

ORDINANCE NO. 07-01

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING THE OLD CUTLER ROAD OVERLAY ZONING DISTRICT AND REGULATIONS; REZONING PROPERTIES ALONG OLD CUTLER ROAD FROM S.W. 184TH STREET SOUTH TO THE TOWN LIMITS, AS SHOWN ON EXHIBIT "A" AND LEGALLY DESCRIBED IN EXHIBIT "B," TO THE OLD CUTLER ROAD OVERLAY ZONING DISTRICT; AMENDING THE LIST OF PERMITTED, CONDITIONAL, AND PROHIBITED USES FOR PROPERTIES ALONG OLD CUTLER ROAD FROM S.W. 184TH STREET SOUTH TO THE TOWN LIMITS, AS SHOWN ON EXHIBIT "A" AND LEGALLY DESCRIBED IN EXHIBIT "B;" AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in June of 2002, residents of the now incorporated Town of Cutler Bay (the "Town") participated in the Old Cutler Road Charrette Area Plan (the "Charrette"); and

WHEREAS, during this Charrette, residents of the Town envisioned architectural design standards for properties along the Old Cutler Road corridor; and

WHEREAS, on July 5, 2006, the Town Council adopted a moratorium on development orders and development permits for properties along the Old Cutler Road corridor in order to allow Town Staff to analyze and develop architectural design standards, types of uses, and land development regulations for the corridor; and

WHEREAS, Town staff has finished its review and has created such standards and regulations; and

WHEREAS, rezoning the properties shown on Exhibit "A" will allow for the implementation of these new regulations and standards; and

WHEREAS, staff recommended approval of the Old Cutler Road Zoning Overlay District and rezoning in its report dated December 20, 2006; and

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

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

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

WHEREAS, the Town Council finds this Ordinance 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. Old Cutler Road Overlay Zoning District. The Old Cutler Road Overlay Zoning district is hereby created as follows:

A. Purpose, Intent, Applicability.

1. **Purpose and Intent.** The purpose of this Ordinance is to establish design regulations and standards for development along Old Cutler Road in order to enhance the character of the road within the Town. It is intended that Old Cutler Road be a place where living, working, shopping, and civic activities can take place within a town center environment. Development along Old Cutler Road within the Town will consist of a variety of buildings and uses that will encourage pedestrian activity with wide sidewalks, balconies, outdoor cafes, squares, and plazas.
2. **Applicability.** The provisions of this Ordinance shall apply to all properties within the Old Cutler Road Zoning Overlay District as designated on the Town Zoning Map. The underlying zoning designations for properties subject to this Ordinance shall remain unchanged.

B. Permitted, Conditional, Prohibited Uses. The permitted, conditional, and prohibited uses in the underlying zoning designations for properties subject to this Ordinance shall remain unchanged, except as provided below:

1. **Properties with an underlying Residential zoning designation.**

Use	Permitted Use	Conditional Use	Prohibited Use
Attached single family homes with a maximum density as permitted by the property's underlying Land Use Designation.	X		
Bee hives or the breeding or raising of any insects, reptiles or animals other than customary pets			X

Golf Course			X
Keeping, breeding or maintaining horses, cattle or goats			X
Limited truck gardening and fruit growing (incidental to principal residence only)			X
Noncommercial pigeon lofts, raising of poultry, and fowl			X

2. Properties with an underlying zoning designation of Business.

Use	Permitted Use	Conditional Use	Prohibited Use
Amusement center		X	
Attended, non-motorized donation collection			X
Auditoriums		X	
Automobile and light truck, new sales agency or rental			X
Automobile new parts and equipment, sales only			X
Automobile parking garages			X
Automobile self-service gas stations		X	
Automobile service stations		X	
Automobile storage within a building			X
Automobile tires, batteries and accessories (new) retail only installation permitted			X
Automobile washing			X
Bait and tackle shops		X	
Banks, including drive-in teller service			X
Boats carrying passengers on excursion, sightseeing, pleasure or fishing trips			X
Bowling alleys			X
Convention halls			X
Dancing halls or dancing academies			X
Dog and pet hospitals in air-conditioned buildings			X
Donated goods centers			X
Dry cleaning establishments			X
Electrical appliance and fixtures stores including related repair shops		X	
Furniture stores			X
Gate house		X	

Grocery stores		X	
Health and exercise clubs			X
Home improvement centers			X
Hospitals			X
Hotel and motel uses		X	
Junior department stores			X
Lawn mowers, retail, sales and service			X
Liquor package stores		X	
Major department stores		X	
Marinas			X
Medical observation dormitory			X
Mortuaries or funeral homes			X
Motorcycles sales and repair			X
Natatoriums			X
Night clubs		X	
Office parks		X	
Open-air theaters		X	
Outdoor dining	X		
Pet shops, pet care centers and dog beauty parlors in air-conditioned buildings		X	
Printing shops		X	
Private clubs			X
Propagating and growing plants for sale			X
Pubs and bars		X	
Regional shopping centers			X
Rentals of trucks other than light trucks			X
Restaurants with an accessory cocktail lounge-bar use		X	
Sale of fruit or merchandise from trucks, wagons or other vehicles			X
Security station		X	
Self-service storage facility			X
Tailor shops	X		
Telephone exchange			X
Theaters for live stage production and motion pictures		X	
Variety stores		X	

3. Properties with an underlying zoning designation of GU (Interim District).

Use	Permitted Use	Conditional Use	Prohibited Use
Carnivals		X	
Cemeteries			X
Circuses			X
Crematories			X
Mausoleums			X

4. Properties with an underlying zoning designation of AU (Agriculture District).

Use	Permitted Use	Conditional Use	Prohibited Use
Barns and sheds used for cattle or stock and ancillary feed storage			X
Barns and sheds used for hogs			X
Barns, sheds or other buildings used for the storage of equipment, feed, fertilizer, produce or other items ancillary with an agricultural use			X
Carnivals		X	
Cattle or stock grazing (not including hog raising)			X
Cemeteries, mausoleums or crematories			X
Circuses			X
Dairy barns			X
Dude ranches and riding academies		X	
Fish pools			X
Hog farms and hog raising			X
Large packing facilities used for the packing of fruit and vegetables accessory to an agricultural use conducted on the entire property (with conditions)			X
One single-family permanent or temporary structure to house farm labor personnel			X
Outdoor storage of vehicles and equipment associated with agricultural, aquacultural or horticultural production occurring on property(ies) other than the property on which the storage is located, provided the storage is an accessory use			X
Raising one hundred (100) poultry, or more			X
Recreational vehicles as temporary			X

watchman's quarters			
Seed drying facilities			X
Small packing facilities used for the packing of fruit and vegetables accessory to an agricultural use conducted on the property (with conditions)			X
Temporary or permanent barracks or structures to house farm labor			X
Truck gardens			X
Wineries		X	

With regard to the uses permitted within any zoning classification, the Planning Director shall have the authority to make a determination that a proposed use is sufficiently similar to a specifically permitted use to be allowed as a “similar use.” In determining similarity between a proposed use and a use specifically described herein, the Planning Director shall be guided by the intent of the zoning classification and shall further consider common characteristics, the generation of pedestrian and vehicular traffic, and the compatibility of the proposed use with the uses specifically described and permitted within the underlying zoning classification.

C. Land Development Regulations.

It is the intent of the Town of Cutler Bay to substantially improve the streetscape of Old Cutler Road and implement a land use pattern conducive to good design standards. To that end, setback requirements are being implemented to result in featuring the actual use of the land and accommodating landscaping. The automobile will be returned to an accessory and subordinate use to be located to the rear and side of principal structures. Front facades will be articulated with fenestration, and windows. Horizontal and vertical elements will be required to prevent monotony.

The following graphics in this section illustrate the regulations and are provided as guidance as to the standard of review to be used by staff.

Potential Improvement Phasing Series for Old Cutler Road
Existing Condition



Phase I



Phase II



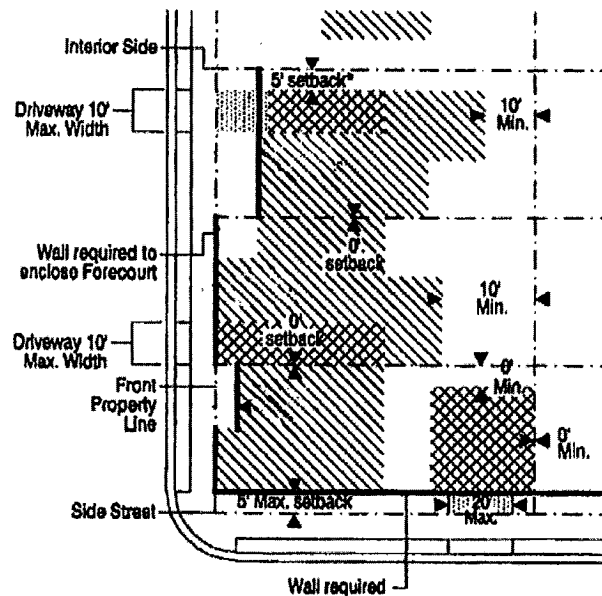
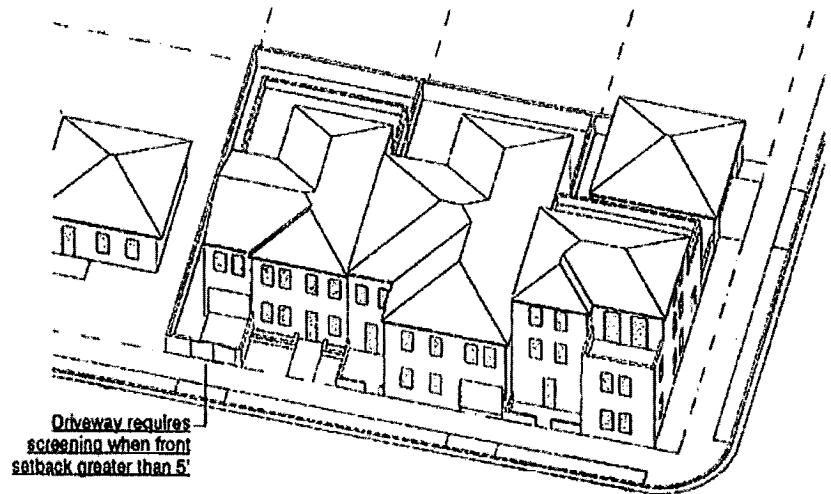
1. **Minimum lot requirement.**

- a. Properties with an underlying Residential zoning designation. The minimum lot requirement shall be 6,000 square feet and the minimum frontage requirement shall be 35 feet.

Typical Urban Villas

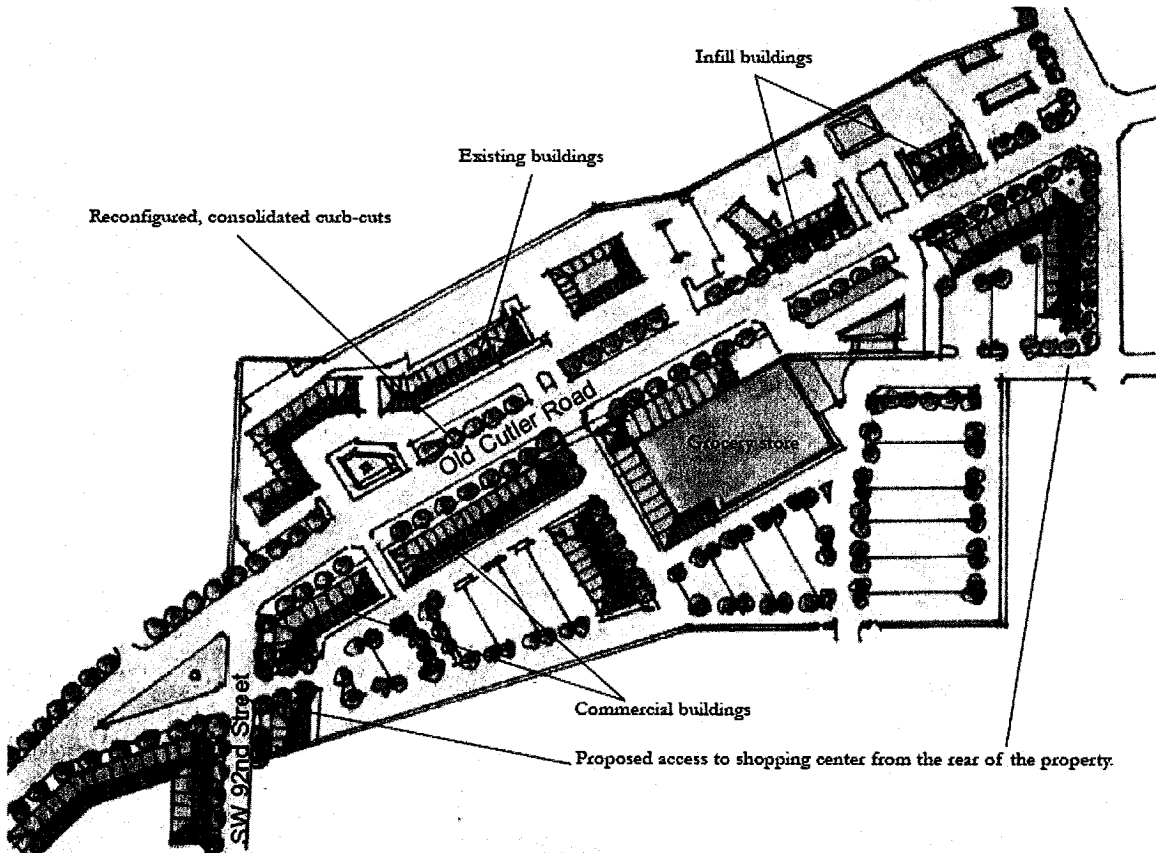
PL: Property Line
Min: Minimum
Max: Maximum
Req: Required

— Build to Line
- - - Property Line
▨ Habitable Space
▩ Accessory Building/Dwelling/
Parking Area
▧ Driveway



- b. Properties with an underlying Business zoning designation. There shall be no minimum lot area or frontage required.

Potential Future Condition for the Commercial Center of Old Cutler Road



2. **Floor Area.**

- a. Properties with an underlying Business zoning designation. The maximum floor area of a building shall be 2.0 times the net lot area.

3. **Lot Coverage.**

- a. Properties with an underlying Residential zoning designation. There shall be no limit on lot coverage provided that open space and landscaping requirements are met. However, there shall be no net increase in storm water runoff from the site post development.
- b. Properties with an underlying Business zoning designation. There shall be no limit on lot coverage provided that open space and landscaping requirements are met. However, there shall be no net increase in storm water runoff from the site post development.

4. **Setbacks.**

Use	Front	Interior	Side	Rear	Awnings, balconies, and other cantilevered building elements
Properties with an underlying Residential zoning designation.	0 feet	0 feet or 5 feet when adjacent to properties developed with single-family detached dwellings on the same block face.	5 feet	25 feet	Awnings, balconies, and other cantilevered building elements shall be permitted to encroach into the front and side street setbacks up to 5 feet above 11 feet from the grade.
Properties with an underlying Business zoning designation.	0 feet	0 feet	5 feet	When adjoining a property with an underlying Business zoning designation the setback shall be 0 feet. When adjoining all other districts the setback shall be 25 feet.	Awnings, balconies, and other cantilevered building elements shall be permitted to encroach into the front and side street setbacks up to 5 feet above 11 feet from the grade.

5. **Open Space.**

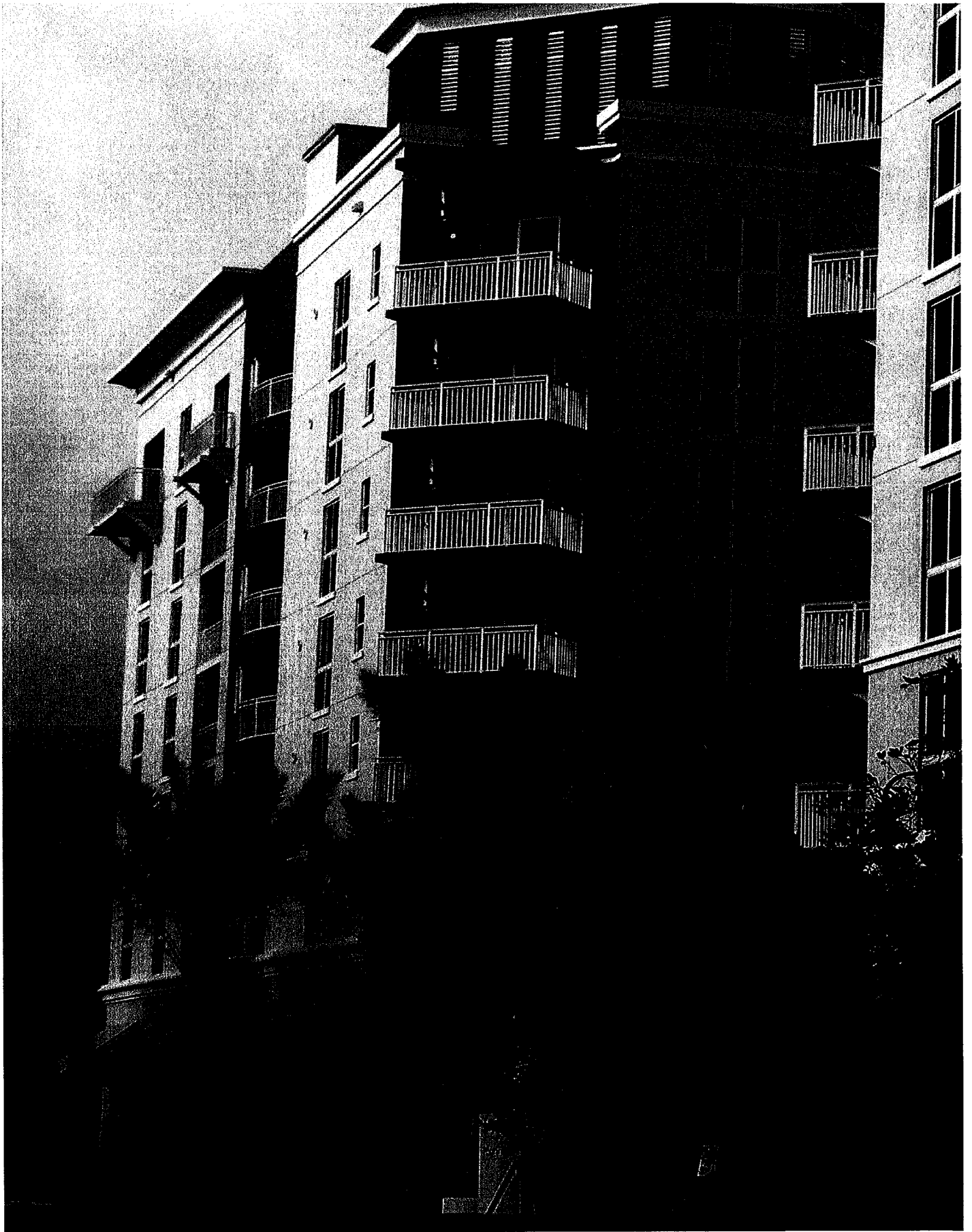
- a. Properties with an underlying Residential zoning designation. A minimum of 25% landscaped open space shall be required for any development of properties. In addition, open space shall be provided in the form of balconies, terraces or porches or any combination thereof.
- b. Properties with an underlying Business zoning designation. A minimum of 10% open space shall be required for any development of properties with an underlying Business zoning designation within the Old Cutler Road Overlay Zoning District. In addition, open space shall be provided at-grade, above grade, in balconies, terraces, porches, colonnades or any combination of these thereof.

Existing and Potential Future Condition of Old Cutler Road and SW 216th Street



6. **Building Height.**

- a. Properties with an underlying Residential zoning designation. There shall be a maximum height of 35 feet for a principal building on property within an underlying Residential zoning district.
- b. Properties with an underlying Business zoning designation. There shall be a minimum of 24 feet and maximum of 48 feet in height for any building developed on property with an underlying Business zoning designation.



7. Front Façade

- a. Definition. For purposes of this section the term “Front Façade” shall be defined as that portion of the building facing Old Cutler Road and aligning with the property line adjoining the right-of-way of Old Cutler Road.
- b. Properties with an underlying Residential zoning designation. At least 50% of the residential units along a block face shall provide a forecourt. No security fences, burglar bars, or night shuttering of the Front Façade windows or doors shall be allowed.
- c. Properties with an underlying Business zoning designation. The following Front Façade requirements shall apply to properties with an underlying Business zoning designation:
 - i. The Front Façade shall occupy a minimum of 80 % of the frontage of the lot along Old cutler Road.
 - ii. The Front Façade shall be placed at the setback line.
 - iii. At least 50% of the Front Façade shall have windows that provide a view into activities within the building and shall not be mirror tinted.
 - iv. No security fences, burglar bars, or night shuttering of the Front Façade windows or doors shall be allowed.

D. Site Plan and Landscape Requirements.

- 1. Site Plan Approval. Site plan approval shall be required prior to any development of land within the Old Cutler Road Zoning Overlay District. All site plans shall be submitted and reviewed in accordance with the Town site plan requirements.
 - a. Site Plan Approval After A Public Hearing. Except as provided below, all site plans within the Old Cutler Road Zoning Overlay District shall be approved by the Town Council after a public hearing.
 - b. Administrative Site Plan Approvals. The following types of development shall be subject to administrative site plan approval:
 - i. Renovation and/or expansion of existing structures;
 - ii. Construction of one (1) singly family home on a single lot;
and
 - iii. Duplex.

2. Landscape Requirements. The landscape regulations contained in Chapter 18A of the Town Code shall apply within the Old Cutler Road Zoning Overlay District, except as otherwise provided in this Ordinance.

E. Parking and Driveway Standards.

1. Parking Requirements. All parking shall be in the rear or side of buildings. Notwithstanding the foregoing, the parking requirements set forth in Chapter 33, Article VII, of the Town Code shall apply to all development within the Old Cutler Road Overlay Zoning District, except as provided in section 2 below.
2. Parking Requirement Reduction. The Old Cutler Road Zoning Overlay District encourages compact and accessible land-use patterns, minimizing development costs and encouraging alternative forms of transportation in order to reduce traffic problems. The following techniques may be utilized in order to allow for the reduction of parking within the Old Cutler Road Overlay Zoning District:
 - a. Valet parking. Valet parking can increase parking capacity by 20 to 40 % compared with self parking. Valet parking is encouraged and a reduction in required parking shall be allowed when utilized.
 - b. Tandem parking. Tandem parking is allowed to count towards required residential parking.
 - c. Mixed-Use developments. Mixed-Use developments shall be allowed to have a 5% reduction in the required parking and a 10% reduction if the parking facilities are shared.
 - d. Parking and Mobility Management Plan. A site specific parking and mobility management plan shall be submitted to and approved by the Town as part of the development application for any of the reduction techniques to be used.

In addition, parking spaces shall not be visible from Old Cutler Road and shall be designed in such a way as to be buffered (not visible) from other uses and the street.

3. Driveways. Driveways shall be controlled and access points shall be limited. Individual sites shall share limited access points.

F. Properties with an underlying GU (Interim District) zoning designation.

Properties within the Old Cutler Road Overlay Zoning District with an underlying GU (Interim District) zoning designation shall be subject to the provisions of this Ordinance. If a neighborhood, as described in Section 33-196 of the Town Code, is predominantly characterized by Residential usage, the property shall be subject to the regulations that apply to properties with an underlying Residential zoning designation. If a neighborhood, as described in Section 33-196 of the Town Code, is

predominantly characterized by Business usage, the property shall be subject to the regulations that apply to properties with an underlying Business zoning designation. The Planning Director's decision as to what constitutes a "trend of development" or neighborhood, as defined in Section 33-196 of the Town Code, may be appealed by the applicant to the Town Council.

G. Waiver from the Old Cutler Road Overlay Zoning District Regulations. A property owner with an underlying Residential zoning designation may apply for a waiver from the provisions of this Ordinance as follows:

1. Administrative approval. If 50% or more of the block frontage where the property is located has either: (a) received a development permit authorizing construction of a new building or (b) has been developed prior to the effective date of this Ordinance, a waiver from the provisions of this Ordinance may be granted administratively by the Planning Director where the specific use or activity requested by the waiver application will be compatible with surrounding land uses and development. The denial of a waiver under this section may be appealed by the applicant to the Town Council.
2. Approval after a public hearing. If less than 50% of the block frontage where the property is located has: (a) received a development permit authorizing construction of a new building or (b) been developed prior to the effective date of this Ordinance, a waiver from the provisions of this Ordinance may be granted after a public hearing. The Town Council, after a public hearing, may grant a waiver from the provisions of this Ordinance, where the Town Council determines, based upon substantial competent evidence, that the specific use or activity requested by the waiver application will be compatible with the surrounding land uses and development, and will not impair the public health, safety, or welfare.
3. Application. A waiver application, on a form provided by the Town, shall be filed with the Department of Planning and Zoning as well as the waiver application fee.

H. Nonconforming Uses or Structures. As of the effective date of this Ordinance, any uses or structures located within the Old Cutler Road Overlay Zoning District, which are inconsistent with the provisions of this District, shall be considered legal nonconforming uses or structures and shall be subject to the provisions of Section 33-35 of the Town Code.

Section 3. Approval of Rezoning. The Town Council hereby approves the rezoning of the properties shown on Exhibit "A" and legally described in Exhibit B to the Old Cutler Road Overlay Zoning District.

Section 4. Termination of Moratorium. Upon the adoption of this Ordinance, the moratorium adopted on July 5, 2006, by Ordinance No. 06-15, and extended by Ordinance 06-21 shall be terminated.


Section 5. 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 6. 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 7. Effective Date. This Ordinance shall be effective immediately upon adoption on second reading.

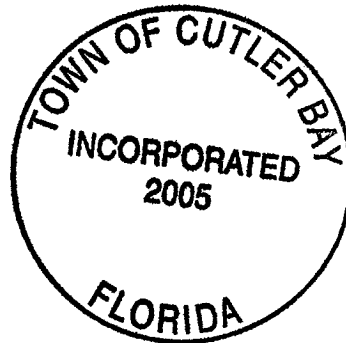
PASSED AND ADOPTED on first reading this 20th day of December, 2006.

PASSED AND ADOPTED on second reading this 17th day of January, 2007.

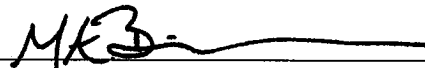

PAUL S. VROOMAN, Mayor

Attest:


ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk



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


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

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman YES

Vice Mayor Edward P. MacDougall YES

Councilmember Timothy J. Meerbott YES

Councilmember Ernest N. Sochin YES

Councilmember Peggy R. Bell YES

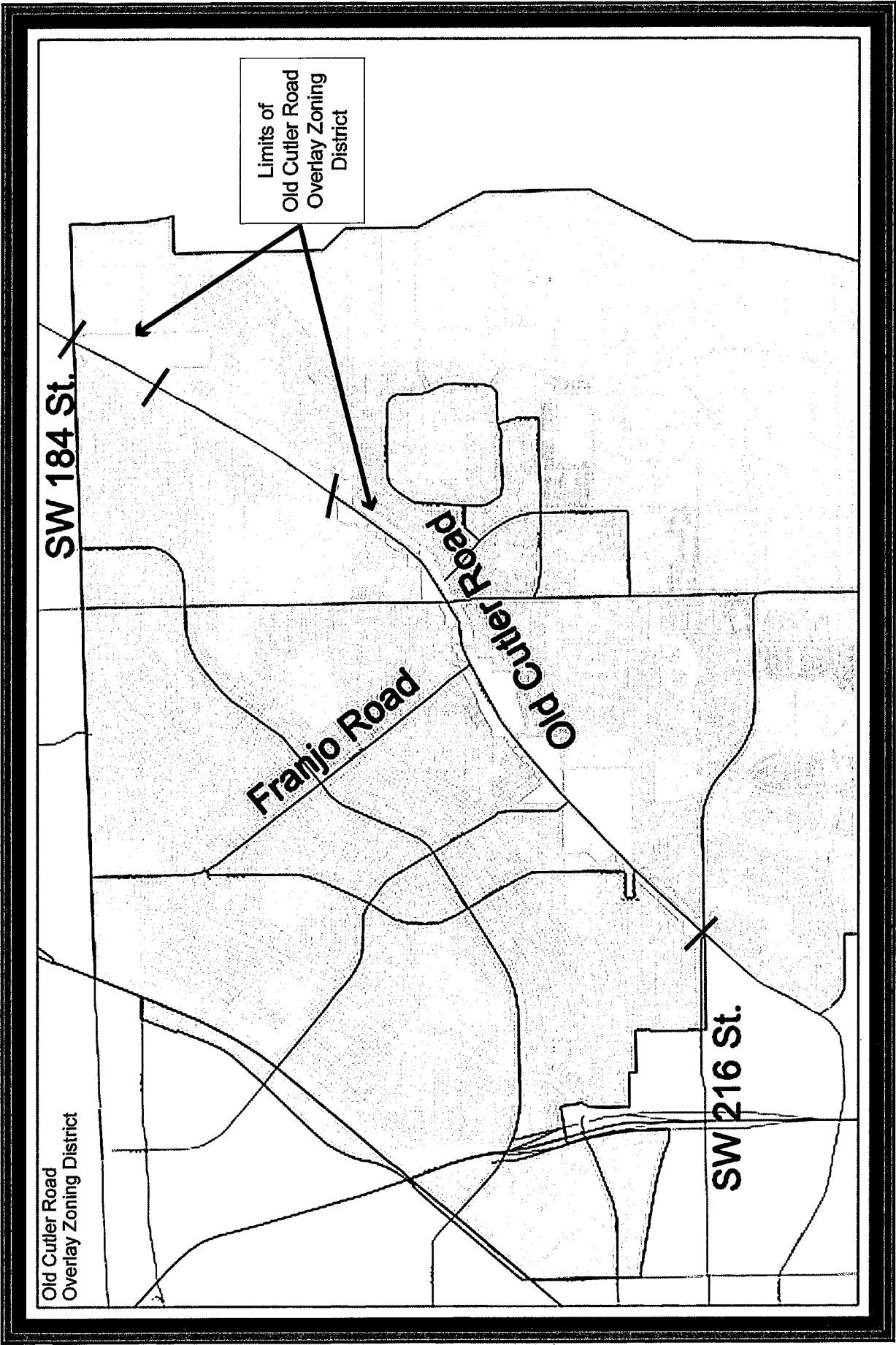


Exhibit A

EXHIBIT "B"

Folio Numbers of Properties Abutting Old Cutler Road Cutler Bay, Florida

3660030010240 Limited to 300' from the right-of-way of Old Cutler Road

	3660090030500	3660090180010	3660080050570
	3660090030510	3660090150370	3660080170090
	3660090030520	3660090150360	3660080050560
	3660090030530	3660090010060	3660080170080
	3660090020050	3660090150010	3660080050550
3660030010280	3660100250480	3660090100210	3660080170070
3660030280640	3660100250420	3660090000141	3660080050540
3660030280630	3660100250410	3660090100100	3660080170060
3660030280620	3660100250400	3660090092500	3660080170050
3660030010272	3660090030210	3660090140910	3660080050620
3660030280610	3660090030220	3660090092510	3660080170040
3660030280600	3660090020460	3660090190480	3660080170030
3660030280590	3660090020170	3660090050010	3660080170020
3660030010231	3660090020160	3660090140910	3660080170010
3660030010250	3660090020320	3660090140850	3660030010080
3660030280580	3660090020330	3660090140840	3660030010190
3660030280570	3660090020340	3660090140830	
3660030280560	3660090030230	3660090190310	
3660030280550	3660090030240	3660090190320	
3660030010251	3660090020350	3660090190330	
3660030280540	3660090020370	3660090190340	
3660030280530	3660090030260	3660090190240	
3660030020020	3660090030270	3660090190250	
3660030280520	3660090030280	3660090190260	
3660030280510	3660090030130	3660090190270	
3660030280500	3660090160010	3660090190280	
3660030280490	3660090030080	3660090190290	
3660030280480	3660090030090	3660090190300	
3660030020060	3660090030100	3660090190480	
3660030020050	3660090030110	3660080150390	
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3660030280440	3660090080014	3660080190070	
3660030280430	3660090080021	3660080050120	
3660030280420	3660090030020	3660080050110	
3660030280410	3660090170010	3660080050100	
3660090030290	3660090030030	3660080050090	
3660090030310	3660090030040	3660080190060	
3660030280400	3660090030060	3660080050080	
3660030280390	3660090030070	3660080050070	
3660030280370	3660090180040	3660080190040	
3660030280360	3660090000090	3660080050610	
3660090030490	3660090000091	3660080190030	
	3660090180030	3660080050600	
	3660090180020	3660080190020	
	3660090150230	3660080050590	
	3660090150240	3660080190010	
	3660090010020	3660080050580	
	3660090150290	3660080170100	