet therefrom.~~

~~(3) No minimum setback or spacing need be provided between the inner edge of the canopy and the gasoline service station building.~~

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

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

~~*Front*—Twenty (20) feet.~~

~~*Side street*—Fifteen (15) feet, except where an RU, EU or GU lot abuts a business or industrial lot, then the side street setback shall be twenty-five (25) feet on any part of the commercial structure located within twenty-five (25) feet of the residential district boundary provided, however, if an abutting GU lot is depicted as "Industrial & Office" on the adopted Land Use Plan map of the Comprehensive Development Master Plan and no building permit has been issued for~~

~~a residence at the time of the approval of the building permit for the business or industrial use, the setback shall be fifteen (15) feet from the side street property line.~~

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

~~Five (5) feet where any openings are provided in the wall of the proposed structure, adjacent to the interior side property lot line.~~

~~Ten (10) feet for such portions of the business structure as are devoted to residential use.~~

~~Fifteen (15) feet where the adjacent property is zoned RU or EU or GU. It is provided, however, that where an abutting GU lot is depicted as "Industrial & Office" on the adopted Land Use Plan map of the Comprehensive Development Master Plan and no building permit has been issued for a residence at the time of the approval of the building permit for the business or industrial use, in such instances the setback shall be:~~

~~Zero (0) feet where the wall along the interior side property line is unpierced and constructed in accordance with the Florida Building Code; or~~

~~Five (5) feet where any openings are provided in the wall of the proposed structure, adjacent to the interior side property lot line.~~

~~Rear—Twenty (20) feet from residential district boundary, except that credit shall be given for full width of dedicated alleys in computing this setback.~~

~~Five (5) feet from business or industrial district boundary, where any openings are provided in wall of proposed structure, adjacent to rear lot line.~~

~~Zero (0) feet from business or industrial district boundary where no openings are proposed in wall of proposed structure, adjacent to rear lot line.~~

~~Same setbacks shall apply for accessory buildings as apply to principal structures.~~

~~Between buildings—Twenty (20) feet.~~

~~Structures containing residential uses or mixed residential business uses shall comply with residential setbacks (for the entire building) as may be required for the residential use in the residential district.~~

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.
Town Attorney

Moved By:
Seconded By:

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

ORDINANCE NO. 07-_____

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING A SENIOR CITIZEN HOMESTEAD TAX EXEMPTION RELATING TO AD VALOREM TAXATION; PROVIDING FOR AN ADDITIONAL HOMESTEAD EXEMPTION FOR CERTAIN QUALIFYING LOW INCOME SENIOR CITIZENS TO BE APPLIED TO MILLAGE RATES LEVIED BY THE TOWN; PROVIDING FOR THE SUBMISSION OF AN ANNUAL APPLICATION AND SUPPORTING DOCUMENTATION TO THE MIAMI-DADE COUNTY PROPERTY APPRAISER; PROVIDING FOR WAIVER OF EXEMPTION; PROVIDING FOR AN ANNUAL INCREASE IN THE INCOME LIMITATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on November 7, 2006, the voters approved an amendment to the Florida Constitution providing for city and county governments to have the option of increasing the amount of homestead tax exemption to certain qualifying senior citizens; and

WHEREAS, the Mayor and Town Council of the Town of Cutler Bay, Florida (the "Town") desire to authorize and implement the increased homestead exemption for qualifying senior citizens in accordance with the provisions of Section 196.075 of the Florida Statutes, as created by the 2007 session of the Florida Legislature through its enactment of HB 333; and

WHEREAS, pursuant to Section 4.4 of the Town Charter the Town adopted an emergency ordinance creating the Senior Homestead Tax Exemption; and

WHEREAS, pursuant to Section 4.4 of the Town Charter this ordinance reenacts the previously adopted emergency ordinance related to the same subject under regular procedures.

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

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

Section 2. Senior Citizen Homestead Tax Exemption. That the Town Code is hereby amended by creating a "Senior Citizen Homestead Tax Exemption", to read as follows:

SENIOR CITIZEN HOMESTEAD TAX EXEMPTION

Sec. 1. Definitions.

For the purpose of this Article, the terms "Household" and "Household Income" shall have the same meanings as ascribed to them in Section 196.075, Florida Statutes, as may be amended from time to time.

Sec. 2. Additional Homestead Exemption.

In accordance with Section 6(f), Article VII of the Florida Constitution and Section 196.075, Florida Statutes, any person 65 years of age or over who has legal or equitable title to real estate located within the Town and maintains thereon his/her permanent residence which qualifies for and receives a homestead exemption pursuant to Section 6(a), Article VII of the Florida Constitution and whose household income does not exceed the greater of \$20,000 or the income limitation amount as adjusted pursuant to Section 196.075(3), Florida Statutes, as described below, shall be entitled to make application for an additional homestead exemption of \$50,000 (the "Additional Exemption") The Additional Exemption, if granted, shall be applicable to all ad valorem tax millage rates levied by the Town and shall apply only to ad valorem taxes levied by the Town.

Sec. 3. Application Process.

Every person claiming the Additional Exemption pursuant to this Article must file an application (the "Application") and supporting documentation (the "Documentation") with the Miami- Dade County Property Appraiser ("Property Appraiser") not later than March 1 of each year for which the Additional Exemption is claimed, unless otherwise provided by law. The Application shall include a sworn Statement of Household Income for all members of the Household and shall be filed on a form prescribed by the Florida Department of Revenue. On or before June 1 of each year every applicant must file supporting Documentation with the Property Appraiser, unless otherwise provided by law. The Documentation shall include copies of all federal income tax returns, wage and earnings statements, any requests for extension of time to file a return and any other documentation as required by the Property Appraiser, including documentation necessary to verify the income received by all of the members of the Household for the prior year.

Sec. 4. Failure to file.

Failure to file the Application and sworn statement by March 1 of any given year, as required by law, or failure to file the required supporting Documentation by June 1 of any given year, shall constitute a waiver of the Additional Exemption privilege for that year.

Sec. 5. Availability.

The Additional Exemption shall be available commencing with the year 2007 tax roll, and the Property Appraiser may begin accepting Applications and sworn statements for the year 2007 tax roll as soon as the appropriate forms are available from the Department of Revenue. In the event that the Miami- Dade County Property Appraiser determines that the Additional Exemption is not available for the year 2007 tax roll, then the Additional Exemption shall be available commencing with the year 2008 tax roll.

Sec. 6. Annual increase in limitation.

Pursuant to Sec. 196.075 (3), Florida Statutes, commencing January 1, 2001 and each January 1 thereafter, the \$20,000 annual income limitation described above shall be adjusted by the percentage of change in the average cost of living index for the calendar year immediately prior to that year. "Index" shall be the average of the monthly consumer-price index figures for the stated period, for the United States as a whole, issued by the United States Department of Labor.

Section 3. Copy to the Property Appraiser. The Town Clerk shall deliver a copy of this Ordinance to the Miami Dade County Property Appraiser.

Section 4. 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 5. 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 6. Conflicts. Any and all Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

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

PASSED on first reading this 16th day of May, 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.
Town Attorney

Moved By:
Seconded By:

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 11



Office of the Town Attorney

Mitchell A. Bierman
Town Attorney

Chad S. Friedman
Town Attorney

MEMORANDUM

To: Mayor, Vice Mayor and Council Members, Town of Cutler Bay

cc: Steven J. Alexander, Town Manager
R. Don O'Donniley, Planning Director

From: Mitchell A. Bierman, Town Attorney
Scott A. Robin, Town Attorney

Date: June 15, 2007

Re: Cutler Bay Wireless Telecommunications Facilities Ordinance

The proposed Town of Cutler Bay Wireless Telecommunications Facilities Ordinance ("Ordinance") amends the Town Code to establish general guidelines for the siting of telecommunication towers and antennas in the Town to minimize their potential adverse impacts on the community. The Ordinance requires compliance with local, state and federal regulations including the Florida Building Code. Additionally, the Ordinance provides definitions, application and co-location requirements. The Ordinance is discussed in detail below.

- **Applicability** – While the Ordinance will apply to all future towers and antennas, it subjects pre-existing towers and antennas to specific requirements set forth in the Ordinance. Additionally, all pending applications are subject to any and all requirements under the Ordinance.
- **Definitions** - The Ordinance contains definitions to maintain consistency with current law and technology. The definitions include terms that provide enhanced understanding of the technology, construction, and public safety involved in the telecommunications industry.
- **Application Requirements** – The Ordinance sets forth an application process for the construction, installation, or placement of any Wireless Communications Facilities, including towers, antennas and equipment shelters within the Town. It enhances the ability of the providers of Telecommunications Services to provide such services to the community through an efficient and timely Application process. Such Application requirements include, but are not limited to, whether a proposed facility is a principal or accessory use, lot size, inventory of existing sites, engineering report, and certification that the proposed facility will not interfere with Public Safety Telecommunications.
- **Fees** – The Ordinance requires an Application for placement of a tower and antenna in the Town be accompanied by a non-refundable filing fee for processing.

- **Review Process** – The Planning Director or his/her designee is responsible for reviewing Applications for consistency with the Town’s comprehensive plan, land development regulations including this Ordinance, and compatibility of the proposed tower or antenna with the surrounding neighborhood. The Town must also hold a workshop for site plan approval. Upon review, the Planning Director must issue a recommendation to the Town Council. The Council considers such recommendation as well as additional factors presented by the Applicant or Town staff. The Council has the authority to approve or deny any Application that incorporates the factual basis for the Council’s decision.

- **Development Standards** – The Ordinance sets forth the placement and size restrictions for towers, antennas mounted on towers, structures or rooftops, utility or light poles, and equipment cabinets. The Ordinance also provides collocation incentives; hierarchy of siting alternatives and preferred zoning districts; public safety telecommunications interference standards; aesthetics to limit adverse impact on adjacent properties; lighting; setbacks; separation; height; noise; modifications or reconstruction of existing tower and antennas; signs; security fencing; licenses; parking; and outdoor storage requirements.

- **Removal of Abandoned Towers and Antennas** – The Ordinance attempts to minimize potential damage to property from towers and antennas by requiring any antenna or tower that is not operated for a continuous period of twelve (12) months to be considered abandoned. If an owner fails to remove any and all equipment, the Town may remove the equipment at the owner’s expense.

- **Protection of the Town and Residents** – The Town shall not enter into any lease agreement with a provider for use of Town-owned property unless the Town obtains indemnification and insurance from such provider. The Ordinance releases the Town from and against all liability and responsibility in or arising out of the construction, operation or repair of towers and antennas. An operator and its contractor or subcontractors engaged in work on the operator’s behalf, shall maintain comprehensive general liability.

- **Security Fund** – The Ordinance provides for a Security fund requiring providers establish a cash security fund or provide the Town with an irrevocable letter of credit in the same amount to secure the payment of removing an antenna or tower that has be determined to be abandoned or is not in compliance with the Ordinance. The amount to be provided for each tower is \$25,000; the amount for each antenna is \$5,000.

The proposed Ordinance passed on 1st reading on May 16, 2007.

ORDINANCE NO. 07-

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA COMPREHENSIVELY UPDATING AND REVISING CHAPTER 33 "ZONING" ARTICLE IV "TOWERS, POLES AND MASTS" RELATING TO WIRELESS SUPPORTED SERVICE FACILITIES; AMENDING THE LIST OF THE PERMITTED USES IN THE RU-3M, RU-4, RU-4L, RU-4M ZONING DISTRICTS RELATING TO WIRELESS SUPPORTED SERVICE FACILITIES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Congress of the United States adopted the Telecommunications Act of 1996, providing federal regulation of wireless communications, a technology of wireless voice, video and data communications systems rapidly becoming available, requiring land use facilities that impact planning and zoning concerns of the Mayor and Town Council of the Town of Cutler Bay ("Town") and throughout the United States; and

WHEREAS, the Town finds that it is in the public interest to permit the siting of wireless telecommunications towers and antennas within its municipal boundaries; and

WHEREAS, the Town has received and expects to receive additional requests from telecommunications service providers to site wireless telecommunications towers and antennas within the municipal boundaries and is authorized by federal, state, and local law to regulate the siting of such telecommunications towers and antennas; and

WHEREAS, it is the intent of the Town to provide reasonable accommodation to, and to promote and encourage fair and reasonable competition among telecommunications service providers or providers of functionally equivalent services on a neutral and non-discriminatory basis; and

WHEREAS, the purpose and intent of this Ordinance is to establish appropriate locations in priority order of use, and, further, to develop the requirements and standards to permit the siting of wireless telecommunications towers and antennas within the municipal boundaries, with due consideration to the Town's zoning map, existing land uses and environmentally sensitive areas, including hurricane preparedness areas; and

WHEREAS, it is the intent of this Ordinance to encourage collocation among wireless telecommunications service providers and to enhance the ability of the providers to provide such services to the Town through an efficient and timely application process pursuant to Section 365.172, Florida Statutes, as amended; and

WHEREAS, any antenna and related equipment to service the antenna that is being collocated on an existing above-ground structure is not subject to land development regulation

pursuant to Section 163.3202, Florida Statutes, provided the height of the existing structure is not increased; and

WHEREAS, through these regulated standards, it is the intent of the Town to protect and promote the health, safety and general welfare of its citizens and residents, the traveling public and others in such manner that will minimize both the number of telecommunications towers and antennas and the adverse visual impact and other potential damage by these facilities by encouraging collocation and shared use of new and pre-existing telecommunications facilities, through incentives, careful design, engineering siting, landscape screening and innovative camouflaging techniques; and

WHEREAS, the Town Council, in its capacity as the local planning agency, has reviewed this Ordinance and recommends approval; 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 finds it is in the best interest of the Town to amend the wireless provisions and procedures contained in the Miami-Dade County Code as made applicable to the Town by 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 FOLLOWS¹:

Section 1. **Findings.** The foregoing WHEREAS clauses are hereby adopted and incorporated herein as if fully set forth in this Section.

Section 2. **Repeal of Sections 33-63.2 and 33-63.3 of the Town Code of Ordinances.** Sections 33-63.2 "Wireless supported service facilities" and 33-63.3 "Co-location" of the Town Code of Ordinances are hereby repealed in their entirety as follows:

~~Sec. 33-63.2 Wireless supported service facilities.~~

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

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

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

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

¹ Coding: underlined words are additions to existing text, struck through words are deletions from existing text, **shaded** and underlined text reflects additions made from First Reading, and double struck through words are deletions made from First Reading.

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

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

~~(A) Except for Cylinder Type Antennas, Antennas shall be screened from view or wall mounted and shall not exceed nine (9) Sectors.~~

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

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

~~(D) Where roof mounted:~~

~~1. Requests to install roof mounted Antennas shall be accompanied by a line of sight analysis for each building elevation. The line of sight analysis shall be as provided for in the sketches shown below as Figures 33-63.2(b)(2)iii and iv. In conducting such analysis, the width of the right-of-way shall be equal to the width of the right-of-way fronting the particular elevation.~~

Figure 33-63.2(b)(2)iii

Figure 33-63.2(b)(2)iv

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

Section 3. Creation of the Town Wireless Telecommunications Facilities Ordinance. The Town's Wireless Telecommunications Facilities Ordinance is hereby created as follows:

SECTION 33-63.2. INTENT.

The regulations and requirements establish general guidelines for the siting of wireless telecommunications towers and antennas and are intended to accomplish the following purposes:

(a) protect and promote the public health, safety and general welfare of the residents of the Town;

(b) minimize residential areas and land uses from potential adverse impacts of towers and antennas;

(c) encourage the location of towers in non-residential areas and to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;

(d) minimize the total number of towers throughout the community by strongly encouraging the collocation of antennas on new and Pre-Existing Tower sites as a primary option rather than construction of additional single-use telecommunications towers;

(e) encourage users of telecommunications towers and antennas to configure them in a way that minimizes the adverse visual impact of the telecommunications towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;

(f) minimize potential damage to property from telecommunications towers and telecommunications facilities by requiring such structures be soundly designed, constructed, modified and maintained; and

(g) enhance the ability of the providers of telecommunications services to provide such services to the community through an efficient and timely application process. In furtherance of these goals, the Town shall at all times give due consideration to the Town's master telecommunications plan, comprehensive plan, zoning map, existing land uses, and environmentally sensitive areas, including hurricane preparedness areas, in approving sites for the location of telecommunications towers and antennas.

SECTION 33-63.3. GENERAL RULES OF INTERPRETATION AND DEFINITIONS.

(a) *Interpretation.* In the absence of definitions, the standard dictionary meaning shall be utilized. In any event, the planning director shall have the right to interpret the terms contained in this subdivision. In construing the meaning of the subdivision, the following rules shall apply:

- (1) Words used in the present tense also include the future tense.
- (2) Words used in the singular number also include the plural and vice-versa.
- (3) The word "shall" is mandatory. The word "may" is permissible.
- (4) The word "development" shall refer also to "project" and the area in which a project takes place.
- (5) The words "used" or "occupied" shall be construed to include arranged, designed, constructed, altered, converted, rented, leased or intended to be used, intended to be occupied.
- (6) The word "lot" shall refer also to plot, parcel, tract and premises.

(7) The word "building" shall refer also to structure, mobile home, dwelling and residence.

(8) The words "area" and "district" may indicate and include the meaning "zone."

(9) Except where specified, the provisions of this article shall be construed to mean the minimum standards, requirements and regulations adopted in pursuit of the purposes of this subdivision.

(b) *Definitions.* As used in this Ordinance, the following words, terms and phrases, when used in this subdivision shall have the meanings set forth below, and for the purpose of this Ordinance shall control over any other definitions contained in the Town's Code of Ordinances. Words not defined shall be given their common and ordinary meaning.

“Accessory Use” means a secondary use including a use that is not related to, incidental to, subordinate to and subservient to the main use of the property on which an antenna and/or telecommunications tower is sited.

“Alternative Tower Structure” means a design mounting structure that camouflages or conceals the presence of an antenna or telecommunications tower, for example, flag poles, man made trees, clock towers, bell steeples, light poles, utility poles and similar alternative designs. An antenna mounted on a utility pole shall be subject to all requirements as stated in this Ordinance.

“Antenna” means a transmitting and/or receiving device mounted on a telecommunications tower, building or structure and used in wireless telecommunications services that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies, wireless communications signals and other communications signals including directional antennas such as panel and microwave dish antennas, and omni-directional antennas such as whips, but excluding radar antennas, amateur radio antennas and satellite earth stations.

“Applicant” means any party submitting an Application within the meaning of this Ordinance.

“Application” means any proposal, submission or request to construct, operate, or maintain a telecommunications tower, equipment facility, wireless communications facility, or Antenna within the Town or seeks any other relief from the Town pursuant to this Ordinance.

“Array” means a group of up to twelve (12) Antennas that are either (i) mounted or side mounted on the rooftop of a building or rooftop structure(s); or (ii) directly or indirectly mounted on a telecommunications tower.

“Backhaul network” means the lines that connect personal wireless service facilities to one (1) or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

“Broadcasting Facility” means any telecommunications tower or Antenna built primarily for the purpose of broadcasting AM, FM or television signals.

“Building Code” means the Florida Building Code, as amended, the National Electrical Code, as amended, the National Electrical Safety Code, as amended, FCC regulations, as amended, and any other applicable federal, state, and local building code.

“Building-Permit Review” means a review for compliance with building constructions standards adopted by the Town and does not include a review for compliance with land development regulations.

“Camouflaged Facility” means a facility that is disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure in a manner that makes it not readily identifiable as a wireless communications facility. A camouflaged facility may or may not have a secondary function (e.g., bell tower, spire, flag pole, etc.). This term shall be synonymous with "stealth facility."

“Carrier” means a company licensed by the Federal Communications Council (FCC) that provides wireless services. A tower builder or owner is not a carrier unless licensed to provide personal wireless services.

“Town” means Cutler Bay, Florida, an incorporated municipality of the State of Florida, in its present form or in any later reorganized, consolidated, or enlarged form.

“Collocation” means the situation when a second or subsequent wireless provider uses an existing structure to locate a second or subsequent Antenna. The term includes the ground, platform, or roof installation of equipment enclosures, cabinets, or buildings, and cables, brackets, and other equipment associated with the location and operation of the Antennas.

“Commercial Mobile Radio Services” means, per Section 704 of the Telecommunications Act of 1996, any of several technologies using radio signals at various frequencies to send and receive voice, data and video.

“County” means Miami-Dade County, Florida, a chartered county of the State of Florida, in its present form or in any later reorganized, consolidated, or enlarged form.

“Equipment Facility” means a room, cabinet, shelter, pedestal, build-out of an existing structure, building, or similar structure used to house ancillary equipment for a telecommunications tower or Antenna. Each such cabinet, shelter, or building shall be considered a separate equipment facility.

“Essential Services” means those services provided by the Town and other governmental entities that directly relate to the health and safety of its residents, including fire, police and rescue.

“Existing Structure” means a structure that exists at the time an Application for permission to place an Antenna on a structure is filed with the Town. The term includes any structure that can structurally support the attachment of an Antenna in compliance with applicable codes.

“Extraordinary Conditions” means subsequent to a hurricane, flood, or other natural hazard or subsequent to a defective finding on a previous inspection.

“FAA” means the Federal Aviation Administration.

“FCC” means the Federal Communications Commission.

“Geographic Search Area” means that initial circular area which has a radius of no less than one (1) mile designated by a wireless provider or operator for a new tower. The geographic search area shall be determined based upon engineering considerations including grids, frequency coordination and levels of service consistent with good engineering practices.

“Guyed Tower” means a telecommunications tower that is supported, in whole or in part, by guy wires and ground anchors.

“Height” means the distance measured from the ground level to the highest point of a telecommunications tower or other structure. For the purposes of measuring Height, the base pad and all Antennas or other attachments mounted on a structure shall be included in the measurements to determine overall Height.

“Interference” means the impairment of transmission or reception of any desired communications or radio frequencies within the Town. This term embraces electrical interference in all of its forms, including, without limitation, co-channel interference, interference from intermodulation products, and blanketing inference.

"Historic Building, Structure, Site, Object, or District" means any building, structure, site, object, or district that has been officially designated as a historic building, historic structure, historic site, historic object, or historic district through a federal, state or local designation program.

"Land Development Regulations" means any ordinance enacted by the Town for the regulation of any aspect of development, including an ordinance governing zoning, subdivisions, landscaping, tree protection, or signs, the Town’s comprehensive plan, or any other ordinance concerning any aspect of the development of land.

“Lattice Tower” means a telecommunications tower that is constructed to be self-supporting by lattice type supports and without the use of guy wires or other supports.

“Microcell Facility” A telecommunications facility consisting of an Antenna (as defined below) and related equipment which is located either on a telecommunications tower or affixed to a structure in some fashion for the provision of wireless services.

“Microwave Dish Antenna” means a dish-like Antenna used to link telecommunications sites together by wireless transmission and/or receipt of voice or data.

“Monopole Tower” means a telecommunications tower consisting of a single pole or spire self-supported on a permanent foundation, constructed without guy wires, ground anchors, or other supports.

“Non-Use Variance” means a grant of relief from the requirements of this Ordinance pursuant to the Town Code or a non-use variance permit.

“Personal Wireless Services” means Commercial Mobile Radio Services, unlicensed wireless services, and common Carrier wireless exchange access services, as defined under federal law, 47 U.S.C. §332(c)(7)(C), or as this definition may be amended from time to time, and includes but is not limited to, cellular, personal communication services, specialized mobile radio, enhanced specialized mobile radio, and paging service. Personal Wireless Services shall not be considered as Essential Services, public safety telecommunications, public utilities or private utilities.

“Planning Director” means the person and/or department designated by the Town responsible for the administration and enforcement of this Ordinance including, but not limited to, review and approval of an application as provided in this Ordinance.

“Pre-Existing Tower” means a telecommunications tower for which a building permit has been properly issued prior to the effective date of this Ordinance, including permitted telecommunications towers that have not yet been constructed so long as such approval is current and not expired.

“Preferred Zoning Districts” means the zoning districts within this Ordinance in which the Town provides a preference for the installation of Wireless Communications Facilities.

“Pole” means any utility, electricity, telephone, power or light pole, other than any pole owned by the Town.

“Public Safety Telecommunications” means any and all wireless communications to and from police, fire, and other emergency services operating within the Town.

“Public Rights-of-Way” or “ROW” means a public right-of-way, public utility easement, highway, street, bridge, tunnel, pier, waterway, dock, wharf, court, lane, path, or alley or any other property for which the Town is the authority that has jurisdiction and control and may lawfully grant access to such property pursuant to applicable law, and includes the surface, the air space over the surface and the area below the surface to the extent the Town holds a property interest therein. “Public Rights-of-Way” shall not include private property. “Public Rights-of-Way” shall not include any real or personal property except as described above and shall not include Town buildings, fixtures, Poles, conduits, facilities or other structures or improvements, regardless of whether they are situated in the Public Rights-of-Way.

“Roofline” The overall ridge line of the structure which does not include cupolas, elevator towers, clock towers or other features that are permitted to exceed the maximum Height of the buildings

“Rooftop” means the exterior surface on the top of a building or structure.

“Search Area” means the geographic area, in which a wireless communications facility must be located in order to provide FCC required coverage, as certified through an affidavit by a Radio Frequency engineer as to radio frequency waves or other such appropriate technical expert.

“Self-Support Tower” means a tapered structure broad at the base and more narrow at the top consisting of cross-members and diagonal bracing and without guyed support, also known as Lattice Towers.

“Setbacks” means the required distance from the telecommunications tower or Equipment Facility to the property line of the parcel on which the wireless communications facility is located.

“Service Provider” means any person or business entity wishing to locate a telecommunications tower or Antenna within the Town limits to provide Personal Wireless Services.

“State of the Art” means existing technology where the level of facilities, technical performance, capacity, equipment, components and Personal Wireless Service is equal to that developed and demonstrated to be as technologically advanced and generally available for comparable service areas in South Florida.

“Stealth Facility or Tower” or “Stealth” means any wireless communications facility or tower that is designed to blend into the surrounding environment. Examples of such facilities would include, but are not limited to, architecturally screened roof mounted Antenna, building-mounted Antenna painted to match the Existing Structure, Antenna integrated into architectural elements, Alternative Tower Structures or other similar structures.

“Telecommunications Act” means the Telecommunications Act of 1996, Pub. L No. 104-104, codified at 47 U.S.C., and as may be amended from time to time.

“Telecommunications Services” means the offering of telecommunication (or the transmission, between or among points, specified by the user of information of the user's choosing, without change in the form or content of the information as sent and received), for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used. Personal wireless communication services shall not be considered as Essential Services, public utilities or private utilities.

“Telecommunications Tower” or “Tower” means any structure, and support thereto, designed and constructed primarily for the purpose of supporting one or more Antennas intended for transmitting or receiving Personal Wireless Services, telephone, radio and similar communication purposes, including Alternative Tower Structure, Lattice, Stealth, Monopole, and Guyed Towers. The term includes radio and television transmission telecommunications towers, microwave telecommunications towers, common-Carrier telecommunications towers, and cellular telephone telecommunications towers, among others. Poles are only a support structure and are not a telecommunications tower.

“Whip Antenna” means a cylindrical Antenna that transmits signals in 360 degrees.

“Wireless Communications Facility” means any equipment or facility used to provide Personal Wireless Service and may include, but is not limited to, Antennas, Towers, Equipment Facility, cabling, Antenna brackets, and other such equipment. Placing a Wireless Communications Facility on an Existing Structure does not cause the Existing Structure to become a Wireless Communications Facility. It also means Personal Wireless Services facilities, as defined under federal law, 47 U.S.C. §332(c)(7)(C), as this definition may be amended from time to time, and includes, but is not limited to, Antennas and radio-transmitting Telecommunications Towers, and associated facilities used to transmit telecommunications signals. Poles are only a support structure and are not a Wireless Communications Facility. An open video system is not a Wireless Communications Facility to the extent that it provides video services; a cable system is not a Wireless Communications Facility to the extent that it provides cable service.

SECTION 33-63.4. APPLICABILITY.

A. All new Wireless Communications Facilities and reconstruction or modifications to existing Wireless Communications Facilities in the Town shall be subject to the regulations in this Ordinance to the full extent permitted under applicable state and federal law.

B. Pre-existing Telecommunications Towers or Antennas shall not be required to meet the requirements of this Ordinance, other than the specific requirements set forth herein.

C. Broadcasting Facilities/Amateur Radio Station Operators/Receive Only Antennas. This Ordinance shall not govern any Broadcasting Facility or a Wireless Communications Facility owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only Antennas.

D. Pending Applications. This Ordinance shall apply to Applications for Wireless Communications Facilities, Telecommunications Towers, and Antennas as defined herein unless prohibited by applicable law.

E. Not Essential Services. The providing of Personal Wireless Services and the siting and construction of Wireless Communications Facilities shall be regulated and permitted pursuant to this Ordinance and shall not be regulated or permitted as Essential Services or Public Safety Telecommunications as defined herein.

F. Except for matters herein specifically reserved to the Town Council, the Planning Director shall be the principal Town official responsible for the administration of this Ordinance. The Planning Director may delegate any or all of the duties hereunder unless prohibited by applicable law.

G. AM Array. For purposes of implementing this Ordinance, an AM Array, consisting of one or more Tower units and supporting ground system which functions as one AM broadcasting Antenna, shall be considered one Tower. Measurements for Setbacks and separation distances shall be measured from the outer perimeter of the Towers included in the AM Array. Additional Tower units may be added within the perimeter of the AM Array by right.

H. The Town may create an Application form as may be amended from time to time, for a person to apply for the construction, installation, or placement of a Wireless Communications Facility, Telecommunications Tower, or Antenna within the Town consistent with the terms of this Ordinance. The Town may create a different Application form for Collocation Applications.

SECTION 33-63.5. APPLICATION REQUIREMENTS FOR WIRELESS COMMUNICATIONS FACILITIES.

A. Unless exempted from these requirements as set forth below, or as otherwise required by state or federal law, permits shall be required for the installation of Wireless Communications Facilities, including Telecommunications Towers and Antennas, by Application submitted to the Planning Director.

B. The following information must be included in all Applications, including Applications for installations of Telecommunications Towers and Antennas but excluding Collocation Applications.

- (1) Current survey of the property.
- (2) Description of the Telecommunications Services currently provided and/or to be provided in the future by the Applicant over its Wireless Communications Facilities.
- (3) Location of the proposed facilities.
- (4) Identify the location of all overhead and underground public utility; telecommunication, cable, water, sewer, drainage and other facilities.
- (5) Identify the trees, structures, improvements, facilities and obstructions, if any, that Applicant proposes to temporarily or permanently remove or relocate.
- (6) Identify all applicable FCC licenses and approvals.

(7) Statement that Applicant shall notify all other telecommunication providers of the permit Application at time Application is accepted by the Planning Director.

(8) Any Application submitted to the Town for construction or installation of a Telecommunication Tower or Wireless Communications Facility shall demonstrate that the proposed structure conforms with the State of the Art or, alternatively, that State of the Art technology is unsuitable for the site involved. Costs of State of the Art technology that exceed new Tower development shall not be presumed to render the technology unsuitable.

(9) Antennas and Towers may be considered a Principal Use on a vacant lot. In the event that there is an existing Principal Use on a lot, they may be considered as an Accessory Use. A different existing use of an Existing Structure on the same lot shall not preclude the installation of an Antenna or Telecommunications Tower on such lot.

(10) Lot Size. For purposes of determining whether the installation of a Telecommunications Tower or Antenna complies with the zoning provisions, including, but not limited to, Setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the Antenna or Telecommunications Tower may be located on leased parcels within such lot.

(11) An Inventory of Existing Sites. Each Applicant shall provide the Town with an inventory of its Pre-existing Telecommunications Towers and Antennas, and the Pre-existing sites of any other Telecommunications Towers, Antennas and Wireless Communications Facilities within a three (3) mile radius of the Town.

(12) For Applications for new Telecommunications Towers, the Applicant must provide information to demonstrate, pursuant to the procedures listed within this subsection, that no Pre-existing Tower Existing Structure, or State of the Art technology that does not require the use of new Telecommunications Towers or new structures, can accommodate or be modified to accommodate the Applicant's proposed Telecommunications Tower. Evidence submitted to demonstrate that no Pre-Existing Tower, Existing Structure or State of the Art technology is suitable may consist of an affidavit from an engineer licensed to practice in the State of Florida or by an engineer exempt from such requirement under Florida law, and with experience with radio frequency and Wireless Communications Facilities, determining or demonstrating the following:

(a) that Pre-Existing Towers or Existing Structures located within the Geographic Search Area do not have the capacity to provide reasonable technical service consistent with the Applicant's technical system, including but not limited to, applicable FCC requirements.

(b) that Pre-Existing Towers or Existing Structures are not of sufficient Height to meet applicable FCC requirements, or engineering requirements of the Applicant.

(c) that Pre-Existing Towers or Existing Structures do not have sufficient structural strength to support Applicant's proposed Antenna and related equipment.

(d) that the Applicant's proposed Antenna would cause electromagnetic/radio frequency Interference with Antennas on Pre-Existing Towers, Antennas or Existing Structures, or the Antenna on the Pre-Existing Towers or structures would cause Interference with the Applicant's proposed Antenna.

(e) that the Applicant's proposed Antenna on a Pre-Existing Tower or Existing Structure would cause Interference with Public Safety Telecommunications.

(f) that the Applicant made diligent efforts but was unable to obtain permission to install or collocate the Applicant's Wireless Communications Facilities on Pre-Existing Towers or usable Antenna support located within a one (1) mile radius from the proposed site.

(g) that there are other limiting factors that render Pre-Existing Towers and Existing Structures unsuitable.

(13) The Engineering Report.

(14) If applicable, a copy of the executed lease agreement of the property where the Wireless Communications Facility and/or Tower will be located.

(15) Additional information that the Town may request consistent with this Ordinance and applicable law to process the Application. In the event the Town requests any additional information, the time in which an Application is processed shall be tolled pending receipt and further evaluation.

(16) Consultant Fee. The Town shall have the right to retain independent technical consultants and experts that it deems necessary to properly evaluate Applications for individual Towers. The consultant fee shall be based upon the hourly rate of the independent technical consultant or expert the Town deems necessary to properly evaluate Applications for Tower. The special fee shall be applied to those Applications requiring special review or evaluation. The special fee shall be reimbursed by the Applicant to the Town.

(17) To the extent not prohibited by applicable law, any Application for a Wireless Communications Facility shall also include:

(a) A certification from an engineer licensed to practice in the State of Florida or by an engineer exempt from such requirement under Florida law, and with experience with radio frequency and Wireless Communications Facilities that the proposed facility including reception and transmission functions, is not expected to interfere with or obstruct transmission to and from existing Public Safety Telecommunications facilities;

(b) A remedial action plan, subject to the Town's approval, that includes, but is not limited to, procedures to rectify any Interference or obstruction with Public Safety Telecommunications, its plans to make all necessary repairs and/or accommodations to alleviate the Interference or obstruction, and a period of compliance.

(18) If the Applicant seeks relief from any regulation contained herein, the Applicant must provide the nature of the specific relief sought and the engineering justification to demonstrate that without such relief, applicability of the regulation would have the effect of prohibiting the provision of Personal Wireless Services.

C. Engineering Report. The Engineering Report shall be from an engineer licensed to practice in the State of Florida or by an engineer exempt from such requirement under Florida law, and with experience with radio frequency and Wireless Communications Facilities, and shall include:

(1) A site development plan of the entire subject property drawn to scale, including, without limitation:

(a) a tax parcel number, legal description of the parent tract and leased parcel, total acres, and Section/Township/Range of the subject property;

(b) the lease parcel fully dimensioned, including property lines, Setbacks, roads on or adjacent to the subject property, easements;

(c) outline of all existing buildings, including purpose (i.e. residential buildings, garages, accessory structures, etc.) on subject property;

(d) all existing vegetation, by mass or individually by diameter, measured for feet from the ground of each stand-alone tree on the subject property;

(e) proposed/existing security barrier, indicating type and extent as well as point of controlled entry;

(f) proposed/existing access easements, utility easements, and parking for the Telecommunications Tower;

(g) all proposed changes to the subject property, including grading, vegetation removal, temporary or permanent roads and driveways, storm water management facilities and any other construction or development attendant to the Telecommunications Tower;

(h) scaled elevation drawing of proposed Telecommunications Tower, including location of all mounts, Antennas, Equipment Facilities, fencing and landscaping;

(i) if applicable, on-site and adjacent land uses.

(2) If applicable, a narrative of why the proposed Telecommunications Tower cannot comply with the requirements of the Engineering Report.

(3) The type of Telecommunications Tower and specifics of design including, if appropriate, the following:

(a) equipment brochures for the proposed Tower such as manufacturer's specifications or trade journal reprints. These shall be provided for the Antennas, mounts, Equipment Facilities, cables as well as cable runs, and security barrier, if any;

(b) materials of the proposed Tower specified by generic type and specific treatment (i.e., anodized aluminum, stained wood, painted fiberglass, etc.). These shall be provided for the Antennas, mounts, Equipment Facilities, cables as well as cable runs, and security barrier, if any;

(c) colors of the proposed Tower represented by a color board showing actual colors proposed. Colors shall be provided for the Antennas, mounts, Equipment Facilities, cables as well as cable runs, and security barrier, if any;

(d) dimensions of the Tower specified for all three directions: Height, width and breadth. These shall be provided for the Antennas, mounts, Equipment Facilities and security barrier, if any; and

(e) a visual impact analysis, with a minimum of two (2) photo digitalization or photographic superimpositions of the Tower within the subject property. The photo digitalization or photographic superimpositions shall be provided for all attachments, including: the Antennas, mounts, Equipment Facilities, cables as well as cable runs, and security barrier, if any for the total Height, width and breadth, as well as at a distance of 250 feet and 500 feet from all properties within that range, or at other points agreed upon in a pre-Application conference.

(4) Current wind-loading capacity and a projection of wind-loading capacity using different types of Antennas as contemplated by the Applicant. No

Telecommunications Tower shall be permitted to exceed its wind loading capacity as provided for by the Florida Building Code.

(5) An affidavit from an engineer licensed to practice in the State of Florida or by an engineer exempt from such requirement under Florida law, and with experience with radio frequency and Wireless Communications Facilities stating that the proposed Telecommunications Tower, including reception and transmission functions, will not interfere with the visual and customary transmission or reception of radio, television or similar services as well as other wireless services enjoyed by adjacent residential and non-residential properties.

(6) An affidavit from an engineer licensed to practice in the State of Florida or by an engineer exempt from such requirement under Florida law, and with experience with radio frequency and Wireless Communications Facilities stating confirming compliance with all applicable Building Codes, associated regulations and safety standards. For all Towers attached to Existing Structures, the statement shall include certification that the structure can support the load superimposed from the Telecommunications Tower.

SECTION 33-63.6. APPLICATION REQUIREMENTS FOR COLLOCATIONS.

A. The following information must be included in all Collocation Applications.

(1) An engineering report, from an engineer licensed to practice in the State of Florida or by an engineer exempt from such requirement under Florida law, and with experience with radio frequency and Wireless Communications Facilities, that shall include:

(a) A statement of compliance with this Ordinance and all applicable Building Codes, associated regulations and safety standards as provided herein. The statement shall include certification that the Existing Structure can support the load superimposed from the Antenna(s).

(b) The type of Antenna and specifics of design including, if appropriate, the following:

(1) equipment brochures for the proposed Antenna such as manufacturer's specifications or trade journal reprints. These shall be provided for the Antennas, mounts, Equipment Facilities, cables as well as cable runs, and security barrier, if any;

(2) materials of the proposed Antenna specified by generic type and specific treatment (i.e., anodized aluminum, stained wood, painted fiberglass, etc.). These shall be provided for the Antennas, mounts, Equipment Facilities, cables as well as cable runs, and security barrier, if any;

(3) colors of the proposed Antenna represented by a color board showing actual colors proposed. Colors shall be provided for the Antennas, mounts, Equipment Facilities, cables as well as cable runs, and security barrier, if any;

(4) dimensions of the proposed Antenna specified for all three directions: Height, width and breadth. These shall be provided for the Antennas, mounts, Equipment Facilities and security barrier, if any; and

(5) a visual impact analysis, with a minimum of two (2) photo digitalization or photographic superimpositions of the Pre-Existing Tower and proposed Antenna within the subject property. The photo digitalization or photographic superimpositions shall be provided for all attachments, including: the Antennas, mounts, Equipment Facilities, cables as well as cable runs, and security barrier, if any for the total Height, width and breadth, as well as at a distance of 250 feet and 500 feet from all properties within that range, or at other points agreed upon in a pre-Application conference.]

(c) Current wind-loading capacity and a projection of wind-loading capacity using different types of Antennas as contemplated by the Applicant. No Telecommunications Tower shall be permitted to exceed its wind loading capacity as provided for by the Florida Building Code.

(d) A certification that the proposed Antenna, including reception and transmission functions, is not expected to interfere with or obstruct transmission to and from existing Public Safety Telecommunications facilities or any other Telecommunications Services;

(e) A description of the geographical service area requirements; and

(f) If necessary, a remedial action plan, subject to the Town's approval, that includes, but is not limited to, procedures to rectify any Interference or obstruction with Public Safety Telecommunications, its plans to make all necessary repairs and/or accommodations to alleviate the Interference or obstruction, and a period of compliance.

(2) An Inventory of Existing Sites. Each Applicant shall provide the Town with an inventory of its Pre-existing Telecommunications Towers and Antennas, and the Pre-existing sites of any other Telecommunications Towers, Antennas and Wireless Communications Facilities within a three (3) mile radius of the Town.

(3) A copy of the executed lease agreement of the Tower where the Wireless Communications Facility and/or Antenna will be collocated; and

(4) Additional information that the Town may request consistent with this Ordinance and applicable law to process the Application. In the event the Town requests any additional information, the time in which an Application is processed shall be tolled pending receipt and further evaluation.

SECTION 33-63.7. INSTALLATIONS ON MUNICIPAL PROPERTY.

A. Applications for a Wireless Communications Facility on property owned, leased or otherwise controlled by the Town, except for Public Rights-of Way, shall require a Lease Agreement approved by the Town Council and executed by the Town and the owner of the proposed Wireless Communications Facility. The Town may require, as a condition of entering into a Lease Agreement, the dedication of space on the facility for Public Safety Telecommunications purposes, as well as property improvement on the leased space. Any dedications and improvements shall be negotiated prior to execution of the lease.

(1) No lease granted pursuant to this Ordinance shall convey the exclusive right, privilege, permit or franchise to occupy or to use the public lands of the Town for delivery of Personal Wireless Services or any other purpose.

(2) No lease granted pursuant to this Ordinance shall convey any right, title or interest in the public lands other than a leasehold interest, and shall be deemed only to allow the use of the public lands for the limited purposes and term stated in the lease. No lease shall be construed as a conveyance of a title interest in the property.

(3) Any and all Collocations or placements of Antennas on a Wireless Communications Facility that is located on property owned, leased or otherwise controlled by the Town, except for Public Rights-of-Way, shall require a separate lease agreement with the Town as well as full compliance with the requirements of this ordinance for such Collocations and placements of Antennas.

(4) Pursuant to applicable law, the Town may contract with a third party to administer Town-owned property for purposes of developing Town-owned sites, consistent with the terms of this Ordinance. Except as specifically provided herein, the terms of this Ordinance, and the requirements established thereby, shall be applicable to all Telecommunication Towers or Personal Wireless Service facilities to be developed or Collocated on Town-owned sites.

(5) Town-owned property is exempt from the minimum distance separation and Height requirements set forth herein.

SECTION 33-63.8. APPLICATION FEES AND PROCESS.

A. Filing Fee.

(1) All Applications shall be accompanied by the applicable non-refundable filing fee. The applicable filing fee shall be submitted to the development review

committee with the Application. The following table lists the applicable Application and inspection fees:

Type of Application	Fee
Telecommunications Tower	\$8,000
Antenna Collocation	\$4,000
Antenna-not-Located-on-Telecommunications-Tower	\$4,000
Modification of a Wireless Communications Facility	\$4,000
Non-Use Variances	\$4,000
Cooperation	\$4,000
Inspection	\$1,000

The Town Council may amend the amount of the filing fees from time to time by Resolution. The annual inspection fee of one thousand dollars (\$1,000.00) is due the Town at the time of inspection.

(2) Cost Recovery. The purpose of the filing fee is to defray the Town’s costs in processing the Application. All reasonable expenses incurred by the Town in considering and processing the Application, including, but not limited to, consulting and legal costs, shall be off-set from the filing fee. If, however, the expenses exceed the amount of the filing fee, to the extent not prohibited by applicable law, the Applicant shall pay the difference within thirty (30) days of the date it receives notice of such additional expenses. If the additional fees are not received by the Town within thirty (30) days of the date of notice, the Town shall notify such Applicant and the Applicant shall pay an additional late fee at the rate of eighteen (18%) percent per annum of the amount unpaid or underpaid, provided, however, that such rate does not exceed the maximum amount allowed under the applicable law. In such case, the rate will be the maximum allowed by law. If the Town does not receive said fee in total within sixty (60) days of the date of notice, the Town shall notify the Applicant in writing and may revoke any approval.

B. Applicants regulated by this Ordinance may request a pre-Application conference with the Town. Such request shall be submitted with a non-refundable fee of Five Hundred Dollars (\$500.00) to reimburse the Town for the cost and fees incurred by the conference.

C. Unless otherwise authorized by state or federal law, no person shall construct, install or maintain a Wireless Communications Facility within the Town without the Town’s approval pursuant to this Ordinance.

D. The Planning Director shall review the Application for consistency with the Town’s Comprehensive Master Development Plan, Land Development Regulations including this Ordinance, and compatibility of the proposed Wireless Communications Facility with the surrounding neighborhood. For Applications that are not subject to the Town Council’s approval pursuant to this Ordinance, the Planning Director shall issue a written decision either granting or denying an Application. The Planning Director shall not grant an Application for a proposed Wireless Communications Facility that will interfere with any Public Safety Telecommunications, or is otherwise not in compliance with this Ordinance. In the event the

Planning Director denies an Application, the Planning Director shall set forth the reasons for denial in writing.

E. An Applicant shall attend a zoning workshop for site plan approval and to address any deficiencies contained in Applications regardless of whether or not such Applicant is subject to the Town Council's approval pursuant to this Ordinance and subject to applicable law.

F. Notification of completeness. The Planning Director shall notify the Applicant within twenty (20) business days after the date the Application is submitted as to whether the Application is, for administrative purposes only, properly completed and has been properly submitted in accordance with the requirements set forth above. However, such determination shall not be deemed as an approval of the Application. Such notification shall indicate with specificity any deficiencies which, if cured, could make the Application properly completed.

G. For Applications that are subject to the Town Council's approval pursuant to this Ordinance, the Planning Director shall issue a recommendation in writing to the Town Council. In the event that the Planning Director determines that a proposed Wireless Communications Facility subject to the Town Council's approval pursuant to this Ordinance will interfere with any Public Safety Telecommunications, or is otherwise not in compliance with this Ordinance, the Planning Director shall recommend that the Town Council deny the Application and shall set forth the reasons for denial in writing.

H. The Town Council shall consider any part of the Application, the Planning Director's recommendation, and any additional evidence presented by the Applicant, Town staff and the public. If the Applicant wishes to have a court reporter record the Council meeting, the Applicant may do so at the Applicant's expense and shall furnished a copy of the transcript to the Town within two weeks of the Council meeting, at the Applicant's expense.

I. The Town Council's decision either approving or denying an Application shall be by resolution. Any decision of the Town Council to deny an Application shall authorize the Planning Director to set forth in writing the Town Council's reasons for the denial. It is the intent of this Section to establish a procedure for compliance with the "written decision" and "substantial evidence" requirements of the Telecommunications Act, 47 U.S.C. §332(c)(7)(B)(iii).

(1) The Town Council's written reasons for denial of an Application may include, but are not limited to, compatibility with the surrounding neighborhood or lack thereof, compliance or non-compliance with this Ordinance or any other provision of the Town Code, or any lawful reason.

(2) The Town Council's written reasons shall incorporate by reference the complete Application, minutes of public hearings, and any recommendations and findings by the Planning Director and/or the Town Council.

(3) If an Application is denied because the proposed facility does not meet the requirements of this Ordinance, the Applicant may file an Application for a Non-Use Variance.

J. The Town shall grant or deny each properly completed Application for a Collocation based on the Application's compliance with this Ordinance, Town Code, state law, or federal law, as amended. This timeframe shall not apply to an Application for Collocation on Town owned property.

K. The Town shall grant or deny each properly completed Application for any other Wireless Communications Facility based on the Application's compliance with this Ordinance and any other applicable law, including but not limited to the Town Code. This timeframe shall not apply to an Application for Wireless Communications Facilities on Town-owned property.

L. An Application is deemed submitted or resubmitted on the date the Application is received by the Town. If the Town does not notify the Applicant in writing that the Application is not completed in compliance with the Town's regulations within 20 business days after the date the Application is initially submitted or additional information resubmitted, the Application is deemed, for administrative purposes only, to be properly completed and properly submitted. However, the determination shall not be deemed as an approval of the Application. If the Application is not completed in compliance with the Town's regulations, the Town shall so notify the Applicant in writing indicating with specificity any deficiencies in the required documents or deficiencies in the content of the required documents which, if cured, make the Application properly completed. Upon resubmission of information to cure the stated deficiencies, the Town shall notify the Applicant, in writing, within the normal timeframes of review, but in no case longer than 20 business days after the additional information is submitted, of any remaining deficiencies that must be cured. However, if Applicant does not cure the Application deficiencies within 20 business days after receiving the notice of deficiencies, the Application shall be considered withdrawn or closed.

M. The timeframes specified in his section may be extended because the Town's procedures generally applicable to all other similar types of Applications require action by the Town Council and/or Development Review Committee and such action has not taken place within the specified timeframes. Under such circumstances, the Town Council shall either grant or deny the Application at its next regularly scheduled meeting.

N. The Town may request, but not require, a waiver of the timeframes by the Applicant, except that, with respect to a specific Application the Town may require a one-time waiver in the case of a declared local, state, or federal emergency that directly affects the administration of all permitting activities of the Town.

O. The Town may enter into an entry and testing agreement with the Wireless Communications Facility owner, Applicant and/or operator, in a form approved by the Town Attorney, without approval of the Town Council.

P. Extension and waiver. Where action by the Town Council or any other Town agency is required on an Application for a permit taken pursuant to this section, the Planning Director may by letter to the Applicant extend the timeframe for a decision until the next available scheduled date of the Council or agency as to whether to grant or deny an Application for a permit taken pursuant to this Ordinance. Notwithstanding the foregoing, the Applicant may voluntarily agree to waive the timeframes set forth above.

Q. Emergency extension. The Town may declare a one time waiver of the time frames set forth for Application decisions in the case of a declared local, state, or federal emergency that directly affects the administration of all permitting activities in the Town.

R. Appeal.

(1) If an Application is denied by the building official or Planning Director for noncompliance with the requirements of this Ordinance then the Applicant may appeal this decision to the Town Council within 30 days after receiving the written decision. The Town Council, after a public hearing, shall make the final decision by resolution.

(2) If a permit is denied, or conditions imposed, then the Town Council shall consider the action taken upon review of the following factors:

(a) The technical and practical necessity for the installation of the Telecommunication Tower or Wireless Communications Facility.

(b) Alternative measures or modifications that could be made to preserve the character of the neighborhood and to prevent aesthetic blight if installation were permitted.

(3) If Application is denied by the Planning Director for reasons other than non-compliance with this Ordinance, excluding Florida Building Code, then the Applicant may appeal the decision directly to the Town Council, which shall make the final decision within forty-five (45) days of the denial, by resolution.

(4) If the Town Council ultimately denies the Application, the Town Council's resolution ordering the denial shall incorporate the Application, the minutes of public meetings, along with written findings by Town staff, the planning and zoning board, and/or the Town Council explaining the basis for the denial.

S. Nonconforming towers. Any Telecommunication Towers in existence in the Town upon the effective date of this Ordinance that are nonconforming with the terms and provisions of this section shall have five (5) years from the effective date of this Ordinance to bring said Tower into compliance, or upon the change of ownership of the leasehold interest upon which the Tower is located, whichever shall occur first.

T. Regardless of whether a permit is required for the installation of the Telecommunication Tower or Wireless Communications Facility, separate building permits for

structural or electrical work, pouring concrete or other work may be required as provided in the Florida Building Code, as amended.

SECTION 33-63.9. COLLOCATION.

A. It is the intent of the Town to encourage Collocation of Antennas on Existing Structures and Pre-Existing Towers. Except as provided herein, all Towers shall have the capacity to permit multiple users. At a minimum, Monopole Towers shall be able to accommodate two (2) users and, at a minimum, Lattice or Guyed Towers shall be able to accommodate three (3) users.

B Collocation Incentive. To encourage such Collocation, the Planning Director may approve an Application submitted to Collocate Antennas on an Existing Structure, Pre-Existing Tower, or a Stealth Facility, consistent with this Ordinance. The specific Collocation Applications indicated in the sub-sections below shall be subject to approval or denial by the Planning Director. All other Applications shall be subject to approval or denial by the Town Council.

C. Exemptions for Collocation. Any Antenna and related equipment to service the Antenna that is being Collocated on an above ground Existing Structure is not subject to Land Development Regulations of the Town Code if the following criteria are met:

- (1) The Existing Structure already contains an established Antenna and related equipment;
- (2) The Existing Structure is not non-conforming and may pursuant to Florida law be expanded; and
- (3) The Height of the structure containing the Antenna and related equipment would not be increased by the addition of Antenna and related equipment.

Notwithstanding the exemption provided for in this section, construction of the Antenna and related equipment is subject to review by the Planning Director and any other Town department or agency for compliance with the Town's design standards; and life safety codes, including but not limited to Building Codes; conditions or requirements in any existing permits, agreements, or approvals. Moreover, this section shall not relieve the permit holder for or owner of the Existing Structure or property of compliance with any applicable condition or requirement of a permit, agreement, or Land Development Regulation, including but not limited to any aesthetic requirements, or law.

D. Collocation Applications Requiring only Planning Director Approval.

- (1) Collocations on Towers, including nonconforming Towers are subject to only Building-Permit Review, which may include a review for compliance with this section, if they meet the following requirements:

(a) The Collocation does not increase the Height;

(b) The Collocation does not increase the ground space area, commonly known as the compound, approved in the site plan for Equipment Facilities and ancillary facilities, except as allowed under this Ordinance; and

(c) The Collocation consists of Antennas, Equipment Facilities, and ancillary facilities that are of a design and configuration consistent with all applicable regulations, restrictions, or conditions, if any, applied to the initial Antennas placed on the Tower and to its accompanying Equipment Facilities and ancillary facilities and, if applicable, applied to the Tower supporting the Antennas. Such regulations may include the design and aesthetic requirements, but not procedural requirements, other than those authorized by this section, of the applicable Land Development Regulations in effect at the time the initial Antennas placement was approved.

(2) Such Collocations are not subject to any design or placement requirements of Land Development Regulations in effect at the time of the Collocation that are more restrictive than those in effect at the time of the initial Antennas placement approval, to any other portion of the Land Development Regulations, or to public hearing review. Such Collocation Applications are not subject to the Town Council's approval and shall be decided by the Planning Director.

E. Other Collocation Applications Requiring only Planning Director Approval.

(1) Except for a Historic Building, Structure, Site, Object, or District, the following Tower Collocation Applications on all other Existing Structures shall also be subject to no more than a Planning Director review if they meet the following requirements:

(a) The Collocation does not increase the Height;

(b) The Collocation does not increase the ground space area, otherwise known as the compound, if any, approved in the site plan for equipment enclosures and ancillary facilities;

(c) The Collocation consists of Antennas, equipment enclosures, and ancillary facilities that are of a design and configuration consistent with any applicable structural or aesthetic design requirements and any requirements for location on the structure, but not prohibitions or restrictions on the placement of additional Collocations on the Existing Structure or procedural requirements, other than those authorized by this section of the Ordinance at the time of the Collocation Application; and

(d) The Collocation consists of Antennas, equipment enclosures, and ancillary facilities that are of a design and configuration consistent with all

applicable restrictions or conditions, if any, that do not conflict with sub-section (c) and were applied to the initial Antennas placed on the structure and to its accompanying equipment enclosures and ancillary facilities and, if applicable, applied to the structure supporting the Antennas.

F. If only a portion of the Collocation does not meet the requirements of any of the above sub-sections, such as an increase in the Height or a proposal to expand the ground space approved in the site plan for the equipment enclosure, where all other portions of the Collocation meet the requirements of this subsection, that portion of the Collocation only may be reviewed by the Town Council. A Collocation proposal under this subsection that increases the ground space area, otherwise known as the compound, approved in the original site plan for Equipment Facilities and ancillary facilities by 400 or more square feet or 50 percent or more of the original compound size, shall, however, be reviewed as if it were a new Wireless Communications Facility.

G. The replacement of or modification to a Wireless Communications Facility, except a Tower, that results in a Wireless Communications Facility not readily discernibly different in size, type, and appearance when viewed from ground level from surrounding properties, and the replacement or modification of equipment that is not visible from surrounding properties, all as reasonably determined by the Town, shall be deemed an Application for Collocation.

H. The owner of the Pre-Existing Tower on which the proposed Antennas are to be collocated shall remain responsible for compliance with any applicable condition or requirement of a permit or agreement, or any applicable condition or requirement of the Land Development Regulations to which the Pre-Existing Tower must comply, including any aesthetic requirements, provided the condition or requirement is not inconsistent with this section.

SECTION 33-63.10. INTERFERENCE WITH PUBLIC SAFETY TELECOMMUNICATIONS.

A. To the extent not inconsistent with applicable federal law, all providers of Personal Wireless Services and all owners and/or operators of Wireless Communications Facilities, Towers, and Antennas shall comply with the following:

(1) Any Wireless Communications Facility, Tower, or Antenna that causes Interference with the operations of Public Safety Telecommunications services, shall, after receiving notice, rectify the Interference immediately or, to the extent not inconsistent with applicable law, cease transmitting signals (go off the air) at once.

(2) In the event that the Wireless Communications Facility, Tower, or Antenna interferes with Public Safety Telecommunications, it shall be the responsibility of the owner and/or operator that creates the Interference to make all necessary repairs and/or accommodations to alleviate the problem at its expense. The Town shall be held harmless in this occurrence.

(3) In the event that a provider of Personal Wireless Services and/or an owner and/or operator of Wireless Communications Facility, Tower, and/or Antenna interferes with Public Safety Telecommunications, once it ceases transmission of signals (goes off the air) and rectifies the Interference, it may not continue to resume providing Personal Wireless Services until it receives approval from the Town.

(4) To the extent not inconsistent with applicable law, if a provider of Personal Wireless Services or the owner or operator of a Wireless Communications Facility, Tower or Antenna refuses to stop the Interference or to cease transmitting signals as required herein, the Town may file a complaint with the FCC for resolution and/or seek an injunction against it pursuant to Florida Statute § 843.025 that makes it unlawful for any person to deprive a law enforcement officer of his or her radio or to otherwise deprive the officer of the means to summon assistance, or pursue any other remedy authorized by applicable law. Any person who is found to have violated this Section shall be punished as provided by applicable law.

SECTION 33-63.11. DEVELOPMENT, ZONING, BUILDING, AND INSPECTION REQUIREMENTS FOR WIRELESS COMMUNICATIONS FACILITIES.

A. General Regulations. The standards listed in this Section apply specifically to all Antennas, Towers and Wireless Communications Facilities, except those owned by the Town, located on property owned, leased, or otherwise controlled and approved by the Town or as otherwise specified herein. The Town reserves the right to modify or waive the requirements for use on public property. The Town shall not be required to provide access to Town property.

B. The construction, maintenance, operation and repair of Wireless Communications Facilities are subject to the regulatory supervision of the Town to the full extent permitted by applicable law, and shall be performed in compliance with all laws, ordinances and practices affecting such facility including, but not limited to, zoning codes, building codes, and safety codes, and as provided in this Ordinance. The construction, maintenance, operation and repair shall be performed in a manner consistent with applicable industry standards, including the Electronic Industries Association.

C. All Telecommunication Towers and Antennas must meet or exceed current standards and regulations of the FAA, the FCC, including emissions standards, and any other agency of the local, state or federal government with the authority to regulate Towers and Antennas prior to issuance of a building permit by the Town. If such applicable standards and regulations are revised and require that existing facilities adhere to such revised standards, then the owners of Telecommunications Towers and Antennas governed by this Ordinance shall bring such Towers and Antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring Towers and Antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the Telecommunications Tower, Antenna or Wireless Communications Facility at the owner's expense.

D. To ensure the structural integrity of Telecommunications Towers installed, the owner shall construct and maintain Telecommunications Tower in compliance with the Florida Building Code, and all other applicable codes and standards, as amended from time to time. A statement shall be submitted to the Town by a licensed engineer certifying compliance with this section upon completion of construction and/or subsequent modification. Where an Existing Structure, including Poles, is requested as a Stealth Facility, the facility, and all modifications thereof, shall comply with all requirements as provided in this Ordinance and all other applicable standards as may be amended from time to time. Following the issuance of a building permit, the Town shall require an analysis of a soil sample from the base of the Telecommunications Tower site.

E. Telecommunications Towers, Wireless Communications Facilities and Antenna owners shall submit an annual report to the Planning Director within the last thirty (30) days of the Town's fiscal year, each year, including, but not limited to:

(1) A Summary of any and all complaints of Interference with Public Safety Telecommunications within the Town that includes remedial measures that were taken to rectify or eliminate Interference, and any other information which may be reasonably required to monitor the Telecommunication Towers and Antenna owner's compliance with this Ordinance; and

(2) A Certification of the Wireless Communications Facilities, Towers or Antenna's structural and electrical integrity.

F. The Town reserves the right to conduct periodic inspection of Wireless Communications Facilities, Towers, and Antennas at the owner's expense, to ensure structural and electrical integrity and compliance with this Ordinance. The owner of the Wireless Communications Facilities, Towers, or Antennas may be required by the Town to have more frequent inspections should there be an emergency, Extraordinary Conditions or other reason to believe that the structural and electrical integrity of the Wireless Communications Facility, Tower, or Antenna is jeopardized. There shall be a maximum of one inspection per year unless emergency or Extraordinary Conditions warrant additional inspections. The owner of Wireless Communications Facility, Tower or Antenna may be required by Town to have more frequent inspections should there be reason to believe that the structural and electrical integrity of the Tower is jeopardized. If, upon inspection, the Town concludes that a Wireless Communications Facility, Tower, or Antenna fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner, the owner shall commence work within thirty (30) days to bring such Wireless Communications Facility, Tower, or Antenna into compliance with such standards. Failure to bring such Wireless Communications Facility into compliance within sixty (60) days of notice shall constitute grounds for requiring the removal of the facility at the owner's expense. The Town reserves the right to require additional inspections if there is evidence that a Tower or a Wireless Communications Facility has a safety problem or is exposed to Extraordinary Conditions. During the inspection, the Planning Director will ensure structural and electrical integrity and compliance with the Florida Building Code, as amended, the Code of the Town, as amended, and other applicable codes and regulations. Additionally, Towers shall be inspected once every five

(5) years by a Florida licensed engineer, at the Tower owner's expense, and the results submitted to the Planning Director. Tower owners shall also submit a report to the Town certifying structural and electrical integrity every two (2) years. The report shall be accompanied by a non-refundable fee of two hundred dollars (\$200.00) to reimburse the Town for the cost of review. Based upon the results of the inspection, the Planning Director may require repair or removal of a Wireless Communications Facility or Tower.

G. Wireless Communications Facilities in Residential Areas. The Town prohibits the placement of a Telecommunications Tower and Antennas in a residential area or residential zoning district unless the Applicant demonstrates to the satisfaction of the Town that it cannot reasonably provide its Personal Wireless Service to the residential area or zone from outside the residential area or zone. In such a case, the Town and the Applicant shall cooperate to determine an appropriate location for an Antenna of an appropriate design within the residential area or zone. The Applicant shall reimburse any and all reasonable costs and expenses incurred by the Town for this cooperative determination, including attorney's fees. Such Application for cooperation shall be accompanied by an Application fee in the same amount as for a new Tower. The cooperation Application shall not be subject to the timeframes contained in this Ordinance for granting and denying Applications.

H. Hierarchy of Zoning Districts and Siting Alternatives. Development of a Wireless Communications Facility shall be permitted in the following Preferred Zoning Districts and in accordance with the following siting alternatives hierarchies.

(1) The Preferred Zoning Districts order of ranking is from highest (a) to lowest (g). Where a lower ranked alternative is proposed, the Applicant must demonstrate in its Application that higher ranked options are not available. The availability of a less expensive lease on a lower ranked site is not sufficient in and of itself to justify using the lower ranked alternative where a higher ranked alternative is otherwise available.

- (a) ~~GP~~ Town-owned property;
- (b) ~~GPU;~~
- (c) IU-1 and IU-C;
- (d) BU-3, BU-2, BU-1A, ~~and~~ BU-1, and GU with a non-residential trend;
- (e) PAD, UCD and AU;
- (f) RU-4; and
- (g) Any other zoning district in accordance with 33-63.11 (G) above.

(2) The order of ranking is from highest (a) to lowest (g). Where a lower ranked alternative is proposed, the Applicant must demonstrate in its Application that higher ranked options are not available. The availability of a less expensive lease on a lower ranked site is not sufficient in and of itself to justify using the lower ranked alternative where a higher ranked alternative is otherwise available.

- (a) Collocation on existing Stealth Tower on Town-owned property in a Preferred Zoning District.

- (b) Collocation on existing Telecommunications Tower on Town-owned property in a Preferred Zoning District.
- (c) Collocation on Existing Structures on Town-owned property in a Preferred Zoning District
- (d) Collocation on existing Telecommunications Tower in a Preferred Zoning District.
- (e) Attachment of Antenna on a current Wireless Communications Facility in a Preferred Zoning District.
- (f) New Stealth Tower in a Preferred Zoning District.
- (g) New Telecommunications Tower in a Preferred Zoning District.

(3) On property owned by the Town, the Town shall authorize the Application and use of Town property after the Applicant executes a lease agreement acceptable to the Town. The Town shall have no obligation whatsoever to execute such lease even if the Applicant can meet the criteria set forth herein.

I. Unmanned Communication Buildings.

(1) Minimum Setbacks. Unmanned communication buildings shall comply with the Setback requirements of the zoning district where such buildings are situated.

(2) Size limitations. An unmanned communication building shall be a permanent structure not to exceed two hundred fifty (250) square feet in floor area. More than one (1) unmanned communication building may be permitted on a site; provided, however, that the total square footage of such buildings, added together, does not exceed five hundred (500) square feet. If the site contains more than one (1) building, the required distance separation between the buildings may be excused.

SECTION 33-63.12. STANDARDS FOR TELECOMMUNICATIONS TOWERS.

A. Minimum standards. Except where a Non-Use Variance is granted, every Telecommunications Tower must meet the following minimum standards:

(1) The Height of a Telecommunications Tower shall not exceed one hundred (100) feet. Tower Height shall be measured from the crown of the road of the nearest public street.

(2) All Telecommunication Towers shall be designed and constructed with the capability of supporting a minimum of two (2) Collocation connections. At a minimum, Self-Support/Lattice or Guyed Towers shall be able to accommodate three (3) users.

(3) Telecommunication Towers or Antennas shall be approved by the Federal Aviation Administration (FAA), Miami-Dade County Aviation Authority or other appropriate agency prior to issuance of a building permit by the Town and comply with section 33-63.8. of this code. Prior to the issuance of a building permit by the building division and/or Planning Director, the Applicant shall provide evidence that the

Telecommunication Towers or Antennas are in compliance with FAA regulations. Where an Antenna will not exceed the highest point of the Existing Structure upon which it is to be mounted, such evidence shall not be required.

(4) All proposed Telecommunication Towers shall comply with current radio frequency emissions standards of the Federal Communications Commission.

(5) All Telecommunication Tower sites must comply with the landscaping requirements of the Town in force at the time the Application for a Telecommunication Tower site plan approval is submitted to the Town. An eight-foot fence or wall constructed in accordance with the Town Code, as measured from the finished grade of the site, shall be required around the base of any Tower and may be required around any accessory building or structures.

(6) Landscaping, consistent with the requirements of the Town Code, as amended, shall be installed around the entire perimeter of the fence or wall, encircling the leased premises on which said Telecommunication Tower shall be placed. Additional landscaping may be required around the perimeter of the fence or wall and around any or all anchors or supports if deemed necessary to buffer adjacent properties. The Town Council, upon site plan review, may require landscaping in excess of the above requirements as is deemed reasonably necessary in order to enhance compatibility with adjacent residential and nonresidential land uses. Landscaping shall be installed on the outside of the perimeter wall.

(7) Landscaping, consistent with the requirements of the Town Code, as amended, shall be installed around any accessory buildings or structures. In addition to the Town's landscaping requirements, at a minimum the following landscaping shall be provided: (i) A row of shade trees at least eight (8) feet in height, at a maximum distance of ten (10) feet apart, shall be planted around the perimeter of the fence; (ii) A continuous hedge at least thirty (30) inches in height at planting and capable of growing to a height of thirty-six (36) inches within eighteen (18) months shall be planted on the outside of the perimeter of the fence and tree line; (iii) All landscaping shall be properly maintained to insure good health and viability; and (iv) In locations where the impact of the Wireless Communications Facility would be minimal, the Planning Director may waive or reduce the landscaping requirements.

(8) Telecommunication Towers shall only be located on leased premises larger than twenty-five hundred (2,500) square feet.

(9) Warning signs for high voltage and trespassing.

(a) No signs, including commercial advertising, logo, political signs, flyers, flags, or banners, but excluding warning signs, shall be allowed on any part of an Antenna or Tower. Any signs placed in violation of this section shall be removed immediately at the facility owner's expense.

(b) If high voltage is necessary for the operation of the Telecommunication Tower, associated equipment, or Backhaul Network or any accessory structures, "HIGH VOLTAGE---DANGER" warning signs shall be permanently attached to the fence or wall and spaced no more than forty (40) feet apart.

(c) "NO TRESPASSING" warning signs shall be permanently attached to the fence or wall and spaced no more than forty (40) feet apart.

(d) The height of the lettering of the warning signs shall be at least twelve (12) inches in height. The warning signs shall be installed at least five (5) feet above the finished grade.

(e) The warning signs may be attached to freestanding Poles if the content of the sign may be obstructed by landscaping.

(10) Mobile or immobile equipment not used in direct support of a Tower facility shall not be stored or parked on the site of the Telecommunication Tower, unless repairs to the tower are being made.

(11) The minimum Setbacks shall conform to the zoning districts where the Towers are situated. Notwithstanding the above, the Planning Director of the Town may require minimum Setback requirements for properties zoned industrial, up to twenty-five (25) feet from the rear yard and front yard, and fifteen (15) feet from the side yards, as measured from the base of the Tower or from the guy wire anchor, whichever is closest to the property line or Right-of-Way when, in his or her discretion, he or she believes said Setbacks to be necessary in the interest of protection and safety of the public. The Planning Director may administratively reduce the minimum Setbacks required in the paragraph above, depending on the type of Tower to be used, i.e., a Monopole Tower versus a Guyed Tower.

(12) All Telecommunication Towers shall be located no closer than one hundred (100) percent of the Height of the Tower from residential areas or districts, as measured on a straight line from the two (2) closest points between the nearest residential zoning district line and the nearest point of the proposed Tower structure.

(13) The minimum distance separation between an existing Tower and a proposed Tower shall be no less than one mile. When a Stealth/Camouflaged Facility or Tower is proposed to be used by the Applicant, or an Existing Tower or Structure that serves another purpose, i.e., Poles, then, in that event, the Planning Director, after administrative review, may reduce the minimum separation as set forth above up to fifty (50) percent of said minimum separation, providing that the proper landscaping and/or buffering is put in place at the direction of the Planning Director of the Town.

(14) All buildings and other structures to be located on the same property as a Telecommunications Tower shall conform with the Setbacks established for the underlying zoning district.

(15) Any requests which deviate from the aforementioned regulations shall be subject to a special land use process.

(16) Each Application for a Wireless Communications Facility may be required to include written approval or a statement of no objection from other state agencies that may regulate Wireless Communications Facility siting, design, and construction.

(17) Removal of abandoned or unused facilities. A provider who has determined to discontinue its operations or part of its operations in the Town must either:

(a) Remove its own facilities.

(b) Provide information satisfactory to the director that the provider's obligations for its equipment in the Public Right-of-Way or public easement or private property under this division have been lawfully assumed by another provider; or

(c) Submit to the Planning Director a proposal and instruments for transferring ownership of its equipment to the Town. If a provider proceeds under this clause, the Town may, at its option:

(1) Assume ownership of the equipment with a ten (\$10.00) dollar nominal consideration, or

(2) Require the provider, at its own expense, to remove it, or

(3) Require the provider to post a bond in an amount sufficient to reimburse the Town for reasonably anticipated costs to be incurred in removing the equipment. Equipment of a provider who fails to comply with the preceding paragraph and which, for twelve (12) months, remains unused shall be deemed to be abandoned. Abandoned equipment is deemed to be a nuisance. The Town may exercise any remedies or rights it has at law or in equity, including, but not limited to (i) abating the nuisance, (ii) taking possession of the equipment and restoring it to a useable condition, or (iii) requiring removal of the equipment by the provider or by the provider's surety under the bond required by section 33-63.16 herein. Telecommunication Towers being utilized for other purposes, including but not limited to light standards and power Poles, may be exempt from this provision.

(18) Signs and advertising. The use of any portion of a Tower for signs or advertising purposes including company name, banners, streamers, etc., shall be strictly prohibited.

(19) Accessory buildings or structures. All accessory buildings or structures shall meet all building design standards as listed in this Code, and in accordance with the provisions of the Florida Building Code. All accessory buildings or structures shall require a building permit issued by the building division and/or Planning Director.

(20) Colors. Except where superseded by the requirements of other county, state, or federal regulatory agencies possessing jurisdiction over Telecommunications Towers, Telecommunications Towers shall be painted or constructed in neutral colors, designed to blend into the surrounding environment such as non-contrasting gray, earth tones of appropriate shades of green, or such other colors as determined by the Planning Director.

SECTION 33-63.13. STANDARDS FOR ANTENNAS.

A. Minimum standards.

(1) Antennas on Rooftops or building mounted shall be permitted as an Accessory Use in all Preferred Zoning Districts except in the residential zoning districts, subject to the procedure and requirements provided elsewhere in this Ordinance, as follows:

(a) No commercial advertising shall be allowed on an Antenna;

(b) No signals, lights, or illumination shall be permitted on an Antenna, unless required by the Federal Communications Commission or the Federal Aviation Administration;

(c) Any related unmanned equipment building shall not contain more than two hundred fifty (250) square feet of gross floor area or be more than ten (10) feet in Height;

(d) If the equipment building is located on the roof of the building, the area of the equipment building shall not occupy more than twenty-five (25) percent of the roof area;

(e) Antennas, and related equipment buildings, shall be set back a minimum of twenty (20) feet from the edge of the building or rooftop, located or screened to minimize the visual impact of the Antenna upon adjacent properties and shall be of a material or color which matches the exterior of the building or structure upon which it is situated; and

(f) Antennas shall only be permitted on buildings which are at least fifty (50) feet tall. Antennas may be placed on buildings less than fifty (50) feet tall if the Planning Director determines that public safety needs warrant the Antenna.

(2) Building Rooftop Stealth Antennas may not extend more than twenty (20) feet above highest point of a roof. Stealth Antennas attached to but not above Rooftop structures shall be exempt from this provision. Antennas may exceed twenty (20) feet above the roof if the Planning Director determines that public safety needs warrant additional Height.

(3) Building Rooftop non-Stealth Antennas may not extend more than ten (10) feet above highest point of a roof. Stealth Antennas attached to but not above Rooftop structures shall be exempt from this provision. Antennas may exceed twenty (20) feet above the roof if the Planning Director determines that public safety needs warrant additional Height.

C. Antenna types. To minimize adverse visual impacts, Stealth Antenna types shall be preferred. If a non-Stealth Antenna is proposed, the Application shall be required to demonstrate, in a technical manner acceptable to the Planning Director, why the Stealth Antenna (i.e. an Antenna incorporated into the architecture of the building or fully screened from view from sight proximate to the Antenna) cannot be used for the particular Application. This does not preclude a combination of the various types of Antenna.

D. Antenna dimensions. Antenna dimensions shall be reviewed by the Planning Director as required by existing technology. A statement shall be submitted, prepared by a professional registered engineer licensed to practice in the state, and competent to evaluate Antenna choices, to certify the need for the required dimensions.

(1) Whip (omni-directional) Antennas and their supports must not exceed fifteen (15) feet in Height and three (3) inches in diameter and must be constructed of a material or color which matches the exterior of the building.

(2) Microwave Dish Antennas located below sixty-five (65) feet above the ground may not exceed six (6) feet in diameter. Microwave Dish Antennas located sixty-five (65) feet and higher above the ground may not exceed eight (8) feet in diameter. Ground-mounted dish Antennas must be located or screened so as not to be visible from abutting public streets or adjacent properties.

(3) No more than five (5) dish Antennas shall be installed on a Monopole Tower.

E. Aircraft hazard. Prior to the issuance of a building permit by the building division and/or Planning Director, the Application shall provide evidence that the Telecommunications Towers or Antennas are in compliance with FAA regulations. Where an Antenna will not exceed the highest point of the Existing Structure upon which it is to be mounted, such evidence shall not be required.

F. Non-Use Variances. The location of a new Antenna in any zoning district other than the Preferred Zoning Districts specified in Section 33-63.11, shall be prohibited unless approved as a Non-Use Variance by the Planning Director and Town Council.

SECTION 33-63.14. USE OF PUBLIC RIGHTS-OF-WAY.

A. No Telecommunications Towers or Equipment Facilities may be installed or placed in Public ROW, with the exception that Antennas and its associated Equipment Facility may be placed on any Pole that has been already installed or placed in the ROW, with the consent of the Pole owner, subject to the standards in this Section.

B. Development Standards.

(1) Any Antenna to be installed in the ROW, and its accompanying Equipment Facilities, shall be subject to all site plan review and permitting requirements of the Town. No more than one Service Provider may locate Antennas on a single Pole.

(2) When installing an Antenna on a Pole, any and all associated Equipment Facility shall not be placed on the ground in the ROW.

(3) When installing an Antenna on a Pole, any and all of the Antenna associated Equipment Facility shall be placed in any of the following areas:

(a) Underground in the ROW;

(b) On an adjacent property, with the consent of the property owner, provided that all the wiring is underground; or

(c) On the Pole itself.

(4) Before installing any Antenna on any Pole already installed in the ROW, an Applicant must complete the Antenna Application pursuant to this Ordinance and must also comply with the other applicable sections of this Ordinance. An Application pursuant to this section shall not be deemed a Collocation Application.

(5) No Antenna may be installed under this section until the Applicant fully complies with all the indemnification and insurance requirements of this Ordinance.

(6) An Antenna may be mounted on an existing Pole, with the consent of the Pole owner, provided the Height of the Antenna does not extend more than ten (10) feet above the top of such Pole. An existing Pole may be modified, replaced or rebuilt to accommodate an Antenna so long as the Height of such Pole is not increased by more than ten (10) feet from its existing Height.

SECTION 33-63.15. REPLACEMENT OR MODIFICATION OF A WIRELESS COMMUNICATIONS FACILITY.

A. A Telecommunications Tower that is modified or reconstructed to accommodate the Collocation of an additional Antenna shall be of the same Telecommunications Tower type

as the existing Telecommunications Tower, unless the Town allows reconstruction as a Monopole pursuant to this Section.

B. An existing Telecommunications Tower may be modified or rebuilt to a taller Height to accommodate an additional Antenna. Such modification or rebuild of the Telecommunications Tower shall require the approval of the Town Council. The new Height shall comply with the requirements of this Ordinance.

C. A Telecommunications Tower that is being rebuilt to accommodate an additional Antenna and which requires movement onsite from its existing location shall require an Application for a new Tower. After the Telecommunications Tower is rebuilt to accommodate Collocation, only one Telecommunications Tower may remain on the site. A relocated onsite Telecommunications Tower shall continue to be measured from the original Telecommunications Tower location for purposes of calculating separation distances between Towers pursuant to this Section. The relocation of a Telecommunications Tower pursuant to this Section shall not be deemed to cause a violation of the separation requirements contained herein.

D. Modification of Existing Wireless Communications Facility. Minor modification of a Wireless Communications Facility shall not require an additional approval so long as the modification does not change the Height of the Telecommunications Tower, enlarge the Antenna Array, enlarge the Equipment Facility and does not involve any Collocation. All other modifications shall require approval.

E. An Pre-Existing Tower, including a nonconforming Tower, may be structurally modified to permit Collocation or may be replaced through no more than administrative review and Building-Permit Review, and is not subject to public hearing review, if the overall Height of the Tower is not increased and, if a replacement, the replacement Tower is a Monopole Tower or, if the Pre-Existing Tower is a Stealth Tower, the replacement Tower is a like-Stealth Tower.

F. Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas. Legal nonconforming Telecommunications Towers or Antennas that are damaged or destroyed may be rebuilt subject to Section 33.30(c) of the Town Code. Building permits to rebuild the facility shall comply with the then applicable Building Codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if the permit expires, the Telecommunications Tower or Antenna shall be deemed abandoned as specified in Section 33-63.12. herein.

SECTION 33-63.16. INDEMNIFICATION, INSURANCE AND SECURITY FUNDS.

A. Indemnification. The Town shall not enter into any lease agreement for Town owned property until and unless the Town obtains an adequate indemnity from such provider. The indemnity must at least:

(1) Release the Town from and against any and all liability and responsibility in or arising out of the construction, operation or repair of the Wireless Communications Facility.

(2) Indemnify and hold harmless the Town, its trustees, elected and appointed officers, agents, servants and employees, from and against any and all claims, demands, or causes of action of whatsoever kind or nature, and the resulting losses, costs, expenses, reasonable attorneys' fees, liabilities, damages, orders, judgments, or decrees, sustained by the Town or any third party arising out of, or by reason of, or resulting from or of each Wireless Communications Facility operator, or its agents, employees, or servants negligent acts, errors, or omissions.

(3) Provide that the covenants and representations relating to the indemnification provision shall survive following the term of any agreement and continue in full force and effect for at least one year following the termination of the party's agreement as to the party's responsibility to indemnify.

(4) In no event shall the Town indemnify a Service Provider and/or the owner or operator of a Wireless Communications Facility.

B. Insurance. The Town shall not grant or approve an Application for the installation of a Tower, Antenna and/or Wireless Communications Facility and shall not enter into any lease agreement for Town owned property until and unless the Town obtains assurance that such Applicant or lessee (and those acting on its behalf) have adequate insurance. At a minimum, the following requirements must be satisfied:

(1) A Wireless Communications Facility owner shall not commence construction or operation of the facility without obtaining all insurance required under this Section and approval of such insurance by the Town Manager, nor shall a Wireless Communications Facility operator allow any contractor or subcontractor to commence work on its contract or sub-contract until all similar such insurance required of the same has been obtained and approved. The required insurance must be obtained and maintained for the entire period the Wireless Communications Facility is in existence. If the operator, its contractors or subcontractors do not have the required insurance, the Town may order such entities to stop operations until the insurance is obtained and approved.

(2) Certificates of insurance, reflecting evidence of the required insurance, shall be filed with the Town. For entities that are entering the market, the certificates shall be filed prior to the commencement of construction and once a year thereafter, and as provided below in the event of a lapse in coverage.

(3) These certificates shall contain a provision that coverage afforded under these policies will not be canceled until at least thirty (30) days prior written notice has been given to the Town. Policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Town may amend its requirements pertaining

to insurance from time to time and may require additional provisions pertaining to such insurance in a lease.

(4) In the event that the insurance certificate provided indicates that the insurance shall terminate or lapse during the period of the lease agreement with the Town, then in that event, the Wireless Communications Facility operator shall furnish, at least thirty (30) days prior to the expiration of the date of such insurance, a renewed certificate of insurance as proof that equal and like coverage for the balance of the period.

C. Comprehensive General Liability. A Wireless Communications Facility operator and its contractors or subcontractors engaged in work on the operator's behalf, shall maintain adequate insurance to cover liability, bodily injury and property damage in the amount to be determined by the Town at the time of Application. Exposures to be covered include premises, operations, and those certain contracts relating to the construction, installation or maintenance of the Wireless Communications Facility. Coverage shall be written on an occurrence basis. Certificates of insurance reflecting evidence of the required insurance shall be filed with the Town.

D. Prior to any construction, every Service Provider, whether on public or private property within the Town, shall establish a cash security fund, or provide the Town with an irrevocable letter of credit subject to the Town Attorney's approval, in the amount specified in an agreement, permit, or other authorization as necessary to ensure the provider's faithful performance of construction and compliance with this Ordinance. The minimum amount of the Security Fund for each Telecommunications Tower shall be Twenty-five Thousand Dollars (\$25,000) and the minimum amount for each Antenna shall be Five Thousand Dollars (\$5,000).

E. In the alternative, at the Town's discretion, a Service Provider may, in lieu of a cash security fund or letter of credit, file and maintain with the Town a bond in the same amounts as required in subsection A. The provider and the surety shall be jointly and severally liable under the terms of the bond. The bond shall be issued by a surety having a minimum rating of A-1 in Best's Key Rating Guide, Property/Casualty Edition; shall be subject to the approval of the Town Attorney; and shall provide that: "This bond may not be canceled, or allowed to lapse, until sixty (60) days after receipt by the Town, by certified mail, return receipt requested, of a written notice from the issuer of the bond of intent to cancel or not to renew."

F. The rights reserved by the Town with respect to any Security Fund or bond established pursuant to this Section are in addition to all other rights and remedies the Town may have under this Ordinance, a lease, or at Law or equity.

G. Any person, firm or corporation who knowingly breaches any provision of this Ordinance shall upon receipt of written notice from the Town be given a time schedule to cure the violation. Failure to commence to cure the violation within thirty (30) days and to complete cure, to the Town's satisfaction, within sixty (60) days, or such longer time as the Town may specify, shall result in revocation of any permit or license and the Town shall seek any remedy or damages to the full extent of the law. This shall not preclude other penalties allowed by law.

H. In addition to revoking any permit or license for violation of this Ordinance, the Town may enforce this Ordinance pursuant to the Local Government Code Enforcement Act, Chapter 162, F.S., as amended. Enforcement may also be by suit for declaratory, injunctive or other appropriate relief in a court of competent jurisdiction.

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 on second reading.

PASSED on first reading this 16th day of May, 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.
Town Attorney

Moved By:
Seconded By:

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 12



Planning & Zoning Department

R. Don O'Donniley, AICP
Planning Director

MEMORANDUM

To: Steven Alexander, Town Manager

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

Date: June 20, 2007

Re: SIRE USA Corporation
Rezoning of Property from AU (Agriculture) to RU-1 (Single Family Residential)
Located West of SW 85th Avenue between SW 198th and SW 199th Streets

Application No.: 07-04

REQUEST

Rezoning of property from AU (Agricultural) to RU-1 (Single Family Residential)

This application was heard at first reading on May 16, 2007.

Parcel Information and Legal Description:

The request encompasses what is now six legally platted parcels totaling approximately 41,885 square feet and bounded by SW 198th Street to the north, theoretical SW 85th Avenue to the east, SW 199th Street to the south and the east property line of Saint Timothy Lutheran Church.

Or as further described:

Lots 10, 11, 12, 22, 23 and 24 of Block 1, of "Silver Pines" according to the plat thereof as recorded in Plat Book 25 at Page 45 of the Public Records of Miami-Dade County, Florida.

BACKGROUND AND ANALYSIS:

10720 Caribbean Boulevard, Suite 110
Cutler Bay, FL 33189
(305) 234-4262 Office
(305) 234-4251 Fax
www.cutlerbay-fl.gov



Background

SIRE USE Corporation filed a request for a District Boundary Change (Rezoning) from AU to RU-1 for the subject parcels on March 1, 2007.

The surrounding properties are zoned RU-1, except to the west on the rest of the block which is zoned AU and is St. Timothy Lutheran Church facility. Single family homes have been developed on parcels to the northeast, east and southeast. The property to the south is currently undeveloped while the property to the north is currently an FPL transmission facility and which is heavily buffered with vegetation.

Analysis

1. Consistency with the Comprehensive Development Master Plan

The Adopted 2005 and 2015 Land Use Plan designates the subject properties as **Low Density Residential**. This density range is typically characterized by detached single family residential units. Clustering, and a variety of housing types may, however, be authorized. The residential densities allowed in this category shall range from a minimum of 2.5 to a maximum of 6.0 dwelling units per gross acre.

This application is **consistent** with the Town Comprehensive Development Master Plan and the Land Use designation of the surrounding properties.

2. Zoning

The following Sections of the Town Zoning Code are relevant to this request.

Chapter 33 Zoning Code of the Town of Cutler Bay

Article XIV. RU-1, SINGLE-FAMILY RESIDENTIAL DISTRICT

Section 199. Uses permitted.

No land, body of water and/or structure shall be used or permitted to be used and no structure shall be hereafter erected, constructed, moved, reconstructed, structurally altered or maintained for any purpose in a RU-1



Planning & Zoning Department

District which is designed, arranged or intended to be used or occupied for any purpose other than the following, unless otherwise specifically provided herein:

- (1) Every use as a one-family residence, including every customary use not inconsistent therewith, including a private garage.

* * *

Note: Other provisions of this zoning district would not change but the request is consistent with the RU-1 Single-Family District

Section 41. Setbacks--Application of tables.

The minimum lot area and dimensions of sites and setbacks shown by tables in this article shall apply to the districts indicated.

Front building lines for all structures shall be set back from the nearest highway right-of-way according to sections on official right-of-way plan and minimum widths and tables in this article. The setback from all side and rear property lines shall be not less than ten (10) percent of the average width of the lot, provided such setback is not less than five (5) feet, but in no case shall such setback requirements exceed seven and one-half (7 1/2) feet, except where greater distance is required for a specified district by tables in this article and for corner lots.

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

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

TABLE INSET:

<i>District</i>	<i>Families</i>	<i>Min. Width</i>	<i>Min. Lot Area (Sq. Ft.)</i>	<i>Max. Lot Coverage (% of Lot Area)</i>	<i>Min. Bldg. Size (Cu. Ft.)</i>
RU-1	1	New sub.-75'	7,500	35% for subdivisions platted on or before March 8, 2002; 40% for subdivisions platted after March 8, 2002	8,500



Planning & Zoning Department

Section 50. Table of setback lines in residential and estate districts.

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

TABLE INSET:

<i>District/Families</i>	<i>Front (Ft.)</i>	<i>Rear (Ft.)</i>	<i>Between Buildings (Ft.)</i>	<i>Interior Side (Ft.)</i>	<i>Side Street (Ft.)</i>
RU-1: One	25 for subdivisions platted on or before March 8, 2002; for subdivisions platted after March 8, 2002, 15 for 50% of the lineal footage of the width of the house and 25 for balance; except 20 for attached garages	25 for subdivisions platted on or before March 8, 2002; for subdivisions platted after March 8, 2002, 15 for 50% of the lineal footage of the width of the house and 25 for balance	--	10% lot width min.-- 5' max.-- 7 1/2'	15

Section 311. Town of Cutler Bay Town Council – Authority and Duties

[The following summarizes the intent of this Section as it relates to factors in considering a rezoning]

The Town Council shall take into consideration, among other things, the extent to which:

- (1) The development permitted by the application, if granted, conforms to the Comprehensive Development Master Plan for the Town of Cutler Bay, Florida; is consistent with applicable area or neighborhood studies or plans, and would serve a public benefit warranting the granting of the application at the time it is considered;



The application is consistent with the CDMP.

(2) The development permitted by the application, if granted, will have a favorable or unfavorable impact on the environmental and natural resources of the Town of Cutler Bay, including consideration of the means and estimated cost necessary to minimize the adverse impacts; the extent to which alternatives to alleviate adverse impacts may have a substantial impact on the natural and human environment; and whether any irreversible or irretrievable commitment of natural resources will occur as a result of the proposed development;

The approval of this request will not have an adverse impact on the environmental and natural resources of the Town.

(3) The development permitted by the application, if granted, will have a favorable or unfavorable impact on the economy of the Town of Cutler Bay;

The approval of this request will not have an adverse impact on the economy of the Town.

(4) The development permitted by the application, if granted, will efficiently use or unduly burden water, sewer, solid waste disposal, recreation, education or other necessary public facilities which have been constructed or planned and budgeted for construction;

The approval of this request will not have an adverse impact on the necessary public facilities.

(5) The development permitted by the application, if granted, will efficiently use or unduly burden or affect public transportation facilities, including mass transit, roads, streets and highways which have been constructed or planned and budgeted for construction, and if the development is or will be accessible by public or private roads, streets or highways.

The approval of this request will not have an adverse impact on the necessary public transportation facilities.

This request is **consistent** with the current zoning of the surrounding properties.

At the time of application for site development the applicant shall be required to adhere to the minimum lot size requirements, unless a variance from the Town Code is requested and approved. Currently, based on the parcel size of 41,885 square feet, approximately 5 dwelling units would be allowed.



3. Environmental Resources Management

Potable Water Supply and Wastewater Disposal:

Public water and sanitary sewers can be made available to the subject property. Therefore, connection of the proposed development to said systems shall be required in accordance with Code requirements.

Existing public water and sewer facilities and services meet the Level of Service (LOS) standards set forth in the Comprehensive Development Master Plan. Furthermore, the proposed development order, if approved, will not result in a reduction in the LOS standards subject to compliance with the conditions required by DERM for this proposed development order.

Notwithstanding the foregoing, in light of the fact that the County's sanitary sewer system has limited sewer collection, transmission, and treatment capacity, no new sewer service connections can be permitted, unless there is adequate capacity to handle additional flows. Consequently, final development orders for this site may not be granted if adequate capacity in the system is not available.

Stormwater Management:

A Surface Water Management Individual Permit from DERM shall be required for the construction and operation of the required surface water management system. This permit shall be obtained prior to site development, final plat or public works approval of paving and drainage plans. The applicant shall contact DERM (305-372-6789) for further information regarding permitting procedures and requirements.

All stormwater shall be retained on site utilizing properly designed seepage or infiltration drainage structures. Drainage must be provided for the 5-year/1-day storm event with full on-site retention of the 25-year/3-day storm. Pollution Control devices shall be required at all drainage inlet structures.

Site grading and development shall comply with the requirements of Chapter 11C of the Code.

Any proposed development shall comply with County and Federal flood criteria requirements. The proposed development order, if approved, will not result in a reduction in LOS standards for flood protection set forth in the CDMP subject to



Planning & Zoning Department

compliance with the conditions required by DERM for this proposed development order.

Wetlands:

Although the subject property is located within a designated wetland basin, the subject property does not contain jurisdictional wetlands as defined by Chapter 24-5 of the Code. Therefore a Class IV Wetland Permit will not be required.

The applicant is advised that permits from the Army Corps of Engineers (305-526-7181), the Florida Department of Environmental Protection (561-681-6600) and the South Florida Water Management District (800-432-2045) may be required for the proposed project. It is the applicant's responsibility to contact these agencies.

Tree Preservation:

The subject property contains tree resources; Section 24-49 of the Code requires the preservation of tree resources. A Town tree removal permit is required prior to the removal or relocations of any trees. A tree survey showing all the tree resources on-site will be required prior to reviewing the tree removal permit application. The applicant is advised to contact DERM staff for permitting procedures and requirements prior to development of site and landscaping plans.

Concurrency Review Summary:

A concurrency review for this application has been completed and it has been determined that the same meets all applicable LOS standards for an initial development order, as specified in the adopted CDMP for potable water supply, wastewater disposal and flood protection. Therefore, the application has been approved for concurrency subject to any comments and conditions contained herein.

This concurrency approval does not constitute a final concurrency statement and is valid only for this initial development order as provided for in the adopted methodology for concurrency review. Additionally, this approval does not constitute any assurance that the LOS standards would be met by any subsequent development order applications concerning the subject property.

In summary, the application meets the minimum requirements of Chapter 24 of the Code.



4. Public Works

Public Works has no objection to this application.

This land requires platting in accordance with Chapter 28 of the Miami-Dade County Code. The road dedications and improvements will be accomplished through the recording of a plat.

The application meets the traffic concurrency criteria for an initial development order. It will generate approximately 3 vehicle trips in the PM daily peak hour period. The traffic distribution of these trips to the adjacent roadways reveals that the addition of these trips does not exceed the acceptable level of service of the following roadways:

<u>Station</u>	<u>Location</u>	<u>LOS</u> <u>(Present)</u>	<u>LOS</u> <u>(w/ Appl.)</u>
9174	SW 87 Ave. s/o SW 184 St.	E	E
9592	Old Cutler Rd. sw/o SW 184 St.	F	F
9594	Old Cutler Rd. sw/o Franjo Rd.	F	F
9114	Caribbean Blvd. e/o HEFT	F	F

This request constitutes an Initial Development Order only, and one or more traffic concurrency determinations will subsequently be required before development will be permitted.

5. Schools

Policy 1.6 of the Educational Element of the Town's Comprehensive Development Master Plan states that: "School Board comments shall be sought and considered on comprehensive plan amendments and other land use decisions which could impact the school district, as provided for in Chapter 236.193(2) F.S."

Also, pursuant to the state-mandated and School Board approved Interlocal Agreement, local government, the development community and the School Board are to collaborate on the options to address the impact of proposed residential development on public schools where the proposed development would result in an increase in the schools' FISH percent utilization (permanent and relocatable), in excess of 115%. This figure is to be considered only as a review threshold and shall not be construed to obligate the governing agency to deny a development.



Planning & Zoning Department

Additionally, at its April 13, 2005 meeting the Board approved School District criteria that would allow District staff to make recommendations on residential zoning applications that impact public schools beyond the 115% of FISH capacity threshold (Review Criteria).

In accordance with the Review Criteria established by the Board, the School District would request that the applicant continue to meet to mitigate the impacts of the proposed rezoning.

At this time, the School Board and applicant continue to dialogue concerning the proposed mitigation.

RECOMMENDATION:

Approval, subject to the impact requirements of the Miami-Dade County School Board.

CONDITIONS:

None

Attachments

ORDINANCE NO. 07-

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, GRANTING THE REQUEST OF SIRE USA CORP. FOR A REZONING FROM AU (AGRICULTURAL) TO RU-1 (SINGLE-FAMILY RESIDENTIAL) FOR PROPERTY GENERALLY LOCATED SOUTH OF S.W. 198TH STREET, NORTH OF S.W. 199TH STREET, EAST OF S.W. 87TH AVENUE, AND WEST OF S.W. 85TH AVENUE, AS LEGALLY DESCRIBED IN EXHIBIT "A," CONSISTING OF APPROXIMATELY 41,885 SQ. FT.; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Chapter 33 "Zoning," of the Town Code of Ordinances (the "Town Code"), Sire USA Corp. (the "Applicant") has applied to the Town of Cutler Bay (the "Town"), for approval of a rezoning from AU (Agricultural) to RU-1 (Single-Family residential), for the properties legally described in Exhibit "A" (the "Property") (Application 07-04); and

WHEREAS, staff recommended approval of the requested rezoning in its report, dated May 9th, 2007; 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.

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. Approval of Rezoning. Pursuant to Chapter 33 "Zoning" of the Town Code, the Property, legally described in Exhibit "A," is hereby rezoned from AU (Agricultural) to RU-1 (Single-Family Residential).

Section 3. Recording. The Town, or the Applicant if so requested by the Town Clerk, shall record this Ordinance at the Applicant's sole expense in the Public Records of Miami-Dade County, Florida.

Section 4. Effective Date. This Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this 16th day of May, 2007.

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

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

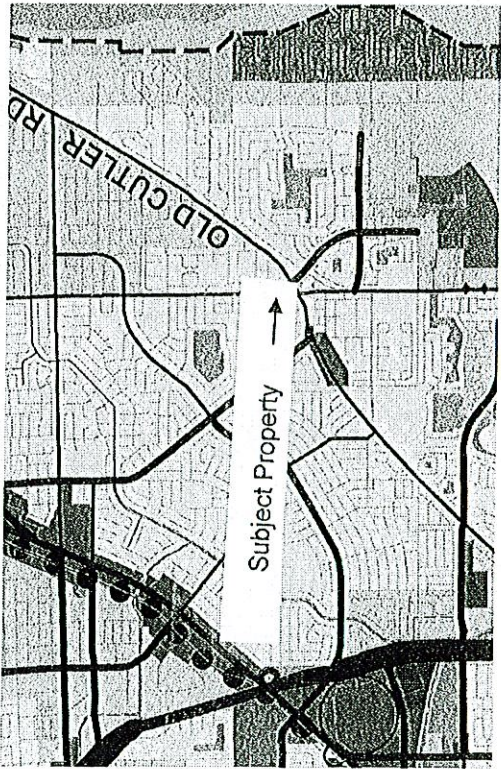
APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

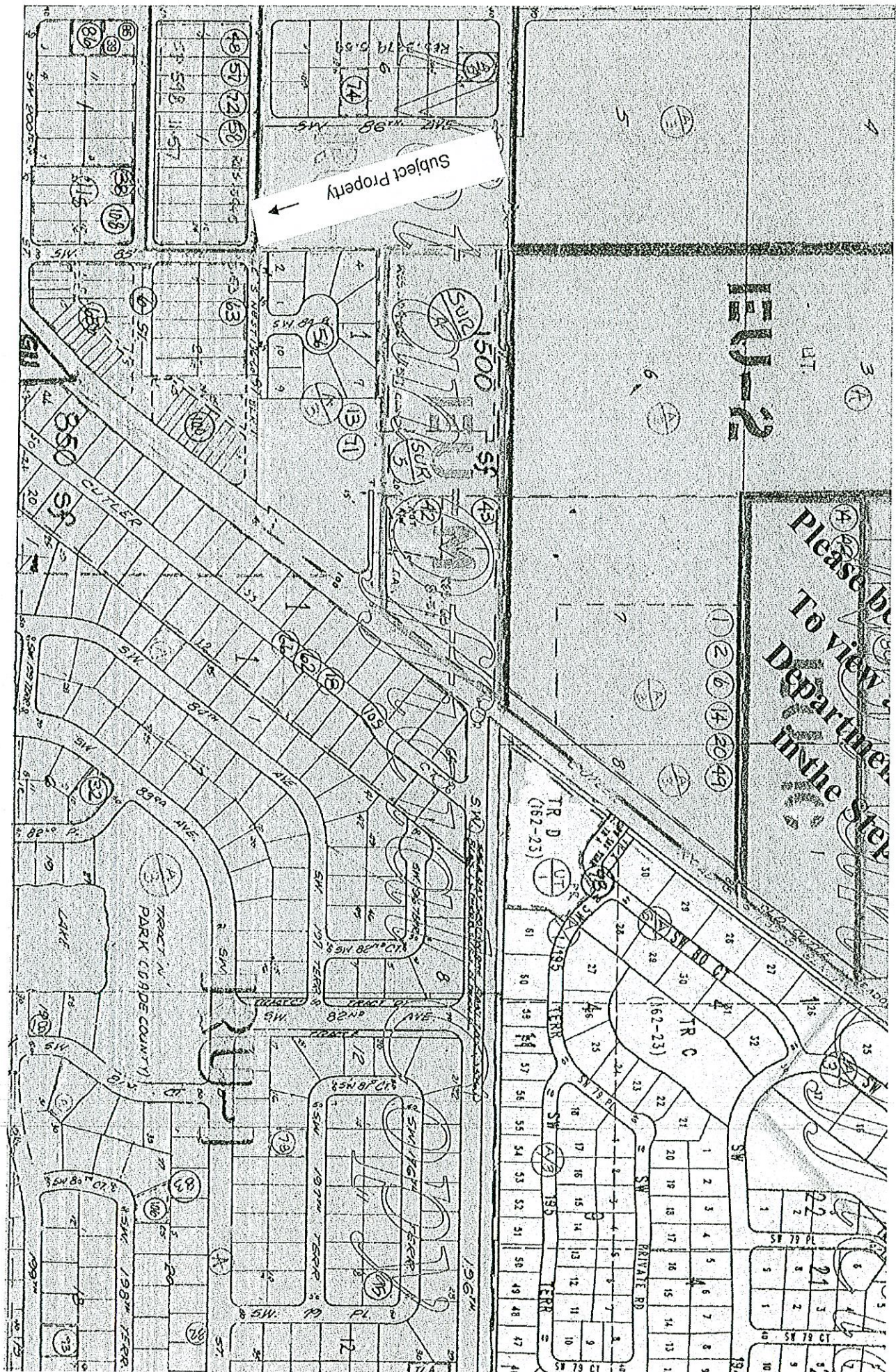
WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.A.
Town Attorney

Moved By:
Seconded By:

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	_____





Subject Property

HEU-2

Please be
To view
Department
in the step

TR D
(62-23)

TR C
(62-23)

22

21

20

1	2	3	4	5	6	7	8	9
10	11	12	13	14	15	16	17	18
19	20	21	22	23	24	25	26	27
28	29	30	31	32	33	34	35	36
37	38	39	40	41	42	43	44	45
46	47	48	49	50	51	52	53	54
55	56	57	58	59	60	61	62	63





Hearing Number: 07-04

Applicant Name: SIRE USA Corporation

Location: West of SW 85th Avenue between SW 198th and 199th Streets

Size of property: +/- 41,885 square feet

Request: Rezoning from AU (Agricultural) to RU-1 (Single Family Residential)

Hearing Location: Cutler Ridge Park, 10100 SW 200th Street

Hearing Date: May 16, 2007

Hearing Time: 7:00 p.m.

Plans are on file with the Town and may be examined at Town Hall. These plans may be modified at the public hearing.