

ORDINANCE NO. 08-06

**AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL
OF THE TOWN OF CUTLER BAY, FLORIDA CREATING
THE PLANNED UNIT DEVELOPMENT DISTRICT;
PROVIDING FOR SEVERABILITY; AND PROVIDING
FOR AN EFFECTIVE DATE.**

WHEREAS, the Town of Cutler Bay (the "Town") Town Council desires that there be high quality aesthetically pleasing well planned developments within the Town that encourage more efficient use of land as well as greater opportunities for housing, employment, and adequate open space; and

WHEREAS, the Town Council finds that it is necessary to adopt a Planned Unit Development district to achieve this goal and to promote flexibility of design and planned diversification and integration of uses and structures; and

WHEREAS, the Town Council finds this Ordinance to be in the best interest and welfare of the residents of the Town.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN
COUNCIL OF THE TOWN OF CUTLER BAY AS FOLLOWS¹:**

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

Section 2. **Planned Unit Development District.** The Town Council hereby creates the Planned Unit Development District as follows:

A. Purpose

1. The purpose of this article is to promote the public health, safety, comfort, order, appearance, convenience and general welfare of the Town.

2. In order to insure that the Growth Management Plan is not frustrated by disorganized, unplanned and uncoordinated development, which would create an undue burden and hardship on the ability of the community to translate this plan into reality, the following objectives are established as the purpose for creating a Planned Unit Development District:

a. To protect the environment and retain natural landscaping; to answer the growing demand for housing of all types and designs; to encourage innovations in residential, retail and

¹ Coding: underlined words are additions to existing text, ~~struck-through~~ words are deletions from existing text, shaded text reflects changes made from First Reading.

mixed use development, with greater variety in type, design and layout of buildings than is generally possible under conventional zoning regulations;

- b. To provide greater opportunities for housing, employment and recreation;
- c. To encourage more efficient use of land and public services;
- d. To provide adequate transportation circulation patterns and prevent the over burdening of existing streets;
- e. To provide for adequate and suitable located open space and recreation areas of a size and type commensurate with the projected population density and nature of the development;
- f. To conserve land values;
- g. To preserve to the greatest extent possible existing landscape and amenities, such as trees, natural terrain, agricultural areas, marshes, mangrove areas, water and beach areas, and other outstanding topographical and geological features.

B. Definitions.

For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1. BUFFER AREA. An open and unobstructed ground area of the plot in addition to any required yards or road widening around the perimeter. Off-street parking is not allowed in a buffer area.
2. GROWTH MANAGEMENT PLAN. The official comprehensive plan, as adopted by the Town Council.
3. GROSS AREA. All of the property within the subject development, including all water area but excluding peripheral strips where dedication will be clearly necessary for the minimum public rights-of-way.
4. MULTI-FAMILY RESIDENTIAL. Structure consisting of three or more residential units.
5. NET AREA. All of the land within the subject development which is build-able for residential units, as diminished by land to be set aside for schools, churches, water areas, retail or office use and public roadways.
6. NODE. Any area of development within the Master Development Plan defined by physical features or natural features.

7. NONRESIDENTIAL USES. Retail and office uses, in accordance with the uses and special uses permitted in subsection C, "Uses", insofar as they do not conflict with the provisions of this section. Public and quasi-public uses which are an integral part of and logically oriented to and coordinated with the total PUD shall also be permitted.

8. OPEN SPACE. A generally unobstructed parcel or area of land permanently dedicated or reserved for the use and enjoyment of owners and occupants of the land within the PUD. Required open space shall be of a pervious nature and shall not be used for private roadways open to vehicular circulation, off-street parking or loading berths. Lakes or other bodies of water areas shall not be counted as required open space.

9. PERMITTED USES. No structure or other uses, except those residential, nonresidential, and accessory and service-oriented uses, as defined in this section, and as approved on the final site plan, shall be erected or maintained in the PUD.

10. PLANNED UNIT DEVELOPMENT (PUD). Generally, an area to be developed as a single entity according to a plan, containing one or more residential clusters and one or more public, quasi-public, commercial or office areas in such ranges of nonresidential uses to residential uses as shall be specified in this section.

11. RESIDENTIAL USES. Dwelling units in detached, semi-detached, attached, duplex, townhouse, garden apartment, and other dwelling unit arrangements.

12. SCREENING.

a. A strip at least 10 feet wide, densely planted (or having equivalent natural growth) with shrubs or trees at least 8½ feet high at the time of planting, of a type that will form a year-round dense screen.

b. An opaque wall or barrier or uniformly-painted fence at least 6 feet high, supplemented with planting on outside when on perimeter.

c. Any other islands, barriers, emplacements, walls, fences, trees, plantings, shrubbery, or other artificial or natural divider strip may be required and/or approved by the Commission in the final site plan.

d. Such screening shall be maintained in good condition at all times, and may have normal entrances and exits, but shall have no signs affixed to or hung in relation to the outside thereof except for the following: For each entrance, one directional arrow with the name of the establishment or development, which shall be non-illuminated.

13. SINGLE-FAMILY RESIDENTIAL. A detached dwelling containing one dwelling unit.

14. SHALL. A mandatory requirement.

15. TOWNHOUSE. Three or more attached units in individual ownership which are independently serviced by separate utility services.

C. Uses

No single use shall exceed 40% of a node except as provided within Miami Dade Chapter 33 zoning regulations.

1. Permitted. The following uses may be approved in mixed use nodes:

- a. Banks, and savings and loan associations.
- b. Private clubs, and community service organizations.
- c. Professional and governmental offices.
- d. Personal service shops.
- e. Retail stores of not more than 10,000 square feet each of floor area, except that 1 supermarket not to exceed 50,000 square feet and a drugstore.
- f. General business offices
- g. Package stores primarily selling alcoholic beverages.
- h. Living quarters for an owner or operator.
- i. Laundry and dry cleaning establishments which:
 - (1) Use only equipment which complies with all applicable state and federal standards;
 - (2) Utilize a total of not more than 5 full or part-time employees;
 - (3) Do not exceed 2,000 square feet in gross floor area;
 - (4) Provide retail, noncommercial service only; and
 - (5) Do not process garments delivered from other laundry or dry cleaning pick-up shops.
- j. Restaurants.
- k. Child care and adult care centers as approved in a site plan.
- l. Bars and cocktails lounges without live entertainment.

m. Uses similar to the above if not specifically prohibited.

n. Uses accessory to any of the above uses.

2. Conditional uses. The following uses may be conditionally approved in mixed nodes.

a. Bars and cocktail lounges conditional with live entertainment.

b. Outdoor displays.

3. Uses prohibited. The following non-residential uses are prohibited in mixed use nodes:

a. Gas Stations.

b. Sale of secondhand merchandise.

c. Eating establishments having curb service.

d. Drive-thru service

D. Location of PUD Districts

A PUD shall be permitted only in the:

a. Old Cutler Charrette Area

b. Mixed use areas

c. Town Center District

E. Site Development Standards

Unless otherwise indicated, in addition to the requirements of the subdivision regulations, compliance with the following standards shall be required:

All site improvements required by this article shall be constructed or installed by the applicant at the applicants expense and be accepted by the relevant utility or town prior to final Certificate of Occupancy.

1. Minimum site area. The required minimum site area for any PUD development shall be five net acres.

2. Height of buildings. No building or structure shall be erected in excess of 45 feet in height except adjacent to residential areas height shall not exceed 35 feet for OCR. Height for mixed use areas and Town Center shall be generated by GMP.

3. Required perimeter building setback. No building shall be located closer than 5 feet to any perimeter property line of a PUD. The perimeter building setback shall be landscaped. In determining the specific perimeter setback requirement for each PUD, the compatibility of adjacent land uses, building heights and any parking structures shall be considered and the required perimeter building setback may be adjusted accordingly.

4. Modified building setbacks. Subject to final PUD site plan approval, building setbacks may be modified. Modified building setbacks shall be set forth on the final PUD or an accompanying recorded document and shall be enforced by the Town. Building setbacks may be modified only in accordance with the following criteria:

a. The modified building setback in residential and mixed-use developments shall comply with any adopted charrette and/or the non-residential design overlay ordinance.

b. The modified building setback shall provide adequate light and air.

c. The location of a modified setback and the compatibility of adjacent uses shall be a factor in granting approval of setback modifications.

d. Building configuration and the relationship between building configuration and privacy, light, air and the compatibility of modified building setback uses shall be factors in granting approval of setback modifications.

e. Fire exposure of proposed PUD buildings, ground floor area of buildings, height of buildings, occupancy usage, type of construction, availability of water for fire flow, and spacing of fire hydrants shall be factors in granting approval of setback modifications.

5. Access

a. All lots shall have access to a public or private street, except dwellings, which need not front on a street but must have access thereto via a court, driveway, or other area maintained for use in common. All streets and driveways shall be improved to Town standards.

b. All structures, regardless of use, shall be readily and easily accessible to police, fire, ambulance or other emergency vehicles, as well as normal delivery and public service requirements.

6. Pedestrian ways. Pedestrian ways or sidewalks, constructed of concrete, tile, paving brick, or other acceptable material, shall provide access from all multi-family structures to require off-street parking.

7. Off-street parking and loading requirements. The off-street parking and loading requirements shall be as contained in the applicable town regulation with regard to off-street parking, landscaping and vehicular use areas.

8. Land coverage. The maximum amount of impervious ground coverage shall not exceed the following limitations:

Residential areas of the PUD — 50%

Office areas of the PUD — 75%

Mixed Use areas of the PUD — 75%

9. Landscaping.

a. All pervious areas shall be landscaped. A minimum of 35 trees per acre of total site area shall be provided prior to the issuance of the certificate of occupancy. Landscaping shall be well maintained and a sprinkler system for the irrigation of trees and other landscaped features shall be provided.

b. A buffer area with screening shall be included on the perimeter of a nonresidential area whenever it adjoins residential land around the perimeter of the PUD.

10. Land dedication requirements.

a. The PUD applicant for a residential and/or mixed-use development shall dedicate land or pay a fee in lieu of land dedication to the Town for park purposes. The land dedication or fee in lieu thereof shall be determined pursuant to the provisions of LOS standards within the GMP. Land dedicated within the PUD shall qualify as required open space.

b. The PUD applicant shall dedicate land or pay a fee in lieu of land dedication, as may be required by the Town Council, for Administrative Facilities. Administrative Facilities include but are not limited to fire stations, police stations, libraries, community centers, government offices or public utilities. Land dedicated for Administrative Facilities shall, whenever possible, be strategically located and consolidated. Land dedicated for community facilities shall not be included as part of the required open space. Land dedication for community facilities which otherwise qualifies shall be included in the calculation of gross area for purposes of maximum density. The amount and location of land to be dedicated shall be determined by the Town Council as part of the final PUD plat approval or site phasing plan approval. The determination shall be based on the need for community facilities resulting from the size, location and impact of the proposed PUD, including projected PUD phases. Community facilities shall be architecturally compatible with the surrounding structures and shall be heavily buffered with landscaping.

11. Location requirements.

a. Relation to transportation facilities. A PUD shall be located with respect to arterial streets, local roads or other transportation facilities so as to provide direct access there from to the PUD without creating additional traffic along minor local streets not within the PUD.

b. Relation to utilities. A PUD shall be located in relation to existing sanitary sewers, waterlines, storm and surface drainage systems and other utilities systems such that neither extension nor enlargement of such systems will be required in degree or time that will result in net public cost higher than or the incurrence of public cost earlier than would development of the area as otherwise permitted.

c. Relation to public facilities. A PUD shall be located with respect to schools, parks, playgrounds and other public facilities so as to have access in the same degree as would development of the area as otherwise permitted.

d. Locational deficiencies. An applicant may cure locational deficiencies by either providing street, sewer, water, utility drainage or other improvements at its own cost or by agreeing with the Town to fund all or part of the cost of such improvements, the effect of either of which shall be to offset fairly and equitably any higher net public cost resulting from the impact of the PUD or to cure the locational deficiencies. In any computations of additional net public costs, the differences between otherwise anticipated public costs and PUD impact costs, and otherwise anticipated public revenue and PUD impact revenues shall be considered, among other factors. The Town Council may require expert determination and analysis of public cost and revenues and PUD impact thereon. The experts shall be selected by the Town and may be Town staff, and the cost of the determination and analysis shall be paid by the applicant.

e. Non-progressive development. The proposed PUD shall not be located in relation to other developed areas of the Town such that leapfrog or non-progressive development results.

12. Perimeter requirements.

a. The perimeter of the PUD shall combine uses and buffer techniques to create a transitional separation between surrounding existing uses and the proposed development.

b. Whenever a PUD adjoins an existing single-family use or district, the buffer should include an open space area or section of single-family uses in the section of the PUD perimeter which adjoins the single-family district, in addition to the setback requirements above.

c. Whenever a PUD adjoins an existing residential use or district, and the perimeter uses of the PUD are other than single-family dwelling units, the PUD perimeter should include appropriate buffer or screening where it adjoins the off-site residential use or district.

d. Whenever a PUD adjoins an existing nonresidential use or district, the perimeter should be designed in such a manner as to shield adjacent residential sections of the PUD from such uses through appropriate screening.

e. Within a PUD, compatibly designed buffer and screening methods should be used, wherever appropriate.

13. Open space requirements. A PUD shall permanently provide open space for its residents, and such open space shall be not less than 40 percent of the gross area of the PUD. Open space.

a. Open space shall comprise at least 40%, 30% of which must be consolidated open space within the PUD. The minimum acreage in open space shall be determined by multiplying the gross area of the proposed PUD by 40%.

b. Areas considered to be of, or have a significant natural character or quality, such as mangroves, wooded areas, or other significant natural features shall be specifically identified and included in required open space areas, to the fullest extent possible.

c. Open space not required to be contiguous shall be distributed as proportionately as possible throughout the PUD, except those previously-identified natural areas, giving consideration to the relation of the open space to the dwelling units of the residents the open space is intended to serve. Large open spaces should be enhanced or linked by walkways or greenway systems.

(1) Inclusions. The following types of facilities for uses may be considered as open space for the purposes of fulfilling the open space requirement, provided that these inclusions do not alter or affect the definition of maximum allowable density:

- a. Recreation facilities, swimming pools, tennis courts and similar facilities.
- b. Streams, fountains and other surface water areas located within the PUD which:
 - i. Are designed in an environmentally acceptable manner and do not adversely affect existing native vegetation and valuable natural ecosystems;
 - ii. Do not result in inadequate recreational opportunities in terms of the PUD as a whole; and
 - iii. Are determined to be of substantive benefit to the residential portion of development of the PUD.
- c. Mangrove areas and other areas of environmental sensitivity which are reserved in perpetuity against future development.
- d. Common areas and parks.
- e. Private yards assigned to a particular dwelling.

f. Areas or facilities similar in purpose and effect to the above-listed areas and facilities.

(2) Exclusions. Areas that shall not be considered as open space include but are not limited to parking areas or structures, rights-of-way, streets, swales, non-recreational buildings, and recreational facilities operated primarily as commercial enterprises open to the general public.

(3) Maintenance. All open space shall be maintained in a neat and orderly appearance, and kept free of refuse and debris. Open space may be maintained in a natural condition when so designated and approved by city council.

14. Encroachments on or in street rights-of-way.

a. Facilities for utilities, including but not limited to power and light, cable television, telephone and telegraph, water, sewer and gas utilities, shall be constructed and installed beneath the surface of the ground.

b. The applicant shall make the necessary cost and other arrangements for such underground installation with the appropriate utility provider.

c. The Town Council may modify any of the provisions of this section on its own initiative or upon application from a utility or the applicant whenever the property to be platted hereunder is of such size or shape or is affected by such geographical location, subsurface or topographical conditions that it is impractical or economically unfeasible to conform to the strict application of the requirements of this section.

d. Facilities for utilities shall be constructed in appropriate easements except water and sewer utilities which shall be constructed in the right-of-way, whenever possible.

15. Drainage.

a. Permits. No applicant or other person shall construct, deepen, widen, fill, reroute or alter any existing drainage way, ditch, drain or canal within or serving the PUD without first obtaining a permit from the Town and all other governmental bodies requiring permits.

b. Rights-of-way and easements. Whenever any drainage way, stream, surface drainage course or retention basin is located or planned to be located within a PUD, the applicant shall dedicate all necessary easements and rights-of-way and provide for the perpetual maintenance of the drainage improvements.

c. Stormwater. Stormwater shall be drained from the PUD by methods employing engineering practices acceptable to the Town. No net increase or runoff from conditions prior to construction shall be allowed to flow from the site.

d. Contour map and drainage of adjacent areas. A contour map shall be prepared and submitted by a state-registered land surveyor or engineer for the area within the PUD and such additional areas as may be required by the city necessary to include all watersheds which drain into or through the property to be developed. The design for drainage of the PUD must be adequate to provide for drainage of adjacent watershed areas after complete development of the total area. The applicant shall dedicate all necessary easements and rights-of-way for watershed drainage and provide for the perpetual maintenance of the watershed drainage improvements.

e. Drainage. The applicant shall coordinate all drainage both on and off the site with the Town's Public Works Director and all other agencies having jurisdiction.

16. Circulation and parking.

a. Clearly define vehicular circulation system which allows free movement within the proposed PUD, while discouraging excessive speed.

b. Separate pedestrian and vehicular circulation systems

c. Streets must comply with all applicable codes and ordinances and ensure pavement widths and access points to peripheral streets are adequate to serve the proposed PUD and compatible and functional with circulation systems outside the PUD.

d. Provide adequate lighting to serve public use.

e. Dwelling units should be located on residential streets or courts which are designed to discourage non-local through traffic, wherever possible.

f. Off-street parking areas should be adequate to accommodate maximum vehicle storage demands for the proposed PUD, and located and designed to create compatible visual relationships.

g. Provide safe and efficient access to all areas of the proposed PUD for emergency and service vehicles.

F. Design standards

1. A PUD shall be consistent with the Growth Management Plan.

2. A PUD shall be consistent with the Overlay District, i.e. Old Cutler Overlay District, Non-residential design standards.

a. Generally. The width, grade and general location of all streets shall conform with the Growth Management Plan, existing and planned streets, topographical conditions, public convenience, safety, and the proposed uses of the land to be served by the streets.

b. Adjoining street systems. The arrangement of streets in a PUD shall provide for the continuation of existing streets in adjoining areas as necessary.

c. Rights-of-way: Rights-of-way shall be as shown on the PUD Site Plan and shall be not less in width than the following:

(1) Arterial, 100 feet.

(2) Collector, 60 feet.

(3) All other streets, 50 feet with on street parking to 40 feet with out on street parking.

3. Alleys. New alleys shall be permitted to provide additional means of service access, or for off-street loading, unloading and parking for the uses proposed. Within 24 foot right of way, with a minimum improved travel lane of 10 feet per lane.

4. Easements. Easements shall be provided for utilities where necessary and shall be at least 12 feet wide across lots and, where possible, shall be centered on lot lines. Easements 6 feet wide may be provided for underground utilities across that portion of the lot adjacent to a street. To the extent feasible service connections shall be made from easements located along rear property lines.

G. Special conditions

The development parameters set forth in this division may be reasonably modified where the conditions and designs are such that modification is necessary in the determination of the Town Council, after receiving a recommendation from the Planning Director. Any modification shall require evidence of the necessity for the modification and the resulting impact of the modification.

H. Planned unit development General Provisions

Mixed-Use nodes. All mixed use node uses must be approved in accordance with special standards set forth in this article.

1. Design requirements. Mixed Use nodes shall conform to the following requirements:

a. Development of mixed use nodes shall be phased so that Non-residential development shall be limited to 25 percent of the total. 10 percent of the residential units in the PUD must be constructed before final building approval for an additional increment of Non residential development shall be permitted.

b. The area which is proposed for the mixed node shall contain sufficient width and depth to adequately accommodate the proposed uses and shall be conducive to the clustering of the buildings.

c. No building or structure with a floor area of less than 2,000 square feet is permitted.

d. Structures in a mixed use node shall not exceed 45 feet in height except adjacent to residential areas height shall not exceed 35 feet.

2. Approval of proposed development. The proposed development of the mixed use node; the size, nature and type of buildings; the architectural design, landscaping and appointments; the business sign to be adopted and the exterior lighting to be utilized shall be subject to the approval of the Planning Director.

3. Buffering of residential, open space area. The surrounding residential or open space areas shall be buffered from the mixed use node.

I. Site Plan Approval Process

Contents, processing of application:

1. A PUD Site plan application, including a phased development plan, shall follow the same requirements and procedures for site plan approval as provided in Ordinance No. 07-04.

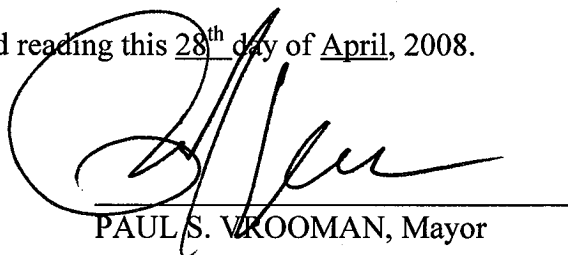
Section 3. Severability. If any section, clause, sentence, or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

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 18th day of April, 2008.

PASSED AND ADOPTED on second reading this 28th day of April, 2008.



PAUL S. VROOMAN, Mayor

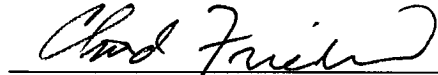
Attest:


ERIKA GONZALEZ-SANTAMARIA, CMC

Town Clerk



APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE TOWN OF CUTLER BAY ONLY:


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

Moved By: Councilmember Sochin
Seconded By: Councilmember Bell

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman	<u>YES</u>
Vice Mayor Edward P. MacDougall	<u>YES</u>
Councilmember Peggy R. Bell	<u>YES</u>
Councilmember Timothy J. Meerbott	<u>YES</u>
Councilmember Ernest N. Sochin	<u>YES</u>