

TOWN OF CUTLER BAY

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

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

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

LOCAL PLANNING AGENCY AGENDA

Wednesday, September 17, 2008, 7:00 PM

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

- I. **CALL TO ORDER, ROLL CALL**
- II. **ADDITIONS, DELETIONS, AND DEFERRALS**
- III. **CONSENT AGENDA**
 - A. Minutes – August 20, 2008
- IV. **PUBLIC HEARING: (MOTION RECOMMENDING ADOPTION OF THE FOLLOWING ORDINANCE)**
 - A. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING ORDINANCE 07-07 RELATING TO NONRESIDENTIAL DESIGN STANDARDS AND REGULATIONS; PROVIDING FOR THE DELETION OF LOCATION REQUIREMENTS; PROVIDING FOR AMENDMENTS TO PERMITTED SQUARE FOOTAGE; PROVIDING FOR GREEN BUILDING INCENTIVES; AND PROVIDING FOR AN EFFECTIVE DATE.
- VI. **ADJOURNMENT.**

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

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

Wednesday, August 20, 2008, 7:00 PM
South Dade Government Center
10710 Southwest 211th 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 8:10 p.m. Present were the following chartered officials:

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

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

II. PLEDGE OF ALLEGIANCE: There was no Pledge of Allegiance at this time.

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

IV. CONSENT AGENDA:

Councilmember Bell made a motion approving the minutes of meeting of June 18, 2008. The motion was seconded by Councilmember Meerbott and adopted by a unanimous voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

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

The clerk read the following ordinance by title:

- A. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ADOPTING REMEDIAL COMPREHENSIVE PLAN AMENDMENTS RELATING TO THE COASTAL HIGH HAZARD AREA IN ACCORDANCE WITH A COMPLIANCE AGREEMENT WITH THE DEPARTMENT OF COMMUNITY AFFAIRS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

Planning Consultant, Joe Corradino provided a brief discussion and recommended approval of the ordinance.

The mayor opened the public hearing. Jaime Reyes, 9750 Southwest 215 Lane, addressed the Council. The mayor closed the public hearing.

Councilmember Meerbott made a motion to adopt staff's recommendation to approve. The motion was seconded by Councilmember Bell and approved by unanimous 5-0 roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

The clerk read the following ordinance by title:

- B.** AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ADOPTING A 10 YEAR WATER SUPPLY FACILITIES WORK PLAN AND AMENDING THE TOWN'S COMPREHENSIVE PLAN (GROWTH MANAGEMENT PLAN) TO STRENGTHEN COORDINATION BETWEEN WATER SUPPLY AND LOCAL LAND USE PLANNING AS REQUIRED BY FLORIDA LAW; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Councilmember Sochin made a motion to adopt staff's recommendation to approve. The motion was seconded by Vice Mayor MacDougall and approved by unanimous 5-0 roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

VI. ADJOURNMENT: The meeting was officially adjourned at 8:25 p.m.

Respectfully submitted:

*Erika Gonzalez-Santamaria, CMC
Town Clerk*

*Adopted by the Town Local Planning Agency
on this 17th day of September, 2008.*

Paul S. Vrooman, Mayor

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



Planning & Zoning Department

Kathryn Lyon
Interim Planning Director

MEMORANDUM

To: Steve Alexander, Town Manager

From: Kathryn Lyon, Interim Planning Director

Date: September 9, 2008

Re: Approval of an Ordinance Amending Definition of "Non-Residential Design Standards and Regulations"

BACKGROUND

The Town adopted the Non-Residential Design Standards and Regulations Ordinance No. 07-07 on March 21st, 2007. These development standards were intended to encourage high quality aesthetically pleasing developments.

The Town Council understands the importance of environmental stewardship and desires to incorporate green building incentives into these standards in order to help reduce the carbon foot print of such establishments within the Town.

The Town also has recognized a duty to include environmentally sound regulations in its management of development.

REQUEST

Staff requests that the Town Council amend Ordinance 07-07, Definitions, to amend a definition of large nonresidential establishments to occupying between forty thousand and one (40,001) and fifty thousand (50,000) gross square feet of floor area.

Staff requests that the Town Council amend Ordinance 07-07, Definitions, to amend a definition of medium nonresidential establishments to occupying between twenty-five thousand and one (25,001) and fifty thousand (40,000) gross square feet of floor area.

Staff requests that the Town Council amend Ordinance 07-07, Maximum size of Large nonresidential establishments, to permit nonresidential establishments with the Town to exceed 50,000 gross square feet limitation by a maximum of twenty percent (20%), if such an establishment obtains a Leadership In Energy and Environmental Design (LEED) Certification of Silver. This is to encourage developers within the Town to build green and offers an incentive to build greater than 50,000 square feet. This Ordinance is the first step

in implementing Ordinance 08-11 and 08-12 Moratoriums on Development within the Town (Green Moratorium).

Staff requests that the Town Council amend Ordinance 07-07, Regulations for Medium and Large Nonresidential Establishments Location, to remove All Medium and Large nonresidential establishments shall be located in shopping centers. The majority of the parcels located on US 1 are platted and developed. The sixteen (16) foot Utility easement and busway along US 1 reduces the buildable area per lot. The parcels are not large enough to allow a building that exceeds 50,000 square feet and four (4) additional stores as the existing Ordinance states. Eliminating this requirement will allow the Town to focus on the form and shape of the building rather than amount of uses.

RECOMMENDATION

Staff recommends the Council approve the attached amendments to Ordinance 07-07.

ORDINANCE NO. 08- _____

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING ORDINANCE 07-07 RELATING TO NONRESIDENTIAL DESIGN STANDARDS AND REGULATIONS; PROVIDING FOR THE DELETION OF LOCATION REQUIREMENTS; PROVIDING FOR AMENDMENTS TO PERMITTED SQUARE FOOTAGE; PROVIDING FOR GREEN BUILDING INCENTIVES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (the “Town”) adopted development standards applicable to nonresidential establishments within the Town; and

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

WHEREAS, the Town Council understands the importance of environmental stewardship and desires to incorporate green building incentives into these standards in order to help reduce the carbon foot print of such establishments within the Town; and

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

WHEREAS, after due notice and hearing, the Town Council finds this Ordinance to be consistent with the Town’s Comprehensive Plan; and

WHEREAS, the Town Council finds these changes to be in the best interest and welfare of the Town.

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

Section 1. Findings. The foregoing “Whereas” clauses are hereby ratified and incorporated as the legislative intent of this Ordinance.

Section 2. Amendment to Ordinance 07-07. Ordinance 07-07 is hereby amended to read as follows:

A. Definitions.

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

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

Large nonresidential establishment: A nonresidential establishment, or any combination of nonresidential establishments in a single building or in separate but abutting buildings, occupying between forty thousand (40,0010) and fifty thousand (50,000) gross square feet of floor area.

Medium nonresidential establishment: A nonresidential establishment, or any combination of nonresidential establishments in a single building or in separate but abutting buildings, occupying between twenty-five thousand (25,0010) and forty thousand (40,000) gross square feet of floor area.

B. Purpose.

C. Nonresidential Establishment Regulations Generally.

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

1. **Façades and Exterior Walls.**

9. **Maximum Square Footage Permitted.**

Nonresidential establishments within the Town shall not exceed fifty thousand (50,000) gross square feet, except as provided in Subsection G below.

D. Regulations for Small Nonresidential Establishments.

E. Regulations for Medium and Large Nonresidential Establishments.

1. **Location.**

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

2. **1. Entryways.**

3. **2. Maximum number of parking spaces.**

4. 3. Off-street parking.

5. 4. Central features and community space.

6. 5. Outdoor seating/dining areas.

7. 6. Public transit.

8. 7. Internal Pedestrian walkways.

9. 8. Expansions.

F. Regulations for Medium Nonresidential Establishments.

G. Regulations for Large Nonresidential Establishments.

1. Location.

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

2. 1. Maximum Size of Large Nonresidential Establishments.

Large nonresidential establishments shall not exceed fifty thousand (50,000) gross square feet. However, the total structure may exceed this size so long as no single nonresidential tenant exceeds this size. To determine whether an establishment has reached this maximum, the area of shared check stands, management, controlling ownership interest, and storage areas shall also be included. Notwithstanding the foregoing, a Large nonresidential establishment may exceed the fifty thousand (50,000) square foot limitation by a maximum of twenty percent (20%), if such an establishment obtains a Leadership In Energy and Environmental Design (LEED) Certification of Silver. A LEED Certified Silver development shall mean a development that obtains at least 33-38 points of the maximum points on the LEED project checklist. Prior to the issuance of the first principal building permit the applicant shall post a performance bond of 3 percent of the total cost of the building in order to secure performance and fulfillment of the applicant's obligation to obtain a LEED Silver Certification. In lieu of the bond required by this section the Town may accept an irrevocable letter of credit from a financial institution authorized to do business in Florida or provide evidence of cash deposited in an escrow account in a financial institution in the State of Florida in the name of the applicant and the Town. The letter of credit

or escrow shall be in the same amount of the bond if it were posted. If the project fails to meet the criteria required for Silver Certification by the United States Green Building Council (USGBC) within two (2) years after receiving the Town's certificate of occupancy, the applicant shall forfeit one hundred percent (100%) of the bond. Funds that become available to the Town from the forfeiture of the performance bonds shall be deposited in a Green Building Fund established by the Town. These funds shall be utilized for improvements such as landscape, open space improvements, traffic calming, pollution mitigation, drainage and sanitary sewer improvements, sustainability improvements to public facilities, or similar improvements as deemed appropriate by the Town Council.

3. 2. Façade.

4. 3. Exterior Customer Entrance.

Section 3. Severability. If any section, clause, sentence, or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

Section 4. Conflict. All Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

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

PASSED on first reading this _____ day of _____, 2008.

PASSED AND ADOPTED on second reading this _____ day of _____, 2008.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

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

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

Moved By:
Seconded By:

FINAL VOTE AT ADOPTION:

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