

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 Attorney Chad Freidman
Town Clerk Erika Gonzalez-Santamaria

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

TOWN COUNCIL MEETING AGENDA

Wednesday, August 2, 2006

7:00 PM

South Dade Government Center
10750 SW 211 Street, Room 203
Cutler Bay, Florida 33189

- I. CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE**
- II. INVOCATION**
- III. PROCLAMATIONS, AWARDS, PRESENTATIONS**
- IV. APPROVAL OF MINUTES**
 - A. July 19, 2006
- V. ADDITIONS, DELETIONS, AND DEFERRALS**
- VI. TOWN MANAGER'S REPORT**
- VII. TOWN ATTORNEY'S REPORT**
- VIII. BOARD AND COMMITTEE REPORTS**
- IX. CONSENT AGENDA (ANY ITEM SHALL BE REMOVED FROM THE CONSENT AGENDA FOR DISCUSSION OR SEPARATE VOTE IF REQUESTED BY A COUNCILMEMBER)**
 - A. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING A TOWN MANAGER; PROVIDING FOR AN EFFECTIVE DATE.

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

XI. QUASI-JUDICIAL HEARINGS

XII. PUBLIC HEARINGS

A. RESOLUTIONS

1. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, GRANTING FINAL PLAT APPROVAL TO JULIO ABASCAL FOR PROPERTY GENERALLY LOCATED AT THE INTERSECTION OF S.W. 205TH STREET/SW 79TH AVENUE AND S.W. 204TH TERRACE (FOLIO # 36-6010-010-1010), AS LEGALLY DESCRIBED IN EXHIBIT "A;" CONSISTING OF 1 SINGLE FAMILY HOME ON APPROXIMATELY 17,268 SQUARE FEET; AND PROVIDING FOR AN EFFECTIVE DATE.
2. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING MIAMI-DADE COUNTY TO CONTINUE THE PROCESS OF CREATING A SPECIAL TAXING DISTRICT FOR SECURITY GUARD GATES FOR THE LAKES BY THE BAY SOUTH COMMONS; AND PROVIDING FOR AN EFFECTIVE DATE. (NOT A PUBLIC HEARING, IF AVAILABLE)

B. ORDINANCES

1. FIRST READING

- a. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, REZONING PROPERTIES FROM BU-1A, BU-2, AND BU-3 TO THE URBAN CENTER DISTRICT (UCD) ZONING DESIGNATION CONSISTING OF APPROXIMATELY 207 ACRES 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); AS LEGALLY DESCRIBED IN EXHIBIT "A;" PROVIDING FOR A REPEALER; PROVIDING FOR

ORDINANCES IN CONFLICT, SEVERABILITY AND AN EFFECTIVE DATE.

- b. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, IMPLEMENTING SECTION 3.10 OF THE TOWN CHARTER, ESTABLISHING PURCHASING REGULATIONS; PROVIDING FOR REPLACEMENT OF SECTION 2-8.1 ET SEQ OF THE MIAMI DADE COUNTY CODE TO THE EXTENT APPLICABLE, PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

2. SECOND READING

XIII. PUBLIC COMMENTS

XIV. MAYOR AND COUNCIL MEMBER COMMENTS

XV. OTHER BUSINESS

XVI. NEXT MEETING ANNOUNCEMENT AND 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.

TAB 1

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

Wednesday, July 19, 2006

7:00 PM

South Dade Government Center
10750 SW 211 Street, Room 203
Cutler Bay, Florida 33189

I. CALL TO ORDER/ROLL CALL OF MEMBERS: The meeting was called to order by the mayor at 7:15 PM. Present were the following:

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

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

Mayor Vrooman led the pledge of allegiance.

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

III. PROCLAMATIONS, AWARDS, PRESENTATIONS:

- A. Commissioner Katy Sorenson discussed the many upcoming improvements to the Old Cutler Road areas. The commissioner also discussed the progress of the South Dade Cultural Center, the construction of the pedestrian bridge across Black Creek Trail path to the Cultural Center and other upcoming county projects. Commissioner Sorenson introduced Mr. Subrata Basu, the Assistant Director for Planning for Miami-Dade County, whom also addressed the council in reference to the progress of the Old Cutler Road charette.

IV. APPROVAL OF MINUTES:

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

V. ADDITIONS, DELETIONS, AND DEFFERALS:

- A. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ACCEPTING THE AMENDMENTS TO THE "MASTER INTERLOCAL AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE TOWN OF CUTLER BAY FOR TRANSITION OF MUNICIPAL SERVICES", THE "INTERLOCAL AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE TOWN OF CUTLER BAY FOR LOCAL POLICE SERVICES" AND THE "AGREEMENT BY AND BETWEEN MIAMI-DADE COUNTY AND THE TOWN OF CUTLER BAY FOR SPECIALIZED POLICE SERVICES"; AUTHORIZING THE MAYOR TO EXECUTE THE AFOREMENTIONED AMENDED AGREEMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.
- B. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING THE "AGREEMENT BY AND BETWEEN MIAMI-DADE COUNTY, FLORIDA AND THE TOWN OF CUTLER BAY FOR THE PROVISION OF INFORMATION TECHNOLOGY SERVICES"; AUTHORIZING THE MANAGER TO EXECUTE THE "AGREEMENT BY AND BETWEEN MIAMI-DADE COUNTY, FLORIDA AND THE TOWN OF CUTLER BAY FOR THE PROVISION OF INFORMATION TECHNOLOGY SERVICES"; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Meerbott made a motion to set the agenda as amended. The motion was seconded by Councilmember Bell and adopted by unanimous voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice-Mayor MacDougall and Mayor Vrooman voting Yes.

VI. TOWN MANAGER'S REPORT:

The Town Manager was pleased to report that all Interlocals were approved by the Miami-Dade County Commission with minor changes. The manager introduced to Council a comparison chart of the Interlocal Agreements among surrounding and neighboring municipalities. The Old Cutler Road construction was also approved by the Commission. The manager also thanked Commissioner Sorenson for her support throughout the interlocal approval. The manager also discussed the meeting in conjunction with the Town Clerk and Miami-Dade County Online Services to determine which IT service is best for the town's website. The date for the second business strategic planning workshop is set to be determined.

VII. TOWN ATTORNEY'S REPORT:

The Town Attorney discussed the procedure of the adoption of the millage rate for the 2006-2007 fiscal year. The attorney also discussed the advertisement requirements by Florida Statute and the required advertisement by the town charter.

VIII. BOARD AND COMMITTEE REPORTS: None at this time.

IX. CONSENT AGENDA:

- A. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ACCEPTING THE AMENDMENTS TO THE "MASTER INTERLOCAL AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE TOWN OF CUTLER BAY FOR TRANSITION OF MUNICIPAL SERVICES", THE "INTERLOCAL AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE TOWN OF CUTLER BAY FOR LOCAL POLICE SERVICES" AND THE "AGREEMENT BY AND BETWEEN MIAMI-DADE COUNTY AND THE TOWN OF CUTLER BAY FOR SPECIALIZED POLICE SERVICES"; AUTHORIZING THE MAYOR TO EXECUTE THE AFOREMENTIONED AMENDED AGREEMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

A motion to approve the resolution was made by Councilmember Meerbott. The motion was seconded by Councilmember Bell. Resolution 06-67 was adopted by unanimous voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice-Mayor MacDougall and Mayor Vrooman voting Yes.

- B. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING THE "AGREEMENT BY AND BETWEEN MIAMI-DADE COUNTY, FLORIDA AND THE TOWN OF CUTLER BAY FOR THE PROVISION OF INFORMATION TECHNOLOGY SERVICES"; AUTHORIZING THE MANAGER TO EXECUTE THE "AGREEMENT BY AND BETWEEN MIAMI-DADE COUNTY, FLORIDA AND THE TOWN OF CUTLER BAY FOR THE PROVISION OF INFORMATION TECHNOLOGY SERVICES"; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Sochin pulled Item B. for discussion.

The Town Manager explained the extent of the IT Service agreement with Miami-Dade County.

Vice-Mayor MacDougall made a motion to approve the resolution. The motion was seconded by Councilmember Meerbott. Resolution 06-68 was adopted by a 4-1 voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Vice-Mayor MacDougall and Mayor Vrooman voting Yes; Councilmember Sochin voting No.

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

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

All witnesses giving testimony were sworn-in by the clerk.

- A. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING A MODIFICATION TO AN APPROVED SITE PLAN TO ALLOW FOR REDEVELOPMENT OF A MOVIE THEATER INTO A COMMERCIAL BUILDING AND APPROVAL OF AN UNUSUAL USE FOR OUTDOOR DINING FOR THE SHOPPING CENTER LOCATED AT 18403 SOUTH DIXIE HIGHWAY; AND PROVIDING FOR AN EFFECTIVE DATE.

The Town Manager gave a brief explanation on the resolution.

Bob Powell, Senior Director of Woolbright Pembroke Ltd., addressed the council.

Councilmember Bell made a motion to defer the resolution indefinitely. The motion was seconded by Councilmember Sochin and adopted by unanimous voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice-Mayor MacDougall and Mayor Vrooman voting Yes.

XII. PUBLIC HEARINGS:

A. RESOLUTIONS: (NOT A PUBLIC HEARING)

1. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA; DETERMINING THE PROPOSED MILLAGE RATE, AND THE DATE, TIME AND PLACE FOR THE FIRST AND SECOND BUDGET HEARINGS AS REQUIRED BY LAW; DIRECTING THE CLERK OR HER DESIGNEE TO FILE SAID RESOLUTION WITH THE PROPERTY APPRAISER AND TAX COLLECTOR OF MIAMI-DADE COUNTY; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Bell made a motion to adopt the resolution. The motion was seconded by Councilmember Meerbott. Resolution 06-69 was adopted by unanimous voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice-Mayor MacDougall and Mayor Vrooman voting Yes.

2. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING MIAMI-DADE COUNTY TO CONTINUE THE PROCESS OF CREATING A

SPECIAL TAXING DISTRICT FOR SECURITY GUARD GATES
FOR THE LAKES BY THE BAY SOUTH COMMONS; AND
PROVIDING FOR AN EFFECTIVE DATE.

The Town Manager gave the Council background information in reference to the resolution.

Bob Penn, 200 S. Biscayne Boulevard, Jorge Sapiro and Mercedes Hernandez, representing Lennar Homes, addressed the council.

Ken Taylor, 8775 SW 221 TER, John Pendegrass, 22535 SW 94 Place, Luciane Barroca, 22476 SW 94 Place, addressed the council.

After extensive discussion, Councilmember Bell made a motion to defer the ordinance indefinitely. The motion was seconded by Vice-Mayor MacDougall and was approved by unanimous voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice-Mayor MacDougall and Mayor Vrooman voting Yes.

B. ORDINANCES: The clerk read the following ordinance, on second reading, by title:

1. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, IMPLEMENTING THE UTILITY TAX AUTHORIZED BY SECTION 166.231, ET. SEQ., FLORIDA STATUTES, TO LEVY AND IMPOSE A UTILITY TAX UPON THE PURCHASE OF ELECTRICITY, WATER, METERED GAS, BOTTLED GAS, COAL, AND FUEL OIL WITHIN THE TOWN OF CUTLER BAY; AUTHORIZING TRANSMITTAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.

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

Councilmember Meerbott made a motion to approve the ordinance. The motion was seconded by Councilmember Sochin. Ordinance 06-16 was adopted by unanimous roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice-Mayor MacDougall and Mayor Vrooman voting Yes.

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

2. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RELATING TO THE ESTABLISHMENT OF THE TOWN'S LOCAL PLANNING AGENCY; DESIGNATING THE TOWN COUNCIL AS THE LOCAL PLANNING AGENCY; PROVIDING FOR POWERS AND DUTIES; PROVIDING FOR A RECORDING SECRETARY; PROVIDING

STAFF FOR THE LOCAL PLANNING AGENCY; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Councilmember Meerbott made a motion to approve the ordinance. The motion was seconded by Councilmember Bell. Ordinance 06-17 was adopted by unanimous roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice-Mayor MacDougall and Mayor Vrooman voting Yes.

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

3. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, PERTAINING TO THE LOCAL COMMUNICATIONS SERVICES TAX RATE; PROVIDING FOR RECITALS; PROVIDING FOR ELECTION NOT TO REQUIRE AND COLLECT PERMIT FEES; ESTABLISHING THE LOCAL COMMUNICATIONS SERVICES TAX RATES; PROVIDING FOR NOTICE TO THE DEPARTMENT OF REVENUE; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS AND PROVIDING AN EFFECTIVE DATE.

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

Councilmember Sochin made a motion to approve the ordinance. The motion was seconded by Vice-Mayor MacDougall. Ordinance 06-18 was adopted by unanimous roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice-Mayor MacDougall and Mayor Vrooman voting Yes.

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

4. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING THE MIAMI-DADE COUNTY CODE AS APPLICABLE TO THE TOWN PURSUANT TO SECTION 8.3 OF THE TOWN CHARTER TO SUBSTITUTE THE TOWN COUNCIL FOR COUNTY OFFICIALS, BOARDS, OR COMMITTEES, PROVIDING FOR ZONING REVIEW, PROVIDING FOR AUTHORITY OF THE TOWN COUNCIL, PROVIDING FOR AN APPEAL PROCESS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.

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

Councilmember Bell made a motion to approve the ordinance. The motion was seconded by Vice-Mayor MacDougall. Ordinance 06-19 was adopted by unanimous roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice-Mayor MacDougall and Mayor Vrooman voting Yes.

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

5. AN ORDINANCE IF THE MAYOR AND THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA CREATING PROCEDURES FOR ZONING WORKSHOPS; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY AND AN EFFECTIVE DATE.

The Town Attorney briefly explained the ordinance.

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

Councilmember Sochin made a motion to amend the ordinance to change the effective date for Septemeber 1, 2006. The motion was seconded by Councilmember Meerbott and adopted by unanimous voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice-Mayor MacDougall and Mayor Vrooman voting Yes.

Councilmember Sochin made a motion to amend the ordinance to allow the manager to request from the police commander that an officer be designated to attend the town workshops. The motion was seconded by Councilmember Meerbott and adopted by unanimous voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice-Mayor MacDougall and Mayor Vrooman voting Yes.

Councilmember Meerbott made a motion to approve the ordinance as amended. The motion was seconded by Councilmember Sochin. Ordinance 06-20 was adopted by unanimous roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice-Mayor MacDougall and Mayor Vrooman voting Yes.

XIII. PUBLIC COMMENTS:

The following individuals spoke: Joy Cooper, 9365 Nassau Drive, Beth Parets, 19301 Holiday Road, Louise Lockwood, 9071 Richmond Drive, Bill Mickeljohn, 9311 Stirling Drive.

XIV. MAYOR AND COUNCIL MEMBER COMMENTS:

Councilmember Bell spoke about illegal dumping between 92nd Avenue and 212th Street behind the Publix. She advised that if there is a resident witnessing illegal dumping to please write down the tag number of the vehicle that is illegally dumping and call non-emergency

police, 311, or 305-477-1616 to file a report. Councilmember Bell also discussed the probability of conducting a traffic study on the turning lane of Marlin Road. Councilmember Bell also reminded the public that the Town Logo Contest is still underway and any of those interested to please submit their application.

Vice-Mayor MacDougall inquired about the progress of the CRA map.

Councilmember Sochin informed council that he will not be attending the August 2nd council meeting.

Mayor Vrooman discussed that he wanted to add another workshop in addition to the second business strategic planning workshop, to add a kid's workshop to hear the younger voices of the community.

XV. OTHER BUSINESS: None at this time.

XVI. NEXT MEETING ANNOUNCEMENT AND ADJOURNMENT:

The next council meeting will be held on August 16, 2006, at the South Dade Government Center.

The meeting was officially adjourned at 10:40 P.M.

Respectfully submitted:

*Erika Gonzalez-Santamaria
Town Clerk*

*Adopted by the Town Council on
this 2nd day of August, 2006*

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. 06-

**A RESOLUTION OF THE MAYOR AND TOWN COUNCIL
OF THE TOWN OF CUTLER BAY, FLORIDA,
APPROVING A TOWN MANAGER; PROVIDING FOR AN
EFFECTIVE DATE.**

WHEREAS, Charter Section 3.2 of the Town of Cutler Bay (the "Town") provides that the Town Council shall appoint a Town Manager; and

WHEREAS, the Town Council finds that it is both necessary and appropriate to retain a Town Manager; and

WHEREAS, the Town Manager Selection Committee has worked diligently and has provided a list of ranked candidates; and

WHEREAS, the Town Council has reviewed the qualifications of the candidates and determined that the person named below is the most qualified to hold the position of Town Manager.

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

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

Section 2. _____ is appointed as Town Manager and the Mayor is authorized to negotiate the emoluments and terms of employment of the Town Manager subject to ratification by the Town Council.

Section 3. This resolution shall become effective immediately upon its adoption.

PASSED and ADOPTED this _____ day of _____, 2006.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA
Town Clerk

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

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

FINAL VOTE AT ADOPTION:

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

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (hereinafter referred to as "Agreement"), is by and between the Town of Cutler Bay, Florida, a Florida municipal corporation (hereinafter referred to as "Town"), and STEVEN ALEXANDER (hereinafter referred to by name or as "Town Manager").

WITNESSETH:

WHEREAS, the Town desires to employ Steven Alexander as its Town Manager, with all the powers of the Town Manager as provided for in Article III of the Town Charter; and

WHEREAS, the Town, through its Town Council, desires to provide for certain benefits and compensation for the Town Manager and to establish conditions of employment applicable to the Town Manager; and

WHEREAS, Steven Alexander desires to accept employment as Town Manager of the Town of Cutler Bay under the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises as set forth in this Agreement, the parties agree as follows:

Section 1. Employment.

A. The Town of Cutler Bay hereby hires and appoints Steven Alexander as its Town Manager, under the terms established herein, to perform the duties and functions specified in the Town Charter and the Town Code of Ordinances and to perform such other legally permissible and proper duties and functions as the Town Council shall from time to time assign.

B. The Town's employment of Steven Alexander as Town Manager shall be effective August 2, 2006. This Agreement shall remain in effect for three years or until terminated by the Town or by the Town Manager as provided herein. This agreement shall renew automatically for one additional 180 day period, subject to the termination provisions herein unless either party gives the other party written notice of non-renewal at least 30 days prior to the expiration of the first term.

Section 2. Salary.

For the performance of services pursuant to this Agreement, the Town agrees to pay the Town Manager an annual base salary of \$1XX,000, payable in installments on a bi-weekly basis.

Section 3. Duties and Obligations.

The Town Manager shall have the duties, responsibilities and powers of said office under the Charter and Ordinances of the Town of Cutler Bay. The Town Manager agrees to perform all duties and responsibilities faithfully, industriously, and to the best of his ability and in a professional and competent manner.

Section 4. Automobile Allowance and Communications Equipment

The Town Manager is required to be on call for twenty-four hour service. In recognition thereof:

A. The Town shall grant to the Town Manager a Town owned and maintained vehicle or in the case of a privately owned automobile, an allowance of \$600 per month. Such vehicle option shall be at the option of the Manager. The Town Manager shall lease or purchase, maintain, insure said private vehicle if so chosen.

B. The Town shall provide the Town Manager with a cell phone allowance of \$200 per month to compensate him for any business use on his personal phone in addition to any Town owned and maintained smartphone or PDA for critical Town business.

Section 5. Professional Development

The Town agrees to pay reasonable and customary travel and subsistence expenses for the Town Manager's travel to and attendance at the Florida League of Cities' annual conference. The Town may choose to pay for the Town Manager's attendance at other seminars, conferences, and committee meetings as it deems appropriate and approves by Council action.

Section 6. Community Involvement

The Town recognizes the desirability of representation in and before local civic and other organizations, and encourages the Town Manager to participate in these organizations to foster a continuing awareness of the Town's activities as well as the community's attitudes and ideas. Where an expense is involved for such participation, the Town Manager may request reimbursement and the Mayor may approve reimbursement of individual expenses of up to \$50. The Town Council shall consider and may ratify individual expenses exceeding \$50."

Section 7. Personal Time Off

The Town Manager shall earn 1.66 days per month of Personal Time Off (PTO) annually.

Section 8. Holidays

The Town Manager is entitled to the paid holidays listed in the Employees Policy and Procedures Manual.

Section 9. Health and Dental Insurance

The Town agrees to pay the cost of the Town Manager's and his family's health vision and dental insurance. Such coverage will be effective upon employment. .

Section 10. Termination by the Town and Severance Pay

A. The Town Manager shall serve at the pleasure of the Town Council, and the Town Council may terminate this Agreement and the Town Manager's employment with the Town at any time, for any reason or for no reason. Provided however, that a minimum of 12 months compensation shall be paid as severance unless termination is with just cause. "Just cause" is defined and limited for purposes of this Agreement to any of the following:

1. Misfeasance, malfeasance and/or nonfeasance in performance of the City Manager's duties and responsibilities.
2. Conviction or a plea of guilty or no contest to a misdemeanor or felony crime, whether or not adjudication is withheld.
3. Neglect of duty, including the inability or unwillingness to properly discharge the responsibilities of office.
4. Violation of any substantive City policy, rule, or regulation, which would subject any other City employee to termination.
5. The commission of any fraudulent act against the interest of the City.
6. The commission of any act which involves moral turpitude, or which causes the City disrepute.
7. Violation of the International City/County Management Association Code of Ethics.
8. Any other act of a similar nature of the same or greater seriousness.

B. Should a majority of the entire Council (three members) vote to terminate the services of the Town Manager "without cause", then within ten (10) business days following the end of the manager's employment with the Town, the Council shall cause the Town Manager to be paid any accrued and unpaid salary and benefits remaining in the unexpired term of this Agreement (including personal time off, holiday time and insurance but excluding such items

and allowances as are used in conducting Town business such as, but not limited to, the use of the Town computer and the automobile and cell phone allowance) prior to the date of termination based on a forty (40) hour work week.

Section 11. Termination by the Town Manager

The Town Manager may terminate this Agreement at any time by delivering to the Town Council a written notice of termination not later than thirty (30) days prior to the effective date of the termination. If the Town Manager terminates this Agreement, then the provisions of Section 12, Paragraph B above, shall not apply. If the Town Manager voluntarily resigns pursuant to this Section, the Town shall pay to the Town Manager all accrued compensation due the Town Manager up to the Town Manager's final day of employment, including any accrued personal time off. The Town shall have no further financial obligation to Employee pursuant to this Agreement.

Section 12. Disability

If the Town Manager becomes permanently disabled or is otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or health for a period of four consecutive weeks beyond any accrued leave, the Town shall have the option to terminate this Agreement, subject to the severance pay provision outlined in Section 12, Paragraph B of this Agreement.

Section 13. Indemnification.

A. Town shall defend, save harmless, and indemnify the Town Manager against any action for any injury or damage suffered as a result of any act, event, or omission of action that the Town Manager reasonably believes to be in the scope of his duties or function, unless he acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. The Town will compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon. The Town shall not be liable for the acts or omissions of the Town Manager committed while acting outside the course and scope of his agreed duties or committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human life, safety, or property. In such instance, the Town Manager shall reimburse the Town for any legal fees and expenses the Town has incurred or otherwise paid, for or on his behalf, in connection with the charged conduct.

B. Said indemnification shall extend beyond the termination of employment and the expiration of this Agreement to provide protection for any such acts undertaken or committed in his capacity as Town Manager, regardless of whether the notice of claim or filing of a lawsuit occurs during or following employment with the Town.

Section 14. Bonding

The Town agrees to bear the full cost of any fidelity or other bonds required of the Town Manager under the Town Charter or any policy, regulation, ordinance or law.

Section 15. General Terms and Conditions

A. If any provision, or any portion thereof, contained in this Agreement is held by a court of competent jurisdiction to be unconstitutional, illegal, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall not be affected and shall remain in full force and effect.

B. The waiver by either party of a breach of any provision of this Agreement by the other shall not operate or be construed as a waiver of any subsequent breach by that party.

C. This Agreement contains the entire Agreement of the parties. It may not be changed verbally, but only by an Agreement in writing signed by the parties.

D. Florida law shall govern this Agreement and any litigation that may arise from this Agreement, shall be filed and litigated in Miami-Dade County, Florida to the exclusion of any other venue. All parties hereby submit to the jurisdiction of said courts.

E. The parties acknowledge that each has shared equally in the drafting and preparation of this Agreement and, accordingly, no court construing this Agreement shall construe it more strictly against one party than the other and every covenant, term and provision of this Agreement shall be construed simply according to its fair meaning.

F. This Agreement may be executed in duplicate or counterparts, each of which shall be deemed an original and all of which together shall be deemed one and the same instrument. No term, condition or covenant of this Agreement shall be binding on either party until both parties have signed it.

G. The effective date of this Agreement shall be the last date it is executed by either of the parties to this Agreement.

Executed by the TOWN this ____ day of August, 2006.

TOWN OF CUTLER BAY

By: _____
Paul Vrooman, Mayor

ATTEST:

Erika Gonzalez-Santamaria, Town Clerk

Executed by the TOWN MANAGER this _____ day of March, 2006

Witnesses:

Signature

Steven Alexander

Print Name

Signature

Print Name

TAB 3



MEMORANDUM

To: Steven Alexander, Interim Town Manager

From: Joseph M. Corradino, AICP, Interim Town Planning Director

Date: July 27, 2006

Re: Request of Julio Abascal for Final Plat approval for Mimosa Final Plat (Application 06-019)

Applicant: Julio Abascal

Application No.: 06-019

REQUEST:

The applicant, Julio Abascal is requesting a Final Plat approval for a property generally located at the Intersection of SW 205th Street/SW 79th Avenue and SW 204th Terrace for the purpose of building one single family home on a single lot. The property consists of 17,268 square feet (0.40 acres).

RECOMMENDATION:

It is recommended that the Town Council **approve** the request for the Mimosa Final Plat.

BACKGROUND:

When the community of Saga Bay was subdivided, the subject property was plotted as a Tract, not a Lot and Block. It is a County requirement that the this parcel be replatted as a Lot and Block prior to Zoning and Building Permit approval for the construction of a single family house.

The applicant applied to the County for approval of a final plat for the purpose of creating a Lot and Block parcel on July 8, 2005. Due to the subsequent incorporation of the Town of Cutler Bay, the subject final plat is to be reviewed and approved by the Town. The plat has been reviewed for compliance by the County, and has been reviewed by a Professional Surveyor and Mapper employed by the County in accordance with Section 177.081(1) of the Florida Statutes before being forwarded to the Town for review (See the attached letter from the County dated 6/30/06).

Consistency with the Comprehensive Development Master Plan.¹

The proposal is **consistent** with the Comprehensive Development Master Plan (CDMP) which designates this property as Single-Family.

Zoning

The site is zoned Single-Family Residential District (RU-1). The proposed residential development is in compliance with the RU-1 District.

Concurrency

Concurrency has been reviewed by the county which has reserved sufficient capacity for this Final Plat approval. Existing sewer and water lines will be used to serve this property.

Access

The site may be accessed from the public roads, SW 205th Street and SW 79th Avenue.

CONDITIONS:

None

¹ The Miami-Dade County Comprehensive Development Master Plan functions as the Town's Comprehensive Plan.



Public Works Department
111 NW 1st Street • Suite 1610
Miami, Florida 33128-1970
T 305-375-1925 F 305-375-2373

miamidade.gov

- ADA Coordination
- Agenda Coordination
- Animal Services
- Art in Public Places
- Audit and Management Services
- Aviation
- Building
- Building Code Compliance
- Business Development
- Capital Improvements Construction Coordination
- Citizens' Independent Transportation Trust
- Commission on Ethics and Public Trust
- Communications
- Community Action Agency
- Community & Economic Development
- Community Relations
- Consumer Services
- Corrections & Rehabilitation
- Cultural Affairs
- Elections
- Emergency Management
- Employee Relations
- Empowerment Trust
- Enterprise Technology Services
- Environmental Resources Management
- Fair Employment Practices
- Finance
- Fire Rescue
- General Services Administration
- Historic Preservation
- Homeless Trust
- Housing Agency
- Housing Finance Authority
- Human Services
- Independent Review Panel
- International Trade Consortium
- Juvenile Assessment Center
- Medical Examiner
- Metro-Miami Action Plan
- Metropolitan Planning Organization
- Park and Recreation
- Planning and Zoning
- Police
- Procurement Management
- Property Appraiser
- Public Library System
- Public Works
- Safe Neighborhood Parks
- Seaport
- Solid Waste Management
- Strategic Business Management
- Team Meter
- Transit
- Task Force on Urban Economic Revitalization
- Vizcaya Museum And Gardens
- Water & Sewer

June 30, 2006

Mr. Steven Alexander
Town Manager
Cutler Bay, FL

RE: MIMOSA (T-22266)

Dear Mr. Alexander:

Please be advised that Mr. Julio Abascal has complied with the requirements of this office as they relate to platting.

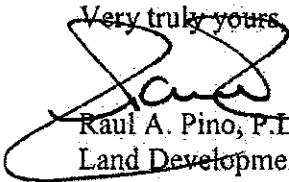
The plat has been reviewed for compliance with Chapter 28 of the Miami-Dade County Code, and has been reviewed by a Professional Surveyor and Mapper employed by Miami-Dade County in accordance with Section 177.081(1) of the Florida Statutes.

Before the plat can be considered for recordation, we will require the City approval, a certified copy of the City resolution approving the plat and an update of the opinion of title from the owner.

Once we receive the above items, we will have the Director of Miami-Dade County Public Works Department signature added to the plat before recordation.

If you have any questions, please call me at (305) 375-2112 or Jorge Ubieta, Jr., P. S. M. at (305) 375-2141.

Very truly yours,


Raul A. Pino, P.L.S., Chief
Land Development Division

encl.

RAP/JU/la

Delivering Excellence Every Day

IMPORTANT NOTICE TO APPLICANT: Make check for the total Processing Fee Payable to : Board of County Commissioners.

(Number of Sites 1)

FEES:
Subdivision Control.....\$1,440.00
Plus \$ 8.40 per site in excess of 6 sites---\$
D.E.R.M.....\$ 210.00
Sub-Total-----\$

FOR OFFICIAL USE ONLY:

Date Received: 7/22/05
Agenda Date: 22266
Tentative No. T- 22266

Concurrency Review Fee(*6.00% of Sub-Total)-\$
*Not applicable within Municipalities
Total Processing Fee-----\$

APPLICATION FOR PLAT OF SUBDIVISION DEVELOPMENT

Municipality Miami-Dade County Sec. 10 Twp. 56 s. Rge. 40 E.

- Name of Proposed Subdivision Mimosa Subdivision
- Owner's Name: Julio Abascal Phone (305) 376-6018
Address 20204 SW 79 Ct. city Miami state FL zip code 33189
- Surveyor's Name: Bello & Bello Land Surveying Corp. Phone (305) 251-9606
Address 12230 SW 131 Av., #201 City Miami State FL Zip Code 33186
- Legal Description of Parent Tract Folio No. 30 - 6010 - 010 - 1010
Tract P, Saga Bay Section One Part Seven, Plat Book 100, Page 14, Miami-Dade County.
- Street boundaries: SW 79th Avenue and SW 205 Street
- Present Zoning: RU-1
- Proposed use of Property: Single Family Res. (1 Units), Duplex (Units),
Apartments (Units), Industrial/Warehouse (Sq. Ft.), Business (Sq. Ft.),
Office (Sq. Ft.), Restaurant (Sq. Ft. & No. Seats),
Other (Sq. Ft. & No. of Units)

NOTE: List all plat restrictions zoning conditions or any other declaration, restriction, condition etc. that might affect this Tentative Plat.

I HEREBY CERTIFY that I am the owner of the parcel(s) described in Item 4 and that the information contained in this application is true and correct to the best of my knowledge and belief. Attached is a copy of the recorded deed showing my acquisition of this land. In addition, I agree to furnish additional items as may be necessary such as abstract or opinion of title to determine accurate ownership information.

Furthermore, I am aware that the use of a public water supply and/or public sewer system may be required for this development. If so required, I recognize that engineering drawings for the extension of these utilities must be approved by the appropriate utility entity and by D.E.R.M. prior to the approval of the final plat.

STATE OF FLORIDA)

SS: Signature of Owner:

Julio Abascal

COUNTY OF MIAMI-DADE)

(Print name & Title here):

Julio Abascal

BEFORE ME, personally appeared Julio Abascal this 8 day of July, 2005 A.D. and (he/she) acknowledged to and before me that (he/she) executed the same for the purposes therein. Personally known or produce as identification and who did (not) take an oath.

WITNESS my hand and seal in the County and State last aforesaid this 8 day of July, 2005 A.D.

Signature of Notary Public:

[Signature]

(Print, Type name here: MARIA E. Acosta)



Maria E. Acosta
My Commission DD292310
Expires February 24, 2008
(NOTARY SEAL)

2/24/2008

DD 292310

(Commission Expires) (Commission Number)

Hearing Date: Wednesday, August 2, 2006

Applicant Name: Julio Abascal

**Location: Intersection of SW 205th Street/SW 79th Avenue
and SW 204th Terrace, Folio 36-6010-010-1010**

Size of property: 17,268 square feet

Request: Final Plat Approval

**Hearing Location : South Dade Government Center
10710 SW 211th Street, Room 203
Cutler Bay, FL 33189**

Hearing Time: 7:00 pm

**Plans are on file with the Town and may be examined at Town Hall,
10720 Caribbean Blvd, Suite 105, Cutler Bay, FL 33189. These
plans may be modified at the public hearing.**

RESOLUTION NO. 06-____

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, GRANTING FINAL PLAT APPROVAL TO JULIO ABASCAL FOR PROPERTY GENERALLY LOCATED AT THE INTERSECTION OF S.W. 205TH STREET/SW 79TH AVENUE AND S.W. 204TH TERRACE (FOLIO # 36-6010-010-1010), AS LEGALLY DESCRIBED IN EXHIBIT "A;" CONSISTING OF 1 SINGLE FAMILY HOME ON APPROXIMATELY 17,268 SQUARE FEET; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, prior to incorporation of the Town of Cutler Bay (the "Town"), Julio Abascal (the "Applicant") applied to Miami-Dade County (the "County") 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, the County has approved the tentative plat; and

WHEREAS, County staff has reviewed the final plat, and has recommended approval of the final plat because all of the requirements of Chapter 28 "Subdivisions," Section 28-8 "Plats and Platting—Final Plat," of the County Code have been fulfilled; 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.

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. 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 5. Effective Date. This Resolution shall be effective immediately upon adoption.

PASSED and ADOPTED this ____ day of _____, 2006.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA
Town Clerk

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

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

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman _____

Vice-Mayor Edward P. MacDougall _____

Councilmember Timothy J. Meerbott _____

Councilmember Ernest Sochin _____

Councilmember Peggy R. Bell _____

Exhibit "A"

A Replat of Tract "P" of Saga Bay Section One Part Seven, as recorded in Plat Book 100, at page 14 of the Public Records of Miami Dade County, Florida, being a portion of the northeast $\frac{1}{4}$ of Section 10, Township 56 South, Range 40 East, Miami Dade County, Florida, Town of Cutler Bay

Net area: 17,268 square feet \pm


Location

Intersection of SW 205th Street/SW 79th Avenue and SW 204th Terrace

TAB 4

Memo

To: Steve Alexander, Town Manager

From: Chad Friedman, Assistant Town Attorney 

Date: July 11, 2006

Re: Lakes by the Bay South Commons Special Taxing District

I. Issue.

Town Staff expressed concern, during the review of the proposed special taxing district for security guard gates (the "District") at the three entrances to the Lakes by the Bay South Commons (the "South Commons") development, that the security guard gate ("gate") located at 97th Avenue and S.W. 224th Street will impact the existing linear parking along 97th Avenue.¹ In response to this concern, staff has asked whether the District can be created for the other two northern gates,² without the western gate located at this entrance. This memorandum will provide an answer to this question and will hope to provide some clarity on this issue.

II. Background.

Lennar Homes (the "Applicant") has filed an application with Miami-Dade County (the "County") requesting the creation of the District for the South Commons

¹ Initially, there was also concern that this gate would create a traffic problem because of the possible stacking of cars along 97th Avenue. However, after discussions with the Town's traffic expert, this concern has been alleviated.

² Town staff has provided that the County approved the two northern gates, but staff is still determining the status of the third western gate.

development. The underlying purpose of the District is to provide an exterior security system for the residents of South Commons.

Section 18-2 of the County Code of Ordinances requires the Applicant to obtain the Town's support for the District prior to the County Commission approving the creation of the District. This District will provide the funding for the security guards that will staff the proposed gates for the South Commons. It is anticipated that a gate, with an accompanying guard, will be located at each entrance of the South Commons. (Exhibit A). There are three entrances proposed for the South Commons which are located as follows:

- S.W. 216th Street and S.W. 93rd Path
- S.W. 216th Street and S.W. 88 Place
- S.W. 224 Street and S.W. 97th Avenue

To date, the two northern entrances located on S.W. 216th Street have been constructed. The third western entrance, located at S.W. 224th Street and S.W. 97th Avenue (the "third entrance"), is required to be constructed upon the construction of residential dwellings units in Parcel D or Parcel E within the South Commons. It is this third entrance which is the subject of this memorandum.

III. Will the County Agree to Create the District Without the Security Guard Gate at the Third Entrance?

Currently, S.W. 97th Avenue south of S.W. 216th Street is a two lane road that terminates where the proposed third entrance will be located. Development within the South Commons is governed by the development approvals and covenant approved by County Resolution Z-17-03 (the "Covenant"). Pursuant to the Covenant, the Applicant agreed to construct a number of phased road improvements within the South Commons.

The construction of S.W. 224th Street to 97th Avenue, which will create the third entrance, is one of these improvements. As noted above, the Applicant is required to construct the third entrance upon the construction of residential units within Parcel D or E within the South Commons. (Exhibit B).

After review of the proposed District, County staff opined that it is necessary for a gate to be built at the third entrance in order for the District to be successful. In support of this opinion, County staff explained that the external security system of the District would be compromised if the third entrance does not have a gate because visitors could enter the South Commons through this unguarded entrance. As such, if the Town Council chooses to support the District without the gate at the third entrance, it is highly unlikely that the County will approve the creation of the District because all of the entrances into the South Commons will not be secured.

IV. Will the Creation of the District Impact the Linear Park Along S.W. 97th Avenue?

As described above, the Applicant has agreed to make a number of phased road improvements within the South Commons. One of these phased road improvements is a conditional improvement that requires the expansion of S.W. 97th Avenue south of S.W. 216th Street to 4 lanes. (Exhibit B). This improvement is conditioned on the adequacy of the Level of Service (LOS) for the existing two lanes of S.W. 97th Avenue from S.W. 216th Street south to the southern boundary of Lakes by the Bay Section 5 (Plat Book 131 p. 75)(the "Roadway") as well as the intersection of S.W. 97th Avenue and S.W. 216th Street (the "Intersection").

Prior to the 2,000th building permit being issued for the South Commons, the Applicant is required to conduct a traffic study for the Roadway and the Intersection. If

the study demonstrates that the LOS for the Roadway or the Intersection is operating below LOS "D" at the build out of the South Commons, the County³, at its discretion, can require the Applicant to: (1) expand S.W. 97th Avenue south of S.W. 216th Street to 4 lanes and/or (2) connect S.W. 224th Street within Section 16, and S.W. 224 Street within Section 17,⁴ so long as either or both improvements would improve the LOS to "D" or better. (Exhibit C). In the event that S.W. 97th Avenue is expanded to 4 lanes, the Covenant requires that the expansion minimize the impact on the linear park, as described in Exhibit D attached to this memorandum.

Accordingly, the creation of the District will not impact the linear park on S.W. 97th Avenue. Instead, it is the connection of S.W. 224th Street to S.W. 97th Avenue that may impact the linear park because it will allow vehicles to access S.W. 97th Avenue, which will cause the LOS on the Roadway or Intersection to deteriorate. As shown above, if the traffic study demonstrates that the LOS on the Roadway or Intersection would fall below LOS "D" at the build out of the South Commons, the County may require the Applicant to expand S.W. 97th Avenue south of S.W. 216th Street to 4 lanes, which will impact the linear park.

V. Conclusion.

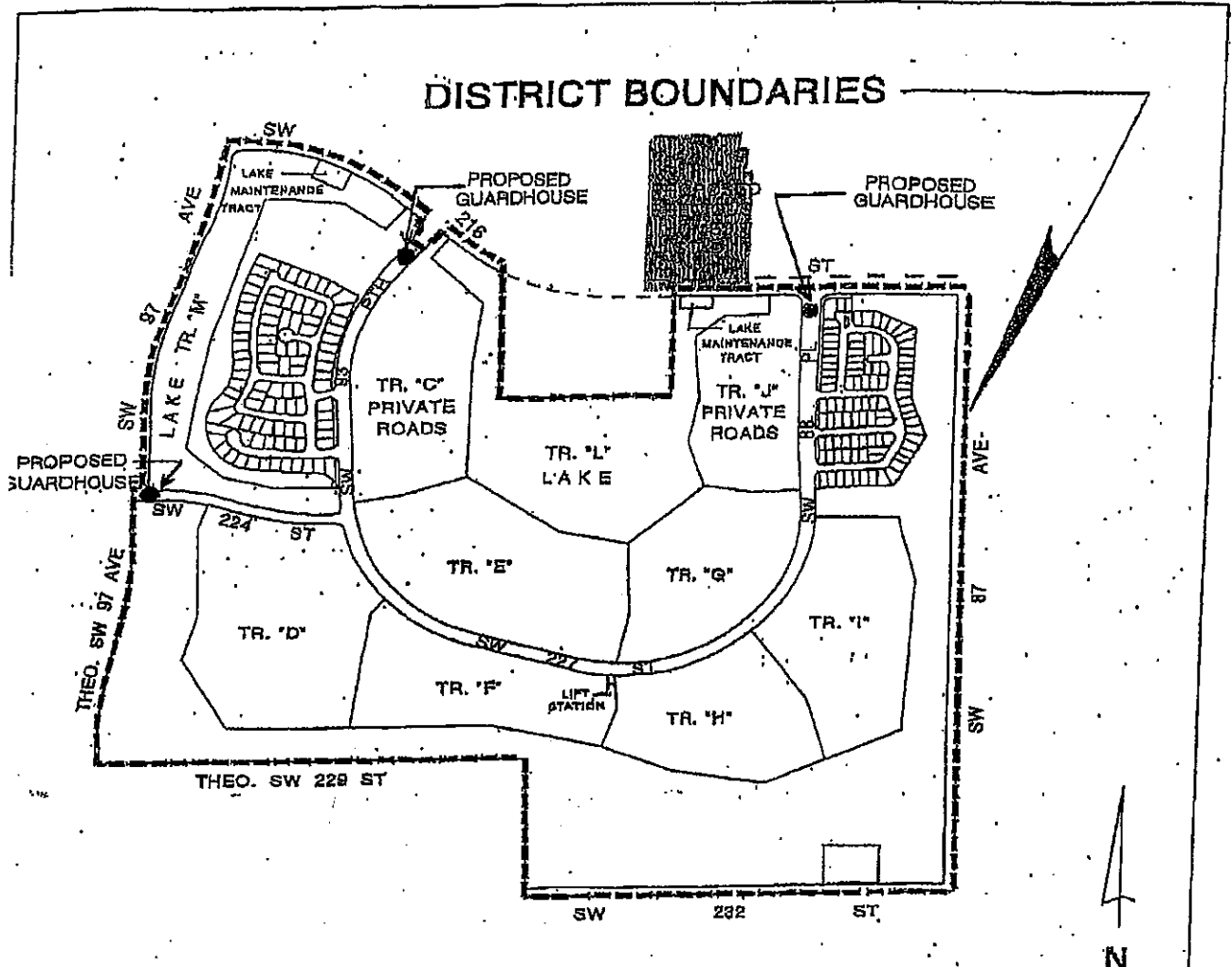
Based upon the foregoing, it appears that the creation of the District will not impact the linear park along S.W. 97th Avenue. Instead, any impact on the park will be caused by the connection of S.W. 224th Street to S.W. 97th Avenue. If the Town Council chooses to support the District without the gate at the third entrance, it is highly unlikely

³ Initially, it seemed that this portion of S.W. 97th Avenue would be dedicated to the Town from the County because it could be considered a local road. However, pursuant to the finalized County master interlocal agreement, the County will retain jurisdiction over this road.

⁴ Essentially, this improvement would connect S.W. 224th Street to the south and west.

that the County will approve the creation of the District, unless the Covenant is amended by removing the requirement to construct S.W. 224th Street to S.W. 97th Avenue. If the Covenant is so amended⁵, the third entrance to the South Commons will never be created and the third guard gate will not be needed. If the Town Council is interested in amending the Covenant, it is essential that the City's traffic consultant be consulted to analyze any impacts this may have on the connectivity of the road system within the South Commons and the LOS on the surrounding roads.

⁵ The Town Council will have to amend Resolution Z-17-03 to amend the Covenant. This will require an advertised public hearing.



LAKES BY THE BAY
SOUTH COMMONS
 SECURITY GUARD SPECIAL TAXING DISTRICT

3-256 (COMM. 0008)
 SECTION: 16-56-40

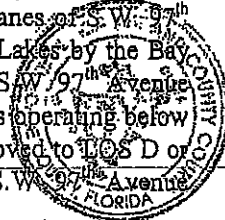
EXHIBIT "A"



(Space reserved for Clerk)

Parcel P Entrance Divided at S.W. 216 Street.	Four Lane Divided Cross Section (3)	At time of issuance of first building permit for Parcel P
S.W. 88 Place at S.W. 216 Street	South and North approaches -- four lane Divided cross section (3)	In accordance with the the Platting Process
	Signal Warrant Study (4)	2,000 th Building Permit in South Commons
S.W. 87 Avenue at S.W. 216 Street (5)	North Approach -- Left Turn Lanes	At such time as platting occurs in Parcels M, V, W, and/or X or at 2,000 DU's (6), whichever occurs first
	Signal Warrant Study. (4)	2,200 DU's (6)
S.W. 97 Avenue at S.W. 216 Street	Signal Warrant Study	2,000 DU's (6)
S.W. 87 Avenue at Old Cutler Road	East and west approaches Left turn lanes	With first plat (7) Design and install signal modification
S.W. 224 Street from S.W. 93 Path to existing southern terminus of S.W. 97 Avenue at the southern boundary of Lakes by the Bay Section Five (Plat book 131, Page 75)	Two Lane -- Two Way Roadway	Upon construction of residential dwelling units in Parcel D or Parcel E

Applicant or its successor in interest will conduct a traffic study prior to the issuance of the 2,000th building permit for the Lakes by the Bay development south of S.W. 216th Street, east of S.W. 97th Avenue, west of S.W. 87th Avenue, and north of S.W. 232nd Street ("South Common"). The traffic study shall analyse the operating level of service (LOS) at buildout of South Common for the existing two lanes of S.W. 97th Avenue from S.W. 216th Street south to the southern boundary of Lakes by the Bay Section Five (Plat book 131, Page 75), as well as the intersection of S.W. 97th Avenue and S.W. 216th Street, and if either the roadway or the intersection is operating below LOS D and the study shows that such levels of service will be improved to LOS D or better by either (i) the construction of an additional two lanes of S.W. 97th Avenue



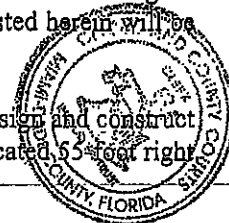
(Public Hearing)

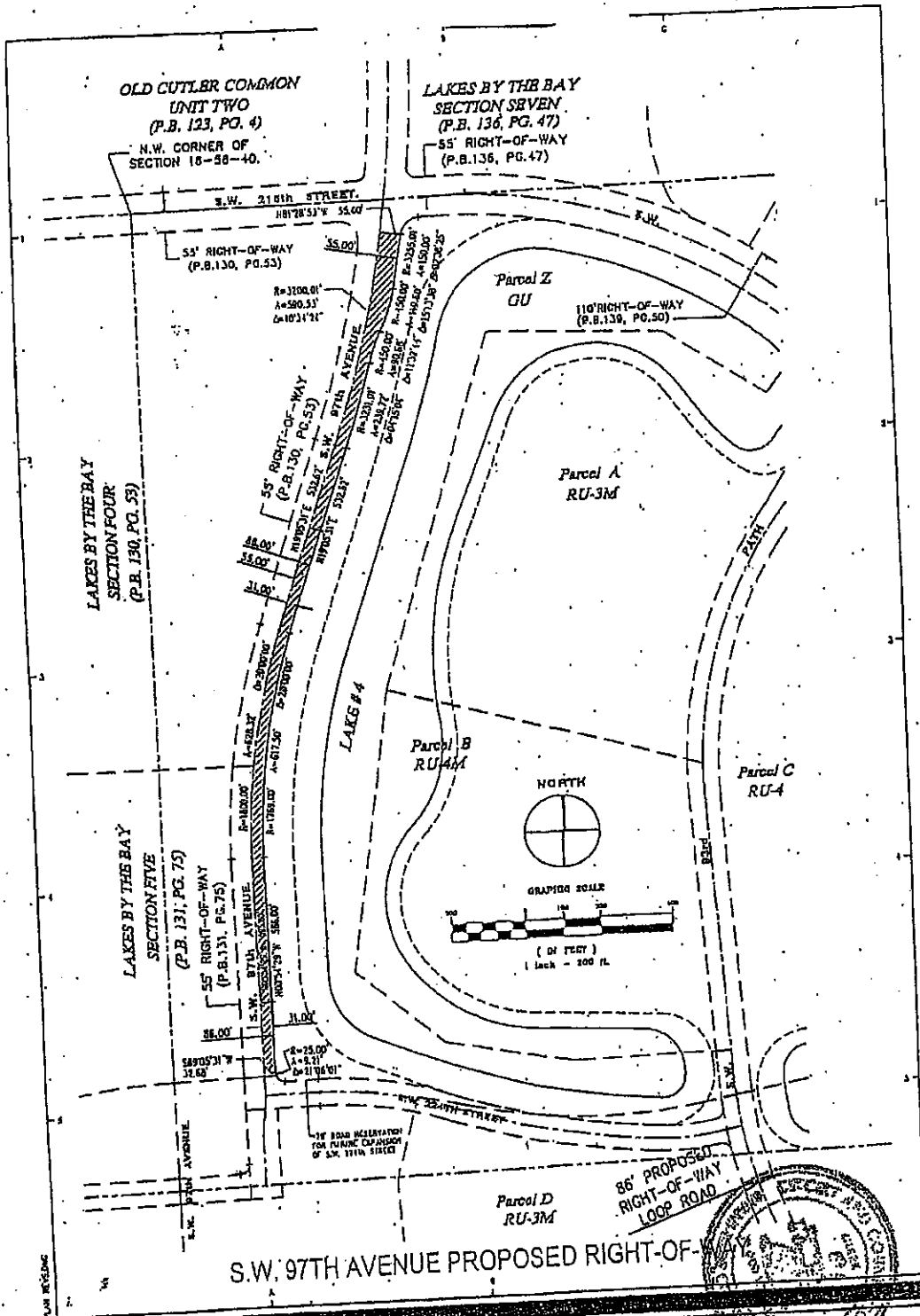
(Space reserved for Clerk)

from S.W. 216th Street south to the southern boundary of Lakes by the Bay Section Five (Plat book 131, Page 75) and/or (ii) the connection of S.W. 224th Street within Section 16, and S.W. 224th Street within Section 17, then the county may request the applicant to construct either or both of improvements, only if such construction will bring the level of service of the roadway or the intersection to LOS D or better. If construction of improvement (i) is required, then the improvement shall be constructed in accordance with the sketch attached as Exhibit G and the cross section attached as Exhibit H to minimize impact on the linear park; if construction of improvement (ii) is required, then the improvement shall be constructed in accordance with the sketch attached as Exhibit I. If the traffic study indicates that either or both roadway improvements are required then the applicant shall commence the design, permitting and approval within 6 months; the roadway(s) shall be constructed within two years from approval/permit. If the traffic study indicates that the intersection and the roadway will operate at a LOS D or better at buildout of South Common then the applicant shall be released from all of the above construction requirements.

FOOTNOTES

- 1) All improvements to be designed and constructed in accordance with applicable State and County design standards and reviewed and approved by the Public Works Department of Miami-Dade County prior to construction.
- 2) Initial Platting is the first recorded plat. The designated roadway improvements must be completed prior to the first unit being certified for occupancy.
- 3) Construction of the four lane divided cross section includes left-turn bays with storage and taper lengths in accordance with all applicable design standards.
- 3A) Construction of the two lane divided cross section includes left-turn bays with storage and taper lengths in accordance with all applicable design standards.
- 4) Rather than specifying future dates for the installation of traffic signals, it is currently Miami-Dade County's policy to require traffic signal warrant studies prior to installation. In recognition of that policy, traffic signal warrant studies should be undertaken within the building parameters identified above. At that time, determinations will be made by the County for the scheduling of signalization. All signal warrant studies and installations listed herein will be by Lakes by the Bay.
- 5) S.W. 216th Street with S.W. 87th Avenue. Developer will design and construct a two-way, two-lane roadway 24 feet in width within a dedicated 55-foot right of way.





LAKES BY THE BAY - SOUTH COMMON



FORD, ARMENTEROS & MANUCY, INC.
 1950 N.W. 94th AVENUE, 2nd FLOOR
 MIAMI, FLORIDA 33172
 PH. (305) 477-5472
 FAX (305) 470-2805

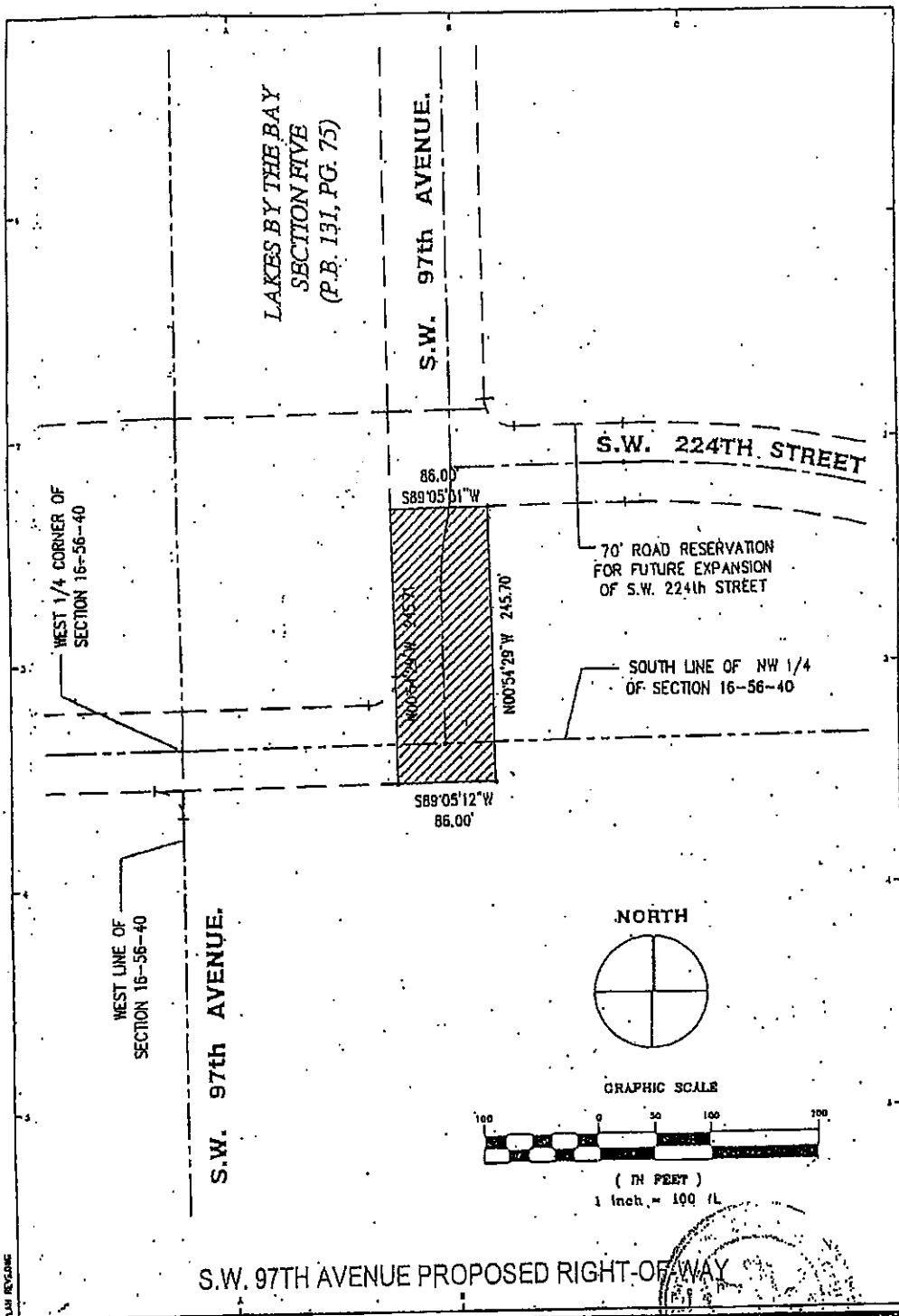
NO. OF SHEETS	SKETCH OF PROPOSED RIGHT-OF-WAY		
SHEET NO.	SKETCH OF SURVEY		
PREPARED FOR	LENNAR HOMES, INC.		
CLAIMED BY	J. LOPEZ	DATE	1-8-2002
ENG. CHECKED BY		SCALE	1" = 300'
DRAWN BY		PROJECT NO.	111411

tabbles

EXHIBIT

C

REVISIONS: 01-01-02 L&S MASTER DRAWING PLAN REVISIONS



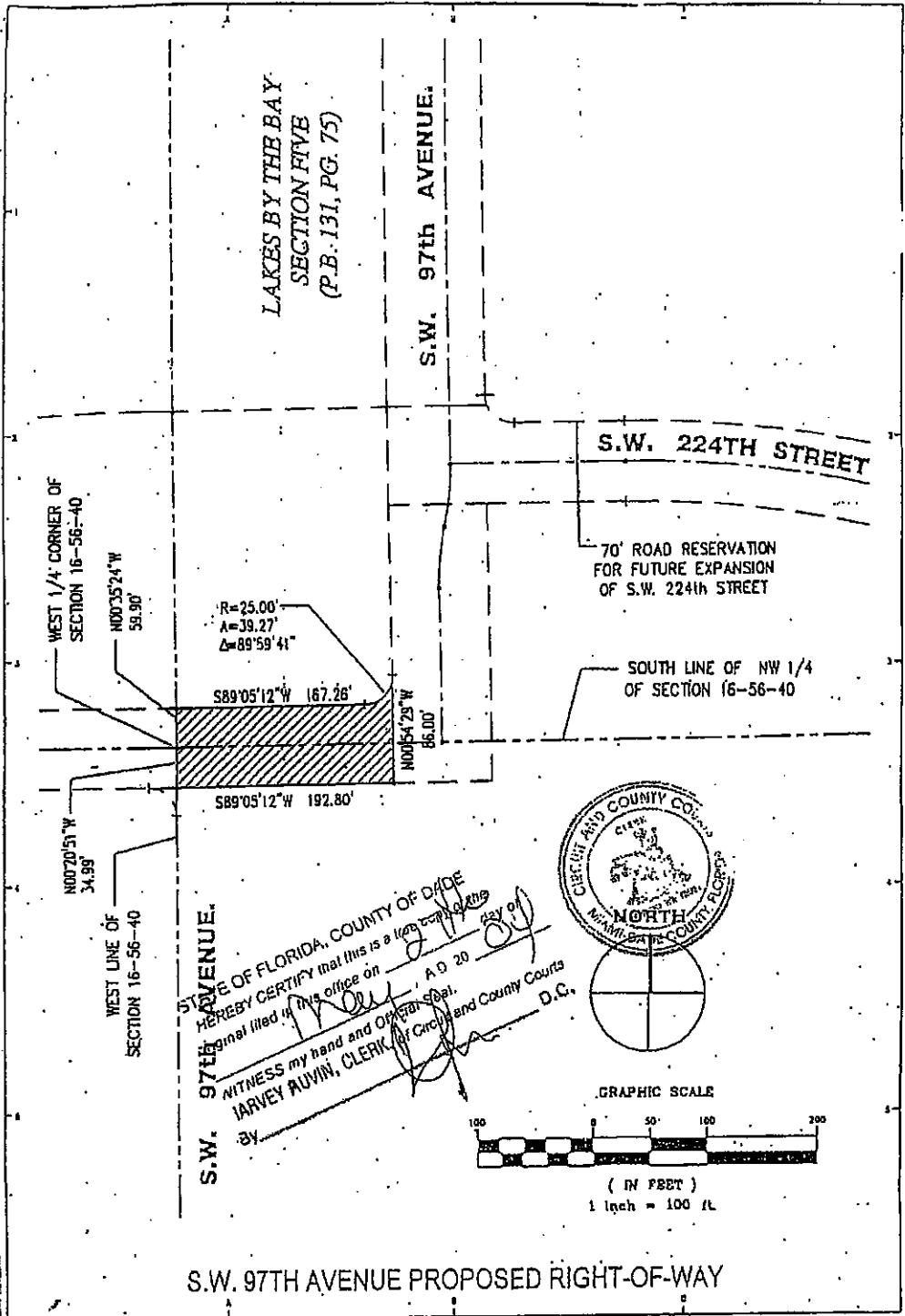
DRAWING BY: 3607 LHM MASTER DRAWER PLANNING ENGINEER

LAKES BY THE BAY - SOUTH COMMONS

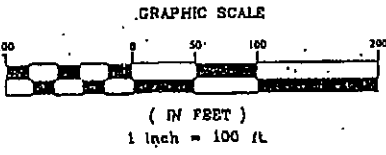


FORD, ARMENTEROS & MANUCY, INC.
 1950 N.W. 94th AVENUE, 2nd FLOOR
 MIAMI, FLORIDA 33172
 PH. (305) 477-6472
 FAX (305) 470-2805

TYPE OF PROJECT	SKETCH OF PROPOSED RIGHT-OF-WAY		
DRAWN BY	SKETCH OF SURVEY		
PROJECT NO.	LENNAR HOMES, INC. 309		
DRAWN BY	J. LOPEZ	DATE	1-3-2002
BY: CHECKED BY:	SCALE	1" = 100'	
CHECKED BY:	PROJECT NO.	01-041	SHEET 1 OF 1 SHEETS



STATE OF FLORIDA, COUNTY OF DADE
 I HEREBY CERTIFY that this is a true and correct copy of the original filed in this office on 2/15/02 A.D. 2002
 WITNESS my hand and Official Seal.
 HARVEY RUVIN, CLERK of Circuit and County Courts
 D.C.



S.W. 97TH AVENUE PROPOSED RIGHT-OF-WAY

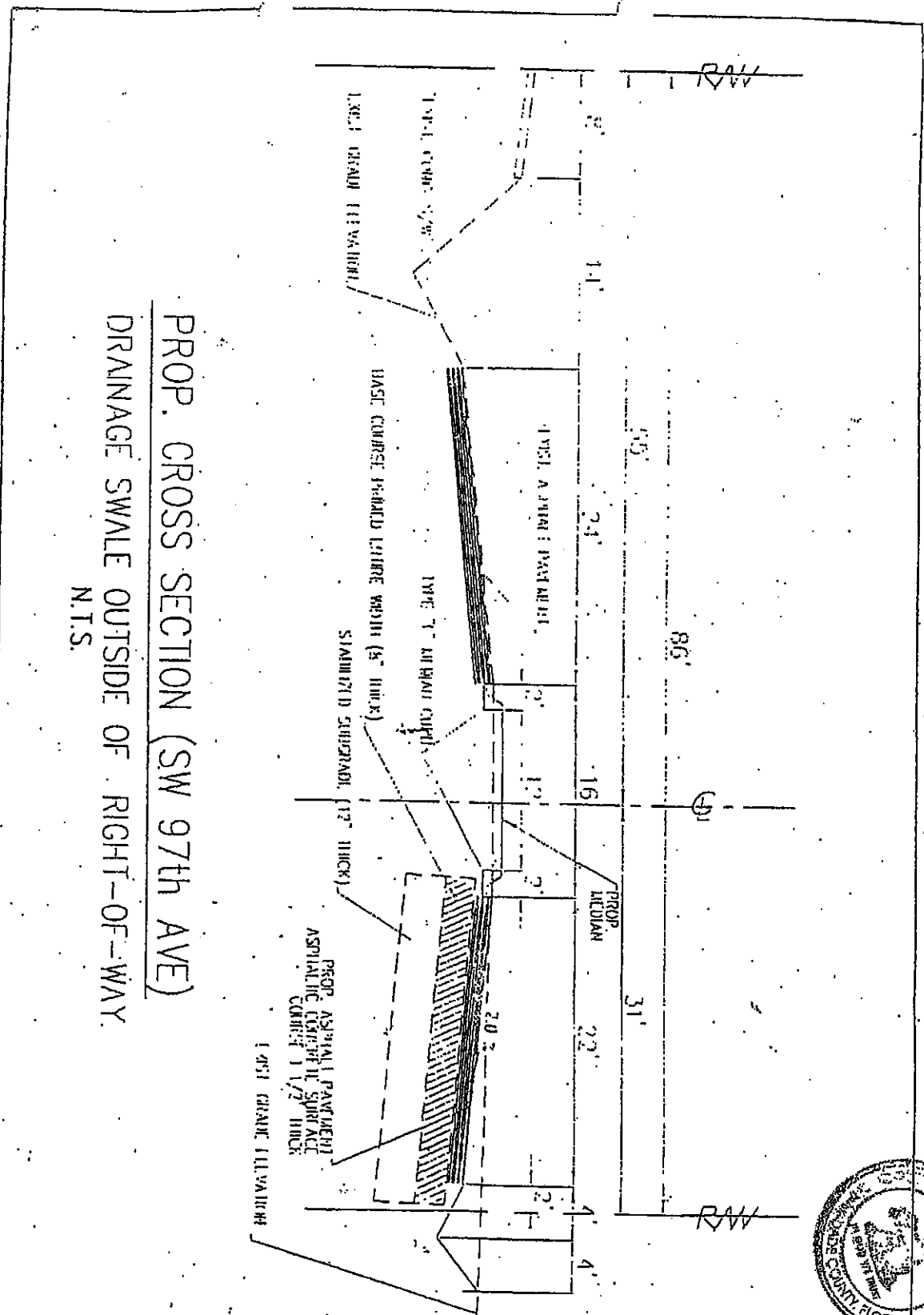
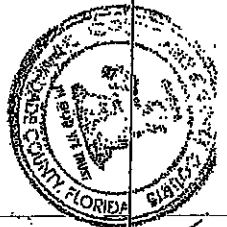
LAKES BY THE BAY - SOUTH COMMONS



FORD, ARMENTEROS & MANUCY, INC.
 1950 N.W. 94th AVENUE, 2nd FLOOR
 MIAMI, FLORIDA 33172
 PH. (305) 477-8472
 FAX (305) 470-2805

TYPE OF PROJECT	SKETCH OF PROPOSED RIGHT-OF-WAY		
DRAWN BY	SKETCH OF SURVEY		
PREPARED FOR	LENNAR HOMES, INC.		
DRAWN BY	J. LOPEZ	DATE	1-3-2002
DATE OF FIELD WORK		SCALE	1" = 100'
DRAWN BY		PROJECT No.	01-041
			1 of 1 SHEETS

DRAWING NO. 01-041-SKOT USE LARGER ZONING PLAN REFERENCE



PROP. CROSS SECTION (SW 97th AVE)
 DRAINAGE SWALE OUTSIDE OF RIGHT-OF-WAY.
 N.T.S.



RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING MIAMI-DADE COUNTY TO CONTINUE THE PROCESS OF CREATING A SPECIAL TAXING DISTRICT FOR SECURITY GUARD GATES FOR THE LAKES BY THE BAY SOUTH COMMONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 18, Article 1, of the Miami-Dade County Code of Ordinances (the "County Code") allows for the creation and establishment of special taxing districts within incorporated areas for the purpose of public improvements; and

WHEREAS, prior to creating a special taxing district, the County Code requires the approval of the Town of Cutler Bay (the "Town") when the special taxing district falls within the Town's municipal boundaries; and

WHEREAS, the County Code also provides the procedure for creating taxing districts for the purpose of providing security guard gates within new subdivisions within the Town; and

WHEREAS, the Town wishes to allow the County to continue creating the special taxing district for security guard gates within the Lakes by the Bay South Commons development.

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. In accordance with Chapter 18, Article 1, of the Miami-Dade County Code of Ordinances, the Town hereby approves and authorizes Miami-Dade County to continue establishing a special taxing district for security guard gates within the Lakes by the Bay South Commons.

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

PASSED AND ADOPTED this _____ day of _____, 2006.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA
Town Clerk

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

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

FINAL VOTE AT ADOPTION:

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

TAB 5



MEMORANDUM

To: Steven Alexander, Interim Town Manager

From: *Alex H. David for* Joseph M. Corradino, AICP, Interim Town Planning Consultant

Date: July 26, 2006

Re: Rezoning of Cutler Ridge Charrette Area
From BU-1A, BU-2 and BU-3 to Urban Center District (UCD)

Applicant: Town of Cutler Bay

Application No.: 06-007

REQUEST:

The Town of Cutler Bay is requesting a rezoning of properties generally located between the HEFT to the east, the South Dade Busway to the northwest, SW 112 Avenue to the west and the Black Creek Canal to the south. The area that is encompassed by this request is approximately 207 acres and includes approximately 50 parcels under various owners.

The request is to rezone properties from BU-1A (Limited Business District), BU-2 (Special Business District), BU-3 (Liberal Business District) to UCD (Urban Center District)

RECOMMENDATION:

It is recommended that the Town Council **approve** the request for rezoning in order to implement the Town's vision to create a more urban and defined center for the Town. By approving the rezoning and adopting the regulating plans and standards within the UCD zoning category the Town will achieve this goal.

PROPOSAL:

To rezone the above referenced area to the UCD zoning designation.

BACKGROUND:

The proposal focuses on the redevelopment of the area surrounding and including the Southland Mall.

The area currently consists of retail/commercial uses allowed by the current zoning districts. BU-1A (Limited Business District) allows for more local type of retail and convenience facilities such as: auto sales, service stations (full- and self-service), grocery stores and storage facilities. BU-2 (Special Business District) allows for: regional shopping centers and office parks, large scale commercial and office buildings, parking garages, hospitals, hotel and motel uses. BU-3 (Liberal Business District) allows for large-scale commercial activities including: open lot auto sales, bakeries, lumber yards, mini-warehouses and broadcast studios.

The UCD zoning designation would allow, as redevelopment is proposed, a mixed-use high density environment. Metropolitan Urban Centers may include such uses as retail trade, business, professional and financial services, restaurants, hotels, institutional, recreational, cultural and entertainment uses, and moderate to high density residential uses. In addition, the district and associated regulations and standards would create a network of streets and civic and open spaces.

This rezoning is the culmination of the lengthy process to create a vision for this area and which is based on the Cutler Ridge Charrette that was held September 28th through October 4th, 2002. On April 13th, 2004 the Board of County Commissioners passed a Resolution R-438-04 accepting the Cutler Ridge Charrette Area Plan Report. Finally, on April 6, 2006 the Town of Cutler Bay Town Council adopted the Urban Center District (UCD) zoning designation by Ordinance No. 06-06.

Consistency with the Comprehensive Development Master Plan.¹

The proposal is **consistent** with the Comprehensive Development Master Plan (CDMP). This urban center is classified as Metropolitan in scale which allows for more intense development. In addition to being physically cohesive, having direct access to mass transit and high quality urban design, Metropolitan Centers should also have convenient, direct connections to nearby expressways or major roadways to ensure a high level of countywide accessibility. According to the CDMP, metropolitan

¹ The Miami-Dade County Comprehensive Development Master Plan functions as the Town's Comprehensive Plan.

urban centers are encouraged in order to create hubs for future urban development intensification, around which a more compact and efficient urban structure would evolve. This would encourage convenient alternatives to travel by automobile. Metropolitan urban centers are intended to be moderate- to high-intensity design-unified areas that have a concentration of different urban functions integrated both horizontally and vertically. Additionally, they are intended to create an easily identifiable, distinctive sense of place, through unity of design and architecture.

Metropolitan urban centers are to be developed in an urban form with efficient and well organized street and pedestrian systems, vistas and focal points, street furniture, and adequate landscaping.

Zoning

The rezoning to UCD would incorporate the appropriate standards and regulations as enumerated in the Town's Urban Center District (UCD) Ordinance, adopted on April 6th 2006, and as further referenced in Chapter 33, Zoning, Article XXXIII(K) of the Town Code, which provides the "Standard Urban Center District Regulations."

Urban Infrastructure

As development is proposed an applicant would be required to meet all concurrency level of service standards (roadways, parks, water and sewer capacity, solid waste and mass transit) and make any necessary infrastructure improvements.

CONDITIONS:

None

Hearing No.: 06-007

Applicant Name: Town of Cutler Bay

Location: South of Busway and Homestead Extension of Florida's Turnpike and North of the C-1 Canal, Town of Cutler Bay, Florida

Size of property: 207 acres +/-

Request: Rezoning from BU-1A, BU-2 and BU-3 to Urban Center District (UCD)

Hearing Location : South Dade Government Center
10710 SW 211th Street, Room 203
Cutler Bay, FL 33189

Hearing Date: August 2, 2006

Hearing Time: 7:00 pm

Plans are on file with the Town and may be examined at Town Hall, 10720 Caribbean Blvd, Suite 105, Cutler Bay, FL 33189. These plans may be modified at the public hearing.

ORDINANCE NO. 06-__

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, REZONING PROPERTIES FROM BU-1A, BU-2, AND BU-3 TO THE URBAN CENTER DISTRICT (UCD) ZONING DESIGNATION CONSISTING OF APPROXIMATELY 207 ACRES 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); AS LEGALLY DESCRIBED IN EXHIBIT "A;" PROVIDING FOR A REPEALER; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, from September 28 through October 4, 2002, the citizens of the Town of Cutler Bay (the "Town") and surrounding unincorporated areas of Miami-Dade County participated in the seven-day Cutler Ridge Charrette, to create a vision for 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)(the "Area") as legally described in Exhibit A; and

WHEREAS, on April 6, 2006, the Town Council adopted the Urban Center District (the "UCD") zoning designation in order to help implement this vision; and

WHEREAS, the area is currently zoned BU-1A, BU-2, and BU-3; and

WHEREAS, after the UCD regulations were adopted, the Town Council directed staff to proceed with the rezoning of the Area; and

WHEREAS, this Ordinance was advertised in accordance with the law; and

WHEREAS, staff recommended approval of the requested rezoning in its report dated July 26, 2006; and

WHEREAS, the Town Council, sitting as the Local Planning Agency, reviewed this Ordinance at its August 2, 2006 meeting, and voted to recommend approval of this Ordinance; and

WHEREAS, the Town Council finds that this rezoning is consistent with the Miami-Dade County's Comprehensive Development Master Plan, which now functions as the Town's Comprehensive Plan; and

WHEREAS, the Town Council finds that adoption of this rezoning is in the best interest and welfare of the citizens 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. Approval of Rezoning. Pursuant to Chapter 33 "Zoning" of the Town Code of Ordinances, the properties consisting of approximately 207 acres 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) as legally described in Exhibit "A," are hereby rezoned to the UCD zoning designation.

Section 3. Termination of Moratorium. Upon the adoption of this Ordinance, the moratorium adopted on May 18th, 2006, by Ordinance No. 06-09, shall be terminated.

Section 4. Repealer. All resolutions or ordinances or parts of resolutions or ordinances in conflict with the provisions of this Ordinance are repealed.

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

PASSED on first reading this _____ day of _____, 2006.

PASSED AND ADOPTED on second reading this _____ day of _____, 2006.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA
Town Clerk

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

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

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman _____

Vice-Mayor Edward P. MacDougall _____

Councilmember Peggy R. Bell _____

Councilmember Timothy J. Meerbott _____

Councilmember Ernest N. Sochin _____

Exhibit A

Legal Description

A portion of Sections 6, 7, & 8 Township 56 South Range 40 East, all lying in Miami-Dade County Florida being more particularly described as follows:

Begin at the intersection of the East Right-of-Way of South Miami-Dade Busway and the West Limited Access Right-of-Way of the Homestead Extension of Florida's Turnpike – State Road # 821 (HEFT).

Thence continue Southeasterly along the West Limited Access Right-of-Way of State Road # 821 (HEFT) on a prolongation through Sections 6,7, & 8 Twp. 56 South Rge. 40 East to a point of intersection with the centerline of Black Creek Canal (C-1).

Thence Westerly following the centerline of Black Creek Canal (C-1) to the intersection with the West line of the Southeast one quarter of Section 7, Township 56 South, Range 40 East, Miami-Dade County, Florida, lying in SW 112 Avenue (Allapattah Road);

Thence Northerly along the West line of the Southeast one quarter and the West line of the Northeast one quarter of said Section 7 (SW 112 Avenue and its Northerly extension) to the intersection with the Southeasterly Right-of-Way line of the South Miami-Dade Busway;

Thence Northeasterly along the Southeasterly Right-of Way line of the South Miami-Dade Busway across Sections 7, 6 and 5 Township 56 South, Range 40 East, Miami-Dade County, Florida, to the point of beginning.

TAB 6

ORDINANCE NO. 06-

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, IMPLEMENTING SECTION 3.10 OF THE TOWN CHARTER, ESTABLISHING PURCHASING REGULATIONS; PROVIDING FOR REPLACEMENT OF SECTION 2-8.1 ET SEQ OF THE MIAMI DADE COUNTY CODE TO THE EXTENT APPLICABLE, PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 3.10 of the Charter of the Town of Cutler Bay (the "Town") requires that contracts for public improvements and purchases of supplies, materials or services shall be awarded based on clearly drawn specifications and competitive bids except where waived by the Town Council; and

WHEREAS, Section 3.10 of the Charter allows the Town Council to adopt an ordinance, by super majority, that grants the Town Manager purchasing power up to a specified amount without competitive bidding; and

WHEREAS, the Town finds that the Town Manager should have flexibility related to purchasing in certain situations.

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. Contracting and Purchasing Regulations Amended. Miami Dade County Code Chapter 2, "Administration," Article I, "In General," Section 2-8.1 "Contracting and Purchasing" to the extent it is deemed to be applicable to the Town, is hereby repealed. The Town hereby adopts the following purchasing procedures:

PURCHASING

I. Generally; authority of Town Manager.

The Town Manager shall supervise and have full authority to approve or disapprove purchases by all departments. The Town Manager shall issue rules governing purchasing procedures as he deems necessary from time to time. The Town Manager shall approve all contracts relating to purchases of the Town subject to the provisions of this ordinance. Nothing herein shall be deemed to require the Town Manager or Town Council to accept

the lowest dollars and cents bid or proposal in all cases if another bid or proposal is deemed to be more advantageous to the Town. All expenditures pursuant to this ordinance shall conform to section 3.10 of the Charter.

II. Purchasing guidelines.

(A) Purchases not greater than \$5,000.00. Purchases of or contracts for materials, supplies, equipment, improvements or services where the total amount expended is not greater than \$5,000.00 may be made or entered into by the Town Manager without competitive bidding and without Town Council approval.

(B) Purchases of more than \$5,000.00 but less than \$25,000.00. Purchases of or contracts for materials, supplies, equipment, improvements or services where the total amount expended is in excess of \$5,000.00, but which is less than \$25,000.00, may be made or entered into by the Town Manager, provided that three competitive quotations are obtained from individual vendors.

(C) Purchases of \$25,000.00 but less than \$100,000.00. Except as exempted by sections III and VI, purchases of or contracts for materials, supplies, equipment, improvements or services where the total amount expended is \$25,000.00 but less than \$100,000.00 shall be awarded by the Town Manager after formal competitive bidding.

(D) Purchases of \$100,000.00 or more. Except as exempted by sections III and VI, purchases of or contracts for materials, supplies, equipment, improvements or services where the total amount expended is \$100,000.00 or more shall be awarded by the Town Council after formal competitive bidding.

(E) Formal competitive bidding shall be deemed to include Invitations to Bid ("ITB"), Requests for Proposals ("RFP"), Requests for Qualifications ("RFQ") or Requests for Letters of Interest ("RLI") in which respondents are evaluated based on a combination of qualitative factors and a dollars and cents bid. The type of competitive solicitation to be used shall be determined by the Town Manager. For purchases or contracts involving the expenditure of \$100,000 or more the Town Manager shall obtain authorization from the Council prior to advertising the solicitation.

III. Exemptions from competitive formal bidding.

The following exemptions from competitive formal bidding are hereby established:

(A) Sole source availability. Supplies, equipment or services available from a sole source only may be exempted from the bidding requirements of this ordinance by the Town Manager upon the filing of a written request by a department director and approval by the Town Manager outlining the conditions and circumstances involved.

(B) Purchases made under state contracts. Purchases made under state purchasing contracts pursuant to:

1. F.S. § 287.042;
 2. State General Service Administration Contracts, or Federal, County or other governmental contracts; or
 3. Cooperative bids with other governmental agencies;
- shall be exempt from the competitive bid requirements of this ordinance.

(C) A contract for the public improvements and purchases of supplies, materials or services, that utilizes a previously successful bid or proposal submitted to either the Town or another governmental entity in the State of Florida pursuant to a competitive solicitation.

(D) Professional services. Contracts of less than \$25,000.00 per year for the professional services of attorneys, physicians, court stenographers, real estate brokers and other professions licensed and regulated by the State, and professional services governed by F.S. § 287.055, the Consultants Competitive Negotiation Act, and to the extent permitted thereby, may be entered into by the Town Manager without formal competitive bidding under this ordinance, unless required by law.

(E) Purchases below minimum amount. Purchases of less than \$25,000.00 shall be exempt from the formal competitive bid requirements as provided above.

(F) Emergencies. Purchases arising out of or because of emergencies shall be exempt from the competitive bid requirements. Emergencies mean situations, occurrences or matters necessitating immediate or quick action and not permitting adequate time to utilize competitive bidding.

(G) Impracticability. Under circumstances where competitive bidding is impracticable, including but not limited to situations where time constraints do not permit the preparation of clearly drawn specifications or situations where, after competitive bidding, no bids meeting bid requirements are received, all compliant bids received are too high, or all bids are rejected for failure to meet bid requirements (i.e., bids are noncompliant), such purchases shall be exempt from the competitive bid requirements.

IV. Bidding procedure.

All competitive formal bids must be sealed, and shall be opened in public in the presence of employees of the Town designated by the Town Manager. All bids will be received at the Town Manager's office on or before the date and time set forth in the notice of proposal. Notwithstanding the requirement to use sealed bids, qualifications based selection processes that include a dollars and cents bid element may be evaluated in parts whereby the dollars and cents bid shall remain sealed during the qualitative evaluation.

V. Award of professional services contracts.

An RFP or RFQ process shall be utilized for the awarding of contracts of \$25,000.00 per year or more for the professional services of attorneys, physicians, court stenographers, real estate brokers and other professions licensed and regulated by the State, and professional services governed by F.S. § 287.055, the Consultants Competitive Negotiation Act ("CCNA"). Procurement of services governed by the CCNA shall comply with all statutory requirements. All such awards shall be made by a resolution adopted by the majority of the Town Council. The Town Council may, by motion, waive the requirement to utilize requests for proposal/requests for qualifications if it is determined to be in the best interests of the Town to do so or as otherwise authorized by law.

VI. Preference for local businesses.

Businesses located in the Town who reply to formal competitive sealed bid requests by the Town may receive a preference bonus of five percent or five points during the evaluation and tabulation of the bid proposals. If a local preference is to be employed as provided for by this section, the solicitation documents shall clearly set forth such local preference requirements.

VII. Surplus property.

Any property owned by the Town which has become obsolete, or which has outlived its usefulness, or which has become inadequate for the public purposes for which it was intended, or which is no longer needed for public purposes, may be disposed of in accordance with procedures established by the Town Manager, so long as the property has been declared surplus by a resolution of the Town Council.

VIII. Authority to resolve protested bids and proposed awards.

(A) Right to protest. With respect to contracts over \$100,000, any actual bidder, or qualified proposer (hereinafter collectively referred to as the "bidder") who has a substantial interest in, and is aggrieved in connection with the solicitation or proposed award of, a request for proposals ("RFP"), request for qualifications ("RFQ"), request for letters of interest ("RFLI") or invitation for bid for goods and/or services ("hereinafter, collectively referred to as the bid") may protest to the Town Manager or his or her designee. Protests arising from the decisions and votes of any evaluation or selection committee shall be limited to protests based upon alleged deviation(s) from established purchasing procedures set forth in this Code, any written guidelines issued by the Town, and the specifications, requirements and/or terms set forth in any bid. This section shall not be applicable if the bid specifications expressly so state.

(B) Any protest concerning the bid specification requirements, and/or terms must be made within three business days (for the purposes of this ordinance, "business day" means a day other than Saturday, Sunday or a national holiday), from the time the facts become known and, in any case, at least two business days prior to the opening of the bids. Such protest must be made in writing to the Town Manager or his or her designee, and such protest shall state the particular grounds on which it is based and shall include all pertinent documents and evidence. No bid protest shall be accepted unless it complies with the requirements of this section. Failure to timely protest bid specifications, requirements and/or terms is a waiver of the ability to protest the specifications, requirements and/or terms.

(C) Any protest after the bid opening, including challenges to actions of any evaluation or selection committee as provided in subsection (a) above, shall be submitted in writing to the Town Manager, or his or her designee. The Town will allow such bid protest to be submitted anytime until two business days following the release of the Town Manager's written recommendation to the Town Council, as same is set forth and released in the Town Council agenda packet, for award of the bid in question. Such protest shall state the particular grounds on which it is based and shall include all pertinent documents and

evidence. No bid protest shall be accepted unless it complies with the requirements of this section. All actual bidders shall be notified in writing (which may be transmitted by electronic communication, such as facsimile transmission and/or e-mail), following the release of the Town Manager's written recommendation to the Town Council.

(D) The Town may require reasonable reimbursement for expenses incurred in processing any protest hereunder, which expenses shall include, but not be limited to, staff time, legal fees and expenses (including expert witness fees), reproduction of documents and other out-of-pocket expenses.

(F) Authority to resolve protests. The Town Manager or his or her designee shall have the authority to settle and resolve a protest as outlined herein. The Town Manager's decision shall be final and may be changed only by a majority vote of the Town Council.

(G) Responsiveness. Prior to any decision being rendered under this section with respect to a bid protest, the Town Manager and the Town Attorney, or their respective designees, shall certify whether the submission of the protester to the solicitation in question is responsive. The parties to the protest shall be bound by the determination of the Town Manager and the Town Attorney with regard to the issue of responsiveness.

(H) Distribution. A copy of each decision by the Town Manager and the Town Attorney shall be mailed or otherwise furnished promptly to the protestor.

(I) Stay of procurements during protests. In the event of a timely protest under paragraph (A) of this section, the Town shall not proceed further with the solicitation or with the award pursuant to such bid until a decision is issued under paragraph (F) above, unless a written determination is made by the Town Manager, that the award pursuant to such bid must be made without delay in order to protect a substantial interest of the Town.

(J) Remedy. The institution and filing of a protest under this Code is an administrative remedy that shall be employed prior to the institution and filing of any civil action against the Town concerning the subject matter of the protest.

(K) Protests barred. Protests not timely made under this section shall be barred. Any basis or ground for a protest not set forth in the letter of protest required under this section shall be deemed waived.

(L) Report. At the time the Town Manager's written decision or recommendation for award of a bid is presented at a meeting of the Mayor and Town Council, the Town Attorney, or his or her designee, shall present a report to inform the Mayor and Town Council of any legal issues relative to any bid protest filed in connection with the bid in question.

(M) No waiver. Nothing in this section shall waive Town's sovereign immunity pursuant to F.S. § 768.28.

IX. Cone of silence.

Pursuant to section 2-11.1(t) of the Miami-Dade County Code, made applicable to the Town pursuant to Section 2-11.1(t)(4) thereof, there shall be a cone of silence in effect with respect to all competitive procurements.

(A) Definitions. "Cone of Silence", as used herein, means a prohibition on any communication regarding a particular request for proposal ("RFP"), request for qualification ("RFQ") or bid, for goods or services valued at over \$100,000.00, between:

(1) A potential vendor, service provider, proposer, bidder, lobbyist, or consultant; and

(2) The Town Council, Town's professional staff including, but not limited to, the Town Manager and his or her staff, any member of the Town's selection or evaluation committee.

(B) Restriction; notice. A cone of silence shall be imposed upon each RFP, RFQ, and bid after the advertisement of said RFP, RFQ, or bid. At the time of imposition of the cone of silence, the Town Manager or his or her designee shall provide for public notice of the cone of silence by posting a notice at the Town Hall. The Town Manager shall issue a written notice thereof to the affected departments, file a copy of such notice with the Town Clerk, with a copy thereof to each Town Councilperson, and shall include in any public solicitation for goods or services a statement disclosing the requirements of this section.

(C) Termination of cone of silence. The cone of silence shall terminate at the beginning of the Town Council meeting at which the Town Manager makes his or her written recommendation to the Town Council. However, if the Town Council refers the Manager's recommendation back to the Manager or staff for further review, the cone of silence shall be reimposed until such time as the Manager makes a subsequent written recommendation.

(D) Exceptions to applicability. The provisions of this section shall not apply to:

- (1) Oral communications at pre-bid conferences;
- (2) Oral presentations before selection or evaluation committees;
- (3) Public presentations made to the Town Council by any person during any duly noticed public meeting;
- (4) Communications in writing at any time with any Town employee, unless specifically prohibited by the applicable RFP, RFQ or bid documents provided that, the bidder or proposer shall file a copy of any written communication with the Town Clerk. The Town Clerk shall make copies available to any person upon request;
- (5) Communications regarding a particular RFP, RFQ or bid between a potential vendor, service provider, proposer, bidder, lobbyist or consultant and the Town's Purchasing Agent or Town employee designated responsible for administering the procurement process for such RFP, RFQ or bid, provided the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document;
- (6) Communications with the Town Attorney and his or her staff; solely regarding matters of legal process and procedure;
- (7) 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;
- (8) Any emergency procurement of goods or services pursuant to Town Code;
- (9) Responses to the Town's request for clarification or additional information;
- (10) Contract negotiations during any duly noticed public meeting;
- (11) Communications to enable Town staff to seek and obtain industry comment or perform market research, provided all communications related thereto between a potential vendor, service provider, proposer, bidder, lobbyist, or consultant and any member of the Town's professional staff including, but not limited to, the Town Manager and his or her staff are in writing or are made at a duly noticed public meeting.

(E) Penalties. Violation of this section by a particular bidder or proposer shall render any RFP award, RFQ award or bid award to said bidder or proposer voidable by the Town Council and/or Town Manager. Any person who violates a provision of this section may be prohibited from serving on a Town selection or evaluation committee. In addition to any other penalty provided herein, violation of any provision of this section by a Town employee may subject said employee to disciplinary action.

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

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

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

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

PASSED on first reading this _____ day of _____, 2006.

PASSED AND ADOPTED on second reading this _____ day of _____, 2006.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA
Town Clerk

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

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

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman _____

Vice-Mayor Edward P. MacDougall _____

Councilmember Peggy R. Bell _____

Councilmember Timothy J. Meerbott _____

Councilmember Ernest N. Sochin _____