

# TOWN OF CUTLER BAY

Mayor Paul s. Vrooman  
Vice Mayor Edward P. MacDougall  
Council Member Timothy J. Meerbott  
Council Member Ernest N. Sochin  
Council Member Peggy R. Bell

Interim Town Manager Steve Alexander  
Interim Town Attorney Mitchell Bierman  
Interim Town Clerk Elizabeth Sewell

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 Interim Town Clerk at (305) 505-2172 for assistance no later than four days prior to the meeting.

## LOCAL PLANNING AGENCY AGENDA

Thursday, May 18, 2006

7:00 PM

East Ridge Retirement Village

19301 S.W. 87<sup>th</sup> Avenue

(305) 256-3506

### I. CALL TO ORDER, ROLL CALL

### II. PLEDGE OF ALLEGIANCE

### III. ADDITIONS, DELETIONS, AND DEFERRALS

### IV. CONSENT AGENDA

Minutes of the May 4, 2006 LPA meeting.

### V. PUBLIC HEARING: MOTION RECOMMENDING ADOPTION OF THE FOLLOWING ORDINANCE:

- A. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING CHAPTER 33, "ZONING" ARTICLE VI, "SIGNS," DIVISION 2, "GENERAL PROVISIONS" OF THE TOWN'S CODE OF ORDINANCES, BY PROVIDING FOR THE PROHIBITION OF OFF-PREMISES SIGNAGE WITHIN THE TOWN;

PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

**V. ADJOURNMENT.**

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

# **TOWN OF CUTLER BAY**

## **MINUTES OF THE LOCAL PLANNING AGENCY MEETING**

Thursday, May 4, 2006  
South Dade Governmental Center  
10710 SW 211 Street, Room 203

Meeting commenced at 7:10 PM

### **I. CALL TO ORDER, ROLL CALL**

Mayor Vrooman called the meeting to order. The following members of the Local Planning Agency were present:

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

The following staff members were present:  
Interim Town Manager Steven Alexander  
Interim Town Attorney Mitchell Bierman  
Interim Town Attorney Chad Friedman  
Interim Town Clerk Elizabeth Sewell

### **II. PLEDGE OF ALLEGIANCE**

### **III. ADDITIONS, DELETIONS, AND DEFERRALS**

- A. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING CHAPTER 33, "ZONING" ARTICLE VI, "SIGNS," DIVISION 2, "GENERAL PROVISIONS" OF THE TOWN'S CODE OF ORDINANCES, BY PROVIDING FOR THE PROHIBITION OF OFF-PREMISES SIGNAGE WITHIN THE TOWN; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

Council Member Meerbott moved to deferred to May 18, 2006 Local Planning Agency Meeting. Seconded by Council Member Sochin.

A roll call vote was taken as follows: Mayor Vrooman, Yes; Council Member Meerbott, Yes; Council Member Sochin, Yes; Council Member Bell, Yes. The proposed Ordinance was deferred until May 18, 2006 Local Planning Agency Meeting.

**IV. CONSENT AGENDA**

- A. Minutes of the March 16, 2006 Local Planning Agency Meeting: Council Member Bell moved to approve. Seconded by Council Member Meerbott. All voted in favor. The minutes were approved unanimously.

**V. PUBLIC HEARING: MOTION RECOMMENDING ADOPTION OF THE FOLLOWING ORDINANCE:**

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, PROVIDING FOR A MORATORIUM ON THE ISSUANCE OF DEVELOPMENT ORDERS AND DEVELOPMENT PERMITS WITHIN THE AREA GENERALLY LOCATED SOUTH OF THE INTERSECTION OF THE HOMESTEAD EXTENSION OF THE FLORIDA TURNPIKE (HEFT) AND U.S. 1, WEST OF THE HEFT TO THE TOWN LIMITS, AND NORTH OF THE C-1 CANAL (BLACK CREEK CANAL); EXEMPTING CERTAIN DEVELOPMENT; PROVIDING FOR WAIVERS; PROVIDING FOR SEVERABILITY; PROVIDING PROCEDURES FOR VESTED RIGHTS AND JUDICIAL REVIEW FOR THE SPECIFIC MATTERS ADDRESSED HEREIN; PROVIDING FOR A TERM; PROVIDING FOR A REPEALER; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE.

No one from the public spoke in regards to this ordinance.

Council Member Meerbott moved to approve. Seconded by Council Member Bell.

A roll call vote was taken as follows: Mayor Vrooman, Yes; Council Member Meerbott, Yes; Council Member Sochin, Yes; Council Member Bell, Yes. The proposed ordinance was adopted unanimously (5-0).

**VI. ADJOURNMENT.**

Meeting was officially adjourned at 7:14 pm.

*Prepared and submitted by:*

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*Elizabeth A. Sewell, CMC*  
*Interim Town Clerk*

*Adopted by the Town Local Planning Agency on this  
18<sup>th</sup> day of May, 2006.*

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*Paul S. Vrooman, Mayor*

PURSUANT TO FLORIDA STATUTES 286.0105. IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THIS LOCAL PLANNING AGENCY WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT FOR SUCH PURPOSE, THE AFFECTED PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS 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. WHILE THE FLORIDA STATUTES DO NOT REQUIRE AUDIO RECORDINGS, TO THE EXTENT THAT AUDIO RECORDINGS ARE MADE, THE RECORDING MAY BE REQUESTED FROM THE TOWN CLERK FOR REVIEW AND/OR COPYING. THE TOWN OF CUTLER BAY CANNOT GUARANTEE THE QUALITY OF ANY RECORDING

ORDINANCE NO. 06-\_\_\_\_\_

**AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING CHAPTER 33, "ZONING" ARTICLE VI, "SIGNS," DIVISION 2, "GENERAL PROVISIONS" OF THE TOWN'S CODE OF ORDINANCES, BY PROVIDING FOR THE PROHIBITION OF OFF-PREMISES SIGNAGE WITHIN THE TOWN; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Cutler Bay (the "Town") finds and determines that, in order to maintain and improve the aesthetics, quality of life, and safety of the Town and its residents, the Town must adopt regulations prohibiting off-premises signage; and

**WHEREAS**, sign regulation to advance the governmental purpose of aesthetics has long been upheld by the state and federal courts; and

**WHEREAS**, as long ago as 1954, the U.S. Supreme Court recognized that "the concept of the public welfare is broad and inclusive," that the values it represents are "spiritual as well as physical, aesthetic as well as monetary," and that it is within the power of the Town Council to determine that the community should be "beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled," in *Berman v. Parker*, 348 U.S. 26, 33 (1954), which was followed by *State v. Miami Beach Redevelopment Agency*, 392 So. 2d 875 (Fla. 1980); and

**WHEREAS**, sign regulations have been held to advance these aesthetic purposes and advance the public welfare in *City of Lake Wales v. Lamar Advertising Ass'n of Lakeland, Florida*, 414 So. 2d 1030 (Fla. 1982); and

**WHEREAS**, the Town Council finds and determines that the Town has consistently adopted severability provisions in connection with its Code of Ordinances, and that the Town

wishes to assure that its severability provisions will be applied to its land development regulations, including its off-premises sign regulations; and

**WHEREAS**, in several recent judicial decisions, the courts have failed to give full effect to severability provisions applicable to sign regulations, and expressed uncertainty over whether local governments intended that severability would apply to certain factual situations despite the plain and ordinary meaning of the severability clauses; and

**WHEREAS**, the Town Council is aware that the failure of some courts to apply severability clauses has led to an increase in litigation by billboard developers and other applicants seeking to strike down sign regulations in their entirety, so that they may argue that their applications to erect billboards or other signs must be granted; and

**WHEREAS**, the Town Council desires that there be an ample and unequivocal record of its intention that the severability clauses it has adopted related to its off-premises sign regulations shall be applied to the maximum extent possible, even if less speech would result from a determination that any exceptions, limitations, variances or other provisions are invalid or unconstitutional for any reason whatsoever; and

**WHEREAS**, the Town Council desires that its prohibition of billboards be given full effect, regardless of the invalidity or unconstitutionality of any or all of the Town's other regulations; and

**WHEREAS**, the Town Council further intends to allow noncommercial speech to appear wherever commercial speech appears, and codifies this intention through the adoption of a substitution clause that expressly allows non-commercial messages to be substituted for commercial messages as set forth in the body of this Ordinance; and

WHEREAS, the Town Council specifically intends that this substitution clause be applied so that its sign regulations can never be construed to impermissibly favor commercial messages over noncommercial messages; and

WHEREAS, the Town further provides for the political expression of its residents, as required by *City of Ladue v. Gilleo*, 512 U.S. 43 (1994), by allowing a permanent noncommercial sign to be posted in any residential zoning district.

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

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

**Section 2. Amendment to Sign Regulations.** The sign regulations contained Chapter 33, "Zoning," Article VI, "Signs," Division 2, "General Provisions," Sections 33-83 "Purpose," 33-84 "Definitions," and 33-95, "Prohibited Signs," are hereby amended as follows:

\* \* \*

**Sec. 33-83. Purpose Scope, Purpose, Substitution and Severability.**

(a) *Purpose.* The purpose of this ~~chapter~~ {article} is to permit signs that will not, because of size, location, method of construction and installation, or manner of display:

- (1) Endanger the public safety; or
  - (2) Create distractions that may jeopardize pedestrian or vehicular traffic safety;
- or
- (3) Mislead, confuse, or obstruct the vision of people seeking to locate or identify uses or premises; or



- (4) Destroy or impair aesthetic or visual qualities of Miami-Dade County which is so essential to tourism and the general welfare; and

The purpose of this article is also to permit, regulate and encourage the use of signs with a scale, graphic character, and type of lighting compatible with buildings and uses in the area, so as to support and complement land use objectives as set forth in the Comprehensive Development Master Plan. It shall be further the purpose of this article to promote the aesthetics, safety, health, and general welfare and the assurance of protection of adequate light and air within the Town by regulation of the general posting, displaying, erection, use, and maintenance of signs. In the event of any conflict between this code and any declaration of covenants, bylaws, or other restrictions applying to any property within the town, the language affording the more restrictive interpretation shall apply.

(b) Scope. The provisions of this article shall govern the number, size, location, and character of all signs which may be permitted either as a main or accessory use under the terms of this article. No signs shall be permitted on a plot or parcel either as a main or accessory use except in accordance with the provisions of this article.

(c) Substitution of Noncommercial Speech for Commercial Speech. Notwithstanding any provisions of this article to the contrary, to the extent that this article permits a sign containing commercial copy, it shall permit a noncommercial sign to the same extent. The noncommercial message may occupy the entire sign area or any portion thereof, and may substitute for or be combined with the commercial message. The sign message may be changed from commercial to noncommercial messages, or from one noncommercial message to another, as frequently as desired by the sign's owner, provided that the sign is not prohibited, and the sign continues to comply with all requirements of this article.

(d) Severability.

(1) *Generally.* If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this article is declared unconstitutional by the final and valid judgment or decree of any court of competent jurisdiction, this declaration of unconstitutionality or invalidity shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this article.

(2) *Severability where less speech results.* This subsection (2) shall not be interpreted to limit the effect of subsection (1) above, or any other applicable severability provisions in the code of ordinances or any adopting ordinance. The town council specifically intends that severability shall be applied to these regulations even if the result would be to allow less speech in the town, whether by subjecting currently exempt signs to permitting or by some other means.

(3) *Severability of provisions pertaining to prohibited signs.* This subsection (3) shall not be interpreted to limit the effect of subsection (1) above, or any other applicable severability provisions in the code of ordinances or any adopting ordinance. The town council specifically intends that severability shall be applied to section 33-95, entitled "Prohibited signs," so that each of the prohibited sign types listed in that section shall continue to be prohibited irrespective of whether another sign prohibition is declared unconstitutional or invalid.

(4) *Severability of prohibition on off-premises signs.* This subsection (4) shall not be interpreted to limit the effect of subsection (1) above, or any other applicable severability provisions in the code of ordinances or any adopting ordinance. If any or all of this article or any other provision of the town's code of ordinances is declared

unconstitutional or invalid by the final and valid judgment of any court of competent jurisdiction, the town council specifically intends that that declaration shall not affect the prohibition of off-premises signs in Section 33-95(k).

**Sec. 33-84. Definitions.**

For the purposes of this article the following words and phrases are hereby defined as provided in this section, unless the context clearly indicates otherwise. Where there is a question as to the correct classification or definition of a sign, it shall be the prerogative of the Director to place said sign in the strictest category and/or classification.

\* \* \*

*Noncommercial sign:* A sign containing only noncommercial copy. "Noncommercial" shall mean not-for-profit or commercial gain. Regardless of the content of the copy, a noncommercial sign shall not be construed to be an off-premises sign.

*Non-conforming sign:* A sign located within the town limits on the effective date of this code or existing in an area annexed by the town after the effective date of this code (or amendments hereto) which, by its height, type, area, design, colors, materials, location, use, or structural support, conformed to the town code prior to the effective date of this ordinance, but does not conform to the requirements of this code. This shall include signs that had been granted variances that were approved, and signs that were issued a construction permit by Miami-Dade County prior to the effective date of this ordinance.

*Off-premises sign:* A sign that directs attention to a commercial business, commodity, service, product, or activity not conducted, sold, offered, or available on the premises where such sign is located, the copy of which may be intended to be changed periodically. An off-premises sign is the principal use of the property on which it is located. It may also be referred to as a "billboard."

This definition includes a sign displayed on a trailer or the bed of a truck that advertises something other than the identity of the truck, the driver or its contents.

On-premises sign: A sign that is located on the premises of the occupant, business, or property identified on the sign. The occupant, business, or property is the principal use of the property, and the sign is an accessory use of the property on which it is located.

\* \* \*

**Sec. 33-95. Prohibited signs.**

\* \* \*

(k) Except for non-conforming signs, off-premises signs or billboard signs are prohibited in the town. Any off-premises sign or billboard sign erected after the effective date of this article as amended shall be removed at the sole expense of the sign owner and shall be subject to code enforcement proceedings as provided in the town code.

**Section 3. Severability.**

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

**Section 4. Inclusion In The Code.**

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

**Section 5. Effective Date.**

This Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this \_\_\_\_ day of \_\_\_\_\_, 2006.

PASSED and ADOPTED on second reading this \_\_\_day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Paul Vrooman  
MAYOR

ATTEST:

\_\_\_\_\_  
Elizabeth Sewell  
INTERIM TOWN CLERK

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

\_\_\_\_\_  
Weiss Scrota Helfman Pastoriza Cole & Boniske, P.A.  
INTERIM TOWN ATTORNEY

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman \_\_\_\_\_

Vice Mayor Edward MacDougall \_\_\_\_\_

Council Member Timothy J. Meerbott \_\_\_\_\_

Council Member Ernest N. Sochin \_\_\_\_\_

Council Member Peggy R. Bell \_\_\_\_\_

**ORDINANCE NO. 2006- \_\_\_\_\_**

**AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, PROVIDING FOR A MORATORIUM ON THE ISSUANCE OF DEVELOPMENT ORDERS AND DEVELOPMENT PERMITS WITHIN THE AREA GENERALLY LOCATED SOUTH OF THE INTERSECTION OF THE HOMESTEAD EXTENSION OF THE FLORIDA TURNPIKE (HEFT) AND U.S. 1, WEST OF THE HEFT TO THE TOWN LIMITS, AND NORTH OF THE C-1 CANAL (BLACK CREEK CANAL); EXEMPTING CERTAIN DEVELOPMENT; PROVIDING FOR WAIVERS; PROVIDING FOR SEVERABILITY; PROVIDING PROCEDURES FOR VESTED RIGHTS AND JUDICIAL REVIEW FOR THE SPECIFIC MATTERS ADDRESSED HEREIN; PROVIDING FOR A TERM; PROVIDING FOR A REPEALER; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, on April 6, 2006, the Town Council of the Town of Cutler Bay (the "Town") adopted the Urban Center District ("UCD") land development regulations; and

**WHEREAS**, the Town Council wishes to ensure that no incompatible development is approved during the time necessary to rezone properties within the area located south of the intersection of the Homestead Extension of the Turnpike (HEFT) and US1, west of the HEFT to the Town limits, and north of the C-1 Canal (Black Creek Canal) (the "moratorium area") from their existing zoning categories to UCD; and

**WHEREAS**, to achieve this end, the Town Council directed Town staff to draft an ordinance for its consideration, declaring a building moratorium within the moratorium area until the rezoning to UCD can be approved by the Town Council; and

**WHEREAS**, the Town Council has determined that developments that have had their final plat reviewed and approved by the Town Council, or have received at least one building permit for a principal building should be allowed to proceed, even if they would otherwise be affected by the moratorium; and

**WHEREAS**, the Town Council has determined that this building moratorium should be in place until the earlier of 120 days from the effective date of this Ordinance or the date of final adoption of the rezoning of the area to UCD; and

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

**WHEREAS**, by resolution, the Town Council approved the Town Manager's Administrative Order No. 06-1 that was issued pursuant to Section 33-319 of the Town's Code

of Ordinances (the "Code"), which further authorizes a building moratorium in the moratorium area; and

**WHEREAS**, it is the intent of the Town Council that this Ordinance be adopted together with the above referenced resolution to accomplish the same purpose in accordance with all applicable laws; and

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

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

**Section 1. Building Moratorium Imposed.** During the time that this Ordinance is in effect as specified in Section 7 below, there shall be a building moratorium on the issuance of development orders and development permits within the moratorium area. For purposes of this Ordinance, the terms "development orders" and "development permits" shall be defined as follows: building permits, variances, special exceptions, zoning district changes, minimum square footage requirement changes, unusual and new uses, or modifications or elimination of conditions, restrictions or limitations on these orders and permits. The following categories of development shall be exempt from this moratorium:

- Any development that had its final plat reviewed and approved by the Town Council.
- Any development that has received at least one building permit for a principal building.
- Any development being built by Miami Dade County or the Town.

**Section 2. Waivers.** Any property owner seeking a waiver under this Section 2 must file an application with the Town Council, for a determination within 30 days after the effective date of this Ordinance. The Town Council, after a public hearing, may grant a waiver to the moratorium provided above and permit development to proceed on a specific parcel where the Town Council determines, based upon substantial competent evidence, that the specific use or activity requested by the waiver application will not detrimentally affect the land development regulations adopted in the UCD, will be compatible with surrounding land uses, and will not impair the public health, safety or welfare. The public hearing shall be advertised at least seven days prior to the hearing in a local newspaper. The grant of waiver, if any, shall be by resolution. The applicant shall be responsible for the waiver application fee and any other standard fees and requirements for a public hearing.

**Section 3. Determination of Vested Rights or Denial of All Economic Use.**

(A) Nothing in this Ordinance shall be construed or applied to abrogate the vested right of a property owner to complete development of a parcel where the property owner can demonstrate by substantial competent evidence each of the following:

- (1) A governmental act of development approval was obtained prior to the effective date of this Ordinance; and
- (2) Upon which the property owner has detrimentally relied, in good faith, by making substantial expenditures; and
- (3) That it would be highly inequitable to deny the property owner the right to complete the development.

(B) Nothing in this Ordinance shall be construed or applied to prevent development of a particular parcel where the property owner can demonstrate by substantial competent evidence that, because of the moratorium, no economic use can be made of the parcel.

(C) Any property owner claiming vested rights or denial of all use under this Section 3 must file an application with the Town Council for a determination within 30 days after the effective date of this Ordinance. The application shall be accompanied by an application fee of \$1,500.00 and contain a sworn statement as to the basis upon which the vested rights or denial of all use are asserted, together with documentation required by the Town and other documentary evidence supporting the claim. The Town Council shall hold a public hearing on the application and, based upon the competent substantial evidence submitted, shall make a determination as to whether the property owner has established vested rights or a lack of economic use for the parcel.

**Section 4. Judicial Review.** Judicial review of final decisions by the Council under Section 2 or Section 3 of this Ordinance shall be by the filing of a Petition for Certiorari in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County in accordance with the Florida Rules of Appellate Procedure for the review of the quasi-judicial decisions of municipalities.

**Section 5. Exhaustion of Administrative Remedies.** No property owner claiming that this Ordinance, as applied, constitutes or would constitute a temporary or permanent taking of private property or an abrogation of vested rights may pursue such claim in court, unless he or she has first exhausted the applicable administrative remedies provided in Sections 2 and 3 of this Ordinance.

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

**Section 7. Term.** The building moratorium imposed by this Ordinance is temporary and shall be effective for a period of 120 days from the effective date of this Ordinance, unless dissolved earlier by the Town Council. Further, the building moratorium shall automatically



dissolve upon the adoption of the rezoning of properties within the moratorium area to UCD, which rezoning shall be expeditiously pursued. The building moratorium may be reasonably extended, if necessary, by Ordinance of the Town Council.

**Section 8. Effective Date.** This Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this \_\_\_\_\_ day of May, 2006.

PASSED AND ADOPTED on second reading this \_\_\_\_\_ day of May, 2006.

\_\_\_\_\_  
PAUL VROOMAN  
Mayor

Attest: \_\_\_\_\_  
ELIZABETH SEWELL  
Interim Town Clerk

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

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

FINAL VOTE AT ADOPTION:

Mayor Paul Vrooman \_\_\_\_\_  
Vice Mayor Edward MacDougall \_\_\_\_\_  
Council Member Timothy J. Meerbott \_\_\_\_\_  
Council Member Ernest Sochin \_\_\_\_\_  
Council Member Peggy Bell \_\_\_\_\_