CITY OF MIAMI GARDENS
ZONING AGENDA

Meeting Date: April 7, 2010
1515 NW 167th St., Bldg. 5, Suite 200,
Miami Gardens, Florida 33169
Phone: (305) 622-8000 Fax: (305) 622-8001
Website: www.miamigardens-fl.gov
Time: 7:00 p.m.

Mayor Shirley Gibson
Vice Mayor Aaron Campbell Jr.
Councilwoman Barbara Watson
Councilman André Williams
Councilman Melvin L. Bratton
Councilwoman Sharon Pritchett
Councilman Oliver G. Gilbert III
City Manager Dr. Danny O. Crew
City Attorney Sonja K. Dickens
City Clerk Ronetta Taylor, MMC

City of Miami Gardens Ordinance No. 2007-09-115, requires all lobbyists before engaging in any lobbying activities to register with the City Clerk and pay an annual fee of $250.00. This applies to all persons who are retained (whether paid or not) to represent a business entity or organization to influence "City" action. "City" action is broadly described to include the ranking and selection of professional consultants, and virtually all-legislative, quasi-judicial and administrative action. All not-for-profit organizations, local chamber and merchant groups, homeowner associations, or trade associations and unions must also register however an annual fee is not required.

1. CALL TO ORDER/ROLL CALL OF MEMBERS:

2. INVOCATION:

3. PLEDGE OF ALLEGIANCE:

4

4. APPROVAL OF MINUTES:

4-A) March 3, 2010 – Regular Zoning Minutes

5. AGENDA ORDER OF BUSINESS (ADDITIONS/DELETIONS/AMENDMENTS) BUSINESS (Items shall be pulled from the Consent Agenda at this time):

6. PRESENTATION(S)

7. CONSENT AGENDA
None

8. FIRST READING (ORDINANCE)/PUBLIC HEARING(S)
None

9. ORDINANCE(S) SECOND READING/PUBLIC HEARING(S)
None

10. ORDINANCE(S) FOURTH READING/PUBLIC HEARING(S)

10-A) AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, ADOPTING THE CITY'S LAND DEVELOPMENT REGULATIONS, ATTACHED HERETO AS EXHIBIT "A;" PROVIDING FOR GENERAL PROVISIONS; PROVIDING FOR ADMINISTRATION; PROVIDING FOR CONCURRENCY MANAGEMENT AND IMPACT FEES; PROVIDING FOR ALCOHOLIC BEVERAGE REGULATIONS; PROVIDING FOR HOUSING REGULATIONS; PROVIDING FOR FLOODPLAIN MANAGEMENT REGULATIONS; PROVIDING FOR SUBDIVISION AND PLAT REGULATIONS; PROVIDING FOR PERMITTED USES; PROVIDING FOR DEVELOPMENT STANDARDS; PROVIDING FOR ACCESSORY USES; PROVIDING FOR OFF-STREET PARKING AND VEHICULAR CIRCULATION STANDARDS; PROVIDING FOR DESIGN STANDARDS; PROVIDING FOR LANDSCAPE AND BUFFERING STANDARDS; PROVIDING FOR SIGNAGE REGULATIONS; PROVIDING FOR CERTAIN DISTRICTS; PROVIDING FOR DEFINITIONS; PROVIDING FOR MASTER USE LIST AND MASTER USE DEFINITIONS; PROVIDING FOR OFFICIAL ZONING MAP, ATTACHED HERETO AS EXHIBIT "B;" PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES AND RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.. (SPONSORED BY THE CITY MANAGER)

11. RESOLUTION(S)/PUBLIC HEARING(S):
None

12. CITY MANAGER'S REPORT
None

12. ADJOURNMENT

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, ALL PERSONS WHO ARE DISABLED AND WHO NEED SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THIS MEETING BECAUSE OF THAT DISABILITY SHOULD CONTACT RONETTA TAYLOR, CITY CLERK (305) 622-8003, NOT LATER THAN 48 HOURS PRIOR TO SUCH PROCEEDING. TDD NUMBER 1-800-955-8771.

ANYONE WISHING TO OBTAIN A COPY OF ANY AGENDA ITEM MAY CONTACT RONETTA TAYLOR, MMC, CITY CLERK (305) 622-8003.

ANYONE WISHING TO APPEAL ANY DECISION MADE BY THE CITY OF MIAMI GARDENS WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING WILL NEED A RECORD OF THE PROCEEDINGS AND, FOR SUCH PURPOSE, MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

Please turn-off all beepers and cellular telephones to avoid interrupting the council meeting.

City of Miami Gardens
Agenda Memo

Council Meeting Date:	April 7, 2010		**Item Type:**	**Resolution**	**Ordinance**		**Other**	
					X			
Fiscal Impact: *(Enter X in box)*	Yes	No	**Ordinance Reading:**		**1st Reading**		**Final Reading**	
							X	
		x	**Public Hearing:** *(Enter X in box)*		**Yes**	**No**	**Yes**	**No**
					X			
Funding Source:	N/A		**Advertising Requirement:**		**Yes**		**No**	
					X			
Contract/P.O. Required:	Yes	No	**RFP/RFQ/Bid #:**					
		X						
Sponsor Name	Dr. Danny Crew, City Manager		**Department:**		Planning and Zoning			

Short Title:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, ADOPTING THE CITY'S LAND DEVELOPMENT REGULATIONS, ATTACHED HERETO AS EXHIBIT "A;" PROVIDING FOR GENERAL PROVISIONS; PROVIDING FOR ADMINISTRATION; PROVIDING FOR CONCURRENCY MANAGEMENT AND IMPACT FEES; PROVIDING FOR ALCOHOLIC BEVERAGE REGULATIONS; PROVIDING FOR HOUSING REGULATIONS; PROVIDING FOR FLOODPLAIN MANAGEMENT REGULATIONS; PROVIDING FOR SUBDIVISION AND PLAT REGULATIONS; PROVIDING FOR PERMITTED USES; PROVIDING FOR DEVELOPMENT STANDARDS; PROVIDING FOR ACCESSORY USES; PROVIDING FOR OFF-STREET PARKING AND VEHICULAR CIRCULATION STANDARDS; PROVIDING FOR DESIGN STANDARDS; PROVIDING FOR LANDSCAPE AND BUFFERING STANDARDS; PROVIDING FOR SIGNAGE REGULATIONS; PROVIDING FOR CERTAIN DISTRICTS; PROVIDING FOR DEFINITIONS; PROVIDING FOR MASTER USE LIST AND MASTER USE DEFINITIONS; PROVIDING FOR OFFICIAL ZONING MAP, ATTACHED HERETO AS EXHIBIT "B;" PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES AND RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

Staff Summary:

Background

At the meeting on January 6, 2010, and at meeting of February 3, 2010, the Council, by votes of 7-0, moved the proposed Ordinance for final adoption. The Council requested revisions be made to the provision of allowing the administrative extension of hours of operation of establishments with the sale of alcoholic beverages be applicable to all businesses, and also, that the notification for variances or waivers for single family residences be made to abutting property owners. At the March 3, 2010 meeting, the final reading of the Ordinance was deferred at the request of City staff to allow for the concerns and questions of certain property owners and attorneys to be considered and addressed. Several meetings with City staff and those interested parties were held and staff has received verbal and written comments regarding the proposed LDR document.

Current Situation

The proposed LDRs are being presented to Council for final adoption. The LDR document remains intact in substance and content except for revisions made accordingly to address issues raised by Council concerning the extension of hours of operation and the notification for variances and waivers for single family residences. In addition, the LDRs have been revised to address certain comments and concerns of the interested parties and attorneys raised during the series of meetings and from the written submission of comments. A summary of the comments and concerns with City staff's response is included with the attached Executive Summary. The attached LDRs are presented in its' entirety, reflecting the substantive revisions that have been made. (strike-outs representing deletions, and underlines representing additions)

Proposed Action:

City Staff recommends Council approval of the Land Development Regulation Ordinance.

Attachments:

- Exhibit "A", Land Development Regulations
- Exhibit "B" Executive Summary
- Exhibit "C" Zoning Map

ORDINANCE NO. 2010____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, ADOPTING THE CITY'S LAND DEVELOPMENT REGULATIONS, ATTACHED HERETO AS EXHIBIT "A;" PROVIDING FOR GENERAL PROVISIONS; PROVIDING FOR ADMINISTRATION; PROVIDING FOR CONCURRENCY MANAGEMENT AND IMPACT FEES; PROVIDING FOR ALCOHOLIC BEVERAGE REGULATIONS; PROVIDING FOR HOUSING REGULATIONS; PROVIDING FOR FLOODPLAIN MANAGEMENT REGULATIONS; PROVIDING FOR SUBDIVISION AND PLAT REGULATIONS; PROVIDING FOR PERMITTED USES; PROVIDING FOR DEVELOPMENT STANDARDS; PROVIDING FOR ACCESSORY USES; PROVIDING FOR OFF-STREET PARKING AND VEHICULAR CIRCULATION STANDARDS; PROVIDING FOR DESIGN STANDARDS; PROVIDING FOR LANDSCAPE AND BUFFERING STANDARDS; PROVIDING FOR SIGNAGE REGULATIONS; PROVIDING FOR CERTAIN DISTRICTS; PROVIDING FOR DEFINITIONS; PROVIDING FOR MASTER USE LIST AND MASTER USE DEFINITIONS; PROVIDING FOR OFFICIAL ZONING MAP, ATTACHED HERETO AS EXHIBIT "B;" PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES AND RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Miami Gardens is currently administering zoning, land development and construction regulations under the Miami-Dade County Code of Ordinances, and

WHEREAS, it is the desire of the City Council to adopt its own Land Development Regulations to ensure that future development and redevelopment within the City of Miami Gardens is architecturally and aesthetically pleasing and in line with the policies adopted by the City's Comprehensive Development Master Plan (CDMP), as well as to promote public health, safety and welfare, and

WHEREAS, City Staff along with City planning consultants, the Mellgren Planning Group (MPG), have drafted Land Development Regulations to be implemented throughout the City of Miami Gardens,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

Section 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

Section 2. ADOPTION OF LAND DEVELOPMENT REGULATIONS: The City Council of the City of Miami Gardens hereby adopts those certain Land Development Regulations attached hereto as Exhibit “A” and incorporated herein by reference.

Section 3. CONFLICT: All Ordinances or Code provisions in conflict herewith are hereby repealed.

Section 4. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 5. INCLUSION IN THE CODE: It is the intention of the City Council of the City of Miami Gardens, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Miami Gardens, that the Sections of this Ordinance may be remembered or re-lettered

or the word Ordinance may be changed to Chapter, Section, Article or any other such word or phrase, the use of which shall accomplish the intentions herein expressed, provided however, that Section 1 hereof of the provisions contemplated thereby shall not be codified.

Section 6. EFFECTIVE DATE: This Ordinance shall become effective immediately upon its final passage.

PASSED ON FIRST READING ON THE 6th DAY OF JANUARY, 2010.

PASSED ON SECOND READING ON THE ____ DAY OF _____, 2010.

PASSED ON FINAL READING ON THE _____Day of _____2010

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE ___ DAY OF _____, 2010.

_____
SHIRLEY GIBSON, MAYOR

ATTEST:

_____
RONETTA TAYLOR, MMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, CITY ATTORNEY

SPONSORED BY: DANNY CREW, CITY MANAGER

Moved by: _____
Second by: _____

VOTE: _____

Mayor Shirley Gibson	____ (Yes)	____(No)
Vice Mayor Aaron Campbell	____ (Yes)	____(No)
Councilman Melvin L. Bratton	____(Yes)	____(No)
Councilman Oliver Gilbert, III	____ (Yes)	____(No)
Councilman Andre' Williams	____(Yes)	____(No)
Councilwoman Sharon Pritchett	____ (Yes)	____(No)
Councilwoman Barbara Watson	____ (Yes)	____(No)

EXHIBIT "B"
EXECUTIVE SUMMARY

City of Miami Gardens
Executive Summary
Adoption of Land Development Regulations
Final Reading – April 7, 2010

At the Zoning Board meeting of February 3, 2010 City Staff and the City's consultant, The Mellgren Planning Group (TMPG), presented the proposed Land Development Regulations (LDRs) on second reading outlining the revisions that were made from the discussions of the Council from the first reading that occurred January 6, 2010.

The following is a summary of the issues discussed by Council at the Second Reading and addressed for Final Adoption:

- Amended public hearing notification process in an effort to reduce costs to single family property owners seeking variances and waivers by providing mailed notices to only abutting property owners. The procedure of a legal advertisement in newspaper of general circulation remains for noticing the public in general.
- Amended the administrative variances section of the Code to allow for the administrative extension of the hours of operation of up to two (2) additional hours for all business establishments where the City regulates hours of operation.

At the March 3, 2010 Zoning Board meeting the LDRs were deferred by the Council at the recommendation of staff to allow for additional time for property stakeholders in the City's industrial areas to review the LDRs and allow staff to respond to their concerns accordingly.

The following is a summary of the issues of concern of the industrial property stakeholders:

- The requirement to comply with the new landscape requirements after five (5) years of adoption of the LDRs and the costs and procedures for compliance.
- Vested rights and keeping of previous approvals granted by the County and City prior to the new LDRs.
- Non-conforming uses and buildings and how they will have to comply with the new LDRs.

These concerns are documented in the attached Summary of Meetings which provides additional details of the concerns of the industrial property owners and as well other persons with property interests within the City. The Summary contains staff's response to the concerns and issues raised.

Staff has addressed the concerns and issues as follows:

In response to the concerns and issues raised at the series of meetings and response to the written comments received, where appropriate, revisions and clarifications have been made to the LDRs as indicated by underscores for additions, and strikeouts for deletions. A few of the substantive revisions are:

- Adding provisions to modify conditions of previously approved Declaration of Restrictive Covenants, and to release Covenants in event a vested rights is not obtained.
- Revisions to clarify and ascertain that previous approval granted shall remain in full force and effect after the adoption of the LDRs.
- Clarifications to the "purpose and intent" sections for vested rights and non-conforming uses to ascertain that landscaping are only vested or remain legally non-conforming for five (5) years after adoption of the LDRs.
- Clarification that the expiry of a development approval, if not acted upon, after three (3) years does not include re-zoning or land use amendments.
- Requiring the buffering knee wall only along parking areas abutting major, minor, and collector roadways. The knee wall would not be required where parking areas abut local streets.

Attachments:

- Summary of discussion from meetings

LAND DEVELOPMENT REGULATIONS (Code)

SUMMARY OF DISCUSSION FROM MEETING FEB. 23, 2010

Concern that no noticed of the adoption of the Code was given; in particular no notice was found in the Miami Herald Neighbors section.

- City staff explained that the adoption was noticed in the Miami Herald Neighbors section for first reading and for the third reading in compliance with the required statutes for advertising and noticing. City Clerk can provide confirmation of these notices. It was acknowledged that no courtesy notice was given to the stakeholders in the room, but that we are always willing to listen and meet to discuss issues or concerns, point to fact; the meeting at hand was pointed out as our interest in responding to concerns.

Requested that the Code be deferred to allow time for all involved to review the Code; in particular is would be much more difficult to deal with these concerns after the Code was adopted.

- It was explained that the Code was a "fluid" document, that it was not "etched" in stone. We acknowledged that as we use the Code that we may find we will have to revisit certain provisions and regulations and make necessary adjustments, as we did with the sign code. (For the record, the Sign Code was amended on March 11, 2009 with requested consideration for industrial area signage.) We further explained that the City's consultant took extra precaution to advise Council that the Code is something that is continually being developed and periodically amended to adjust to varying circumstances. This condition is normal and expected for the natural progression of a Code.
- City staff explained one of the constraints driving the adoption schedule was the two (2) moratoriums that were about to expire. Staff explained what these moratoriums were and that Council had already extended them to accommodate the adoption of the Code.
- At the conclusion of the meeting City staff indicated that direction would be sought from the City Attorney on whether the Code could be deferred. The group present would be advised of that decision, as well as be advised of the impact of such action

Concern that there was no "grandfathering" clause in the Code.

- It was explained that though the word "grandfathered" is not used in the Code, the entire section dealing with non-conforming uses is in fact dealing with "grandfathering" of uses and structures. Staff further explained the non-conforming regulations, and explained that the new Code is in fact, more liberal in dealing with non-conforming uses than the current Miami-Dade Code under which the City is operating. Staff explained the 25% increase in gross floor area regulations and how it is applied to the new Code requirements. Staff further explained the *Certificate of Non-Conformity* process, stressing that properties can obtain status of legally non-conforming with improvements "to the best extent possible" which would be limited to physical constraints, the creation of another Code deficiency, and a financial burden on the property owner for compliance.

Concern that the Certificate of Non-Conformity should be called Certificate of Compliance for purposes of letters to lending institutions etc.

- Staff explained that the City would consider changing the name of the certificate. One of the attorneys in attendance commented after the meeting that it may not be appropriate for the certificate to be called one of "compliance" because it actually is establishing legally non-conforming uses. Staff agreed that this issue would be further looked into and we would advise accordingly.

Concern that parking lots and drive aisles would have to comply with new code requirements, in particular driveways were built at 22 foot widths and new Code requires 24 foot widths.

- It was explained that unless an improvement to the property was being made beyond 25% of the gross floor area, the compliance to new Code requirements would not be required, including the parking and driving aisles. Staff further explained that the compliance would be to the "best extent possible" and can be complied with by obtaining a Certificate of Non-Conformity. City staff stressed that the new Code does not require any improvement, other than landscaping, to be complied with if the development is legally non-conforming prior to the adoption of the Code and compliance to the new Code requirements is only if the structure is improved more than 25% of the original gross floor area.

Concern that it will be costly to comply with the new landscape requirements in 5 years; in particular the cost of the trees and the cost of plans for submittal. It was suggested that the City should include provisions similar to the county whereby the provision of street trees would be sufficient to complete required upgrades for compliance.

- Staff explained that the landscape requirements are the only regulations required to be complied with by all property owners within 5 years of adoption of the LDRs. Staff further explained that the compliance would be subject to the "best extent possible" principle and limitations on physical constraints, compliance resulting in further deficiencies of the Code, and financial burden for compliance. Staff again explained that compliance to the landscape regulations could be met with a Certificate of Non-Conformity.
- On the concern of the cost of the trees for compliance, Staff explained that if the property was already improved the way it was approved with street trees and shade trees and the replacement or addition of trees to comply with the new Code would be a financial burden, then the principle of the "best extend possible" would apply. We used an example that if Oak trees were planted and spaced 30 feet on center and the new Code requires Royal Palms spaced 25 feet on center, that this would be considered compliance to the "best extent possible" because the cost of the removal of Oaks and cost of planting Royal Palms would be a financial burden for the minimal benefit that would be gained. Staff did explain though, that if there were no trees planted, the requirement to plant trees as required by the new Code would apply.
- On the concern of the cost and requirement of the plans submittal to comply with the landscaping requirements Staff explained that the requirements are not less than what is

currently required. It was agreed to review the submittal requirements to see if there were any changes that could be made to lessen the burden on cost of submitting for landscape approval. Many owners have as-built surveys that can provide the basis for landscape compliance. Staff would consider applying the same and lesser submittal requirements for single family uses to the industrial uses but would have to check with Public Works if that is possible.

- Staff has reviewed the submittal requirements for obtaining a permit to install landscaping as it applies to industrial properties. It has been determined that the requirement of professional prepared plans and surveys is necessary due to the many variables that must be reviewed in issuing a landscape permit. When dealing with industrial, commercial or multi-family properties the technical detail required can only be provided by a licensed professional. Before a permit can be issued consideration must be given to calculations of canopy sizes, tree replacements and relocation, invasive species, specimen trees, overhead and underground utilities, sight distance triangles, and irrigation installation, and other technical requirements. A licensed professional can prepare plans accordingly, and as required by the current and the proposed Code, can certify the installation of landscaping and irrigation is in accordance to plans and the specifications.

Concern that the landscape requirements in the industrial areas have been increased from just 4 trees per acre to 28 trees per acre under the new code and their lack of ability to comply because trees would be required every 3 feet. There was also a concern about the requirement of shrubs and wall requirements and the impact on security in the industrial park

- City Staff agreed to review the tree requirements of the new Code. Upon review after the meeting, the Miami-Dade Code requires between 15 to 22 trees per acre (varying by Industrial zoning category). The City's proposed Code requires 28 trees as recommended by our Public Works Department and consistent with commercially and multi-family zoned developments. The requirement for the 28 trees is for shade trees which are spaced throughout the property and in the landscape islands of the parking areas. This requirement is not the street tree requirement. The street tree requirement is based on street frontage of the property and the number of trees is limited to one for every 25.0' of frontage. The two requirements are separate and calculated differently.
- Staff responded to the concern of the hedge and wall requirement that the Code would require a knee wall along with landscaping on parking areas abutting the road. It was explained that the wall was a short wall and could be fragmented allowing visibility to the property but shielding the parking. It was suggested the design sought could be viewed at the Stadium Corners shopping center and the new Credit Union building on 441.

Concern <u>and question</u> about the specific landscape requirements and if provided in the new Code.

- Staff explained that a draft City Landscape Manual would be available in approximately 30 days <u>after adoption</u> and would include criteria and details regarding species, sizes, planting, a etc.

LAND DEVELOPMENT REGULATIONS (LDRs)
SUMMARY OF DISCUSSION FROM MEETING 03/04/2010

Concerns about legally non-conforming uses, conforming uses, and compliance.

- Staff explained, as from the first meeting, that all uses not in compliance with the new LDRs will become legally non-conforming and can maintain that status up to, and until, any expansion of the gross floor area beyond 25% of the existing gross floor area.; at which time the site and building must be in compliance with the new LDRs regulations.
- Staff stressed that the difference between the City's proposed LDRs and the current Miami-Dade Code is that under the current Miami Dade code, if a property owner could not conform to the new regulations for the site, variances and waivers would have to be sought from the Council. Under the proposed LDRs the process of a certificate of non-conformity could be obtained on the basis that the building and site complies up to the best extent physically possible and/or the financial hardship for compliance outweigh the benefit of conforming.
- Staff clarified that most properties in the City are already legally non-conforming due to changes and updates in the Miami Dade code. Therefore, the situation is no different for any property owner, except that the City is attempting to reduce the obstacles for compliance and encourage development.
- It was clarified that the certificate of non-conformity is not a variance or waiver, but allows the property owner to move forward on development under the status of a legally non-conforming use, with only the new expansion needing to be in compliance.
- Staff again stressed that much of the thoughts and suggestions made at the meeting were incorporated into the proposed LDR's based on input obtained at the Technical Advisory Group meetings.
- Staff explained that it is in the City's interest to have expansion and development as the City benefits from such activities. Therefore, the intent of the LDR document is to encourage development rather than put regulations in place that would discourage such development.

Question on whether properties will be required to be in compliance with the landscape requirements of the new LDRs.

- Staff clarified that compliance would only be required for landscaping within the five (5) year amortization period, but again, stressed that even then compliance can be met to the "best extent physically possible" or the "financial hardship outweigh the benefit of compliance" through the certificate of non-conformity process.

Suggested that we continue under Miami Dade code for the existing developments going forward.

- Staff responded that continuing with the Miami Dade code was not the intent or of the best interest to the City.

Concern that the determination language in the LDR's "to the best extent physically possible" and "financial hardship" were arbitrary, and if there was a change in City officials that measure could

become more stringent; and it was suggested that a definite number or percentage of compliance should replace the "best extent possible" and "financial hardship" clauses.

- Staff explained that setting definite numbers and percentages etc. will only restrict the process of compliance because any small shortfall of those definite regulations would require a variance or waiver; something the City was attempting to avoid. It was explained that in any event where compliance could not be met, and staff had determined compliance is possible there are still two options for a property owner: file for administrative variance or waiver; or file an appeal of the administrative decision.

Question of whether expansion of square feet was cumulative and how it triggers compliance.

- Staff explained that the expansion or enlargement is cumulative. For example, if 10,000 square feet were added to a 100,000 sq.ft. building, then another 10,000 square feet were to be added, then once an additional 5,000 square feet were added that would be a cumulative expansion of 25,000 sq.ft or 25% of the gross floor area, triggering compliance with the new LDRs.

Concern that an interior alteration would trigger need for landscape plans and compliance with the new LDRs.

- Staff explained that landscaping compliance would only be triggered if the alterations expanded the gross floor area over 25,000 square feet. It was clarified that adding a loft or second floor within the existing building footprint would be considered an expansion of the gross square footage. However, a remodel or build-out that does not expand the gross floor area would not trigger the need for immediate landscape compliance.
- Staff has added clarifying language in the LDR regulations specifically excluding interior renovations that do not expanding the square footage from triggering compliance.

Concern that landscape plans are required for any building permit.

- Staff explained that unless the building permit included any site improvements a landscape plan would not be required for a building permit, say for example, an interior renovation.
- Staff further clarified that after the five (5) year amortization period landscape plans would be required because all properties, in any event, would have to be in compliance with the new landscape requirements in the LDR's

Concern that the abandonment clause in the non-conforming section of the new LDRs only allows 180 days; but that a property could remain vacant for more than 180 days but does not necessarily establish that the use is abandoned.

- Staff agreed that a property could remain vacant or not in operation for more than 180 days and still maintain its' non-conforming status. It was understood that case law exists and that if it can be established that the property owner is actively seeking to operate or lease or sell the space then the property or use is not considered abandoned.
- It was agreed the language "intentional or not" that is part of the abandonment language would be removed.

Concern and clarification that previous approvals obtained at Miami Dade County remain in effect; that there were conflicting provisions in the LDRs.

- Staff explained that the conflicting provisions have been addressed.
- Staff explained that all previous approvals obtained at Miami Dade County remain in effect; except that those development approvals that meet the criteria set forth in the LDRs can obtain a vested rights determination within one (1) year of the adoption of the LDRs. Otherwise vested rights will be considered waived.

Suggested that vested rights determinations should be exempted for single family residences because of the burden for a residential property owner to comply.

- Staff acknowledged the point that single family residences that have received previous approval should be allowed the right to develop without obtaining a vested rights determination.
- Staff would be adding the necessary language to exempt single family residences from obtaining a vested rights determination, and automatically vest previous approvals .

Question and concern that clarification was needed for the vesting of landscaping.

- Staff explained that landscaping as all other improvements as approved would be vested; however, after five (5) years the landscaping would have to be in compliance accordingly.
- Staff explained that the City Council had two primary concerns with compliance, signage, and landscaping and found that these two improvements are essential for the future development of the City.

Discussion on clarifying the "Purpose and Intent" sections of the vested rights and non-conforming sections.

Staff has made changes to clarify the expressed purpose and intent of the vested rights and non-conforming sections to indicate that landscaping is vested only for the first five (5) years, at which point compliance will be required, and to indicate that landscaping remains non-conforming for the first five (5) years at which time compliance will be required in order to remain legally non-conforming.

Concern that there is no provision to allow for the release of conditions bonded by a Declaration of Restrictive Covenant running with the property in the event vested rights are not obtained.

- Staff acknowledged that the language in the vested rights would be reviewed and any language necessary to allow the release of conditions or Declaration of Restrictive Covenants when vested rights are not obtained.

Concern that given the issues raised, and the limited time for review before the anticipated adoption, that more time be allowed to review the document and make recommendations for changes.

- Staff made it clear to the group that some additional time has been given, but the LDRs would be going before the City Council on April 7, 2010 for adoption.

- Staff reiterated as a follow-up from the first meeting, that the document is a fluid document, that concerns or issues that arise over time from use of the document can and will be addressed as done with the Sign Code. It was in the City's best interest to have LDRs that works for everyone; but to attempt to rewrite the LDRs for each and every specific or possible scenario at this time was not the City's intention.

Concern that the position of the City about adoption was different from the first meeting; allegation that proper notice was not given.

- Staff clarified that proper notice was given in accordance to all required State statutes; acknowledging that courtesy notices could have been handled better; but not statutorily required for the adoption.

Concern that cost for compliance with the landscape requirements and having to fight code enforcement violations.

- Staff clarified that the submittal requirements for industrial properties, like commercial and multi-family properties has to be prepared by a licensed professional due to the information that must be provided and verified for the City to issue a building permit for the installation of landscaping. Staff explained issues like tree species, invasive species, specimen tress, underground and overhead utilities, safe sight distance triangles, installation of irrigation etc. are all issues that require a professional to prepare the plans.
- Staff further explained that the Miami Dade code requires that the installation of landscaping be certified by the landscape architect since much of the work in underground and the confirmation that the species of trees are in compliance with the plans approved. This requirement is in the new LDRs. If the plans and installation are done by non-professionals then the certification could not be done. Staff does not have the expertise to do the certification, and issuance of a permit without reliance of a licensed professional signing and sealing the plans would leave the City exposed to any liability in the event there are errors or unfortunate consequences with the plans and installation.
- Staff explained that like the Sign Code, enforcement activities have not been stringently pursued due to the economic downturn, and as for the landscaping the City has an interest in compliance not necessarily in enforcement violations. The City's intent is to promote and encourage businesses.

Suggestion that landscape compliance for the Industrial park should be limited to street trees.

- Staff again explained that the improvement of landscaping is a primary goal of the City Council, and stressed that the compliance was to the best extent possible under the new regulations.

Concern that the new parking requirements for the industrial park had changed from one (1) space for 1000 sq.ft. up to 10,000 sq.ft. Then one (1) space for every 2000 square feet; and more parking would be required.

- The Miami Dade Code is not limited to one (1) space every 1000 sq.ft. and one (1) space for every 2000 sq.ft. thereafter; it requires a minimum of two (2) spaces for each bay door, whichever is greater. Additional parking is required for any accessory uses such as office, retail, or showroom.
- The proposed LDRs are set at one (1) space for every 1000 sq.ft. for distribution centers, warehouses, and both light and heavy industrial uses, plus any additional parking for accessory uses. A new 20,000 square feet warehouse, distribution center, light or heavy industrial use building would require 20 spaces under the new LDRs. Under the MD code the same 20,000 sq.ft. industrial building, which would typically be built out with one bay every 2000 square feet would require fifteen (15) spaces (if no bays were built) or two (2) spaces per bay (for 10 bays at 2000 sq.ft. each) for twenty (20) required spaces. This is an equal amount of required parking in the Miami-Dade Code.
- In addition, the new LDRs allows the change of use of an industrial building from distribution center, warehouses, light and heavy industrial without impact on parking since the parking remains the same for each use. The MD Code has specific requirements that plans must be reviewed for a change of use to verify how the building will or may be subdivided and the required parking must be made available. Compliance with parking under the MD Code is burdensome and requires an exercise in plans review.
- If in the event additional parking is required by the new LDRs, based on the number of bays and square footage, the extra parking would be to address the concern that Code Enforcement and property owners have had with overflow parking on swale areas and rights-of-way that is occurring for certain uses in the industrial parks.

Concern that the certificate of non-conformity would not be an acceptable term for lenders when property owners are seeking verification that the use and buildings are in compliance with the applicable zoning.

- Staff clarified that these requests are processed through a Zoning Verification letter, a process that is not changing. The language has been, and will remain standard to verify uses and/or the site are legally non-conforming.

Concern that setbacks for industrial building have changed to require an interior side setback of 5.0' when it was 0'; and that the required open space was increased to 80%.

- The concern is unwarranted. The new LDRs have interior setbacks at 0.0' for Industrial uses, and the 80% is an "impervious" requirement.

Concern that the interior setback for what was BU, Business district zoning and now NC, Neighborhood Commercial has been increased from 5.0' to 25.0' when abutting residentially zoned property.

- The setback of in the MD code for BU, Business district abutting residentially zoned property is 15.0'. The zoning classification of NC, Neighborhood Commercial is for commercial sites on

minor arterials and usually located within or adjacent to residential zoning. The 25.0' setback allows for more buffering of the commercial uses to adjacent residential uses.

- Notwithstanding, the other BU uses that will be PCD, Planned Corridor Development district on major corridors the interior side setbacks have been reduced to 10.0' when abutting residentially zone property.

Follow up concern 03/11/10 that the alcoholic beverage section requires that all establishments that are "manufacturing, or selling in any way" alcoholic beverages are required to obtain an occupational license, and this should exempt distributors or manufacturers in the industrial park.

- The requirement of an occupational license is applicable to all businesses.
- Staff has clarified that wholesalers and distributors are exempt from spacing and location regulations from parks, schools, and places of worship.

Meeting with Alan Krischer, Esq., March 15, 2010

Discussion on how the LDRs would specifically impact Calder Race Track, and other properties of interest.

- Staff discussed and answered a list of questions on how the LDRs will apply specifically to Calder Race Track and other properties of interest within the City. Staff has made some minor amendments to the LDRs for clarifications purposes as it deals with alcoholic beverage uses within the Casino Gaming Facility.

Discussion on the LDRs in general are summarized as follows:

- Provisions to allow the modification of conditions of a Declaration of Restrictive Covenant or other development approvals will be specified in the LDRs.
- Provision to clarify that a Declaration of Restrictive Covenants would be released in the event a failed vested rights determination would be added to the LDRs.
- Exempting single family residences from obtaining vested rights determination will be specified in the LDRs.
- Provisions of a "disaster" clause to allow properties to be rebuilt at old code standards in event of hurricane or other natural disaster are not provided in the LDRs. It was discussed that the City could at the time of the disaster enact a resolution with different provisions if deemed necessary.

Meeting with Mark Napolitano and Bill Webb, March 16, 2010

Discussion on how the LDRs specifically will impact their properties.

- Staff discussed and answered questions specific to properties of interest, including clarifying the permitted uses, accessory uses, definition of uses, accessory structures, and other zoning requirements.

Discussions on the LDRs in general are summarized as follows:

- Overall concern that the requirement to comply with the new landscape requirements in five (5) years will be cost prohibited and burdensome to retrofit properties. This is a requirement that applies to all properties in the City.
- Concern that the requirement of the knee wall buffer adjacent to parking areas and rights-of-way will be costly expense to comply with and will not serve the benefit of the intentions since most of the industrial buildings are located on local and minor streets with limited traffic and exposure to the general public. Staff would consider making a recommendation that the knee wall not be required along parking areas located on minor or local streets.
- Concern that the 28 trees per net acre requirement of the LDRs would be physically impossible to comply with. Staff's review of the standards indicate the overall coverage of the required trees would only encompass approximately 10% of the property which is consistent with the required open space and landscape islands that would be required.
- Concern that the LDRs requires that the abutting property owner be responsible for swale areas and maintenance even as others park and damage the swale areas. In addition, the concern of trucks parking overnight or storing trailers for periods of time on swale areas. The responsibility of the swale is, and has always been that of the abutting property owner. The parking of vehicles on swales is an Code Compliance issue as with the storage of trailers, since neither are permitted by in the LDRs. The LDRs does have provisions to allow for parking of tractor trailers overnight on private property which addresses the ongoing concern.
- Concern that allowing places of assembly in industrial districts may restrict future uses due to the spacing requirements associated with such uses. The spacing concern applies to establishments with the sale of alcoholic beverages which within the industrial districts would only allow restaurants which are exempt from spacing requirements from places of assembly. Any future changes of uses with the possibility of an "entertainment" district would consider such impacts. It will be clarified that wholesale distributors of alcoholic beverages are exempt from spacing requirements.

Meeting with Ken Gress, March 16, 2010

Discussion on how the LDRs will specifically impact his properties.

- Discussion on how the LDRs applies to his specific properties, in particular the landscape requirements of the new LDRs, the permitted uses, and submittal requirements for obtaining a landscape permit, and business tax receipt charges.

Discussion on the LDRs in general are summarized below:

- Concern that the buffering knee wall requirement will be costly, impact drainage, and will not serve the benefits it is intended because most of the industrial properties are located on minor arterials and local streets.
- Concern of parking on the swale and tractor trailers damaging swale areas which the property owner is required to maintain. This is and has been the regulations. The concern of any overnight parking or storage of trailers is a Code Compliance issue, it is not permitted under the LDRs.

- Concern that the requirement to comply with new landscape requirements in five (5) years will be expensive and burdensome to obtain approvals. This requirement applies to all properties City wide.

Meeting with Phil Ward, representing Lifter Properties, March 17, 2010

Discussion on how the LDRs specifically impacts Lifter Properties.

- Discussion and answered questions on specifics on how the new LDRs will be applied to properties of interest. Discussion included vested rights, landscape compliance, and permitted uses.

Meeting with Brian Adler, Esq., March 19, 2010

Discussion on specific impacts of the LDRs on properties of interest.

- Discussion and answered questions on specific provisions of the LDRs as how they impact properties of interest.

Discussion on the LDRs in general are summarized as follows:

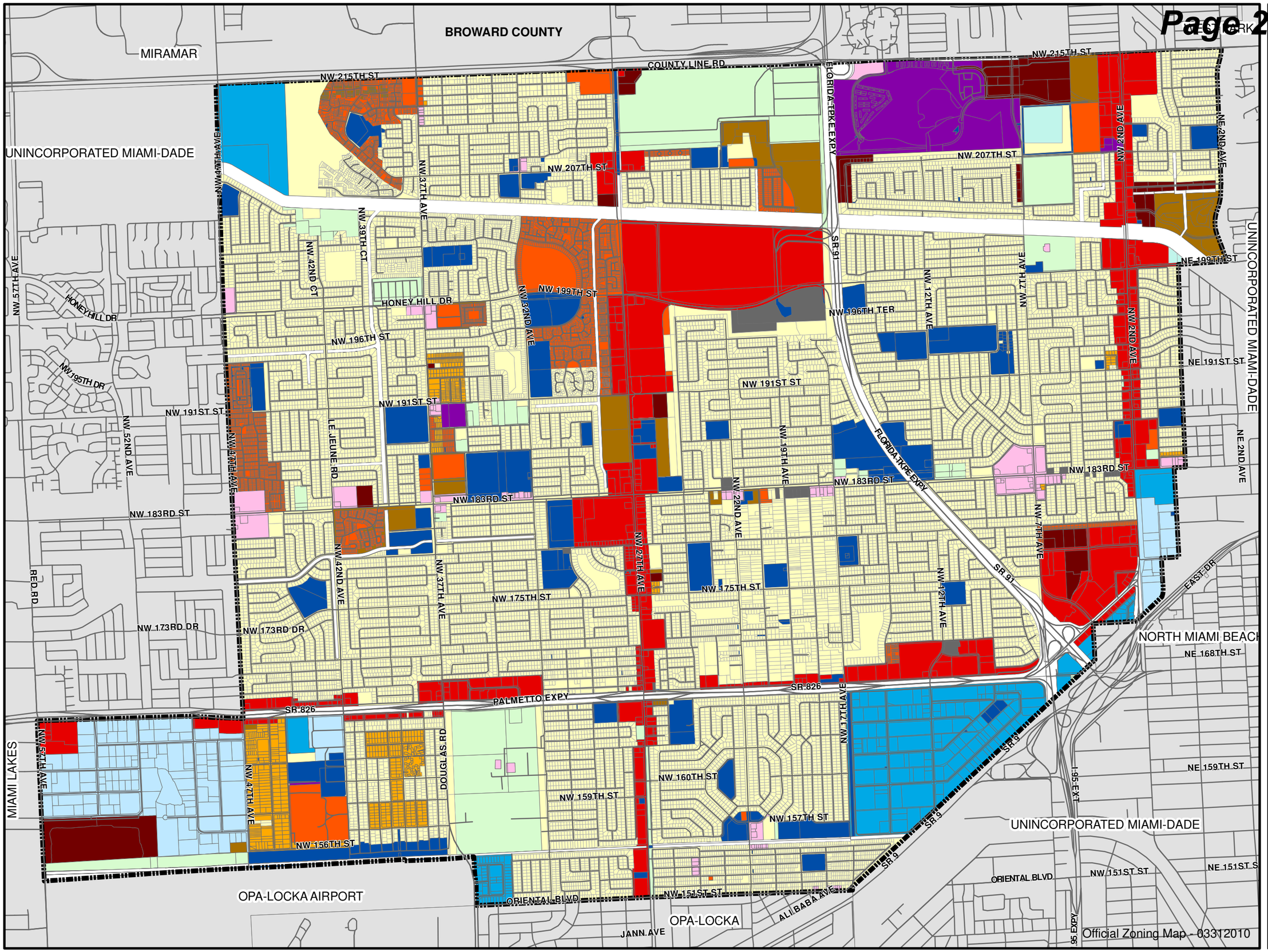
- General concern that some of the provisions in the LDRs are problematic they way they are written and can be interpreted. Many of these provisions were reviewed and clarified. Certain provisions would be added for clarifications including provision for modifying previous conditions of a Declaration of Restrictive Covenant and conditions of other development approvals, as well as provision to release Covenants in event is determined that a property does not have vested rights.
- Concern that the hardship criteria for approving variances should be replaced with compatibility criteria. The hardship criteria, though valid, has been subject of challenges at the County level. To avoid these challenges the criteria will be changed to one of compatibility in the LDRs.
- General concern that the provisions of the landscape requirements will be problematic for property owners to comply with due to excessive costs and the current downturn in the business climate which will have implications on the City's intent of redevelopment.

Meeting Graham Penn, Esq., Karl Albertson, DR Horton, March 19, 2010

Discussion on how the LDRs specifically impacts DR Horton properties.

- Discussion and question answered on how the LDRs specifically will apply to DR Horton properties, including previous approvals, and future approvals. Specific questions were addressed on the PD, Planned Development district, vested rights, landscape requirements, and obtaining certificates of non-conformity.

EXHIBIT "C"
ZONING MAP



City of Miami Gardens

Official Zoning Map

- R-1- Single Family
- R-2- Two Family
- R-15- Multiple Family
- R-25- Mulitple Family
- R-50- Multiple Family
- NC- Neighborhood Commercial
- PCD- Planned Corridor Development
- OF- Professional Office
- I-1- Special Industrial
- I-2- Heavy Industrial
- PD- Planned Development
- AU- Agriculture
- GP- Government Property
- Other

** Official Zoning Map: Pursuant to Article I, Section 1-150.*
Zoning district boundaries include property lines and follow the centerlines of rights-of-way, canals, railroads, alleys and similar features.

N W E S

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Miles

April 7, 2010

Prepared by:
Department of Planning & Zoning

DISCLAIMER:
Every attempt has been made to ensure the accuracy of this map. This map is not to be construed as a survey instrument. The City of Miami Gardens does not assume any liability arising from the use of this map. Users of this map should consult the planning & zoning division for verification of information provided on this map.