

IN THE SUPREME COURT OF FLORIDA

CASE NO. 87,078

**FILED**

SID J. WHITE

FEB 26 1996

CLERK, SUPREME COURT

By

Chief Deputy Clerk

MARTIN COUNTY,

Petitioner,

vs.

MELVYN R. YUSEM,  
individually and as Trustee,

Respondent.

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INITIAL BRIEF OF AMICUS CURIAE  
METROPOLITAN DADE COUNTY  
-----

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## STATEMENT OF THE CASE AND FACTS

Metropolitan Dade County adopts the statement of the case and facts of Petitioner Martin County.

## SUMMARY OF ARGUMENT

The circuit court lacked subject matter jurisdiction to consider whether Martin County's rejection of Yusem's proposed plan amendment failed to comply with the Growth Management Act. The Legislature has provided an exclusive administrative process for the review of plan amendments. The circuit court's judgment assuming jurisdiction over the matter and striking Martin County's land planning decision was therefore properly reversed by the District Court, albeit for the wrong reasons.

The District Court erred in announcing a general rule that all parcel-specific plan amendments are quasi-judicial decisions reviewable by circuit courts. That ruling, which departs from the statutory scheme of administrative review, would disrupt the Growth Management Act's unified statewide planning program and would detrimentally impact citizens' ability to participate in the process for planning for the future of their communities.

Even if Martin County's plan amendment process were deemed quasi-judicial, however, the District Court opinion is still in error in declaring all such planning processes to be quasi-judicial. As demonstrated by provisions from Dade County's planning process, for example, other local

planning processes have characteristics that demonstrate that they are not quasi-judicial proceedings.

ARGUMENT

- I. Because the Florida Legislature Has Created an Exclusive Administrative Proceeding to Determine Whether a Comprehensive Plan Amendment Complies With the Growth Management Act, the Circuit Court Lacked Subject Matter Jurisdiction to Consider This Case

The Florida Legislature has provided a single, exclusive mechanism for challenging a comprehensive plan amendment's compliance with the Local Government Comprehensive Planning and Land Development Regulation Act (the "Growth Management Act"). Section 163.3184(13), Florida Statutes, provides:

(13) EXCLUSIVE PROCEEDINGS. -- The proceedings under this section shall be the sole proceeding or action for a determination of whether a local government's plan, element or amendment is in compliance with this act.<sup>1</sup>

For a plan amendment, the central feature of compliance with the Growth Management Act is "consistency" between the plan amendment and the comprehensive plan that the amendment modifies. Section 163.3187(2) provides:

Comprehensive plans may only be amended in such a way as to preserve the internal consistency of the plan pursuant to s. 163.3177(2). ...

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<sup>1</sup> Unless otherwise indicated, all emphasis in materials quoted in this brief has been added.

Section 163.3177(2) provides that "[t]he several elements of the comprehensive plan shall be consistent...." Similarly, under section 163.3184(1)(b), "in compliance" with the Act means "consistent with the requirements of [section] 163.3177...."

Under the Legislature's statutory scheme, any challenge to the "consistency" of a plan amendment is a challenge to the amendment's compliance with the Act, and may be brought only pursuant to the administrative procedures laid out in precise detail in section 163.3184. City of Jacksonville v. Wynn, 650 So. 2d 182, 185 (Fla. 1st DCA 1995) (holding that circuit court lacked subject matter jurisdiction to review challenge to Jacksonville comprehensive plan amendment). Judicial oversight of this administrative process is by the District Courts of Appeal, not the circuit courts. Id.; § 120.68, Fla. Stats.

Doubtless the Legislature created this new administrative cause of action to help maintain the internal consistency of local plans despite the continuing revision of the plans through local governments' biannual plan amendatory processes. See §163.3187, Fla. Stats. In breathing life into the new cause of action, the Legislature could, and did, prescribe the sole statutory route to relief under it. Outside that prescribed administrative framework, no cause of action exists at all. See City of Jacksonville v. Wynn, 650 So. 2d at 185-186.



Notwithstanding these clear statutory directives, Melvyn Yusem sued in the circuit court below, and prevailed, on de novo claims that Martin County's rejection of his proposed plan amendment was "inconsistent" with the Martin County comprehensive plan, and failed to comply with law. R.24-30, §§32, 33, 35, 37, 39, 40, 42, 46(b), 48-52. In filing this suit, Yusem acted completely outside the exclusive administrative process laid out by the Legislature. The circuit court's attempt to assume jurisdiction over Yusem's claims was therefore contrary to law and was properly reversed by the District Court, although upon erroneous grounds.<sup>2</sup>

Any attempt by a circuit court to assume jurisdiction over consistency challenges to plan amendments poses great risk to the ongoing community planning process conceived by the Legislature in the Growth Management Act. Foremost among those risks, a circuit court reviewing a plan amendment can proceed to adjudication without meeting the broad public notice requirements of section 163.3184(8). As a result, many members of a community may never become aware of pending litigation directly impacting the very citizen participatory rights that were envisioned and expressly provided by the Legislature. See §163.3184(1)(a), Fla. Stats. (providing broad definition of an "affected person"

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<sup>2</sup> Although suggested by Martin County during the circuit court proceedings, the lack of subject matter jurisdiction was never expressly addressed by the trial court. R.395-399; 409-413.

having the right to participate in the administrative process for determining plan consistency). See also §163.3181(1), Fla. Stats. (providing for public to participate in planning process "to the fullest extent possible").

Second, a circuit court challenge may well exclude the Florida Department of Community Affairs, as did the case below. That state agency has been expressly charged by the Legislature to review local plan amendments, not only for their impact on internal plan consistency but also for impact on the existing plan's overall consistency with the State Plan (Chapter 187, Florida Statutes), the appropriate regional policy plan and Rule 9J-5, Florida Administrative Code, which is the administrative rule implementing the Growth Management Act. See §163.3184(6), Fla. Stats. Without the participation of the Department, a very significant portion of the local plan review intended by the Legislature could be lost. As a result, a circuit court might reach a narrow determination on "consistency" without having nearly all the relevant facts or law at its disposal.

Third, the exercise of circuit court jurisdiction poses a serious risk of inordinate waste of judicial resources and misdirection of judicial labor. The proper review of a plan amendment's impact on "consistency" entails an investigation of not only the hundreds of competing provisions in the relevant local plan, but also the additional hundreds of provisions in the State Plan, the many provisions in the

applicable regional policy plan, and the extremely detailed implementing provisions in Rule 9J-5. The expertise and experience of the Department of Community Affairs permits the appropriate full-scale review of a plan amendment to be performed within a reasonable timeframe. The Department is intimately familiar with the provisions of the State Plan, the regional plans, and Rule 9J-5. It is also familiar with provisions in local plans throughout the state. Indeed, the Department's ongoing consideration of these documents constitutes a substantial part of its full-time land use planning responsibility. For a circuit court, however, conducting the proper kind of review of even one plan amendment in a de novo setting would be a gross waste of resources. Worse, opening the courthouse doors to plan amendment challenges for every one of more than 450 local government plans in Florida, twice a year, would present an insurmountable flood of work to the trial courts. At the very least, proper review of such plan amendments would likely delay determinations of consistency long past the timeframe contemplated by the Legislature, to the detriment of property owners, local governments and interested citizens alike. Cf. §163.3189(3), Fla. Stats. (providing for expedited review of plan amendment challenges).

Fourth, the exercise of circuit court jurisdiction over consistency issues raises the spectre of simultaneous, independent administrative and judicial proceedings, involving different parties but only a single plan

amendment. The risk of incongruous, even mutually exclusive, adjudications on a single plan amendment in such a case is obvious. Local governments, property owners and citizens are placed at risk of eventually not knowing how to be governed by their community's own local comprehensive plan.

Fifth, circuit court review of local governments' plans and plan amendments throughout Florida would completely disrupt the statewide coordinated planning program intended by the Growth Management Act. While Part II below discusses this issue in greater detail, it is well worth noting here. In particular, a recent revision to the procedural requirements of the Growth Management Act starkly manifests the illogic of permitting plan amendment consistency challenges in the circuit courts, when a unified statewide review process is so plainly what the Legislature intended. In 1993, the Florida Legislature enacted a statutory amendment providing that local government plan amendments do not become effective until either (1) the Department of Community Affairs declares the adopted plan amendment to be "in compliance" or (2) if the plan amendment is made subject to a consistency challenge, at the conclusion of administrative proceedings. §163.3189(2)(a), Fla. Stats. This process is designed to insure a single, coordinated review of all plan amendments throughout Florida, at a single state agency level. Were plan amendments quasi-judicial in nature, this statutory suspension of final

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decision-making beyond the local government level would be unthinkable. Even more nonsensically, however, if circuit courts had jurisdiction to consider the "consistency" of plan amendments, this new statutory provision effectively would place a state agency or private litigants in charge of the whether a circuit court would ever hear a case. Each time the Department found a plan amendment not in compliance, or each time an affected person brought an administrative challenge, the challenged plan amendment would not even go into effect until the conclusion of all administrative proceedings. Under the statutory provision there would therefore be no final act of local government to challenge in circuit court until all administrative proceedings were complete. Yet, after completion of the administrative process, there would be no consistency issue left for the circuit court to consider. The circuit court would be relegated to those marginal cases that neither the state agency nor any other affected person thought worthy of challenging in the timely and effective way provided by law.

The Legislature could hardly have intended that kind of anomalous result in the midst of legislation so carefully crafted as the Growth Management Act. The Florida Legislature is well aware of how to create a new cause of action within the jurisdiction of the circuit court. The Legislature did exactly that in creating section 163.3215, a provision permitting challenges to development orders (like rezonings) that are inconsistent with a local plan. When

the Legislature designed a different mechanism for challenging plan amendments, the circuit court is bound to follow it. Yusem cannot be allowed to utilize the process for reviewing development orders instead of the prescribed process for reviewing plan amendments.<sup>3</sup>

Finally, the circuit court's assumption of jurisdiction below not only exposes the land planning process to all these ills, but in this case it also allowed Melvyn Yusem to circumvent the relatively short timeframe the Florida Legislature has prescribed for challenging plan amendments. See §163.3184(9), Fla. Stats.

For these reasons, the District Court's decision to reverse the circuit court's judgment due to a lack of subject matter jurisdiction is correct and should be affirmed, although reached upon other grounds.

For the reasons explained below, however, the District Court's opinion declaring Martin County's decision on Yusem's proposed plan amendment to be quasi-judicial should be vacated. Moreover, that part of the District Court's opinion remanding for trial on certain constitutional claims should be reversed; as explained below, constitutional claims may not be brought until the conclusion of the proper administrative proceedings.

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<sup>3</sup> The complaint in this case clearly demonstrates that Yusem tried to bring his plan amendment challenge pursuant to section 163.3215, contrary to law. R.224-225.

II. A Change in a Local Government's Plan  
for the Future Use of Land Is Not A  
Quasi-Judicial Decision

A. The District Court's Conclusion  
That All Parcel-Specific Plan  
Amendments Are Quasi-Judicial  
Exalts Form Over Substance

The District Court's misplaced focus on the extent and potential impact of Martin County's plan amendment, rather than on the amendment's fundamental nature, led the court into error.

In painstaking but misplaced reliance on this Court's opinion in Board of County Commissioners of Brevard County v. Snyder, 627 So. 2d 469 (Fla. 1993), the District Court's majority opinion derives a hard-and-fast rule from Snyder's descriptive characterization of the particular quasi-judicial proceeding occurring in that case. The majority opinion concludes that if, as in Snyder, the proceeding in question affects specific parties and parcels, and has a limited impact on the public, then the proceeding must be "quasi-judicial."

This sort of reasoning is no more than subjection to the "tyranny of labels" decried by the United States Supreme Court more than sixty years ago. Said the Court in Snyder v. Massachusetts, 291 U.S. 97, 114, 54 S. Ct. 330, 335, 78 L. Ed. 674 (1934):

A fertile source of perversion in constitutional theory is the tyranny of labels. Out of the vague precepts of the Fourteenth Amendment a court frames a rule which is general in form, though it has been wrought under the pressure

of particular situations. Forthwith another situation is placed under the rule because it is fitted to the words, though related faintly, if at all, to the reasons that brought the rule into existence.

See also Palko v. Connecticut, 302 U.S. 319, 323, 58 S. Ct. 149 (1937) (warning that "[t]he tyranny of labels must not lead us to leap to a conclusion that a word which in one set of circumstances may stand for [one thing] is of like effect in every other").

Contrary to these warnings, the majority opinion below exalts form over substance in failing to consider the substance of what Martin County was deciding when it rejected the plan amendment. The substance of Martin County's plan amendment was policy formulation, not policy application, as evidenced by the amendment's prospective, tentative nature.

An analogy to financial budgeting helps portray why plan amendments represent the formulation of policy. Any individual, business or government may draw up a detailed budget to plan for future revenues and expenditures. No matter how detailed or specific the planned spending may be, however, no money is actually spent until a check is signed. Until checks are signed, money can be transferred in and out of budget accounts, and plans for future expenditures can be completely and repeatedly modified. These sorts of changes in budget accounts can occur even when the budget accounts are extremely detailed and specific.



A local government's comprehensive land use plan is no different. It tallies population, resources, available space and service demands, and sets out a plan for balancing them. True enough, no development can occur unless it is in line with the plan's budgeted resources and space; but the mere fact that resources and land are presently planned to be expended on a certain kind of future development does not guarantee that such development will occur, even when the planning is parcel-specific. Until an order granting development rights is finally approved by a local government, the local government may rearrange its budgeted allocation of population, resources, land and service demands as local needs and public policy dictate. All that the Growth Management Act fundamentally requires is that the local plan address all the necessary budget accounts, and that the budget balance. In essence, that balancing requirement is the "consistency" requirement. Nothing in the Growth Management Act, nor in a local government's adoption of its plan, either freezes the budget accounts or signs a check.

In this case, Melvyn Yusem, the circuit court and the majority opinion below have confused the budget with the checkbook. The parcel-specific nature of the proposed plan amendment led all but the dissenting district judge to the erroneous conclusion that Martin County's decision was policy application (signing the check) rather than policy setting (changing the budget account).

B. The Labeling of Plan Amendments As Quasi-Judicial Has Serious and Damaging Consequences for Land Use Planning Throughout Florida

1. Quasi-Judicial Appellate Review Would Disrupt Florida's Unified Comprehensive Planning Program

The District Court's conclusion that parcel-specific plan amendments are quasi-judicial in nature has far-ranging, serious implications for land use planning in Florida. First and most troubling, the decision would completely disrupt the cohesive, coordinated statewide planning program conceived by the Florida Legislature and carefully laid out in the Growth Management Act. The Act and the rules that implement it lay down a precise planning format for every local government in Florida to follow. §163.3177, Fla. Stats., Rule 9J-5, F.A.C. While the Act and rule do not dictate to local government any particular policy choices, they do require that each local plan be "consistent" overall with the State Plan and the appropriate regional policy plan. §163.3184(1), (2), (6), Fla. Stats., Rule 9J-5.001, F.A.C. Further, the law now requires that every local government formally coordinate its planning efforts with the efforts of every adjoining local government. §§163.3177(6)(h), 163.31775, Fla. Stats., Rule 9J-5.015, F.A.C.

To ensure the creation and maintenance of this nearly seamless statewide planning effort, the Growth Management Act mandates an exhaustive review process coordinated by single state agency, the Department of Community Affairs.

§163.3184, Fla. Stats. In the statutory mandate providing for the Department's review, at least three provisions stand out as being in irreconcilable conflict with the nature of quasi-judicial proceedings. These three provisions, among others, point unmistakably to a comprehensive, exclusive administrative program designed to help all of Florida's governments to plan together for the future. Their existence excludes the possibility of challenge to plan amendments through quasi-judicial appellate review.

The first of these provisions is the unified review of all local plans and plan amendments by a single state agency. The injection of circuit court review into this unified planning process would result in a multiplicity of land use decisions and thereby defeat the very heart of the Growth Management Act's scheme--coordination of a vast number of plans through a single agency's oversight. Moreover, the necessary coordination of local governments' plans with the State and regional plans is far beyond the scope of quasi-judicial appellate review in any individual case, and consequently poses enormous risk to the goal of a coordinated statewide planning program.

The second provision that is inconsistent with quasi-judicial review is that individual plan amendments are expressly not required to be supported by evidence presented at a hearing. Rather, the Act requires only that whole plan elements, goals and policies be supported by data and analysis; and even the data and analysis supporting them

need not be original data collected by the local government. §163.3177(8), (10)(e), Fla. Stats. Circuit courts are simply not equipped on appellate review to consider the full complement of data and analysis undergirding entire plan elements, nor are they qualified to consider the legality of a plan amendment not based on record evidence.

Third, the Act itself lays out variable standards for reviewing whether a plan amendment meets the law's consistency requirements--"fairly debatable" if the Department finds the plan amendments in compliance, "preponderance of the evidence" if it does not. §163.3184(9), (10), Fla. Stats. The "fairly debatable" standard is antithetical to the appellate review of quasi-judicial decisions. Moreover, the court's standard of review in a quasi-judicial matter should not turn on a state agency's opinion.

Together these three provisions, as well as others in the Growth Management Act, demonstrate that the Legislature never viewed planning as a quasi-judicial process. To superimpose that view would work devastating and confusing consequences on Florida's land use planning program.

2. Quasi-Judicial Review Would Completely Defeat the Broad-Based Citizen Participation in Planning That the Growth Management Act Guarantees

Transmuting the land use planning process into a quasi-judicial proceeding would stamp out virtually the last ember of broad-based citizen participation in planning for the future. In years past, the courts recognized the significance to democracy of direct citizen participation in deciding how neighborhoods will develop. The courts stressed the importance of local government authority in land use matters as a crucial aspect of democracy. One court declared that any diminution in local government authority:

. . . touches upon sensibilities as old as the Resolution itself, because it affects the right of access to government--the right of the people effectively "to instruct their representatives and to petition for redress of grievances"--on which other cherished rights ultimately depend. The primacy of local government jurisdiction in land development regulation has traditionally been, in this country, a corollary of the people's right of access to government. . . .

Cross Key Waterways v. Askew, 351 So. 2d 1062 (Fla. 1st DCA 1977), aff'd, 372 So. 2d 913 (Fla. 1978). Stated another way, nothing is more central to the right of people to govern themselves than having a direct hand in saying how their homes and communities shall look and function. Local government authority to take all of their concerns, however

expressed, into account is critical to the right of citizens to govern themselves.

In Jennings v. Dade County, 589 So. 2d 1337 (Fla. 3d DCA 1991), however, citizens' ability to approach their elected representatives in zoning and other quasi-judicial matters was severely circumscribed; only participation in duly advertised public hearings is now permitted. The planning process is presently the only land use process left open for citizens to approach and instruct their individual elected representatives about the vision they have for the future of their homes and neighborhoods. To declare that process to be quasi-judicial is to slam the door shut to direct citizen contact with individual public officials outside the formality of a hearing. A quasi-judicial label would make elected representatives "off-limits" to neighborhood discussions of what the future should bring to an area, "off-limits" to citizens who cannot take time from work to come to numerous hearings on individual applications that will collectively change a community, "off-limits" to discussions of creative tradeoffs involving parcels unrelated to a particular parcel targeted for change.

Further, labeling planning decisions as "quasi-judicial" would limit the lawful basis for a planning decision to only those record facts that relate specifically to a particular parcel. The label would thus deny the interrelatedness of all plan amendments--and indeed all parts of the comprehensive plan itself--and prevent the

balancing of competing policy factors that is so crucial to comprehensive planning. For example, a simple 100 acre expansion of Dade County's Urban Development Boundary for future residential use realistically should call into issue the county's population demands, the dwindling amount of Dade's agricultural land, environmental polices, and competing simultaneous requests to expand the Boundary. A quasi-judicial forum could not begin to accommodate the information necessary to make such policy choices. Unrestricted citizen contact only facilitates, and does not detract from, a planning process that takes all the competing factors into account.

Based on these factors, the question certified by the District Court should be answered in the negative because the comprehensive plan amendment process is not a quasi-judicial one. Further, that part of the District Court's decision remanding the Yusem case to the circuit court for consideration of Yusem's constitutional claims should be reversed. Absent a final development order decision by Martin County on a viable application filed by Yusem, constitutional claims are not ripe for adjudication. See, e.g., City of Jacksonville v. Wynn, 650 So. 2d 182, 187 (Fla. 1st DCA 1995).

III. Because the Nature of Plan Amendments and Plan Amendment Processes Varies Greatly Among Florida's Local Governments, the District Court Erred in Declaring That All Parcel-Specific Comprehensive Plan Amendments Are Quasi-Judicial

Any determination that a particular comprehensive plan amendment proceeding is quasi-judicial involves the substantial consequences discussed above, and should be made, if at all, on an individual basis and only with great deliberation and caution. Because comprehensive plans, comprehensive plan amendments, and in some instances the very processes by which plans are amended, vary substantially from one local governing body to another, the determination that a particular plan amendment is quasi-judicial should be made, if at all, only on a case-by-case basis after careful consideration of the particular attributes of each jurisdiction's plan and amendatory process, as well as the particular kind of amendment in question.

Under Dade County's Comprehensive Development Master Plan (CDMP), for example, no amendment to the land use element of the plan ever creates any right either to develop in a particular way or to receive zoning approval to develop in a particular way, as would a quasi-judicial determination of specific rights. To the contrary, both the language of the comprehensive plan itself and the standard language utilized in each comprehensive plan amendatory ordinance make it clear that plan amendments are merely changes in the



general legislative policy framework within which subsequent (quasi-judicial) requests for zoning changes may be considered.

At least three specific features of Dade County's CDMP establish that plan amendments in that jurisdiction are not quasi-judicial. First, at its outset, the CDMP contains a statement of legislative intent that, "[t]he CDMP is intended to set general guidelines and principles [i.e. legislative policy] concerning its purposes and contents. The CDMP is not a substitute for land development regulations." App. 1 at 3. Moreover, the purely legislative nature of the comprehensive plan amendments is underscored by the fact that the land use element alone is not controlling on all subsequent zoning requests, but is merely one component of the County's overall land use policy governing subsequent zoning and development decisions:

The Board recognizes that a particular [zoning] application may bring into conflict, and necessitate, a choice between, different goals, priorities, objectives, and provisions of the CDMP. While it is the intent of the Board that the land use element be afforded a high priority, other elements must be taken into consideration . . . .

Recognizing that County Boards and agencies will be required to balance competing policies and objectives of the CDMP, it is the intention of the County Commission that such boards and agencies consider the overall intention of the CDMP as well as portions particularly applicable to the matter under consideration in order to ensure that the CDMP, as applied, will protect the public health, safety and welfare.

Second, both the plan and any amendments to it also expressly provide that pre-existing land uses and zoning categories are effectively "grandfathered" unless and until a different determination is made in a subsequent quasi-judicial hearing. As a result, even a plan amendment that modifies the prospective use of a certain parcel does not affect how the property may be developed today under existing zoning. Only a subsequent quasi-judicial request for rezoning will bring the amended designation into play.

The land use element of the CDMP contains both a general grandfather provision and separate grandfather provisions specific to the various categories of land use designations. The general grandfather provision provides as follows:

**Uses and Zoning Not Specifically Depicted on the LUP Map.** Within each map category numerous land uses, zoning districts and housing types may occur. Many existing uses and zoning districts are not specifically depicted on the Plan map. However, all such existing lawful uses and zoning districts are deemed to be consistent with this Plan unless such a use or zoning district: (a) is found through a subsequent planning study, as provided in Land Use Policy 5D, to be inconsistent with the criteria set forth below; and (b) the implementation of such a finding will not result in a temporary or permanent taking or in the abrogation of vested rights as determined by the Code of Metropolitan Dade County, Florida.

App. 1 at I-38. In an abundance of caution, the CDMP sets forth the identical or similar language in specific land use

categories. See, e.g., App. 1 at page I-12, for Residential Communities category, page I-18, for Industrial and Office category, page I-19, for Business and Office category, page I-20 for Office/Residential category, and page I-25 for Agriculture category.

Third, the lack of entitlement to any particular land use or zoning approval is also inherent in the nature of the Dade County CDMP's broad land use categories. Under the Dade County CDMP, a mere change of category does not assure that a particular parcel will be developed at any particular density or intensity. This is so because the land use categories in Dade County's CDMP are not limited to specific intensities or types of uses but instead consist of wide ranges of both intensities and uses, with the specific use for individual parcels to be determined only after quasi-judicial hearings on a site-specific basis. For example, the Residential Communities category provides:

The Land Use Plan map includes six residential density categories which are depicted on the Plan map by different symbols/colors. Each category is defined in terms of its maximum allowable gross residential density. Development at a lower than maximum density is allowed and may be required where conditions warrant. . . . The categories do not have a bottom limit or minimum required density; all categories include the full range of density from one dwelling unit per five acres up to the stated maximum for the category.

This language means that even if the CDMP were amended to designate a particular parcel of land as "High Density,"

This language means that even if the CDMP were amended to designate a particular parcel of land as "High Density," permitting "up to 125 dwelling units per gross acre," App. 1 at I-11, there would be no assurance of any right to develop more than the minimum one unit per five acres or any density already permitted under a pre-existing, grandfathered zoning category. This legislative framework of the CDMP, including any amendments thereto, has been judicially recognized:

Without reciting the details of the Comprehensive Development Master Plan for Dade County (the "Master Plan"), it is clear that the Master Plan envisions the use of the property for multiple family residences as long as no more than 25 units are built on each acre. The main thrust of Appellants' argument is that because the Master Plan designates the property for multiple family use, the County cannot restrict the use to single family use given the evidence which shows that the Appellants' plan for the property meets all requirements of the Master Plan and the matters that impact upon it. We reject that argument.

. . . [T]he County Commission, based upon the substantial, competent evidence before it, [i.e., a quasi-judicial zoning hearing] could preserve the integrity of the property for single family residential use. S.A. Healy Company v. Town of Highland Beach, 355 So. 2d 813 (Fla. 4th DCA 1978).

Plyler, etc. v. Metro-Dade County, 32 Fla. Supp. 2d 131, 132, cert. denied, 550 So. 2d 1133 (Fla. 3rd DCA 1989). In denying the petition for certiorari, the Third District Court of Appeal relied upon Dade County v. Inversiones Rafamar, S.A., 360 So. 2d 1130 (Fla. 3rd DCA 1978). Rafamar

had established that a zoning applicant's argument that rezoning "would be substantially in compliance with the Dade County master plan, [was] true only as far as the master plan goes," because the plan "leaves discretion to the county commission as to [the appropriate density]."

360 So. 2d 1130, 1132. See also Board of County Commissioners of Brevard County v. Snyder, 627 So. 2d 469, 475 (Fla. 1993).

Similarly, all non-residential categories of the CDMP, in addition to grandfathering pre-existing zoning, also permit consideration of a variety of uses and zoning designations, to be determined after a true quasi-judicial hearing. For example, the Business and Office category permits not only all manner of business and office uses, but also residential uses, all in addition to uses grandfathered under pre-existing zoning. App. 1 at I-18, I-18.1.

In sum, a comprehensive plan amendment in Dade County merely changes the overall policy framework of the County within which a subsequent application for zoning change may be considered, in a true quasi-judicial proceeding, with no assurance of approval. A comprehensive plan amendment even on a specific parcel in no way decides the way that parcel will be developed.

If the purely policy-making, non-binding nature of comprehensive plan changes, and the consequent lack of any right to a change of zoning or land use, is not sufficiently apparent from the plan itself, the County's standard

amendatory ordinances, in an abundance of caution, put both applicants and the public on notice that comprehensive plan amendments are nothing more than one part of the County's overall policy framework. Each amendatory ordinance provides the following notice:

WHEREAS, all existing lawful uses and zoning in effect prior to a CDMP amendment are deemed to remain consistent with the CDMP as amended unless the Board of County Commissioners, in conjunction with a particular zoning action, finds such preexisting zoning or uses to be inconsistent with the CDMP based upon a planning study addressing the criteria set forth in the CDMP; and

WHEREAS, the approval of an amendment to the CDMP does not assure favorable action upon any application for zoning or other land use approval but is part of the overall land use policies of the County; and

WHEREAS, any application for zoning or other land use approval involves the application of the County's overall land use policies to the particular request under consideration; and

WHEREAS, the County's overall land use policies include, but are not limited to, the CDMP in its entirety and the County's land development regulations;

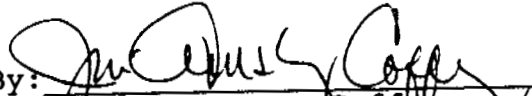
See, e.g., Metropolitan Dade County Ordinance Nos. 95-72 and 95-206, App. 2.

CONCLUSION

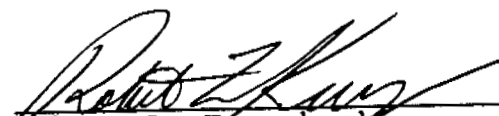
For the foregoing reasons, Metropolitan Dade County respectfully requests that this Court affirm the District Court's reversal, but answer the certified question to declare that the consideration of plan amendments pursuant to the Growth Management Act is not a quasi-judicial function subject to appellate review in the circuit court.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was this 22<sup>nd</sup> day of February, 1996, mailed to: Robert D. Guthrie, Esq. and Gary K. Oldehoff, Esq., Martin County Attorney's Office, 2401 S.E. Monterey Road, Stuart, Florida 34996 and Thomas E. Werner, Esq. and Deborah Beard, Esq., 1100 South Federal Highway, P.O. Drawer 6, Stuart, Florida 34995-0006.

  
Assistant County Attorney



APPENDIX

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Certified copy of pages I through I-50, including  
but not limited to the Statement of Legislative Intent  
and the Land Use Element (except for the plan map)
- Appendix 2      Certified copy of Ordinance Nos. 95-72 (passed and  
adopted April 18, 1995) and 95-206 (passed and  
adopted November 21, 1995).

# ADOPTED COMPONENTS COMPREHENSIVE DEVELOPMENT MASTER PLAN for Metropolitan Dade County, Florida

Adopted November 29 and December 6, 1988

This volume incorporates the following Amendments:

FILING CYCLE	ADOPTION DATE
March 1989	March 27, 1990
Special 1989	April 17, 1990
April 1990	April 23, 1991
October 1990	October 22, 1991
April 1991	April 28, 1992
October 1991	October 20, 27, 1992
April 1992	April 1, 1993
Special April 1993	April 8, 1993
April 1993	April 21, 1994
November 1993	October 13, 1994
May 1994	April 18, 1995

Metropolitan Dade County Planning Department  
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July 1992  
Revised April 1995

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*Executive Secretary*

Metro-Dade County provides equal access and equal opportunity in employment and services and does not discriminate on the basis of handicap

Corrected April 1995

## PREFACE

In 1985 and 1986 the Florida Legislature amended Chapter 163, *Florida Statutes (F.S.)*, which govern the preparation, adoption and implementation of local government comprehensive plans. Significantly, the amendments mandated that specific level of service (LOS) standards for traffic, mass transit, parks, water, sewer, solid waste and drainage be included in local comprehensive plans and that no development orders be issued when the adopted levels of service would not be met.

Other amendments to Chapter 163, *F.S.* required that consistency between the local plan, the applicable regional plan and the *State Comprehensive Plan* be strengthened, and that all subsequent development regulations and orders be consistent with the adopted local comprehensive plan. The statutory amendments also strengthened the requirements for State review and approval of local plans and the penalties for noncompliance; broadened the standing of affected parties to challenge the plan, development regulations and development order; and, altered the requirements for specific plan elements, particularly the Capital Improvements and Coastal Management Elements.

Pursuant to the provisions of Chapter 163, *F.S.* as amended, the Florida Department of Community Affairs established *Minimum Criteria for Review of Local Government Comprehensive Plans and Determination of Compliance*, commonly called (Administrative) Rule 9J-5.

### Elements of the CDMP

Rule 9J-5 was closely followed in the preparation of the Comprehensive Development Master Plan (CDMP) for 2000 and 2010. This plan is organized into eleven Plan Elements preceded by a Statement of Legislative Intent:

- Statement of Legislative Intent
- 1. Land Use Element
- 2. Traffic Circulation Element
- 3. Mass Transit Element

4. Port and Aviation Facilities Element
5. Housing Element
6. Conservation, Aquifer Recharge and Drainage Element
7. Potable Water, Sanitary Sewer and Solid Waste Element
8. Recreation and Open Space Element
9. Coastal Management Element  
(including the Deepwater Seaport Master Plan)
10. Intergovernmental Coordination Element
11. Capital Improvements Element

Each Element contains components which are adopted, plus support components which are not adopted but which provide background information. Only the components of the CDMP which are adopted as County policy are contained in this report.

The support components of the Plan Elements are contained in separate documents. Each of the *Support Components* reports include background data and analyses, inventories of existing conditions, methodologies, projections or other estimates of future conditions, and summaries of applicable State, regional, and preexisting County plan policies.

### Adoption of the CDMP

Eleven proposed CDMP Elements were released for public review and comment in April 1988. The proposed plan was based largely on the policies contained in the 1979 edition of the CDMP, modified as necessary to reflect the policies of the *State Comprehensive Plan*, the *Regional Plan for South Florida*, Chapter 163, *F.S.*, and Rule 9J-5. Following numerous meetings, public workshops and hearings, and the considerations of more than 1,700 public comments and suggestions including comments and suggestions of the Florida Department of Community Affairs, the Dade County Board of County Commissioners adopted the 2000/2010 CDMP effective December 16, 1988. (See Dade County Ordinances 88-110 and 88-119 which are presented in the Appendix to this report as

codified in the Code of Metropolitan Dade County.)

### **Municipal Plans**

The CDMP for Metro-Dade County necessarily addresses both incorporated and unincorporated areas due to the many areawide responsibilities of Metropolitan Dade County government. Each of the twentysix municipalities in Dade County (see Figure i) is

also required, by Chapter 163, F.S., to adopt its own comprehensive plan for the area within its jurisdiction. The County plan emphasizes the unincorporated areas and the County's jurisdictional responsibilities in municipal areas. Readers who are interested in conditions in, or proposals for, incorporated areas should consult the appropriate municipal comprehensive plans.

UNABLE TO SCAN MAP

UNABLE TO SCAN MAP



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## **INTRODUCTION**

---

This report contains all Adopted Components of the 2000/2010 Comprehensive Development Master Plan (CDMP) for Metropolitan Dade County. The adopted plan is organized into eleven Plan Elements preceded by the plan's adopted Statement of Legislative Intent which applies to all Elements.

Each adopted Element includes Goals, Objectives and Policies, plus a Monitoring Program to monitor progress toward Plan implementation. The adopted Land Use, Traffic Circulation, Mass Transit, Port/Aviation, and Capital Improvements Elements also include maps or schedules of "future conditions" plus explanatory information. Most notable is the future

Land Use Plan (LUP) map of the Land Use Element (which is an attachment to this report).

For organizational purposes, each of the eleven Elements is designated by a Roman numeral beginning with I for the Land Use Element and concluding with XI for the Capital Improvements Element. The numbering of pages, figures and tables in each Element begins with the applicable Roman numeral. Within each Plan Element and subelement, the contents which are adopted as County policy are preceded by an introduction to the Element or subelement. The Element and subelement introductions are not adopted as plan policy but are included to provide background and context. All material following the Element's introduction, from the Goals through the Monitoring Program, is adopted as policy.



# STATEMENT OF LEGISLATIVE INTENT

**This Statement expresses the legislative intent of the Board of County Commissioners with regard to the Comprehensive Development Master Plan (CDMP). This Statement is applicable to the CDMP in its entirety and is declared to be incorporated by reference into each element thereof.**

1. Nothing in the CDMP shall be construed or applied to constitute a temporary or permanent taking of private property or the abrogation of vested rights as determined to exist by the Code of Metropolitan Dade County, Florida.
2. The CDMP shall not be construed to preempt considerations of fundamental fairness that may arise from a strict application of the Plan. Accordingly, the Plan shall not be deemed to require any particular action where the Plan is incomplete or internally inconsistent, or that would constitute a taking of private property without due process or fair compensation, or would deny equal protection of the laws.
3. The CDMP is intended to set general guidelines and principles concerning its purposes and contents. The CDMP is not a

substitute for land development regulations.

4. The CDMP contains long-range policies for Dade County. Numerous policies contained in the CDMP must be implemented through the County's land development regulations. Necessary revisions will be made to the County's land development regulations by the date required by Section 163.3202, FS. Other policies of the plan propose the establishment of new administrative programs, the modification of existing programs, or other administrative actions. It is the intent of Dade County that these actions and programs be initiated by the date that Dade County adopts its next Evaluation and Appraisal (EAR) report, unless another date is specifically established in the Plan.
5. The CDMP is not intended to preempt the processes whereby applications may be filed for relief from land development regulations. Rather, it is the intent of the Board of County Commissioners that such applications be filed, considered and finally determined, and that administrative remedies be exhausted, where a strict

## STATEMENT OF LEGISLATIVE INTENT

application of the CDMP would contravene the legislative intent as expressed herein.

6. The Board recognizes that a particular application may bring into conflict, and necessitate a choice between, different goals, priorities, objectives, and provisions of the CDMP. While it is the intent of the Board that the land use element be afforded a high priority, other elements must be taken into consideration in light of the Board's responsibility to provide for the multitude of needs of a large heavily populated and diverse community. This is especially true with regard to the siting of public facilities.

Recognizing that County Boards and agencies will be required to balance competing policies and objectives of the CDMP, it is the intention of the County Commission that such boards and agencies consider the overall intention of the CDMP as well as portions particularly applicable to a matter under consideration in order to ensure that the CDMP, as applied, will protect the public health, safety and welfare.

7. The term "shall" as used in the CDMP shall be construed as mandatory, subject, however, to this Statement of Legislative Intent. The term "should" shall be construed as directory.



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# LAND USE ELEMENT

## Introduction

The **Land** Use Element of the Comprehensive Development Master Plan (CDMP) for the years 2000 and 2010 constitutes the third major update of the **CDMP** Land Use Element. However, the pattern of land use and **urban** growth promoted in the original **1975 edition** of the CDMP remains essentially unchanged. This growth **policy** includes, among other intents, that physical expansion of the urban area should **be** managed to occur 1) at a rate commensurate with projected population and economic growth; 2) in a contiguous pattern centered around a network of high-intensity activity centers well connected by multimodal intraurban transportation facilities; and 3) in locations which optimize **efficiency** in public service delivery and **conservation** of valuable natural resources.

The **Land** Use Element **identifies** locations in Dade County **where various land** uses and intensities of use **will be permitted** to occur in the future. It establishes and articulates broad policy in keeping **with the traditional role** of the comprehensive plan as a framework for, or schematic plan of, future development.

The **Land** Use Element is at the same time both reactive and proactive. It not only reflects previously adopted plans and **established** land use and zoning patterns, upon its adoption it estab-

lishes the County's **policy** regarding future zoning **and land** use patterns. Similarly, while it reflects existing **urban** service capacities and constraints, **it** also establishes locations where **service** improvements will have to follow. **It also** both reflects, and seeks to promote, **activity** in the private land market. Recent development trends are **carefully** considered, however, the **Land** Use Element endeavors to assert County influence on locations and intensity of future development activity.

The land Use Element contains all of the material required by Section **163.3177(6)(a)**, Florida Statutes (F.S.) and Section **9J-5.006**, Florida Administrative **Code** (F.A.C.) which **establish** the minimum requirements for contents of the future land use element. Moreover, the Dade County portion of the Big Cypress **Area** of Critical State **Concern** is affected by, and addressed in this Element as well as in the Conservation Element. The Big Cypress **"Critical Area"** boundaries coincide directly with the boundaries of the **Big** Cypress National Preserve in **Dade** County which are identified on the existing and future land use maps contained in this Element.

The **Adopted** Components of the Land Use Element **include** the Land Use Goal, Objectives and Policies, the Land Use Plan map for 2000 and 2010 and related text entitled "Interpretation of the **Land** Use Plan Map", and maps of future historical and natural resources. Also included

## LAND USE ELEMENT

is a "monitoring program" for periodically **measuring** progress being made in implementing the comprehensive **plan**.

The **Support Components** report, printed **separately**, contains background data and information, analyses of land use trends and synopses of urban service and environmental opportunities and constraints. The environmental and service analyses **included** in the land use support components are very brief synopses of extensive inventory and analyses contained in the Conservation and various service Elements of the Plan. The reader is referred to support components of those elements for complete analyses of those services.

The **Support Components report** also includes, for information purposes, a chapter containing Land Use **Guidelines** which are **used** in planning land use at the smaller **scale**, such as in the conduct of small-area land use studies, and in the zoning, **subdivision** and site **plan review** processes. The **Support Components report** concludes with a chapter which outlines the extensive body of preexisting policy which provided the context in which this **Element** was prepared. The policy context includes Dade County's long-established policy and programs of growth management, plus the more recent State and Regional policy **plans** which are summarized in the chapter.

## GOAL

**PROVIDE THE BEST POSSIBLE DISTRIBUTION OF LAND USE, BY TYPE AND DENSITY, TO MEET THE PHYSICAL, SOCIAL, CULTURAL AND ECONOMIC NEEDS OF THE PRESENT AND FUTURE RESIDENT AND TOURIST POPULATION IN A MANNER THAT WILL MAINTAIN OR IMPROVE THE QUALITY OF THE NATURAL AND MAN-MADE ENVIRONMENT AND AMENITIES, AND ENSURE THE TIMELY AND EFFICIENT PROVISION OF SERVICES.**

## Objective 1

Decisions regarding the location, extent and intensity of future **land use in Dade County**, and urban expansion in Particular, will be based upon the physical and financial feasibility of Providing, by the year 2000, all **urbanized areas with services at Levels of Service (LOS) which meet or exceed the minimum standards adopted in the Capital Improvements Element.**

## Policies

- 1A. All development orders authorizing new, or significant expansion of existing, urban land uses shall be contingent upon the provision of services at the Levels of Service (LOS) which meet or exceed the LOS standards specified in the Capital Improvements Element (CIE). Metro-Dade County shall, by the date required by Chapter 163.3202, Florida Statutes (F.S.), implement the requirements of Section 163.3202(2)(g), ES.
- 1B. Priority in the provision of services and facilities and the allocation of financial resources for services and facilities in Dade County shall be given first to serve the area within the Urban Development Boundary (UDB) of the Land Use Plan (LUP) map. Second priority in allocations for services and facilities shall support the staged development of the Urban Expansion Area (UEA). Urban services and facilities w&h support or encourage urban development in Agriculture and Open Land areas shall be avoided, except for those improvements necessary to protect public health and safety and which service the localized needs of these non-urban areas.
- 1C. Dade County shall maintain and enhance, as necessary, formalized requirements and procedures for all development, regardless of size, to contribute its proportionate share of capital facilities, or funds or land therefor, necessary to accommodate impact of the proposed development or increment of

## LAND USE ELEMENT

**redevelopment** over and **above** preexisting **development** on a site.

1D. Metro-Dade County **agencies** shall **continue and**, where possible, improve their efforts to coordinate projects to construct or repair infrastructure such as roadways and utilities in order to minimize the disruption and inconvenience caused by such construction **activities**.

1E. The Planning Department shall coordinate and centralize the compilation of monitoring information necessary to make necessary determinations regarding existing and projected **Levels** of Service and to **periodically** prepare Evaluation and Appraisal Reports for **submission** to the State land planning agency, **as** required by Chapter 163, **F.S.** and **Rule 9J-5, F.A.C.**; and all Metro-Dade County agencies shall **fully** cooperate **with** the Planning Department by carrying out necessary monitoring and reporting **activities identified** in the CDMP Monitoring Program.

### Objective 2

Upon the adoption of the CDMP, the location, design and management practices of **development and redevelopment in Dade County shall ensure** the protection of natural resources and systems by **recognizing**, and sensitively responding to **constraints posed** by soil conditions, topography, **water table level**, vegetation type, **wildlife habitat**, and hurricane and other flood hazards, and by reflecting the **management policies** contained in **resource planning and management plan<sup>8</sup> prepared pursuant** to Chapter 380, **Florida Statutes**, and approved by the Governor and Cabinet.

### Policies

2A. **Development** orders in Dade County shall be consistent **with** the goals, **objectives and policies** contained in the **Conservation and Coastal Management Elements** of this Plan,

and with **all** applicable environmental reputations, as well as all other elements of the CDMP

2B. Significant natural resources and systems which shall be protected from incompatible land use include **Biscayne Bay**, future coastal and inland wetlands, and future potable water-supply wellfield areas identified in the Land Use Element or in adopted wellfield protection plans. forested **portions** of Environmentally **Sensitive Natural** Forest Communities as identified in the Natural Forest Inventory, as **may** be amended from time to time, shall also be **given** high priority for protection.

2C. Development in the Big Cypress Area of Critical State Concern, and in the East Everglades **shall be** limited to uses, designs and management practices which are consistent **with** adopted State regulations and policies and related federal, State or County policies, **plans** or regulations as **may be formulated**, consistent **with** the goals, **objectives** and policies of this comprehensive **plan**.

20. Oade County shall not intervene with any growth-subsidizing programs to reverse the projected moderation of the rate of future population growth and residential development on the barrier islands of Dade County. The provision of facilities and services to accomplish the timely evacuation of already-developed barrier islands in advance of **approaching** hurricanes shall be a priority of Dade County's transportation planning and hurricane preparedness programs.

### Objective 3

The location and configuration of Dade County's urban growth from **1989** through the year 2010 shall emphasize concentration around centers of activity, renewal and **rehabilitation of blighted areas**, and **contiguous urban expansion** when warranted, rather than sprawl.

## LAND USE ELEMENT

### Policies

- 3A. High **intensity**, well designed activity centers shall be **facilitated** by Metro-Dade County at locations having high countywide multimodal **accessibility**.
38. **Land** In the vicinity of **public mass** transit stations shall be planned **and** developed in a manner that is compatible with, and supports the transit **system**.
- 3C. Metro-Dade County shall approve **infill** development on **vacant** sites in currently urbanized areas. and redevelopment of substandard or **underdeveloped** environmentally suitable urban areas contiguous to existing urban development where all necessary urban **services** and facilities **are projected to have capacity to accommodate** additional demand.
30. Metro-Dade County Shall seek to prevent discontinuous. **scattered** development at the urban fringe particularly In the Agriculture Areas, through its biennial COMP amendment process, regulatory and capital improvements programs and intergovernmental coordination activities.
- 3E. Dade County will maintain **its commitment** to improve Community **Development target** and conservation areas, **and will enhance** the County's **Enterprise Zone** program as a tool to expand the economy in locally distressed areas.
- 3F. **Dade** County will maintain and enhance the housing assistance **and public housing** programs **addressed in the Housing Element** as a means to improve conditions of low and moderate income residents.
- 3G. Building, zoning **and housing codes** will be vigorously **enforced in ail areas of Oade** County.
- 3H. **Public** facility and service providers shall give priority to eliminating any infrastructure deficiencies which would **impede** rehabilitation or renewal of **blighted** areas.
- 3I. In formulating or **amending** development regulations, **Dade** County shall **avoid** creating disincentives to redevelopment **of** blighted areas. Where redevelopment **occurs within** the **urban** area, requirements for **contributions toward** provision of public facilities may be moderated where underutilized facilities or surplus capacities exist, and credit toward required infrastructure contributions may be *given* **for** the increment of development replaced by redevelopment.
- 3J. Dade County **shall** continue to support the Metro-Miami Action Plan to improve **conditions** of disadvantaged groups of the community,

### Objective 4

**Dade County shall protect, preserve, ensure** the proper management, and promote public **awareness** of historical, architectural **and** **archaeologically significant sites and districts** in **Dade County**, and shall seek the addition of approximately 30 new listings to the National Register **by** 1995, and increase the **number of locally designated historical and** archeological sites, districts and zones by 50 percent by the year 2000.

### Policies

- 4A. **Dade County** shall continue to identify, seek appropriate designation, and protect properties of historic. architectural and **archaeological** significance.
- 4B. **Oade County** shall place increased emphasis on districts, thematic groups and multiple resource listings in National Register applications.
- 4C. **Oade County** shall seek financial resources to develop, and promote implementation of management **plans** for the preservation.

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protection and adaptive reuse of historic and archaeological resources on County property.

4D. Public acquisition of historic and archaeological resources shall be pursued when public ownership would provide a major public benefit to the people of Dade County, when necessary financial resources can be secured, and when public acquisition is the last available resort.

4E. Historic structures shall be used to accommodate government functions where reuse of a such facility is financially and logistically advantageous.

4F. Dada County shall seek to develop technical, legal and financial incentive programs to encourage private sector participation in the preservation and protection of historical and archaeological resources.

4G. Dade County will assist, and will intensify its effort to insure that municipalities achieve fully operational historic and archaeological resource preservation programs by 1990.

4H. Through the Historic Preservation Division, Dade County shall improve communication for multi-agency review processes, and expand informational networking with municipal, state and regional agencies and with private non-profit organizations.

4I. Dada County shall pursue efforts with other local, State and federal agencies to develop policies that recognize the importance of designated historic resources and that comply with the provisions of the County's Historic Preservation Ordinance.

4J. Dade County shall seek to increase public awareness of the value of local historic and archaeological resources through support from the print and broadcast media, presentations, conferences, seminars and special programs and events such as Dade

Heritage Days and National Historic Preservation Week, and by seeking emphasis of local history by the Dade County Public School System, particularly in grades K through six.

4K Awareness of historic sites and districts shall be promoted through tourist programs; expansion of the historic plaques and markers program; and production and dissemination of publications on local archaeology, historic sites, and pm-1940 development.

### OBJECTIVE 5

DADE COUNTY SHALL, BY THE YEAR 2000, REDUCE THE NUMBER OF LAND USES WHICH ARE INCONSISTENT WITH THE USES DESIGNATED ON THE LUP MAP AND INTERPRETIVE TEXT, OR WITH THE CHARACTER OF THE SURROUNDING COMMUNITY.

### POLICIES

SA Uses designated on the I&P map and--- interpretive text, which generate of cause to generate significant noise, dust, odor, vibration, or truck or rail traffic shall be protected from damaging encroachment by future approval of new incompatible uses such as residential uses.

5B. Residential neighborhoods shall be protected from intrusion by uses that would disrupt or degrade the health, safety, tranquility, character, and overall welfare of the neighborhood by creating such impacts as excessive density, noise, light, glare, odor, vibration, dust or traffic.

S C . Complementary, but potentially incompatible uses shall be permitted on sites within functional neighborhoods, communities or districts only where proper design solutions can and will be used to integrate the compatible and complementary elements and buffer any potentially incompatible elements.

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5D. Zoning shall be examined to determine consistency with the Comprehensive Plan, and if deemed necessary to remedy an inconsistency, rezoning action shall be initiated.

5E. Dade County shall Implement the Homestead Air Force Base Air Installation Compatible Use Zone (AICUZ) Report guidelines through the Land Use Element of the Dade County Comprehensive Development Master Plan, the Dade County Zoning Ordinance and the South Florida Building Code to provide for land use compatibility in the vicinity of the Base.

5F. Granting of commercial or other non-residential zoning by the County is not necessarily warranted on a given property by virtue of nearby or adjacent roadway construction or expansion, or by its location at the Intersection of two roadways.

### Objective 6

Upon the adoption of this plan, all public and private activities regarding the use, development and redevelopment of land and the provision of urban services and infrastructure shall be consistent with goal, objectives and policies of this Element, with the adopted Population Estimates and Projections, and with the future uses provided by the adopted Land Use Plan (LUP) map and accompanying text entitled "Interpretation of the Land Use Plan Map", as balanced with the Goals, Objectives and Policies of all Elements of the Comprehensive Plan.

### Policies

6A. The textual material entitled "Interpretation of the Land Use Plan Map" contained in this Element establishes standards for allowable land uses, and densities or intensities of use for each land use category identified on the adopted Land Use Plan (LUP) map, and is declared to be an

extension of these adopted Land Use Policies.

6B. All development orders authorizing a new land use or development, of redevelopment, or significant expansion of an existing use shall be contingent upon an affirmative finding that the development or use conforms to, and is consistent with the goal, objectives and policies of the CDMP including the adopted LUP map and accompanying "Interpretation of the Land Use Plan Map".

6C. All planning activities pertaining to development and redevelopment in Dade County shall be consistent with the "Population Estimates and Projections" contained in this Element and with the locations and extent of future land uses as identified by the LUP map and its interpretive text.

6D. The area population projections shown on the map of "Population Estimates and Projections" shall be used to guide public and private entities in planning for urban development and redevelopment and to guide the location, timing and capacity of all urban services and facilities.

### Objective 7

Beginning In 1989 Dade County shall maintain a process for periodic amendment to the Land Use Plan map, consistent with the adopted Goals, Objectives and Policies of this Plan, which will provide that the Land Use Plan Map accommodates urban expansion at projected countywide rates.

### Policies

7A. Activity centers, Industrial complexes, regional shopping centers, large-scale office centers and other concentrations of significant employment shall be recognized as potential structuring elements of the Metropolitan area and shall be sited on the basis of metropolitan-scale considerations at locations with good countywide, multi-modal accessibility.



LAND USE ELEMENT

Metropolitan area and shall be sited on the basis of metropolitan-scale considerations at locations with good countywide, multi-modal accessibility.

7B. Distribution of neighborhood or **community-serving** retail sales uses and personal and professional **offices** throughout the urban area shall reflect the spatial distribution of the residential population, among other salient social, economic and physical considerations.

7C. Residential development shall occur in locations and at densities which are suitable **as** reflected by such factors as the following: recent trends in location and design of residential units; projected availability of service and infrastructure capacity; proximity and accessibility to employment, commercial and cultural centers; character of existing adjacent or surrounding neighborhoods; **avoidance** of natural resource degradation; and maintenance or creation of amenities.

7D. In conducting its planning, **regulatory**, capital improvements and intergovernmental **coordination** activities, Dade County shall seek to facilitate the planning of residential areas as neighborhoods which include recreational, educational and other public facilities, houses of worship, and safe and convenient circulation of automotive, pedestrian and bicycle traffic.

7E. Through its planning, capital **improvements**, cooperative extension, **regulatory** and intergovernmental coordination activities, Dade County shall continue to protect agriculture as a viable economic use of land in Dade County.

7F. Through its planning, regulatory, capital improvements and intergovernmental coordination activities, Dade County shall seek to ensure that suitable land is provided for placement of utility facilities necessary to support proposed development.

7G. Necessary utility facilities may be located throughout Dade County in all land use categories **as** provided in the 'Interpretation of the Land Use Plan Map' text.

7H. The maintenance of internal consistency among all Elements of the CDMP shall be a prime consideration in evaluating all requests for amendment to any Element of the Plan. Among other considerations, the LUP map shall not be amended to provide for additional urban expansion unless traffic circulation, mass transit, water, sewer, solid waste, drainage and park and recreation facilities necessary to serve the area are included in the plan and the associated funding programs are demonstrated to be viable.

7I. Applications requesting amendments to the CDMP Land Use Plan map shall be evaluated to consider consistency with the Goals, Objectives **and** Policies of all Elements, other timely **issues**, and in particular the extent to which the proposal, if approved, would:

- 1) Satisfy a deficiency in the Plan map to accommodate projected population or economic growth of the County;
- 2) Enhance or impede provision of **services at** adopted LOS Standards;
- 3) Be compatible with abutting and nearby land uses and protect the character of established neighborhoods; and
- 4) Enhance or degrade environmental or **historical** resources, features or systems of County significance.

Objective8

Dade County shall continue to maintain in the **Code of Metropolitan Dads County** and administrative **regulations, and shall enhance as necessary, by the date required by Section 163.3202, F.S., provisions which ensure that future land use and development in Dade County is consistent** with the CDMP.

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### Policies

- 8A.** To maintain consistency between Dade County's development- regulations and comprehensive plan, the Planning Department (local planning agency) shall review proposals to amend Dade County's development regulations and shall report on the consistency between said proposals and the CDMP, as required by Chapter 163, ES.
- 88.** Dade County shall continue to maintain, and enhance as necessary, regulations consistent with the CDMP which govern the use and development of land and which, as a minimum, regulate:
- 1) Land use consistent with the Land Use Plan map;
  - 2) Subdivision of land;
  - 3) Signage;
  - 4) Areas subject to seasonal or periodic flooding;
  - 5) Stormwater management; and
  - 6) On-site traffic flow and parking to ensure safety and convenience and that no avoidable off-site traffic flow impediments are caused by development.
- 8C.** Dade County shall continue to encourage and promote the transfer of Severable Use Rights (SUA) from lands which are allocated SURs in Chapter 33B, Code of Metropolitan Dade County, to land located within the Urban Development Boundary as designated on the LUP map. When revising development regulations as may be required to comply with Chapter 163, P.S., the County shall seek to create additional incentives for acquisition and use of SURs.
- 8D.** Dade County shall continue to investigate, maintain and enhance methods, standards and regulatory approaches which facilitate

sound, compatible mixing of uses in projects and communities.

- 8E.** Dade County shall enhance and formalize its standards for defining and ensuring compatibility among proximate uses, and requirements for buffering. Factors that will continue to be considered in determining compatibility include, but are not limited to noise, lighting, shadows, access, traffic, parking, height, bulk, landscaping, hours of operation, buffering and safety.
- 8F.** The County should identify sites having good potential to serve as greenbelts, and should recommend retention and enhancement strategies, where warranted. Such greenbelts should be suggested on the basis of their ability to provide aesthetically pleasing urban spaces, recreational opportunities, or wildlife benefits. Considered sites should include canal, road or powerline rights-of-way, or portions thereof, particularly where they could link other parklands, wildlife habitats, or other open spaces.
- 8G.** The County shall consider urban design, water and energy conservation and wildlife habitat when designing sites and selecting landscape material for all public projects.

### Objective 9

Energy efficient development shall be accomplished through metropolitan land use patterns, site planning, landscaping, building design, and development of multimodal transportation systems.

### Policies

- 9A.** Dade County shall facilitate contiguous urban development, infill, redevelopment of substandard or underdeveloped urban areas, high intensity activity centers, mass transit supportive development, and mixed use projects to promote energy conservation.

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**9B. Solar design guidelines** for such ~~items~~ as street and passageway alignments, landscaping, setbacks, building orientation, and relationship to ~~water~~ **bodies shall be developed by 1990, and utilized** in site ~~plan~~ reviews by the Planning Department.

**9C. Dade County shall continue to require energy efficient** design in new construction and redevelopment activities through administration and enforcement of the Florida Energy code.

## LAND USE ELEMENT

### INTERPRETATION OF THE LAND USE PLAN MAP: POLICY OF THE LAND USE ELEMENT

This text describes each land use category shown on the Land Use Plan (LUP) map, and explains how each category and the Map are to be interpreted and used.

#### Residential Communities

The areas designated Residential Communities permit housing types ranging from detached single-family to attached multifamily buildings, as well as different types of structural systems and, construction systems. Also permitted in Residential Communities are neighborhood and community services including schools, parks, houses of worship, day care centers, group housing facilities, and utility facilities, only when consistent with other goals, objectives and policies of this Plan and compatible with the neighborhood. The character of the "neighborhood" depends upon the appropriate mix of land uses and their relationship.

Guidelines for **Urban** form, The following guidelines establish a generalized pattern for location of different uses, their intensity and density, and the interconnecting network of vehicular and pedestrian movement. The general pattern of land use in residential communities should conform to the following guidelines. Exceptions may occur (a) for Developments of Regional Impact and Developments of County Impact or (b) to conform the density, intensity, use, building envelope, traffic generation and demand on services and infrastructure of a proposed new use to such contextual elements as the general pattern of use, intensity and infrastructure which exists in an established neighborhood.

1. The section line roads should form the physical boundaries of neighborhoods.
2. The section line, half section line, and quarter-section line road system should form a continuous network, interrupted only when it would destroy the integrity of a neighborhood or development, or when

there is a significant physical impediment. Pedestrian and vehicular traffic networks should **serve** as physical links between neighborhoods, with multiple points of **access** between neighborhoods.

3. Within a section, a variety of residential types and densities are encouraged, with higher densities being located at the periphery, and lower densities in the **interior**.
4. Intersections of section line roads shall serve as focal points of activity, hereafter referred to as activity nodes. Activity nodes shall be occupied by any non-residential components of the neighborhood including public and semi-public uses. When commercial uses are warranted, they should be located within these activity nodes. In addition, of the various residential densities which may be approved in a section through density averaging or on an individual site basis, the higher density residential uses should be located at or near the **activity** nodes.
5. Areas abutting and adjacent to activity nodes should serve as transition areas suitable for eligible higher residential densities, public and semi-public uses including day care and congregate living uses.
6. Areas located along section line roads between transition areas **are** also authorized for eligible **higher** residential densities, public and semi-public uses, When section line roads are served by adequate mass transit, these areas are more suitable for **office** uses than such **properties** not served by adequate transit.
7. Sites located near the center of the section at or near the intersection of half-section roads may be utilized for **neighborhood-serving** community facilities such as **elementary** schools, day **care**, recreational uses, and open spaces.
8. Pedestrian circulation shall be provided between activity nodes, all public places, and all subdivisions through connectivity of

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section, half-section and local roadways constructed with sidewalks and supplemented by pedestrian paths.

9. Along **arterials**, Major and high-speed roadways, pedestrian circulation should be accommodated by sheltering sidewalks from passing **traffic** by providing **landscaping** and trees at the street edge. In commercial areas, pedestrian access should be further accommodated by pedestrian pathways from the neighborhood to *the* business **entrances** as **convenient** as those from parking lots, and by providing awnings, overhangs or **porticos** for protection from the sun and weather.
10. The walling off of neighborhoods from arterial roadways should be avoided by alternatives such as placement of other compatible uses along the periphery of suburban neighborhoods. These uses include public and semi-public uses, higher density residential building types, and office uses, where any of such uses are **otherwise** permitted by this category and **justified**. If lower density residential uses are to be located on an arterial, the building lots should be provided with ample setbacks. **side** yards and block ends should face *the* arterial, frontage roads may be utilized, or landscaping should be used in lieu of **continuous** walls.

Gross Residential Density. The basic unit of measurement of residential density is "dwelling units per gross residential **acre**." Among the land uses that may be included in the "gross residential acreage" when computing the number of dwelling units permitted per gross acre in a residential communities area are the following: **housing**; streets; public schools; **local** public parks; fire stations; police stations; **private recreational** open spaces that are protected in perpetuity by **covenant**; public or semipublic utility

**sites**, **easements** or **rights-of-way** donated at the *time* of development approval; and nature preserves and water **bodies** created as **open-space amenities** during project development or credited for density purposes during previous development approval, or inland waters\* wholly owned by the **applicant**. The sites of these non-residential uses may be included in the gross residential **acreage** only if they are under the same ownership or are multiple **ownerships** that are legally unified (legally unified development) as the site **for** which **gross** density is being determined. Among the uses not considered to be part of the "residential" area when computing the **number** of units permitted are industrial, **commercial** and **office** sites: communication facility sites: utility sites: easements and **rights-of-way** unless expressly **permitted** elsewhere in this **section**; **expressways**; **nonlocal** parks and nature preserves: universities, colleges and other **institutional** uses. **any land** that has been credited for other **development**; previously dedicated road **rights-of-way**; and any **already-developed** parcels **whether** underdeveloped or not. Hotels and motels may **be** approved in certain areas **designated** as Residential Communities only as **provided** in the following **paragraphs**. Where **approved** in Residential Communities, each hotel or motel unit shall **count as two** thirds ( $\frac{2}{3}$ ) of a dwelling unit when **calculating** gross **density**. (Motels and hotels **that** are **located** in areas designated Business and Office or Industrial and Office on the LUP **map** are considered to be commercial uses and, therefore, **their** units are not considered in **determining** the **number** of residential units permitted in an **area**). On the other hand, **net density**, typically used in zoning practice, is the number of housing units per acre of land that is used exclusively **for** residential units: For example, a ten-acre **parcel** of land, half of which is **devoted** to 30 residential units and half to a park, would have residential development at a NET density 6 units **per** acre and a GROSS density of **3** units per acre.

\* Inland water means all freshwater as defined in Chapter 24 of the Code of Metropolitan Dade County, and any coastal waters as defined in Chapter 24 having no direct physical connection to Biscayne Bay or to a coastal tributary thereof, except as said connection may occur through ground strata

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The Land Use Plan map includes six residential density categories which are depicted on the Plan map by different symbols/colors. Each category is defined in terms of its maximum allowable gross residential density. Development at a lower than maximum density is allowed and may be required where conditions warrant. For example, in instances where a large portion of the "gross residential acreage" is not part of the "net" residential building area, the necessity to limit the height and scale of the buildings to that compatible with the surrounding area may limit the gross density. The categories do not have a bottom limit or minimum required density; all categories include the full range of density from one dwelling unit per five acres up to the stated maximum for the category. Severable Use Rights (SURs) may be transferred to parcels within the year 2000 Urban Development Boundary. When Severable Use Rights are utilized on residentially designated parcels, development will be allowed to exceed the maximum limits designated for the site or affected portions of it; however, this provision does not authorize the granting of a zoning district that, without use of SURs, would exceed the Plan density limit.

Estate Density. This density range is typically characterized by detached estates which utilize only a small portion of the total parcel. Clustering, and a variety of housing types may, however, be authorized. The maximum density allowed in this category is 2.5 dwelling units per gross acre.

Low Density. A larger number of units is allowed in this category than in the Estate density. The maximum density allowed is 6 dwelling units per gross acre. This density category is generally characterized by single family housing, e.g., single family detached, cluster, zero lot line and townhouses. It could possibly include low-rise apartments with extensive surrounding open space providing that the maximum gross density is not exceeded.

Low-Medium Density. This category allows up to 13 dwelling units per gross acre. The types of housing typically found in areas designated

low-medium density include single family homes, townhouses and low-rise apartments.

Medium Density. This density category allows up to 25 dwelling units per gross acre. The type of housing structures typically permitted in this category include townhouses and low-rise and medium-rise apartments.

Medium-High Density. This category accommodates apartment buildings ranging up to 60 dwelling units per gross acre. In this category, the height of buildings and, therefore, the attainment of densities approaching the maximum, depends to a great extent on the dimensions of the site, conditions such as location and availability of services, ability to provide sufficient off-street parking, and the compatibility with and impact of the development on surrounding areas.

High Density. This category permits up to 125 dwelling units per gross acre. This density is only found in a few areas located within certain municipalities where land costs are very high and where services will be able to meet the demands.

Density Averaging. The land use density ceiling designated on the LUP map will apply to every parcel of land. However, in certain instances, the averaging of density may be authorized among different parcels. Specific provisions for this to occur are specified below. All of the following allowances are limited to lands located within the Urban Development Boundary which are designated for urban uses.

Where groups of parcels under a single ownership or multiple ownerships that are legally unified (hereinafter legally unified development) are located within a unit area bounded by Major or Minor Roadways as indicated on the Land Use Plan map, portions of a parcel or groups of parcels under said ownership or legally unified development can be developed at densities higher than that shown on the LUP map provided that other portions are developed at correspondingly lower densities so that the average density of the site(s) being developed does not exceed the maximum gross density

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limits shown on the LUP map. Where a **parcel** or **group of contiguous** parcels under a single ownership or **legally unified development** has two different LUP map **residential** designations, the number of units **permitted** under one designation may be **averaged with** the number of **units permitted** under the other and developed at varying densities providing that the total number of units built on such property does not **exceed** the total number permitted under the two designations. Further, where **50** percent or more of the boundary of a **parcel** or group of contiguous **parcels**, not exceeding **20** acres in size, adjoins land **that** is developed or zoned for densities that are higher than those **which** are shown on the LUP map, such property may be zoned for a density higher than that shown on the LUP map but not higher than the highest density which is permitted by zoning on the adjoining properties. The above provisions, however, are conditioned upon a determination being made that the requested density and housing types are compatible with the surrounding development and **would** not create a significant negative impact on **se&es** **within** the area.

The **land** use and residential density patterns indicated for municipalities represent the development basis that Metro-Dade County will use to plan and program public **facilities** and services that are its responsibility. The patterns of land use and densities indicated along municipal boundaries also seek to **minimize** conflicts between different **jurisdictions**. Because municipal planning agencies possess greater familiarity and the authority to plan land use of their jurisdiction, adopted municipal comprehensive plans may average **densities among different density categories indicated on** the LUP map, **within** unit areas bounded by Major and Minor Roadways **indicated** on the Land Use Plan map. **However**, the **total** potential number of dwelling units and acreage of other **land uses should not be changed from the total** indicated by the County **plan** for the unit area bounded by these roadways. Moreover, **maintenance** of compatible uses and housing types at **local** government jurisdictional boundaries is particularly important.

### Zoning **Districts** Not **Specifically Depicted**.

As provided in the previous paragraphs, mixing of different housing types and densities is **allowed** within certain unit areas. The average gross residential densities depicted on the **Land Use Plan map** reflect such averaging. They also **reflect** certain non-residential use sites **previously credited** in accordance with the section entitled "**Gross Residential Density**" and its predecessor standard.

Existing **lawful** residential zoning classifications and district boundaries are not specifically **depicted on** the LUP map. They are however reflected in the average Plan density depicted. **All** such residential zoning is deemed to be consistent with this Plan unless it: (a) is found through a subsequent planning study, as provided in Land Use **Policy 5D**, to be **inconsistent with the criteria** set forth below; and (b) the implementation of such a finding will not result in a **temporary** or permanent taking or in the **abrogation** of vested rights as determined by the **Code of Metropolitan** Dade County, Florida. The **criteria determining that** an existing use or zoning district is inconsistent with the plan are as **follows**: 1) Such use or district does not conform with the conditions, criteria or standards for approval of such a use or zoning in the applicable LUP map category; and 2) the use or zoning district has, or would have an unfavorable effect on the surrounding area: by causing an undue burden on **transportation** facilities including roadways and mass transit or other utilities and services including water, sewer, drainage, fire, rescue, **police and schools**; by providing inadequate off-street parking, service or loading areas: by maintaining operating hours, outdoor lighting or **signage** out of **character** with the **neighborhood**; by creating traffic, noise, odor, dust or glare out of character **with** the neighborhood; by posing a threat to the natural environment including air, water **and** living resources; or where the character of the buildings, including height, bulk, **scale**, floor area ratio or design would detrimentally impact the surrounding area. Also deemed to be consistent with this Plan are uses and zoning districts which have been approved by a final **judicial** decree which has declared this

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Plan to be invalid or unconstitutional as applied to a specific piece of property. The County may initiate an appropriate action to change zoning in furtherance of the Plan map, objectives or policies where the foregoing criteria are not met. The limitations outlined in this paragraph pertain to existing residential zoning and uses. All approval of new residential zoning must be consistent with the provisions of the specific residential density category in which the subject parcel exists, including the provisions for density averaging and definition of gross density.

**Other Potential Uses in Residential Communities.** The uses generally permitted in Residential Communities are listed above under the residential density and gross residential density headings. The establishment of other new uses in residential areas is not allowed; however, under limited circumstances and conditions, some other land uses may be permitted to locate in Residential Communities. These special use situations are described below. No "other new use" in a residential area as described in this section shall be deemed consistent with the CDMP where the use or zoning district has, or would have, an unfavorable effect on the surrounding area: by causing an undue burden on transportation facilities including roadways and mass transit or other utilities and services including water, sewer, drainage, fire, rescue, police and schools; by providing inadequate off-street parking, service or loading areas; by maintaining operating hours, outdoor lighting or signage out of character with the neighborhood; by creating traffic, noise, odor, dust or glare out of character with the neighborhood; by posing a threat to the natural environment including air, water and living resources; or where the character of the buildings, including height, bulk, density, floor area ratio or design would detrimentally impact the surrounding area.

**Congregate Living Facilities, Group Homes, Foster Homes, Nursing Homes, and Day Care Facilities.** "Congregate residential uses" and nursing homes may be permitted at suitable locations in Residential Communities in keeping with the following density allowance: Each 2.5 occupants shall be considered to be

one dwelling unit, and the maximum number of dwelling units allowed shall be no greater than the number allowed in the next higher residential density category than that for which the site is designated. For example, a ten-acre site located in an area designated for six dwelling units per gross acre may be permitted up to 13 units per gross acre or in this instance, up to 130 units. Assuming 2.5 occupants per unit, up to 325 persons could occupy the site.

The intensity of use that may be approved for "daytime service uses" such as day care facilities shall be limited as necessary to be compatible with adjacent uses and to comply with water supply and sewage regulations contained in Chapter 24 of the Dade County Code.

If located in Estate, Low or Low-Medium Density neighborhoods: congregate residential uses, and daytime service uses such as day care centers, should locate only on sites that are transitional to higher density or higher intensity land uses, to public uses or to other areas of high activity or accessibility. In particular, nursing homes are best located on a Major or Minor Roadway and in, or adjacent to commercial or institutional areas, higher density areas or other situations transitional from lower density residential areas.

**Public Facilities.** Large-scale public facilities and utilities are specifically identified in the Institutional and Public Facilities category on the Plan map. Small-scale utility facilities intended to serve the immediate needs of the residential community may be permitted on compatible sites in Residential Communities subject to adequate design and buffering. These facilities include electrical sub-stations and transmission facilities, telephone, water and sewer facilities. Larger utility facilities which are designed to serve more than a local area are preferably located in or adjacent to Industrial and Office, or Business and Office areas. Cemeteries may also be permitted in Residential Communities where direct access to a Major or Minor Roadway is provided or where traffic would not disrupt adjacent residential areas.



## LAND USE ELEMENT

**Commercial Uses (in Residential Communities).** Commercial uses are prohibited in areas designated as Residential Communities except as specifically provided in this chapter: **ample** sites for business and **office** uses are provided in the Business and Office, Industrial and Office, and Office/Residential Categories on the Land Use Plan map. However, under the following specific circumstances limited commercial uses may be **authorized** in areas designated as Residential Communities.

Office uses smaller than five acres in site may be approved in areas designated as Residential Communities where other office, business or industrial use(s) which are not inconsistent with this plan already lawfully exist on the same block face. However, where such an office, business, or industrial use exists **only** on a corner lot of a subject block face or block end, approval of office use elsewhere on the block is **limited** to the one **block** face or block end which is the more heavily trafficked side of the **referenced** corner lot. **Office** uses may be approved on such sites only if consistent **with** the objectives and policies of the COMP and the use or zoning district **would** not have an **unfavorable** effect on the surrounding area: by causing an undue burden on transportation facilities **including** roadways and mass transit or other utilities and services including water, sewer, drainage, fire, rescue, police and **schools**; by providing inadequate off -street parking, **service** or loading areas: by maintaining operating hours, outdoor lighting or **signage** out of **character** with the neighborhood; by creating traffic, noise, odor, dust or glare out of character with the neighborhood; by posing a threat to the **natural environment** including air, water and **living resources**; or where the **character** of the **buildings, including** height, **bulk**, scale, floor **area ratio** or design would detrimentally impact the surrounding area. In **applying** this provision, the **maximum** limits of an **eligible residentially** designated **block** face along which **office** uses may be extended shall not extend beyond the **first** intersecting public or private street, whether existing, platted or projected to **be** necessary to provide access to other property, or beyond the first railroad right-of-way, utility transmission

**easement** or right-of-way exceeding **60** feet in **width, canal, lake, public school, church, park, golf course** or major recreational **facility**.

**In addition**, office uses may be approved along the frontage of major roadways in residential **community** areas where residences have become less desirable due to inadequate setbacks from roadway traffic and noise, or due to a mixture of nonresidential uses or activities in the **vicinity** in accordance with the limitations set forth in this paragraph. These office uses may occur in combination with or independent of residential use. Such limited **office** uses may be approved on such sites in residential community areas only where: a) the residential lot fronts **directly** on a Major Roadway as designated on the Land Use Plan map (Frontage roads are not **eligible for consideration**); b) the **lot** or **site size** does not exceed one acre; and c) the residential area is not zoned, developed or designated on the Land Use Plan map for Estate Density Residential, nor does subject frontage face such an Estate **Density** area. Office use **approvals**, pursuant to this paragraph may **only authorize**: a) **conversion** of an existing **residence into an office**; b) **addition of an office** use to an existing residence; **or**, c) the construction of a **new office building** on lots which were finally platted prior to March 25, 1991 in a size one acre or smaller, or **if** one acre or smaller lots platted prior to March 25, **1991** are subsequently **replatted** to further reduce lot size. Additionally, such office uses may be approved only if the **scale** and character of the prospective office use are compatible with the surrounding residential neighborhood **and if** the site has sufficient dimensions to permit adequate **on-site** parking and buffering of adjacent residences from the office. Other factors that will be considered in determining compatibility include, but are not limited to traffic, noise, lighting, shadows, access, **signage**, landscaping, and hours of operation. **Signage** shall be restricted both in **size, style, and location** to preclude a commercial appearance. Landscaping and **buffering** of adjacent residences and rear properties will be required. Emphasis shall be placed on retention of the general **architectural** style of the area, where applicable. Development Orders authorizing

## LAND USE ELEMENT

the **conversion** of existing homes into offices, the **addition of offices** to existing residences or the construction of **new buildings encompassing office uses** pursuant to this paragraph may be approved only where compatible and where the intensity and character of the new building including gross floor area, lot coverage and height, will be consistent with the homes which exist or which could be built on the immediately adjacent parcels.

**Hotels** and Motels shall not be approved in the Estate or Low Density residential categories. They may, however, be approved in the **Low-Medium, Medium, Medium-High or High Density** residential categories if the site on which the hotel or motel is located has frontage on a **Major roadway as identified on the LUP map** and where compatible **with** adjacent uses. Factors considered in determining **compatibility** include, but are not limited to traffic, noise, lighting, shadows, on-site parking, landscaping and **buffering**. In addition, **hotel-motel** uses may be approved where they are **incidental** to, and integrated with a **recreational** facility **internal** to a planned residential development. **Hotel-motel** uses may **also** be approved as an oceanfront resort or as part of an oceanfront resort.

In multifamily developments containing three hundred or more units, convenience retail facilities may be permitted **solely as an accessory use for the use of the development's residents**. Such **facilities shall be** restricted in size to relate solely to the needs of the development's residents and **shall** be limited to convenience commercial **and** personal service **uses** such as restaurants, food and drug stores, barber shop and dry **cleaning** service pick up/drop off. Wherever **possible**, such uses should **be located in the principal structure** or in a community **service structure**. Where this ancillary use must be self standing, its site shall be no larger than **one** acre in size. These uses shall not be visible **or** have direct **access from public roads**, and **shall not utilize signage** to attract persons from outside the **development**. In addition, these convenience facilities shall be designed as an integral part of the total **development**, and will be subject to **site** plan approval.

Private and semiprivate marina facilities and recreation facility clubhouses (including **commercial** uses which are incidental and **complementary** to, and usually associated with, clubhouses, such as pro-shops, snack **bars**, restaurants, **and** the sale of alcoholic beverages) within, and primarily designed, **sized and scaled to serve** the immediate needs of a residential development may also **be** permitted in the residential classifications if compatible **with** the neighborhood.

### **Hospitals in Residential Communities.**

**New hospitals** may not be permitted in **Residential Communities** except that they may be approved to **locate** in the Medium-High and High Density categories. They should be located in areas designated **Institutional, Business and Office or Industrial and Office**. However, existing hospitals and associated medical buildings which are not specifically depicted on the LUP map may be approved for addition or expansion in **all** density categories where compatible with the surrounding neighborhood.

**Traditional Neighborhood Developments (TNDs).** **Traditional neighborhood developments** which incorporate a broad mixture of uses under specific design standards may also be approved in Residential Communities in the manner **specifically authorized** in this subsection. The purpose of the traditional neighborhood development is to enable the creation of new communities that offer social and architectural quality, characteristic of early American town planning. Many of these early models, developed prior to 1940, offer insight **into** the design of coherently planned communities. The concept is patterned after those inherent in these earlier developments and provides, a design clarity through a hierarchy of **streets**, a focus towards pedestrian activity, low scale community support activities and the use of civic **symbols** of community buildings and open squares as the **focal** point of the **neighborhood**. **The County shall adopt land use regulations that incorporate the objectives of a traditional neighborhood development concept which are the following:**

- to provide a physical environment and to foster a social environment that allows in-

## LAND USE ELEMENT

habitants to Satisfy such **basic psychological needs** as **security, community identity** and self-esteem:

- to **provide significant** employment within the **neighborhood**, allowing **both** small and large **scale** businesses. **This mixing** of jobs and housing reduces **traffic** impacts and adds to the liveliness and **security** of the neighborhood;
- to provide a full range of housing types, from detached single family houses to apartments above shops, fostering social and cultural integration;
- to provide neighborhood civic **buildings**, squares and parks to reinforce community identity;
- to reduce dependence on the automobile by encouraging foot and **bicycle traffic**, by providing consumer **services, jobs, recreation**, and cultural opportunities within walking **and** cycling distance, and by **general** compactness of community **layout**;
- to create streets that accommodate pedestrians as well as automobiles;
- to provide guidelines for building placement and street design that protect the neighborhood environment **while** allowing latitude for individual choices

Within areas designated on the LUP map as Residential Communities, a **mixed use Traditional Neighborhood Development** permitting business, office, industrial, **artisanal**, home occupations and other uses **authorized** by this subsection may be approved providing **that** the following criteria are met:

1. The minimum contiguous land **area is 40** acres and **is not located within the** Estate density **category**; and
2. The site is under **single-ownership** at the time the master development **plan or equivalent is approved**; and
3. Residential density does not exceed the density depicted on the Land Use **Plan** Map, except that a maximum density of ten

dwelling units per **acres may be** approved in the Low Density category; and

4. **Public open** spaces such **as** squares or parks comprise a minimum of five acres or **five** percent of the developed area, whichever is greater; and
5. **Civic** uses, such **as** meeting halls, schools, day care centers and cultural facilities Comprise a minimum of two percent of the developed area; and
6. Business, office, **and** industrial uses, that are separate from residential mixed uses do not exceed seven percent of the gross land area; and
7. Where the **TND** borders or is adjacent to **land** that is designated Estate, Low Density or Low-Medium Density Residential and the land so **designated** is used for residences or **is vacant**, the separate business, office and industrial uses identified in item No, 6 above. **and** those business, office and **industrial** uses mixed **with** other uses **shall not be permitted** within **175 feet of the TND** boundary and all non-residential components of such uses shall be acoustically and visually screened from said bordering or adjacent land: and when a **TND** borders **land** designated **Agriculture** or **Open** Land, said business, office or industrial uses shall not be **permitted** within **330 feet of said TND** boundary; and
8. Residential areas, and residential **uses** mixed with shop-front, **artisanal** and home occupation uses comprise the remainder of the developed area; and
9. In calculating gross residential density. uses listed in item No. 6 shall be **excluded**. however, all other uses may be used to determine the maximum permitted density.

### Industrial and Office

Industries, manufacturing operations. warehouses, **mini-warehouses**, office buildings.

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wholesale showrooms, distribution centers, merchandise marts and similar uses are permitted in areas designated as "Industrial and Office" on the LUP map. Also included are construction and utility-equipment maintenance yards, utility plants, public facilities, hospitals and medical buildings. Limited commercial uses, particularly those which are intended to serve the workers in the industrial and office area are permitted, as are associated hotels and motels. In addition, uncommon commercial uses such as amusement uses, and others with unusual siting requirements may also be considered at appropriate locations. Quarrying activities and ancillary uses may also be approved in areas designated Industrial and Office where compatible with the surrounding area and environment. Free-standing retail and personal service uses and shopping centers, larger than 10 acres in size, are prohibited in these areas because they would deplete the industrial land supply and they are better located in commercially designated areas and in closer proximity to residential areas. Free-standing retail and personal service uses and shopping centers that do occur in Industrial and Office areas should front on major access roads. The specific range and intensity of uses appropriate in a particular Industrial and Office area varies by location as a function of the availability of public services and access, and among other factors, compatibility with neighboring development. Through the zoning review process, use of particular sites or areas may be limited to something less than the maximum allowed in this category. Moreover, special limitations may be imposed where necessary to protect environmental resources.

Residential development is incompatible with major industrial and business concentrations and should not occur in areas designated as "Industrial and Office" on the LUP map. Except where adjoining land is residentially zoned, designated or developed; new residential uses are prohibited in Industrial and Office areas to avoid use conflicts and for health and safety reasons. TNDs may be permitted in Industrial and Office areas where: 1) compatible with nearby development and with the objectives and policies of this Plan, 2) necessary services

exist or will be provided by the developer, and 3) adjacent to land designated Residential Communities on the LUP map (including across an abutting major or minor roadway) along 30 percent or more of the total perimeter of the TND, provided that land designated Residential Communities exists along at least some portion of two or more sides. (Multiple sides created by an out parcel shall count as one side only.) TNDs located within Industrial and Office areas shall allocate to Workshop Uses a minimum of 15 percent and a maximum of 30 percent of the gross built-up area planned for development within a TND, and shall have a residential density no greater than the average of the adjacent Residential Communities designations or ten units per acre, whichever is higher. Workshop Uses shall be oriented to adjacent non-residential areas, while the residential uses shall be oriented to the adjacent Residential Communities designations. All criteria for TNDs enumerated in the Residential Communities section of this Chapter, other than the provisions governing percent of built-up area which may be devoted to workshop uses addressed herein and the maximum permitted residential density, shall govern the development of TNDs in areas designated Industrial and Office.

**Restricted Industrial and Office.** Industrial and Office areas designated as "Restricted" are areas where the range of uses and design of facilities are governed by special groundwater protection regulations. This category primarily affects "wellfield protection areas" designated in the Dade County Code (Chapters 24 and 33, Code of Metro-Dade County). The boundaries of the "Restricted" areas shall be periodically reviewed and amended as necessary to maintain consistency with wellfield protection area boundaries provided by Chapters 24 and 33, Code of Metro-Dade County. Development in Restricted Industrial and Office areas should generally be limited to office uses, but certain business, warehousing and manufacturing uses may be permitted, provided that the use employs best management practices, and the use does not involve the on-site use, handling, storage, manufacture or disposal of hazardous materials or waste as defined in Chapter 24 of

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the County Code. Quarrying and environmentally compatible ancillary uses may be also be approved in these areas. The inclusion of this Restricted category on the LUP map does not preclude the application of these or similar use limitations to other land contained in the Industrial and Office or any other land use category where necessary to protect groundwater resources.

**Uses and Zoning Not Specifically Depicted.** Some existing industrial uses and industrial zoning districts are not specifically depicted on the LUP map. This is due largely to graphic limitations, the scale of the LUP map and the provisions for commercial and office uses to occur in certain other LUP map categories. In general, 5 acres is the smallest site depicted on the LUP map, and smaller existing sites are not shown. All such existing lawful uses and zoning districts are deemed to be consistent with this Plan unless such a use or zoning district: (a) is found through a subsequent planning study, as provided in Land Use Policy 5D, to be inconsistent with the criteria set forth below; and (b) the implementation of such a finding will not result in a temporary or permanent taking or in the abrogation of vested rights as determined by the Code of Metropolitan Dade County, Florida. The criteria for determining that an existing use or zoning district is inconsistent with the plan are as follows: 1) Such use or district does not conform with the conditions, criteria, or standards for approval of such a use or zoning in the applicable LUP map category; and 2) The use or zoning district has, or would have, an unfavorable effect on the surrounding area: by causing an undue burden on transportation facilities including roadways and mass transit or other utilities and services including water, sewer, drainage, fire, rescue, police and schools; by providing inadequate off-street parking, service or loading areas; by maintaining operating hours, outdoor lighting or signage out of character with the neighborhood; by creating traffic, noise, odor, dust or glare out of character with the neighborhood; by posing a threat to the natural environment including air, water and living resources; or where the character of the buildings, including height, bulk, scale, floor area ratio or design would detrimentally impact the surrounding area. Also deemed

to be consistent with this Plan are uses and zoning districts which have been approved by a final judicial decree which has declared this Plan to be invalid or unconstitutional as applied to a specific piece of property. The presence of an existing use or zoning district does not prevent the County from initiating action to change zoning in furtherance of the Plan map, objectives or policies where the foregoing criteria are met. The limitations outlined in this paragraph pertain to existing industrial zoning districts and uses. All approval of new industrial locations must be consistent with the LUP map or the specific exceptions provided in the various LUP map categories, the objectives and policies of this Plan.

### Business and Office

This category accommodates the full range of sales and service activities. Included are retail, wholesale, personal and professional services, commercial and professional offices, hotels, motels, hospitals, medical buildings, nursing homes (also allowed in the institutional category), entertainment and cultural facilities, amusements and commercial recreation establishments such as private commercial marinas. These uses may occur in self-contained centers, high-rise structures, campus parks, municipal central business districts or strips along highways. In reviewing zoning requests or site plans, the specific intensity and range of uses, and dimensions, configuration and design considered to be appropriate will depend on locational factors, particularly compatibility with adjacent uses, and availability of highway capacity, ease of access and availability of other public services and facilities. Uses should be limited when necessary to protect adjacent residential use from such impacts as noise or traffic, and in most wellfield protection areas uses are prohibited that involved the use, handling, storage, generation or disposal of hazardous material or waste, and may have limitations as to the maximum buildable area, as defined in Chapter 24 of the County Code.

Residential uses, and mixing of residential use with commercial, office and hotels are also permitted in Business and Office areas provided that the scale and intensity, including height and

tial use, zoning or designation on either side of the roadway, the intensity of residential development, including height, bulk and floor area ratio shall be no greater than that which would be permitted for an exclusively commercial use of the site.

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The **plan recognizes** existing **strip** commercial **development along** many **roadways**. However, commercial development **in** newly developing areas is designated in nodes at major intersections. Allocation of commercial development rights among quadrants of such nodes will depend on locational factors, geographic constraints, ownership fragmentation, compatibility with adjacent uses and availability of highway capacity and other public services and facilities.

**Roadway Strips.** Ribbons of commercial use along roadway frontages are identified along one or both block faces fronting certain roadways. Where only one block face is indicated, this specifically provides that **only** that block face is intended for commercial use and is not to suggest that the opposite face is also included. The lateral boundary of the ribbon **indicates** the extent to which business uses may **be** allowed to expand along the roadway frontage. The depth of the ribbon is more generalized.

In general, the depth should be limited to the norm for the **strip**, but may be approved **at** such other depth necessary to ensure **compatibility** with, and **liberal permanent** buffering of adjacent residential uses, or **transition** to adjacent commercial uses in keeping with the Plan's policies. Intervening areas between commercial ribbons along **a** highway **face may be used only** for the uses **permitted** in the **designated** land use category. Further **lateral extension of the** ribbon beyond that shown on the Plan map will require a Plan amendment.

**Uses and Zoning Not Specifically Depicted.** Some existing **commercial (i.e.,** business or office) uses and commercial zoning districts **are** not specifically depicted on **the** LUP map. This is due **largely** to graphic **limitations,** the **scale** of the LUP map **and** the specific provisions for commercial uses **to occur in certain other** LUP map **categories.** In **general, 5** acres **is** the **smallest** site depicted on the LUP map, and smaller existing sites are not shown. All such existing lawful uses and zoning districts are deemed to be consistent with this Plan unless such a use or zoning district: a) is found through a subsequent planning study, as provided in **Land**

Use **Policy '50,** to be inconsistent with the **criteria** set forth below: and **(b)** the implementation of such a **finding** will not result in a temporary or **permanent** taking or in the abrogation of vested **rights** as determined by the Code of **Metropolitan Oade County, Florida.** The criteria for determining that an existing use or zoning **district is inconsistent** with the **plan** are **as follows:** 1) Such use or district does not conform with the conditions, criteria or standards for approval of such **a** use or zoning in the applicable LUP map category; and 2) The use or zoning district has, or would have, an **unfavorable effect** on the surrounding area: by causing an undue burden on transportation facilities **including** roadways and mass transit or other utilities and services including water, sewer, drainage, fire, rescue, police and **schools;** by providing inadequate off street parking, **service** or loading areas; by maintaining operating hours, outdoor lighting or **signage** out of **character** with the neighborhood: by creating traffic, noise, odor, dust or glare out of character with the neighborhood; by posing a threat to the natural environment including **air, water and living resources;** or where the character of the buildings, including height, bulk, **scale,** floor area ratio or design would detrimentally impact the surrounding area. Where an existing business use or zoning district lawfully exists which is not specifically depicted on the LUP **map** and which is not inconsistent with the COMP, a different business or office use or district may be approved if the proposed use **and** district **would** be consistent with the objectives and policies of the COMP and **would** not have an unfavorable effect on the surrounding area. Where an undeveloped site having business or office zoning, smaller than five acres in size and not specifically depicted on **the** LUP map, lawfully exists as part of **an** approved large-scale development, relocation of said zoning to an alternative location within **said** large-scale development may be approved if the relocation would be consistent with the objectives and policies of the COMP and would not have an unfavorable effect on the surrounding area. Also deemed to be consistent with this Plan are uses and zoning districts which have been approved by a final judicial decree which

## LAND USE ELEMENT

has declared this **Plan** to be invalid or unconstitutional as applied to a **specific** piece of property. The presence of an existing use or zoning **district** does not prevent the County from initiating **action to change** zoning in furtherance of the Plan map, objectives or policies where the foregoing **criteria** are met. The limitations outlined in this paragraph pertain to existing commercial zoning districts and uses. **All** approval of new commercial locations must be consistent **with** the LUP **map** or the specific exceptions provided in the various LUP map categories, and the objectives and policies of this Plan.

### Office/Residential

Uses allowed in this category include both professional and **clerical** offices and residential uses. Office developments may range from **small-scale** professional office to large-scale office parks. A specific objective in designing developments to **occur** in this category is that the development should be compatible with any existing or **Plan-designated** adjacent residential uses. The scale and intensity, **including** height and **floor area ratio** of development in areas designated **Office/Residential** shall be based on such **factors** as site **size**, availability of services, accessibility, and the proximity and scale of adjacent residential uses. Where the Office/Residential category is **located** between residential and **business** categories, the more intensive activities to occur on the **office** site, including service **locations** and the points of ingress and egress, should be oriented toward the business side of the site, and the **residential** side of the site should be **well** buffered both visually and acoustically.

Residential **uses** are **also allowed** in the Office/Residential **category**. In **these** locations, **residential** density may be approved up to one density category higher than that allowed in the adjacent **residentially** designated area on the **same side of the abutting** principal roadway, or up to the density of adjacent existing residential development, whichever is higher. If there is no adjacent residential development existing, zoned or designated on the same side of the abutting principal roadway, then the **al-**

**lowable** maximum residential density is that which exists or which the plan allows across the roadway. Where there is no residential use, zoning or designation on either side of the roadway, the intensity of residential development, including height, bulk and **floor area ratio** shall be no greater than that which would be permitted for an exclusively office use of the site. When residential uses are mixed with office uses, the overall scale and intensity, including height and **floor area ratio** of the mixed-use development shall be no greater than that which would **be** approved **if** the parcel **was** developed in either **office** use only or residential use only, whichever is higher. Within the Office/Residential category, business uses ancillary and to serve the on-site use(s) may be integrated in an amount not to exceed **15** percent of the total floor area. However, the Office/Residential category **does** not authorize other business or commercial **uses**. Hotel and motel units may be approved only in accordance with provisions for the **applicable** residential density category.

As **indicated** in the text for the **Business** and **Office** category, **some** small existing office uses are not **specifically depicted** on the LUP map. That text, entitled Uses and Zoning Not Depicted, applies equally to office uses and zoning.

### Activity Center

Diversified activity centers are encouraged, in the locations noted, to become the main hubs for future urban development intensification in Oade County, around which a more compact and efficient urban structure will evolve. These Activity Centers are **intended** to be high-intensity design-unified areas which will contain a concentration of different urban functions **integrated** both horizontally and vertically. Such centers would be characterized by physical cohesiveness and an intensive use of land. Metropolitan accessibility is an essential requirement for proper implementation of this concept. Mass transit service should be provided directly to the centers. Convenient, preferably direct, connections to a nearby expressway or major roadway should also be



## LAND USE ELEMENT

provided to ensure a high level of countywide accessibility.

The locations of activity centers and the mix and configuration of land uses within them are designed to encourage convenient alternatives to travel by automobile, to provide more efficient land use than recent suburban development forms, and to create identifiable "town centers" for Dade's diverse communities. These centers shall be designed to create an identity and a distinctive sense of place through unity of design and distinctively urban architectural character of new developments within them.

The core of the centers should contain business, employment, civic, and/or high- or moderate-density residential uses, with a variety of moderate-density housing types within walking distance from the centers. Design of developments and roadways within the centers will emphasize pedestrian activity, safety and comfort, as well as vehicular movement. Transit and pedestrian mobility will be increased and areawide traffic will be reduced in several ways: proximity of housing and retail uses will allow residents to walk or bike for some daily trips; provision of both jobs, personal services and retailing within walking distance of transit will encourage transit use for commuting; and conveniently located retail areas will accommodate necessary shopping during the morning or evening commute or lunch hour.

Activity Centers are identified on the LUP map by circular symbols. The Plan map indicates both emerging and proposed activity centers. New centers are proposed in areas having the following existing or potential qualities: excellent countywide accessibility by both roadways and mass transit; compatibility with future surrounding development; and programmed provision of public services. The designation of an area as an activity center indicates that governmental agencies should encourage and support such development. The County should give special emphasis to providing a high level of public mass transit service to all activity centers. Given the high degree of accessibility as well as other urban services, the LUP map provides for intensification of development at these centers over time.

This does not preclude the proposal of activity centers in other locations. If proposals for the development of activity centers in locations other than those shown on the LUP map meet the appropriate concepts and policies of the Comprehensive Development Master Plan, they should be initiated as Plan amendments.

Following are additional policies for development of Activity Center locations designated on the Land Use Plan (LUP) map.

Activity Centers shall accommodate a concentration of uses and activities which will attract large numbers of both residents and visitors. Uses may include retail trade, business, professional and financial services, restaurants, hotels, institutional, recreational, cultural and entertainment uses, moderate to high density residential uses, and well planned public spaces. Incorporation of residential elements are encouraged in all centers. Residential components will be required in areas of the County where there exists much more commercial development than residential development, and employment opportunities will be emphasized in areas of the County where there is much more residential development than employment opportunity. Emphasis in design and development of all centers and all of their individual components shall be to create active pedestrian environments through high-quality design of public spaces as well as private buildings; human scale appointments, activities and amenities at street level; and connectivity of places through creation of a system of pedestrian linkages. Existing public water bodies shall also be incorporated by design into the public spaces within the center.

Radius. The area developed as an activity center shall extend to a one mile radius around the core or central transit station of a Regional Activity Center designated on the LUP map. Designated Metropolitan Activity Centers should extend not less than one-quarter mile walking distance from the core of the center or central transit stop(s) and may extend up to one-half mile from such core or transit stops along major roads and pedestrian linkages.

## LAND USE ELEMENT

Streets and **Public Spaces.** Activity Centers shall be developed in an urban form with a street system having open, **accessible** and continuous qualities of the surrounding grid **system**, with variation, to create **community focal** points and termination of vistas. The street **system** should have frequent connections with **surrounding** streets and create blocks shaped to facilitate incremental building over time, **buildings** fronting on streets and pedestrian **pathways**, and squares, parks and plazas defined by the buildings around them. The street system shall be planned and designed to create public space that knits the site into the surrounding urban fabric, connecting streets and creating rational, efficient pedestrian linkages. Streets shall be designed for pedestrian mobility, interest, safety and comfort as well **as** vehicular mobility. The network of streets and pedestrian accessways shall be designed so that walking routes through the center and between destinations in the center are direct, and distances are short. Emphasis shall be placed on sidewalks, with width and street-edge landscaping increased where necessary to **accommodate** pedestrian volumes or to enhance safety or comfort of pedestrians on sidewalks along any high-speed roadways. Crosswalks will be provided, and all multi-lane roadways shall be fitted with protected pedestrian refuges in the center median at all significant pedestrian **crossings**. In addition, streets shall be provided with **desirable** street furniture including benches, light fixtures and bus shelters. Open **spaces** such as public squares and greens shall be a focus of activity centers and should be located next to public streets, residential areas, and commercial uses. The percentage of site **area** for public squares and greens **shall be a minimum** of 15 percent of gross development area. **This** public area requirement will be subtracted from requirements for **other common open** space.

**Parking.** Shared parking is encouraged. Reductions from standard parking **requirements** shall be authorized where there is a **complementary** mix of uses on proximate development sites and near transit stations. Parking areas should occur predominately in mid-block, block rear and on-street locations, and not between the street and main building entrances. Parking structures should incorporate other uses at

street level such as shops, galleries, offices and public uses.

**Buildings.** Buildings and their landscapes shall be built to the sidewalk edge in a manner that frames the **adjacent** street to create a public space in the street corridor that is comfortable and interesting, as **well** as safe for pedestrians. Architectural elements at street **level** shall have a human scale, **abundant** windows and doors, and design **variations at** short intervals to **create** interest for the passing pedestrian. Continuous blank walls at street level are **prohibited**. In areas of significant pedestrian **activity**, weather protection should be provided by awnings, canopies, arcades and colonnades.

**Intensity.** Regional and Metropolitan Activity Centers shall be intensively developed. They should be developed **at** the highest intensities of development in the urbanized area. Floor area ratios (**FARs**) in the center of Regional Activity Centers designated on the LUP map should average not less than 4.0, including parking structures, in the **core** of the center and around mass transit **stations, and** should taper to an average of not less than 2.0 near the edge of the center. Average **FARs**, including parking structures for developments near the core of Metropolitan Activity Centers designated on the LUP map should be not less than **3.0** at the core and should taper to not less than 0.75 at the edge. Height of buildings at the edge of Metropolitan Activity Centers adjoining sound residential neighborhoods should taper to a height no more than 2 stories higher **than** the adjacent residences,

Chapter 380 Regional Activity Centers. Chapter **380.06(2)(e)**, Florida Statutes (**F.S.**) and Chapter **28-24.014**, Florida Administrative Code (FAC). authorize local governments to designate areas as regional activity **centers**, hereinafter "Chapter 380 regional activity **centers**", where the local government seeks to encourage higher intensities of development by increasing the threshold of the development size required to undergo State review as a Development of Regional Impact (DRI). In **addition**. Policy 18.2.11 of the Regional Plan for South Florida authorizes the designation of "Regional Development Districts" to implement

## LAND USE ELEMENT

provisions of Chapters **380.0651(3)(d)(3)** and **(3)(g)(2), F.S.**, which provide for the designation of geographic areas highly suitable for increased **(DRI review) threshold intensity**. The designation of a specific area and boundaries as a Chapter 380 regional activity center for the purpose of increasing **DRI review thresholds** does not change the CDMP Land Use Plan map designation of any land, nor does it change the uses or intensities of development authorized by the CDMP. It only changes the circumstances under which proposed **developments** in the designated area would have to be reviewed through the Chapter 380, **F.S.**, DRI process. The following area is hereby **designated** to be a Chapter 380 regional activity Center, and subject to amendment of the Regional Plan for South Florida by the South Florida Regional Planning Council, a regional development **district** (a geographic area specifically designated as highly suitable for increased threshold **intensity**), for the purpose of increasing **DRI review thresholds**:

1. Dadeland, as depicted on Figure 1a.

### Parks and Recreation

The Land Use Plan map specifically illustrates parks and recreation areas of **metropolitan significance**, including State parks and the Biscayne and Everglades National Parks. Also illustrated are golf courses and other parks of approximately 40 acres and larger which are significant community features. Most **neighborhood** local parks smaller than 40 acres in size are not **specifically** shown on the **Plan** map; however, this omission should not be interpreted as meaning that these parks will be taken out of public use. Compatible parks are encouraged in all of the residential categories and may be allowed in all other categories of the LUP map. The siting and use of future park and **recreation** areas shall be guided by the Park and Open Space, and Capital Improvements Elements, and by the goals, objectives and policies of the **CDMP**.

Both governmentally and privately owned lands are included in areas designated for Parks and

Recreation use. Most of the designated privately owned land either possesses outstanding environmental qualities and unique potential for public recreation, or is a golf course included within a large scale **development**. The long term **use** of such golf **courses** is typically limited by deed **restriction**. If the owners of privately owned land designated as Parks and Recreation choose to develop before the land can be acquired for public use, the land may be developed for a use, or a density comparable to, and compatible with, surrounding development providing that such development is consistent with the goals, objectives and policies of the **CDMP**. This allowance does not apply to land designated Parks and Recreation that was set aside for park or open space use as a part of, or as a basis for approving the density of, a **residential** development.

Certain commercial activities that are **supportive** of the recreational uses and complementary to the resources of the park, such as **marine** supply stores, fuel docks or tennis and golf clubhouses may be considered for approval in the Parks and Recreation category. Other commercial recreational, entertainment or cultural uses may also be considered for approval in the Parks and Recreation category where complementary to the site and its resources.

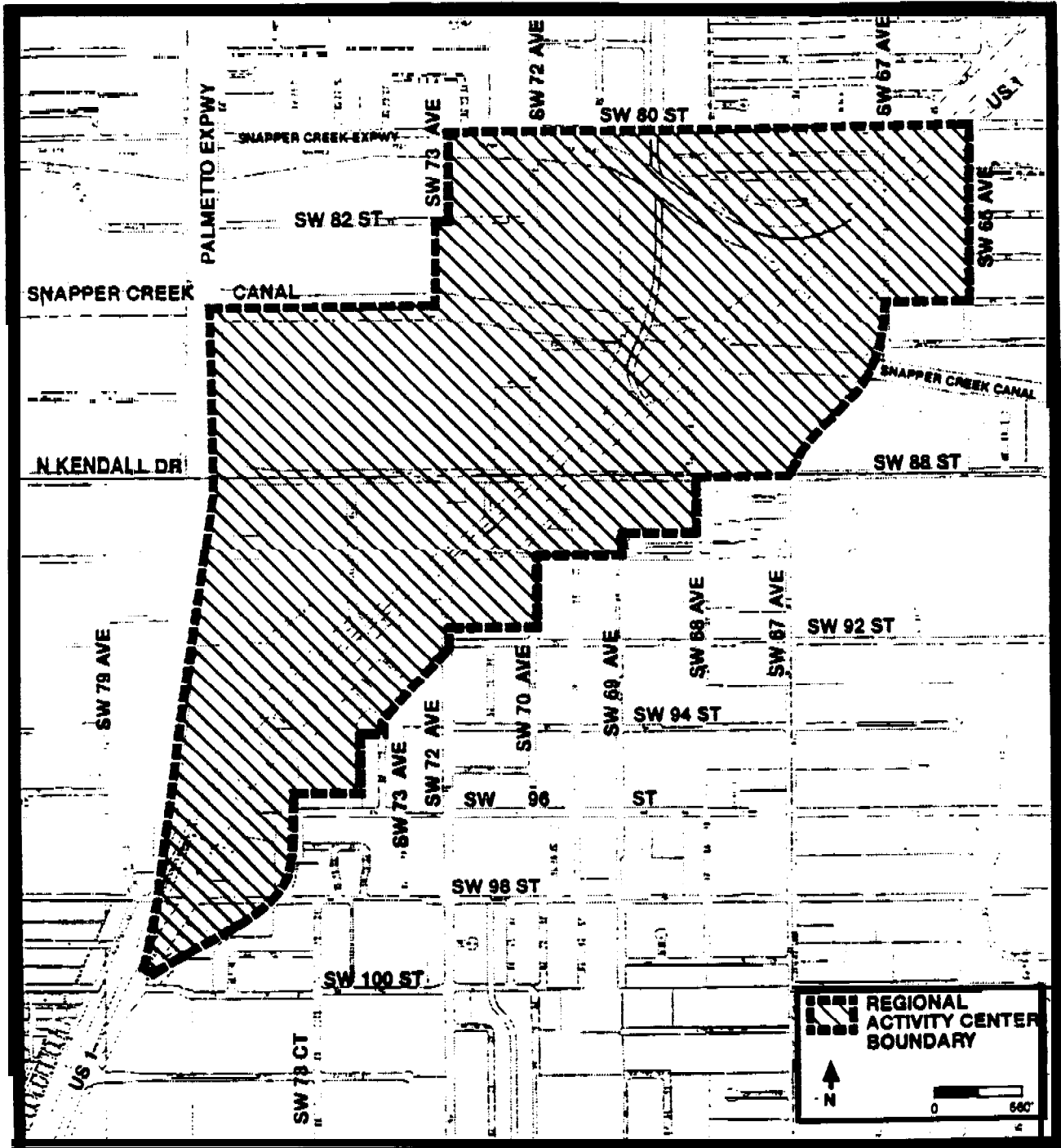
[Included in the **category** is the **Seaquarium**, a unique tourist attraction with a long history of educational, entertainment, and recreational benefit both to residents of Dade County and to visitors. Notwithstanding any other **provisions** in the Parks and Recreation Section of the Land Use Plan Element, in order to continue and to enhance its contributions to the community, this facility may be authorized to renovate, **expand**, and increase the variety of its educational, recreational and entertainment attractions. Accordingly, the following additional uses may be permitted at the Seaquarium site: **recreational** and educational uses, restaurants, gift shops, marine or water amusements, and **environmentally-related** theaters.]

Some of the land shown for Parks is also **environmentally sensitive**. These areas include **tropical** hardwood hammocks, high quality Dade County **pineland** and viable mangrove forests.

\* This paragraph was Adopted but is not in effect; pending OCA Final Order.

Figure 1a

# DADELAND CHAPTER 380 REGIONAL ACTIVITY CENTER



## LAND USE ELEMENT

Some sites proposed for public acquisition under Florida's **Conservation** and Recreational Lands (CARL) program are identified in this **category** on the LUP map although **they may be** as small as ten **acres** in **size**. Many of these areas are designated on the LUP map as "Environmentally Protected Parks" however, some environmentally sensitive areas may be designated simply as Parks and Recreation due to graphic constraints. All portions of park land designated Environmentally Protected Parks or other parkland which is characterized by **valuable** environmental resources is intended to be managed in a manner consistent with the goals, objectives and policies for development of the applicable environmental resources or **protection** area. Accordingly, resource enhancing facilities including boardwalks, nature trails, canoe trails and launches and interpretive **facilities** may be provided in these areas.

### Institutional and Public Facility

The Plan map illustrates, for information **purposes**, only the location of major institutional uses and utilities of metropolitan significance. Depicted are such uses as major hospitals, medical complexes, colleges, universities, regional water-supply, wastewater and solid waste utility facilities such as the resources recovery plant, major government office centers and military installations. Offices are also allowed in this map category. Internally **integrated** business areas smaller than 5 acres in size or up to 10 percent of the total floor area of an institutional, public facility or office use may also be approved in this map category. If the **owner** of privately owned land designated as Institutional and **Public Facilities** chooses to develop the land for a different use and no public agency intends to acquire the site for a public facility, the land may **be developed for** a use or a **density** comparable to and compatible with surrounding **development** providing that such development is consistent with the **goals, objectives** and policies of the **CDMP**.

The Homestead Air Reserve Base is also included in this category on the Land Use Plan map. All of the Base is included in this **category** and the former residential and golf course areas of the Base are identified with the **respec-**

tive residential and recreational designations, as **well as the** institutional designation. The range of uses that may Occur on **the** Base as it **is redeveloped** shall emphasize civilian and **military** aviation and related uses including **airfield** areas for aircraft **operations** and parking, **passenger**, cargo and general aviation terminals, **hangars** and other aircraft storage and **maintenance activities**, and supporting uses related to **transportation activities** including truck **terminals**, warehousing and other commercial and industrial uses, **offices**, parks and recreation uses, educational and **other** institutional uses. All future uses on the Base will be consistent with the **Record** of Decision issued by the Secretary of the Air **Force** as it pertains to County use of the Base property Any other **non-transportation-related** uses must be **authorized** in the **Record** of Decision issued by the Secretary of the Air Force and shall be located in northern portions of the site.-

The siting of all public facilities is conducted in accordance with **the procedures outlined** in the following **paragraph**, consistent with the **goals, objectives** and **policies** of the **Comprehensive Development Master Plan**. The location of neighborhood- or community-serving **institutional** uses and utilities including schools and **fire** and rescue facilities in particular, and **cemeteries** may be approved where compatible in all urban **land use categories**, in keeping with any conditions **specified** in the applicable category, and where provided in **certain Open Land sub-**areas. Major utility facilities should generally be guided away **from** residential areas, **however**.

**Publk Areas and Facilities** Siting. Metro-Dad8 County has established special **procedures** for siting most types of public **facilities** in the **unincorporated** area. These procedures are **contained** in **Section 33-303** Of the **County Code**. Public facilities may be approved in accordance with this codified procedure in any LUP map category, consistent with the goals, objectives and policies of **the CDMP**. According to this **section** of the Code, **the County Commissioners** must consider such factors as the type of **function involved**, the public **need**, existing land use **patterns in the area** and **alternative locations** for the facility. Applications for State or municipal improvements located in unincorporated areas

## LAND USE ELEMENT

are processed under the 'unusual use' procedure of the County zoning **process** but are heard directly by the County Commission. Such actions must comply with **criteria established in** Chapter 33 and other applicable sections of the County Code. The County Commission after a public hearing, shall determine whether the considered action will adversely affect the public interest. All decisions made in accordance with these procedures must be consistent with the goals, objectives and policies of the Comprehensive Development Master Plan.

### Transportation

The LUP map includes a summarized portrayal of the major components of Dade County's **existing** and future transportation network. Included are roadways, rapid transit corridors, railways and major switching yards, airports and the Metro-Dade Seaport. This information is included on the LUP map to provide orientation and locational references, and to relate future development patterns to the future transportation network. The Transportation Elements (i.e., Traffic Circulation, Mass Transit and Port/Aviation Elements) and the **Coastal** Management Element of the CDMP provide additional details about these facilities, including their sizes and schedules of improvements, with the exception of local streets.

The summarized roadway classification used on the LUP map distinguishes between Limited Access facilities. Major Roadways (3 or more lane arterials and collectors) **and** Minor Roadways (2 lane arterials and collectors). Also shown are existing and proposed Rapid Transit

## LAND USE ELEMENT

corridors. The term rapid transit as used herein, includes any **public heavy rail** or light rail, or busses **operating on exclusive bus lanes**. The transportation network **depicted** is a year 2010 network that **will** develop incrementally as indicated in the schedules of projects listed in the **Traffic Circulation and Mass Transit Elements**. in addition, rapid transit corridors may be provided with an interim type of service such as express bus service during much of the planning period while more permanent facilities are being planned, designed and constructed. The roadway and transit alignments shown in the CDMP are general indications of the facility location. Specific alignments may be modified through detailed transportation planning, **DRI** review and approval processes, subdivision platting, highway design and engineering or other detailed planning or engineering processes.

**Because** of 'the critical relationships between transportation facilities and the land uses **served** and impacted by those facilities, land use and transportation planning decisions must be made in direct concert with one another. Accordingly, provisions for nonlocal roadways, public mass transportation facilities, **rail** lines, airports and the Metro-Dade Seaport facilities contained in the Port or **Coastal** Elements of the CDMP should not be amended without concurrent evaluation and, as applicable, amendment of the bnd Use **Plan map**. in particular, extension or widening of Major or Minor Roadways outside the Urban Development Boundary (UDB) of the LUP map may occur only if indicated on the LUP map.

### Urban Development Boundary

The Urban Development Boundary (UDB) is **included** on the LUP map to distinguish the area where urban development may occur through the year 2000 from areas where **it** should not occur. **Development** orders permitting urban development will generally be approved within the UDB at some time through the year 2000 provided that level-of-service standards for necessary public facilities will be met. Adequate countywide development capacity will be maintained within the UDB by expanding the UDB when the need for such expansion is **deter-**

mined to be necessary through the Plan review and amendment process.

The CDMP seeks to facilitate the necessary **service** improvements within the UDB to **accommodate the** land uses indicated on the LUP map within **the** year 2000 time frame. Accordingly, **public expenditures** for urban service and **infrastructure improvements** shall be focused on the area within the UDB, and urban infrastructure is discouraged outside the UDB. In particular, the construction of new roads, or the extension, widening and paving of existing arterial or collector roadways to serve areas outside the UDB at public expense will be permitted only if such roadways are shown on the LUP map **and** in the Traffic Circulation Element.

The entire unincorporated area within the UDB is eligible to receive and utilize Severable Use Rights (**SURs**) in accordance **with** provisions of chapter **33-B**, Code of Metropolitan Dade County. Accordingly, certain developments as specified in Chapter **33-B** may be entitled to **density** or floor **area bonuses as authorized by Chapter 33-B**.

No new commercial agricultural use of **property** may be established within the Urban Development Boundary, except on property designated Agriculture on the LUP map or zoned AU (agricultural) or GU (interim). All property within the Urban Development Boundary not designated Agriculture or zoned AU or GU shall not be permitted to be used for the establishment of any new commercial agricultural use. An additional exception is that land in **utility** easements or rights-of-way may be approved for new commercial agricultural uses where the use **would be** compatible with, **and** would have no unfavorable effect on, the surrounding area. Commercial agricultural uses include, without limitation, **all** uses of property associated with commercial horticulture; floriculture: **viticulture**; forestry; dairy; livestock; poultry; **apiculture**; pisciculture, when the **property** is used principally for the production of tropical fish; ail forms of farm production; and ail other such uses, except retail nurseries and retail greenhouses. Incidental agricultural use of property specifically **authorized** by zoning which is other-

## LAND USE ELEMENT

wise consistent with the LUP map does not constitute commercial agriculture use within the meaning of this provision.

### URBAN DEVELOPMENT SUBJECT TO WETLAND STUDY

Certain areas within the UDB are located in wetland basins which are heavily impacted by past activities such as diking or drainage. but which, nevertheless, retain significant hydrologic or biologic constraints to urban development. These areas designated for Urban Development Subject to Wetland Study require formulation of wetland basin management plans to ensure that development does not increase the risk of flood damage in the wetland basin or the basin of associated drainage canals and does not decrease necessary water storage or recharge of the Biscayne Aquifer; and that desirable biological values of the basin are maintained or mitigated. Within areas designated for urban development subject to wetland study, all development orders shall conform with provisions of the adopted basin plan applicable to the area, as well as all applicable laws and regulations.

### URBAN EXPANSION AREA

The Land Use Plan map also contains a year 2010 Urban Expansion Area (UEA) Boundary. The UEA is comprised of that area boated between the 2000 UDB and the 2010 UEA Boundary. The Urban Expansion Area is the area where current projections indicate that further urban development beyond the 2000 UDB is likely to be warranted some time between the year 2000 and 2010. Until these areas are brought within the year 2000 UDB through the Plan review and amendment process, they are allowed to be used in a manner consistent with the provisions set forth for lands designated as "Agriculture" or the applicable "Open Land" area. Urban infrastructure and services should be planned for eventual extension into the UEA, sometime between the years 2000 and 2010. However, if water or sewer lines or major roadway improvements are extended beyond

the UEA in order to serve a necessary public facility that has been approved consistent with the Comprehensive Development Master Plan, these improvements should be sized or restricted to accommodate only the needs of the public facility.

### AGRICULTURE

The area designated as "Agriculture" contains the best agricultural land remaining in Dade County. The principal uses in this area should be agriculture, uses ancillary to and directly supportive of agriculture such as packing houses, and farm residences. Uses ancillary to, and necessary to support the rural residential community of the agricultural area may also be approved, including houses of worship and local schools.

In order to protect the agricultural industry, it is important that uses incompatible with agriculture, and uses and facilities that support or encourage urban development are not allowed in this area. Residential development that occurs in this area is allowed at a density of no more than one unit per five acres. Creation of new parcels smaller than five acres for residential use may be approved in the Agriculture area only if the immediate area surrounding the subject parcel on three or more sides is predominately parcelized in a similar manner, and if a division of the subject parcel would not precipitate additional land division in the area. No business or industrial use should be approved in the area designated Agriculture unless the use is directly supportive of local agricultural production, and is located on an existing arterial roadway, and has adequate water supply and sewage disposal in accordance with Chapter 24 of the County Code, and the development order specifies the approved use(s), however, packing houses for produce grown in Florida are not restricted to locating on an existing arterial roadway. Other uses compatible with agriculture



## LAND USE ELEMENT

and with the rural residential character may be approved in **the Agriculture area only if deemed to be a public necessity, or if deemed to be in the public interest and no suitable site for the use exists outside the Agriculture area. Existing quarrying and ancillary uses in the Agriculture area may continue operation and be considered** for approval of expansion.

Also included in the Agriculture area are enclaves of estate density residential use approved and **grandfathered** by zoning, ownership patterns and platting activities which predate this Plan. The grandfather provisions of Sections **33-196**, 33-280, and **33-280.1** of the Dade County Code shall continue to apply in this area except that lots smaller than 15,000 square feet in area are not grandfathered hereby. Moreover, all existing lawful uses and zoning are deemed to be consistent **with** this Plan unless such a use or zoning: **(a) is found through a subsequent planning study, as provided in Land Use Policy 5D, to be inconsistent with the foregoing grandfather provisions or with the criteria set forth below; and (b) the implementation of such a finding will not result in a temporary or permanent taking or in the abrogation of vested rights as determined by the Code of Metropolitan Dade County, Florida. The criteria for determining that existing use or zoning district is inconsistent with the plan are as follows: 1) Such use or district does not conform with the conditions, criteria or standards for approval of such a use or zoning in the applicable LUP map category; and 2) The use or zoning district has, or would have an unfavorable effect on the surrounding area: by causing an undue burden on transportation facilities including roadways and mass transit or other utilities and services including water,**

sewer, drainage, fire, **rescue, police and schools: by providing inadequate off-street parking, service or loading areas; by maintaining operating hours, outdoor lighting or signage out of character with the neighborhood; by creating traffi.** noise, odor, dust or glare out of **character** with the neighborhood; by paging a threat to the natural environment including air, water and living resources: or where the **character** of the **buildings**, including height, bulk, scale, floor area ratio or design would detrimentally impact the surrounding area. Also deemed to be consistent with thii Plan are uses and zoning districts which have been approved by a final judicial decree which has declared this Plan to be invalid or unconstitutional as applied to a specific piece of property. This paragraph does not, however, authorize the approval or expansion of any use inconsistent with this plan, To the contrary. **it** is the intent of this Plan to contain and prevent the expansion of inconsistent development in the Agriculture area.

**Agricultural Subarea 1 (Est Everglades Agricultural Area),** This Subarea is bounded on the north by SW 168 Street; on the east by Levee 31N and Canal 111; on the south by Environmental Protection Subareas A and **D**; and on the west by Environmental Protection Subareas A and C. (See Figure 1) Notwithstanding any uses otherwise permitted in the Agriculture area, uses in Agricultural Subarea 1 are limited **solely** to: (1) lawful **agricultural** uses; (2) rural residences at a maximum **density** of one dwelling unit per 40 acres, or one dwelling unit per **20 acres** if ancillary to a lawfully established agricultural use; and (3) uses permitted under the vested rights provisions of **Section 33B-29**, Code of Metropolitan Dade County, Florida. Additional drainage in this area is prohibited.

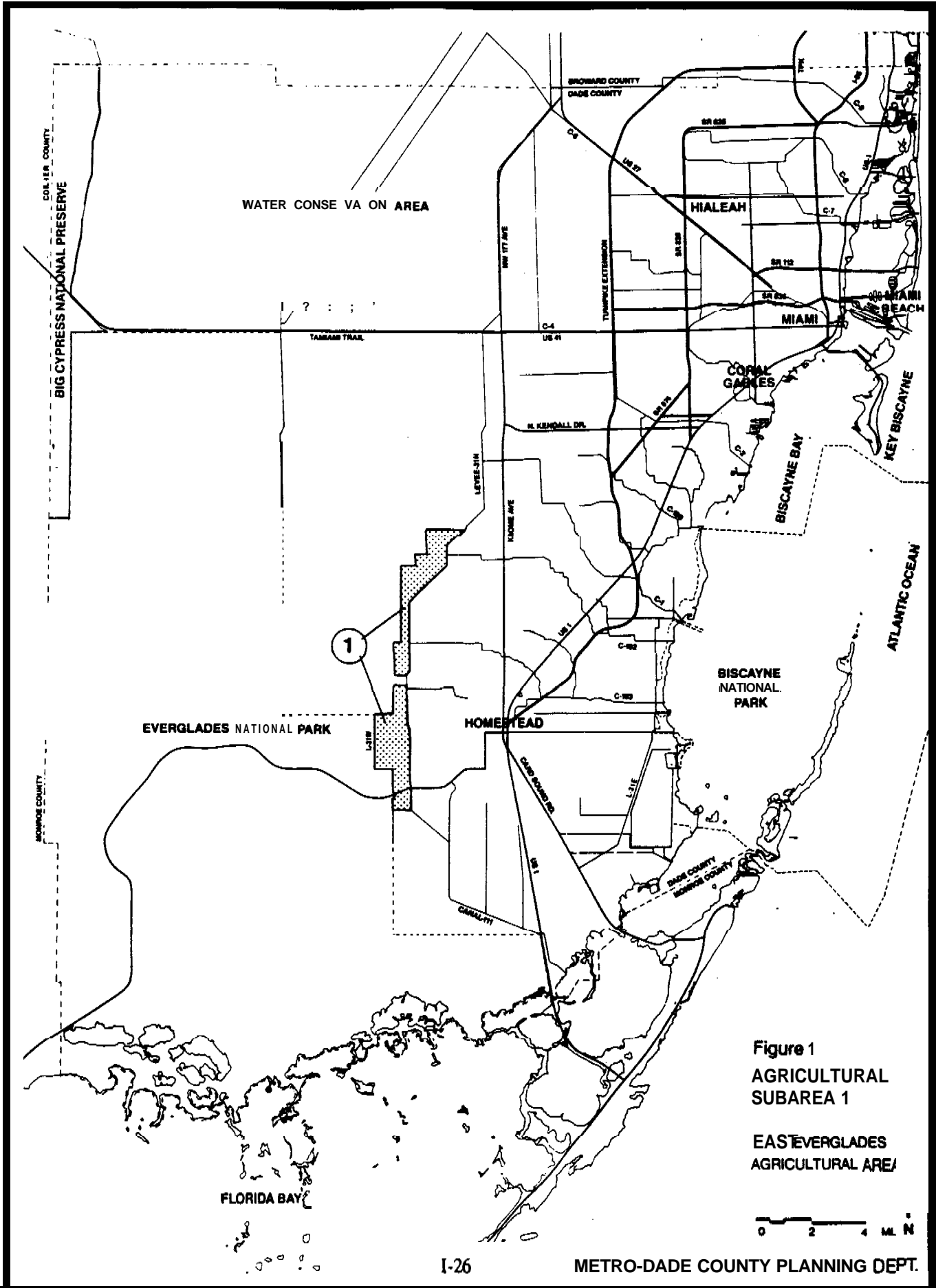


Figure 1  
 AGRICULTURAL  
 SUBAREA 1

EAST EVERGLADES  
 AGRICULTURAL AREA



## LAND USE ELEMENT

### Open Land

The land designated as "Open Land" is not needed for urban uses **between** now and the year **2000** and has been set aside for uses other than urban development. It is not simply surplus undeveloped land, but rather it is land that is intended **to serve one or more of** the **following** functions: production such as agriculture, limestone extraction or other resource-based activity such as development of potable water supplies; rural residential development at a maximum density **indicated** for the specific Open Land subarea, but no greater than one unit per five acres; recreation; compatible utility facilities and **conservation** or maintenance of the existing environmental character. Lower **residential** densities may **be** required in some areas for purposes of avoiding **flood conditions** or **to avoid** degradation of environmental systems or features.

Also included in some Open Land areas are some existing year-round agricultural activities, and some **enclaves of** estate density residential use approved and grandfathered by zoning, ownership patterns and platting activities **which** predate this Plan. The grandfather provisions of Sections 33-196, **33-280**, and **33-280.1** of the Dade County Code shall continue to apply in Subareas **1, 2, 3** and **5**, except that residential lots smaller **than** 15,000 square feet in area are not grandfathered hereby. Moreover, all existing lawful uses and zoning are deemed to be consistent with this Plan unless a use or zoning: (a) is **found** through a subsequent planning study, as provided in Land Use Pdky **5D**, to be **inconsistent** with the foregoing grandfather provisions or **with** the **criteria** set forth **below**; and (b) the **implementation** of such a finding will not result in a temporary or permanent taking or in the abrogation of vested rights as determined by the Code of **Metropolitan** Dade County, Florida. the **criteria** for determining that existing use or zoning **district** is inconsistent with the plan are as follows: 1) Such use or district does not conform with the conditions, criteria or

standards for approval of such a use or zoning in the **applicable** LUP map **category**; and 2) The use or zoning **district** has, or would have, an unfavorable effect on the surrounding area: by causing an undue burden on transportation facilities **including** roadways and mass transit or other utilities and services including water, sewer, drainage, fire, rescue, police and schools; by providing inadequate off-street parking, service or loading areas; by **maintaining** operating hours, outdoor lighting or **signage** out of character **with** the neighborhood; by **creating traffic**, noise, odor, dust or glare out of character with the neighborhood; by posing a threat to the **natural** environment **including** air, water and living resources; or where the character of the **buildings, including** height, bulk, scale, floor area ratio or design would detrimentally impact the surrounding area. Also deemed to be consistent **with** this Plan are uses and zoning **districts which** have been approved by a final judicial decree **which** has **declared** this **Plan** to be invalid or **unconstitutional** as applied to a **specific** piece of property. This paragraph does not, however, authorize the expansion of any use inconsistent with the specific provisions for the applicable Open Land subarea. To the contrary, it is the intent of this plan to contain and prevent the expansion of such inconsistent **development** in Open Land areas.

Because Open Land areas primarily consist of wetlands, all proposed uses will be **reviewed** on a **case-by-case basis**. No particular use, other **than** rural **residential** use at specified densities is definitively allowed. Following is an indication of the uses and residential densities that **are** likely to be permitted in each of six Open Land Subareas, subject to conformity with the pertinent goals, objectives, and policies of this Plan. The Land Use Plan map depicts the precise **boundary** of the entire Open Land area. The map **entitled** "Open Land Subareas" (Figure 2) and the following text indicate the boundaries between Open Land Subareas.

UNABLE TO SCAN MAP

## LAND USE ELEMENT

**Open Land Subarea 1 (Snake-Biscayne Canal Basin).** This subarea is located north of the Miami Canal (Canal-6) in northwestern Dade. Rural residential use at 1 dwelling unit per 5 acres, limestone quarrying and related uses, necessary institutions and public facilities, utility facilities, communications facilities, recreational uses and seasonal agriculture may be considered for approval in this subarea.

**Open Land Subarea 2 (Northwest Wellfield).** This Open Land subarea is bounded on the north by the Miami Canal, on the east by the Turnpike Extension, on the west by the Dade-Broward Levee, and on the south by NW 12 Street and its hypothetical extension. Limestone quarrying and ancillary uses including the continued operation of existing cement plants, necessary public institutional uses, compatible utility facilities, communications facilities, recreational uses, rural residences at a maximum density of 1 dwelling unit per 5 acres and seasonal agriculture may be considered for approval in this area, in keeping with the Northwest Wellfield Protection Plan (Board of County Commissioners Resolution R-1541-85) and Chapters 24 and 33 of the Dade County Code, and wetland protection requirements. In furtherance of Board of County Commissioners Resolution R-1098-88, the creation of a State Protection Area in this subarea is also supported.

**Open Land Subarea 3 (Tamiami-Bird Canal Basins).** This subarea is bounded on its north by hypothetical NW 12 Street and SW 8 Street, on the east by the year 2000 UDB, on the south by the year 2000 UDB and hypothetical SW 56 Street, and on the west by the Dade-Broward Levee and Levee 31N. The subarea contains two wetland basins: the North Trail basin and the Bird Drive Everglades basin. These lands should be evaluated on an areawide basis to determine the manner in which portions may be utilized for urban expansion. Based on such studies, additional portions of this subarea may

be considered for inclusion in the UEA or UDB as Plan amendments. Until included in the UDB, uses which could be considered for approval in this subarea include rural residences at a maximum density of 1 dwelling unit per 5 acres, institutional uses and public facilities, utility facilities, seasonal agricultural use, recreational use or limestone quarrying and ancillary uses.

**Open Land Subarea 4 (East Everglades Residential Areas).** This subarea is bounded on the north, west and southwest by Environmental Protection Subarea C, on the east by Levee 31N, and on the south by SW 168 Street. Uses which may be considered for approval in this area are seasonal agriculture and rural residences at a density of 1 dwelling unit per 40 acres, or 1 dwelling unit per 20 acres if ancillary to an established agricultural operation, or 1 dwelling unit per 5 acres, after such time as drainage facilities become available to protect this area from a one-in-ten-year flood event in keeping with the adopted East Everglades zoning overlay regulation (Section 33B, Code of Metro-Dade) compatible utility facilities.

**Open Land Subarea 5 (South Dade).** This Open Land subarea lies south and east of Homestead and Florida City. It is bounded on the north and west by the Agriculture area, and on the south and east by Environmental Protection areas. Future uses which may be considered for approval in this area include seasonal agriculture, limestone quarrying and ancillary uses, necessary institutional uses and public facilities, utility facilities, communications facilities, recreational uses and rural residences at a maximum density of 1 dwelling unit per 5 acres.

### Environmental Protection

The Environmental Protection designation applies to those areas in the County most environmentally significant, most susceptible to

\* Seasonal agriculture means those agricultural activities which occur during the months November through April on land at natural elevation, or which occur during the months May through October on land that is, or has been bedded or filled to an elevation at or above Dade County flood criteria, and given that no additional off-site drainage will occur.

## LANDUSE ELEMENT

environmental degradation and where such degradation would adversely affect the supply of potable fresh water or environmental systems of County, regional, State or national importance. These lands are characteristically high-quality marshes, swamps and wet prairies, and are not suited for urban or agricultural development. However, some high-quality uplands such as tropical hammocks and pinelands on the State Conservation And Recreation Lands (CARL) and Dade County Environmentally Endangered Lands (EEL) acquisition lists are also included. Most of the CARL projects are designated on the future Land Use Plan (LUP) Map, but some are not because of their small size. EEL projects that are acquired and are large enough to be depicted at the Plan Map scale are also designated on the Future Land Use Plan Map. It is the policy of this Plan that all land areas identified on the State CARL, Dade County EEL and South Florida Water Management Save Our Rivers (SOR) acquisition lists shall have equally high priority for public acquisition as those land areas designated Environmental Protection on the Future LUP Map. Uses permitted within this area must be compatible with the area's environment and should not adversely affect the long-term viability, form or function of these ecosystems. Residential development in this area should be limited to a maximum density of one unit per five acres, and in some parts of this area lower densities are required to protect the fresh water supply and the integrity of the ecosystems.

Because of the importance of maintaining the natural form and function of these areas, many of these areas have been slated for purchase by State or federal agencies. Dade County will encourage the acquisition of these areas by public or private institutions that will manage these areas toward this objective. However, so long as these lands remain in private ownership, some compatible use of this land will be permitted by Dade County consistent with the goals, objectives and policies of this Plan. All proposed uses will be reviewed on a case-by-case basis for compliance with environmental regulations and consistency with this Plan. The following provides an indication of the uses and residential densities that may be considered for

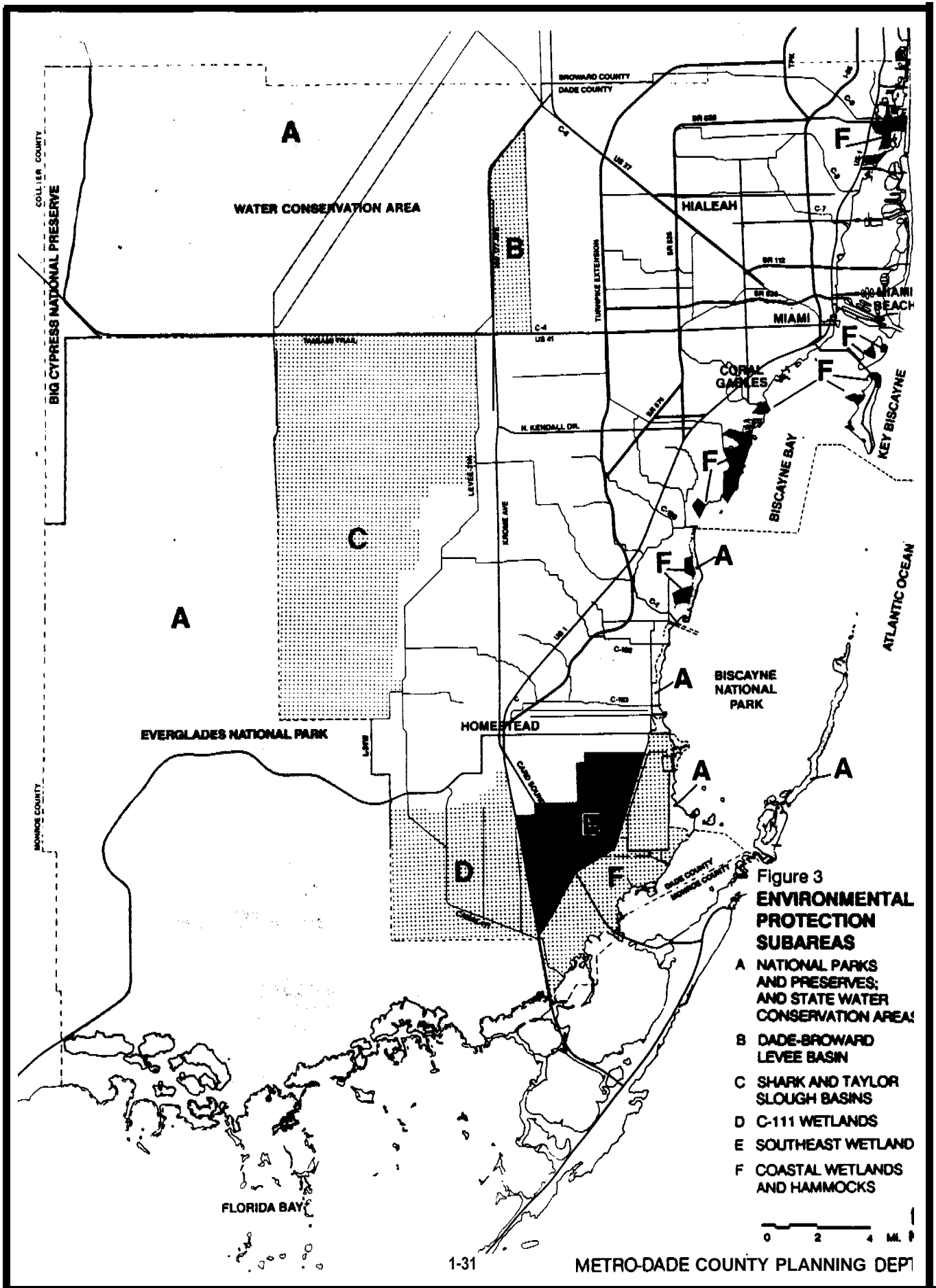
approval subject to conformity with the pertinent goals, objectives and policies of this Plan. The precise boundary of the entire Environmental Protection area is depicted on the LUP map. The map entitled "Environmental Protection Subareas" (Figure 3) and the following text indicate the boundaries between subareas of the Environmental Protection Area.

**Environmental Protection Subarea A (National Parks and Preserves, and State Water Conservation Area).** This subarea contains the land and water areas within the authorized boundaries of the Big Cypress National Preserve, Everglades National Park, Biscayne National Park and Water Conservation Area No. 3 of the South Florida Water Management District (SFWMD). Most of the land in these areas is under ownership of the National Park Service or the South Florida Water Management District, and acquisition of the remainder is currently being pursued by those agencies. Metro-Dade County encourages full acquisition of these areas, with the understanding that revenue obtained from the purchase of the Dade-Collier Training and Transition Airport will be used to acquire another acceptable site to accommodate the long-term growth of commercial aviation activity traditionally accommodated by Miami International Airport.

Land uses and activities which may occur in the National Parks and Big Cypress National Preserve are outlined in management plans for those areas prepared and adopted by the National Park Service. In addition, any development which might be contemplated for non-federal lands in the Big Cypress area is also limited by this Plan and by provisions of the Dade County Code to uses that are consistent with Florida Rules governing the Big Cypress Areas of Critical State Concern (Chapter 27 F-3, Part III, F.A.C.). Uses and activities in the Water Conservation Areas are governed by the South Florida Water Management District.

Metro-Dade County supports the implementation of those agencies' management policies and programs. Accordingly, until acquisition has been completed, uses permitted in the Big Cypress Preserve area by Metro-Dade County will be limited to rural residential use at a maximum density of one dwelling unit per five acres.

I-30.1



**Figure 3  
ENVIRONMENTAL  
PROTECTION  
SUBAREAS**

- A NATIONAL PARKS AND PRESERVES; AND STATE WATER CONSERVATION AREAS**
- B DADE-BROWARD LEVEE BASIN**
- C SHARK AND TAYLOR SLOUGH BASINS**
- D C-111 WETLANDS**
- E SOUTHEAST WETLAND**
- F COASTAL WETLANDS AND HAMMOCKS**

0 2 4 M.P.



## LAND USE ELEMENT

Environmental Protection Subarea B (**Dade-Broward Levee Basin**). This subarea is bounded on the west and north by Levee 30, on the east by the **Dade-Broward** Levee and on the South by the Tamiami Canal (C4). The majority of the subarea (north of hypothetical NW 12 Street) is addressed by the adopted Northwest Wellfield Protection Plan (**Board of County Commissioners Resolution R-1541-85**). The subarea is wetland and all land use and site alteration proposals will be closely evaluated on a case-by-case basis by federal, State, regional and County agencies. The South Florida Water Management District has listed this area as an acquisition proposal in its **5-year** Save Our Rivers acquisition program.

Until these lands are acquired, land uses that may be considered for approval include rural residences at a maximum density of one dwelling unit per five **acres**, low-coverage communications facilities, recreational facilities and necessary public facilities including water management facilities. Existing permitted uses, including seasonal **agricultural uses**, may be continued until they can be acquired. Within the **Northwest** Wellfield Protection area, uses will be closely regulated to **ensure** the protection of water quality.

Environmental Protection Subarea C (**Shark and Taylor Slough Basins**). This Environmental Protection subarea includes the area known as the Northeast Shark River Slough and the upper **Taylor** Slough Basin. The area comprises the majority of the area also known as the East Everglades, which is the subject of a detailed management plan adopted by the Board of County Commissioners in 1981 (Chapter **33-3**, Code of **Metropolitan** Dade County). This subarea contains **those portions of** the referenced basins that have not been significantly altered by drainage or **rockpiling**; are the subject of planning by **federal** and State agencies to remedy degraded hydrologic and biotic conditions in the **Everglades**; and which are being studied for possible acquisition by the State and federal governments.

Portions of these areas have already been acquired by the South Florida Water Management District (**SFWMD**) and other portions are listed

in the District's five-year plan for **acquisitions** under the State's Save Our Rivers program. Because these areas are wetlands, all land use or site alteration proposals will be carefully evaluated on a case-by-case basis by federal, State, regional and County environmental **agencies**. Moreover, the County-adopted **East Everglades Resource Management program** (Chapter **33-B**, Code Of Metropolitan Dade County) governs land use and site alteration in this subarea.

New uses should be limited to rural residences at maximum densities of one dwelling unit per **20-acre**, or per **40-acre** or other-sized parcel as specified in the referenced East Everglades Resource Management program.

Existing, permitted, seasonal agricultural and **commercial uses** may be continued until the land on **which** they are occurring can be acquired by government. However, no off-site drainage shall be permitted to make parcels **hydrologically** capable or supporting farming or any structures.

**Environmental Protection Subarea D (Canal-111 Wetlands)**. This subarea contains the southern **portion** of the East Everglades, south of Florida City. The subarea is bounded on the west and south by Everglades National Park, on the east by US Highway 1, and on the north by the Agriculture area and Open Land Subarea 5. The area is traversed by Canal-11 and is the subject of a federal study seeking to remedy degraded hydrological and biotic conditions in this portion of the Everglades. Most of this area is under the ownership of the **South Florida** Water Management District and most of the remainder is proposed for acquisition under the State's **Save** Our Rivers program. The lands that are not yet slated for public acquisition should be studied to determine whether public acquisition would be mutually beneficial to public and private interests in the area. These areas are wetlands and subject to case-by-w **evaluation** of use or site-alteration proposals by federal, State, regional and County agencies. Moreover, most of this land is also included in the area governed by the East Everglades Resource Management program (Chapter **33-B**, Code of Metropolitan Dade County).

## LAND USE ELEMENT

Land uses **that** may **be** considered for approval on land governed by the referenced East Everglades Resource Management Program include rural residences at a maximum density of one **dwelling unit** per **40** acres, or one dwelling unit per parcel fronting US Highway 1 in accordance with provisions of the referenced **East Everglades** program. Rural residences at a maximum density of up to one dwelling unit per five acres may **be** considered for approval on those parcels not governed by the East Everglades regulation. Approval of any use and its access should be conditioned on its demonstrated consistency with the adopted goals, objectives and **policies** of the **CDMP**, and conformity **with** all prevailing environmental regulations. Existing uses may continue until acquired, but no improvements or expansions involving further filling or drainage of wetlands should be **permitted**.

**Environmental Protection Subarea E (Southeast Wetlands).** This Environmental Protection subarea is bounded on the west by US Highway 1 on the north by **Open Land** Subarea 6, on the east by Levee 31 E and on the south by a **hypothetical** line extending between the point at which Card Sound Road meets Levee 31 **E**, and the intersection of US Highway 1 and Canal-1 11. The area is **low** lying, **poorly** drained, flood prone, and is characterized predominantly by highquality **wetland** communities. Accordingly, **any land use** or site alteration proposal will **be** **carefully** evaluated on a **case-by-case** basis by **federal**, State, regional, and County agencies.

Because of the Importance of **maintaining** the biotic and hydrologic **functions** provided by **this** area, the **southeast wetlands should be studied** to determine whether **public acquisition** would be mutually **beneficial** to **public** and **private** interests in the area. Uses which could be considered for **approval include low-coverage** rural residential **use** at a maximum density of one dwelling unit per five **acres** or low-coverage communications. **utility** or **recreation** facilities. Approval of any use and its access roads or easements should be conditioned on its demonstrated consistency with the adopted **goals**, objectives and policies of this plan, and

conformity with all prevailing environmental regulations.

**Environmental Protection Subarea F (Coastal Wetlands and Hammocks).** **This subarea includes** all coastal wetlands designated as Environmental Protection Area on the LUP map **which** are not within the authorized **boundaries** of **Biscayne** or Everglades National Parks. These **areas** are low-lying, **flood** prone and **characterized** predominantly by coastal wetland communities. Accordingly, all land use or site **alteration** proposals will be carefully evaluated on a **case-by-case** basis by federal, State regional, and **County** agencies.

Because of the importance of maintaining **biologic** and hydrologic functions provided by **these** areas, the **coastal** wetlands should be managed toward these ends and acquired **whenever** possible. However, until these lands are acquired by government. uses which could be considered for approval include **low-coverage residential** use at a density not to exceed one dwelling unit **per five** acres, **water-dependent** uses or **necessary public**, water related **facilities** consistent with the Conservation and Coastal Management Elements of this Plan. In addition, necessary electrical generation and transmission facilities are also permitted in this area. The approval of any new use, and the replacement or **expansion** of any existing use **will** be conditioned upon its demonstrated **consistency** with the adopted goals, objectives and policies of this plan. and conformity with **all** prevailing environmental regulations.

### Concepts and Limitations of the Land Use Plan Map

The **Land Use Plan** map of the Comprehensive **Development** Master Plan provides the general land use framework indicating how, where and the extent to which land may be used between now and the year 2000. It also indicates locations where urban expansion is projected to be warranted between the years 2000 and 2010.

The LUP map is based on many considerations including existing development patterns, zoning, provision of public services and infrastructure, characteristics of both the man-

## LAND USE ELEMENT

made and natural environment, suitability of areas for developments, growth projections, programmed infrastructure and service improvements, as well as the goals, objectives and **policies** of the Plan Elements.

Concepts. Among the long-standing concepts embodied in Dade County's CDMP are the following:

1. Control the extent and phasing of urban development in order to coordinate development with the programmed provision of **public** services.
2. Preserve and conserve land with valuable environmental characteristics, recreation uses or scenic appeal.
3. Encourage development in areas most **suitable** due to soil **conditions**, water table level, vegetation type and degree of flood hazard. Restrict development in particularly **sensitive** and unique natural areas.
4. Maximize public ownership of beaches and shorelands within the Coastal Area to insure their preservation, conservation or **public** use.
5. Minimize consumption of energy for transportation purposes and the amount of air pollution from transportation sources by encouraging a more compact urban form.
6. Shape the pattern of urban development to maximize the efficiency of existing public facilities and support **the introduction** of new **public** facilities or **services** such as improved **mass** transit **systems**.
7. Preserve sound and **stable residential neighborhoods**.
8. Rejuvenate decayed areas by promoting redevelopment, rehabilitation, **infilling** and the development of activity centers containing a mixture of land uses.
9. Promote development of concentrated activity centers of different sizes and

character to provide economies of scale and efficiencies of transportation and **other services** for both the **public** and private **sectors**.

10. Redirect higher density development towards activity centers or areas of high countywide **accessibility**.
11. Allocate suitable and sufficient sites for industrial and business districts to accommodate future employment needs,
12. Prohibit new residential development and other noise sensitive activities from locations **near airport noise** impact zones.
13. **Avoid** excessive scattering of industrial or **commercial** employment **locations**.
14. Encourage agriculture as a viable **economic** use **of** suitable lands.

**Population Distribution.** The concepts above have been considered not only as a basis for delineating **areawide** patterns of development, but also to develop a **time-phased distribution** of **population** within Dade County. Accordingly, the projected distribution of population for the years 2000 and 2010 (Figure 4) reflects the following factors:

- existing **conditions** (land uses; densities; compatibilities and conflicts in land uses; distribution of vacant land suitable or desirable for residential, commercial, **or industrial** development; and existing zoning);
- emerging demographic and economic trends (housing markets, household **populations**, redevelopment potentials, **property** values and **mobility** patterns);
- planning studies (municipal master plans, **neighborhood** area studies and other **special** studies such as rapid transit station area plans); **and**
- existing, programmed and planned public improvements (roads, sewers, water, fire protection, parks and schools).

UNABLE TO SCAN MAP

## LAND USE ELEMENT

The subarea populations shown on the **Population** Estimates and Projections map are those for which **Metro-Dade** County **will strive to provide urban services. These numbers will be used by public agencies to plan for the range of public facilities and services including roads, parks, schools and sewers, The numbers reflect a middle course of action between planning for the minimum projected growth and planning for the maximum population projection.**

Coordinated-Managed Growth. The Land Use Plan map, the Population Estimates and Projections map and this interpretive text all help translate the goals, objectives and policies of the Comprehensive Development Master Plan into a more specific course of action. They are intended to be used in directing **public** and private developmental activities. Actions that must be consistent with these maps and related **text** include **functional service** plans and amendments, capital improvement programs, **public** facilities site approvals, subdivision **plat** and zoning actions, and federal grant **application** reviews. Before any decision is made in connection with any of these or other **developmental** processes, a determination will be **made** as to the consistency of the proposed developmental action with the goals, objectives and policies of the **CDMP**, including the Land Use Plan map, the **Estimated Population** Distribution map, and this text. Proposed developmental actions and orders should be evaluated to determine the extent to which they are **consistent** with these Plan components which **embody** the essence of the County's development policy. Vested rights and legal non-conformity shall be given consideration in all **determinations** of developmental action or **order** approval. Developmental **actions** or **orders** that preceded the official adoption of this Plan shall not be deemed inconsistent with the Plan until so determined through one of the **several** developmental decision processes.

Critical in achieving the desired pattern of development is the adherence to the **2000** Urban Development Boundary (UDB) and 2010 Urban Expansion Area (**UEA**) Boundary. Given the fundamental influences of infrastructure and service availability on land markets and

development activities, the **CDMP** has since its inception provided that the **UDB** serve as an **envelope** within which public expenditures for urban **infrastructure** will be confined. In this regard the **UDB serves** as an urban services **boundary** in addition to a land use boundary. **Consistency with the CDMP** will ensure that the actions of one **single-purpose** agency does not foster development that could cause **other** agencies to subsequently respond in kind and provide facilities in unanticipated locations. Such uncoordinated single-purpose decision making **can** be fiscally damaging to government and can undermine other comprehensive plan objectives.

**Plan Amendments.** It is recognized that the development capacity of the area within the **UDB** and UEA will **vary** with time. Part of the supply **will** be utilized and additional supply will be added from time-to-time through the **approval** of Plan amendments. Some land will be built upon at densities which are higher **than** permitted by existing zoning because rezonings will **occur** in the future, and some development will occur at densities lower than **that** permitted by zoning. **Moreover, impediments** can arise to the utilization, at maximum potential densities, of all lands within the boundaries. In some **urbanized** areas, it may be difficult to acquire sufficiently large parcels of land. In other areas, neighborhood opposition to proposed developments could alter the assumed density or **character** of a particular area. Because the development capacity of the LUP map **fluctuates** with time; it will be **reevaluated** on a periodic basis as part of the Plan review and amendment process.

**Limitations.** The **Comprehensive** Plan, as used in large metropolitan areas, establishes broad parameters within which the various levels of government can conduct detailed land use planning and zoning **activities**, and functional **planning and programming of urban infrastructure** and services, it also **serves** the full range of other governmental planning and programming **activities** which required information about the location and extent of future population **growth** and land use. Among the primary purposes for adopting the long-range land Use Plan map are

## LAND USE ELEMENT

to establish continuity and certainty as bases for individual, small-scale land use decisions in both the public and private sectors, and to enable coordinated, timely, cost-effective expansion, maintenance and utilization of the full range of urban facilities and services. The existence of an adopted comprehensive plan does not obviate the need to conduct detailed examinations of localized land use and service conditions. Nor does the Comprehensive Plan substitute for detailed functional plans for infrastructure such as roadways, water and sewer facilities.

Given the range and scope of the comprehensive plan elements as now required in Florida, the extent and complexity of development patterns in Dade County, the long-range time horizons of the plan and the legal status of the comprehensive plan, it is critical to maintain viable programs to update and amend the CDMP and related functional plans. Localized land use and service conditions must be systematically reviewed to determine whether the CDMP should be proposed for amendment, and functional plans for all urban services must be coordinated and updated for consistency with the CDMP.

The Land Use Plan map of the CDMP is a framework indicating the large-scale pattern of future land use in the metropolitan area. The land use pattern indicated on the Plan map is very detailed from a countywide perspective. However, the map does not specifically depict each and every individual occurrence of land use and zoning throughout the hundreds of neighborhoods which comprise Dade County; each of the land use categories indicated on the LUP map contains dominant uses, ancillary uses and secondary uses.

The land use categories used on the LUP map are necessarily broad, and there are numerous instances where existing uses and parcels zoned for a particular use, are not specifically depicted on the Land Use Plan map. This is due largely to graphic limitations. Dade County encompasses over 1,413,629 acres (2,208 square miles) and in 1985 almost 300,000 acres (467 square miles) were developed for urban or

agricultural uses. In addition, the mixing of uses in individual buildings, projects and neighborhoods is common in many parts of the urban area, and is becoming a more widely accepted land use practice when compatible uses are properly integrated through the use of sound land use, planning and design principles. Accordingly, a land use plan map for an area the size of Dade County cannot readily depict specific land use, let alone parcel-specific density or intensity of use, without broadly defining the land use categories and areas. Generally, the smallest area distinguished on the LUP map is 5 acres (smaller existing use-areas are not specifically shown). Each of the land use categories utilized on the LUP map also provides for the inclusion of some other uses under certain conditions.

**Other Land Uses Not Addressed.** Certain uses are not authorized under any LUP map category, including many of the uses listed as "unusual uses" in the zoning code. Any use not authorized under any LUP map category may be requested and approved in any category that authorizes uses substantially similar to the requested use. Such approval may be granted only if the requested use is consistent with the objectives and policies of this Plan, and provided that the use would not have an unfavorable effect on the surrounding area: by causing an undue burden on transportation facilities including roadways and mass transit or other utilities and services including water, sewer, drainage, fire, rescue, police and schools; by providing inadequate off-street parking, service or loading areas; by maintaining operating hours, outdoor lighting or signage out of character with the neighborhood; by creating traffic, noise, odor, dust or glare out of character with the neighborhood; by posing a threat to the natural environment including air, water and living resources; or where the character of the buildings, including height, bulk, scale, floor area ratio or design would detrimentally impact the surrounding area. However, this provision does not authorize such uses in Environmental Protection Areas designated in this Element.

## LAND USE ELEMENT

**USES AND ZONING NOT SPECIFICALLY DEPICTED ON THE LUP MAP.** Within each map category numerous land uses, zoning districts and housing types may occur. Many existing uses and zoning districts are not specifically depicted on the Plan map. However, all such existing lawful uses and zoning districts are deemed to be consistent with this Plan unless such a use or zoning district: (a) is found through a subsequent planning study, as provided in Land Use Policy 5D, to be inconsistent with the criteria set forth below; and (b) the implementation of such a finding will not result in a temporary or permanent taking or in the abrogation of vested rights as determined by the Code of Metropolitan Dade County, Florida. The criteria for determining that an existing use or zoning district is inconsistent with the plan are as follows: 1) Such use or district does not conform with the conditions, criteria or standards for approval of such a use or zoning in the applicable LUP map category; and 2) The use or zoning district has, or would have, an unfavorable effect on the surrounding area: by causing an undue burden on transportation facilities including roadways and mass transit or other utilities and services including water, sewer, drainage, fire, rescue, police and schools; by providing inadequate off-street parking, service or loading areas; by maintaining operating hours, outdoor lighting or signage out of character with the neighborhood; by creating traffic, noise, odor, dust or glare out of character with the neighborhood; by posing a threat to the natural environment including air, water and living resources; or where the character of the buildings, including height, bulk, scale, floor area ratio or design would detrimentally impact the surrounding area. Also deemed to be consistent with this Plan are uses and zoning districts which have been approved by a final judicial decree which has declared this Plan to be invalid or unconstitutional as applied to a specific piece of property. The presence of an existing use or zoning district will not prevent the County from initiating action to change zoning in furtherance of the Plan map, objectives or policies where the foregoing criteria are met. The limitations outlined in this paragraph pertain to existing zoning and uses. All approval of new land uses must be consistent with the LUP map and the specific land use

provisions of the various LUP map categories, and the objectives and policies of this Plan.

**WELLFIELD AREAS.** Dade County's sole source of drinking water is the Biscayne Aquifer which is discussed in the Conservation Element of the Plan. Many characteristics of the Aquifer make it highly vulnerable to contamination from activities on the land surface. Land uses and activities near and upgradient from wellfields directly impact the quality of water ultimately withdrawn from the wells.

Numerous public water supply wellfields exist throughout Dade County, and new ones will be constructed in the future. Only the largest existing wellfields are depicted on the Land Use Plan map. However, the County restricts land use within portions of cones of influence of all public water supply wellfields to minimize the threat of water pollution. Moreover, newly constructed and future regional wellfields warrant greater and more extensive protection for two reasons. First, the opportunity still exists to maintain pristine water quality around the new and future wellfields because the land within the full extent of their cones of influence is largely undeveloped. Secondly, if these become contaminated there are few suitable alternative sites for the construction of additional high-capacity wellfields.

In order that the new and future regional water supply wellfields constructed in predominantly undeveloped areas will remain free from contamination, land use and development within and upgradient from the full extent of their cones of influence must be carefully controlled to limit land uses to those which will pose no threat to water quality. County regulations governing land use and development within the full extent of the cones of influence are necessary to provide desirable levels of protection to new and future wellfields. Future wellfields and their protection areas are identified on Figure 6 in the following section of this Element. The protection area boundaries identified in this Plan will be periodically reviewed and revised, when appropriate, to maintain consistency with the wellfield protection area boundaries

## LAND USE ELEMENT

established pursuant to Chapter 24 of the Dade County Code. The County's wellfield protection regulations and protection area boundary maps must be consulted when applying or interpreting the Land Use Plan map as it relates to wellfield protection areas.

**ULTIMATE DEVELOPMENT AREA.** The 2000 and 2010 Land Use Plan map identified the areas that will be urbanized within those time frames. As indicated throughout this Plan, these are the areas of the County where financial resources should be directed for the maintenance and construction of urban infrastructure and services.

Growth of Dade County, however, is not projected to cease after the year 2010. Therefore, prudent long-term planning for infrastructure may need to anticipate locations for possible future extension. For example, it may be desirable to reserve rights-of-way in certain growth corridors as well as on section, half-section, and quarter-section lines, well in advance of need so that opportunities to eventually provide necessary roadways are not irrevocably lost.

It is difficult to specify where and how much of Dade County's total area may ultimately be converted to urban development. This is due to uncertainty regarding long-term rates of population and economic growth; housing and community preferences; availability and price of energy, water, agricultural and mineral resources; and State, federal and international influences. It is reasonably safe to assume, however, that the areas least suitable for urban development today will remain least suitable in the future. These areas include the remaining high-quality coastal and Everglades wetland areas in the County, and the Northwest Wellfield protection area. The areas more appropriate for, and more likely to experience sustained urban pressure are the heavily impacted, partially drained wetlands in the Biscayne-Snake Creek and Bird-Trail Canal Basins, the agricultural areas of southwestern and southeast Dade, and the impacted wetlands south of Homestead and Florida City. When the need for additional urban expansion is demonstrated after the year 2010, such expansion should be carefully

managed to minimize the loss of agricultural land and to maximize the economic life of that valuable industry. Accordingly, urban expansion after the year 2010 in the South Dade corridor should be managed to progress westerly from the US 1 corridor to the CSX railway corridor and southerly to Homestead only when the clear need is demonstrated, and then only in a contiguous fashion, moving southerly first, and then westerly.

Development-inducing infrastructure shall not be built by the year 2000 in areas designated Agriculture or Open Land. The 2010 Urban Expansion Area is projected for development by the year 2010 contingent upon those areas being brought into the UDB by plan amendment; therefore, facilities may be planned for provision to those areas during the long term.

Reservation of corridors and right-of-way outside of the 2000 UDB and 2010 UEA is not precluded by the adoption of this Plan. This may be necessary to ensure that a strategic grid pattern and supplemental corridors are available for future highway, transit or other infrastructure. However, the planning, design, programming and financing of infrastructure shall be focused on the area within the UDB and UEA. Until the needs of these areas have been satisfactorily met, financial resources shall not be diffused to nonurban areas. Moreover, Environmental Protection areas designated by this plan shall be specifically avoided in all planning and design of development-inducing infrastructure and services.

### FUTURE HISTORIC AND NATURAL RESOURCES

In addition to the presentation of future land use expressed on the Land Use Plan (LUP) map for 2000 and 2010 and described in the previous text, certain future historical and environmental resources are also identified herein. Rather than attempt to map these features on the Land Use Plan map, they are presented separately to preserve the legibility of the LUP map. Included with these maps is a brief description of the



## LAND USE ELEMENT

resources. The reader is referred to the Support Components of this Element and to the Conservation and Coastal Management Elements for complete background information.

### FUTURE HISTORIC DISTRICTS AND ARCHAEOLOGICAL ZONES

Figure 5 shows the historic districts and archaeological zones that are recognized by the Metro-Dade Historic Preservation Division as meriting local designation. Many of these districts and zones may also be candidates for submission to the National Register of Historic Places.

Figure 5 also indicates the general location of probable archaeological sites which should be investigated to determine whether they qualify for inclusion on the State Master File. Permanent records and additional background material on these districts, zones and sites are kept in Dade County's Historic Preservation Division.

### FUTURE NATURAL RESOURCES

Map series Figures 6 through 12 identify certain future natural resources in Dade County. Background information on topography, soils, mineral resources, freshwater wetlands, lakes, floodplains, flood prone areas, public wellfields and cones of influence is found in the Conservation, Aquifer Recharge and Drainage Element. Additional information on public wellfields and activities permitted within cones of influence is presented in the Potable Water, Sanitary Sewer and Solid Waste Element. Background information on bays, estuaries, rivers, harbors, beaches and shores, coastal wetlands, and areas subject to coastal flooding is contained in the Coastal Management Element.

The Analysis chapter in the Land Use Element Support Components report addresses existing topography, soils, wetland conditions and functions, and historic resources in undeveloped areas of the

County. An analysis of development and proposed development in floodplains is also included in the Analysis chapter of the Support Components report. The information that is summarized below, together with the vacant land and floodplain analyses and extensive information contained in the Conservation and Coastal Management Elements, are reflected in the delineation 01 Future Open Land and Environmental Protection Subareas as shown on Figures 2 and 3.

### FUTURE WATERWELLS AND CONES OF INFLUENCE

The ten public water supply wellfields in Dade County that are expected to be operational in the year 2000 and their respective protection area boundaries are shown on Figure 6. The protection area boundaries identified herein will be periodically reviewed and revised, when appropriate, to maintain consistency with wellfield protection area boundaries established pursuant to Chapter 24 of the Dade County Code. Also included on this figure are the general locations of two proposed wellfields. Background information on the West Wellfield (A on Figure 6) is contained in the Water, Sewer and Solid Waste Element Support Component. The shaded area B on Figure 6 depicts an additional future wellfield study area in south Dade County.

The future wellfield protection area for the NW Wellfield is also shown on Figure 6. Within this area, the use, handling, storage, transport or disposal of hazardous materials; excavations within 1/4 mile of landfills; and non-residential uses served by septic tanks (except rockmining and ancillary uses) will continue to be prohibited. Urban development will not be allowed west of the Turnpike in this area, and strict criteria will govern the construction of sewers and stormwater disposal. Rockmining will continue to be prohibited within the 30 day groundwater travel distance and restricted within the 210 day travel distance.

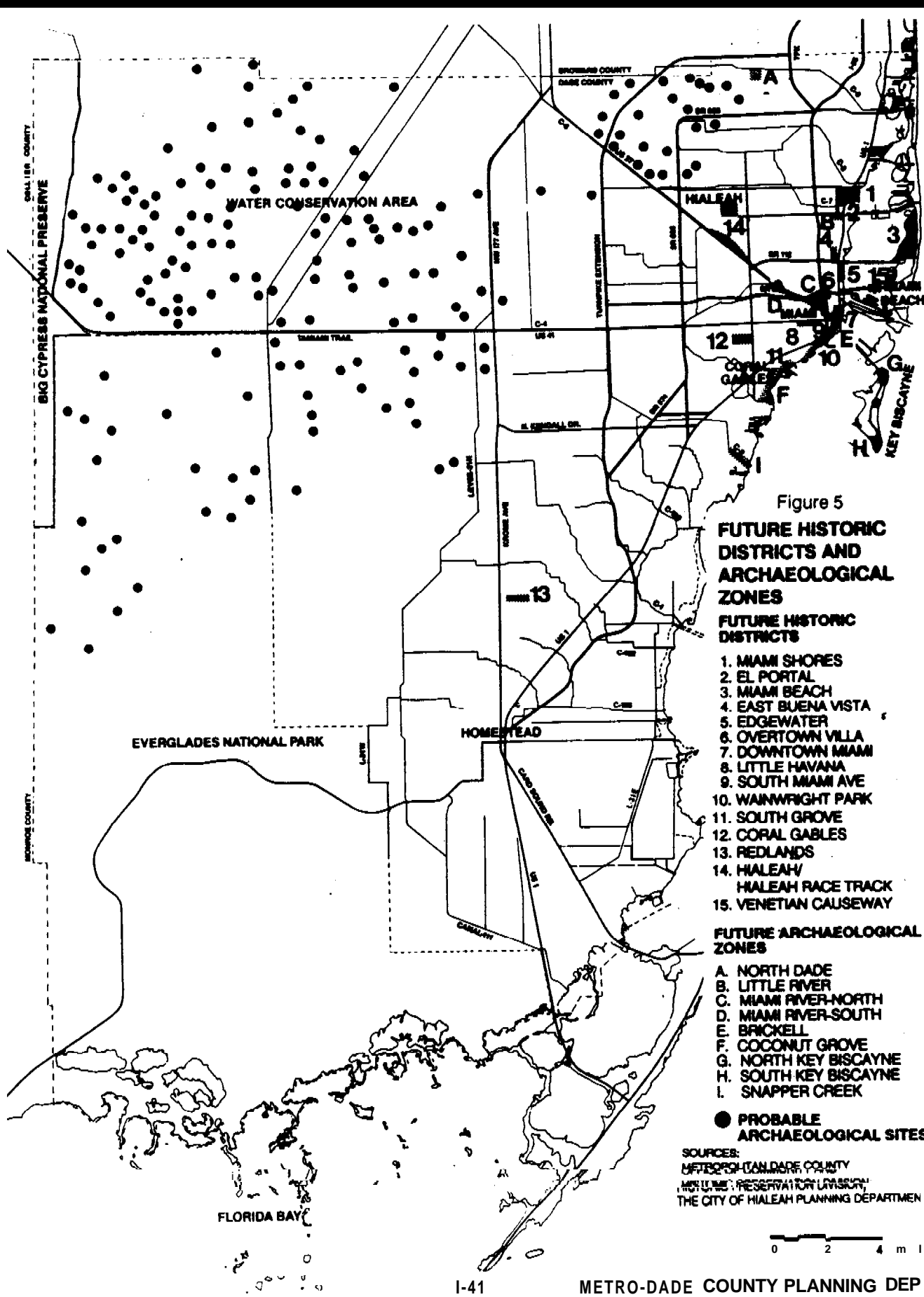


Figure 5

**FUTURE HISTORIC DISTRICTS AND ARCHAEOLOGICAL ZONES**

**FUTURE HISTORIC DISTRICTS**

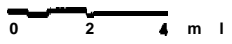
- 1. MIAMI SHORES
- 2. EL PORTAL
- 3. MIAMI BEACH
- 4. EAST BUENA VISTA
- 5. EDGEWATER
- 6. OVERTOWN VILLA
- 7. DOWNTOWN MIAMI
- 8. LITTLE HAVANA
- 9. SOUTH MIAMI AVE
- 10. WAINWRIGHT PARK
- 11. SOUTH GROVE
- 12. CORAL GABLES
- 13. REDLANDS
- 14. HIALEAH  
HIALEAH RACE TRACK
- 15. VENETIAN CAUSEWAY

**FUTURE ARCHAEOLOGICAL ZONES**

- A. NORTH DADE
- B. LITTLE RIVER
- C. MIAMI RIVER-NORTH
- D. MIAMI RIVER-SOUTH
- E. BRICKELL
- F. COCONUT GROVE
- G. NORTH KEY BISCAYNE
- H. SOUTH KEY BISCAYNE
- I. SNAPPER CREEK

● PROBABLE ARCHAEOLOGICAL SITES

SOURCES:  
METROPOLITAN DADE COUNTY  
MIDDLE MIAMI RESERVATION DIVISION  
THE CITY OF HIALEAH PLANNING DEPARTMENT



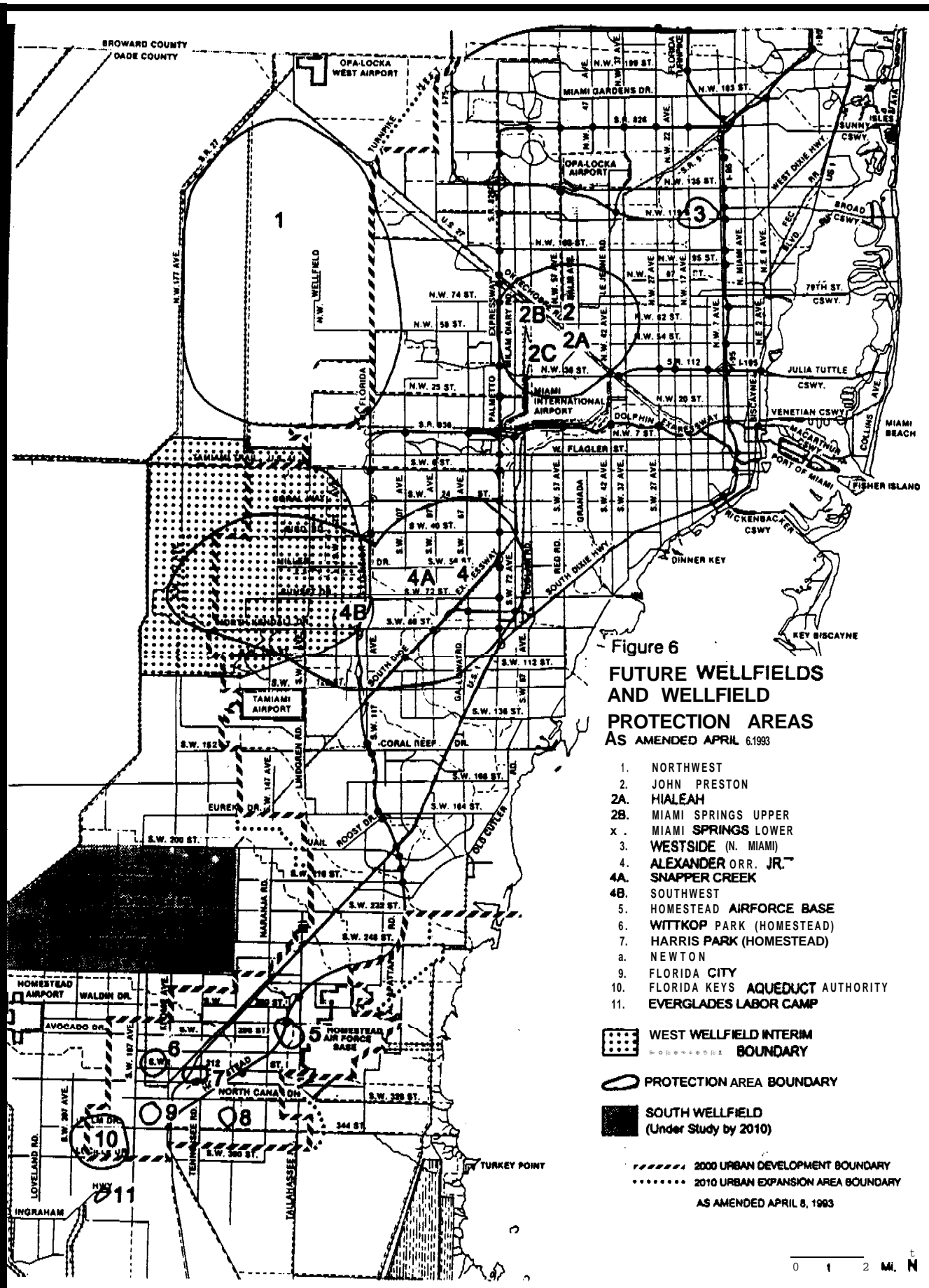







Figure 6  
**FUTURE WELLFIELDS  
 AND WELLFIELD  
 PROTECTION AREAS**  
 AS AMENDED APRIL 6, 1993

1. NORTHWEST
2. JOHN PRESTON
- 2A. HIALEAH
- 2B. MIAMI SPRINGS UPPER
- x. MIAMI SPRINGS LOWER
3. WESTSIDE (N. MIAMI)
4. ALEXANDER ORR, JR.
- 4A. SNAPPER CREEK
- 4B. SOUTHWEST
5. HOMESTEAD AIRFORCE BASE
6. WITTKOP PARK (HOMESTEAD)
7. HARRIS PARK (HOMESTEAD)
- a. NEWTON
9. FLORIDA CITY
10. FLORIDA KEYS AQUEDUCT AUTHORITY
11. EVERGLADES LABOR CAMP

 WEST WELLFIELD INTERIM BOUNDARY  
 PROTECTION AREA BOUNDARY  
 SOUTH WELLFIELD (Under Study by 2010)  
 2000 URBAN DEVELOPMENT BOUNDARY  
 2010 URBAN EXPANSION AREA BOUNDARY  
 AS AMENDED APRIL 6, 1993

0 1 2 MI. N

## LAND USE ELEMENT

**Beaches, Shores, Estuaries, Rivers, Bays, Lakes and Harbors.** Figure 7 shows these natural features. The **only** lakes shown on this figure are the natural lakes that occur within **Everglades National Park**. Many of the former rock pits and lakes that have been dredged to provide fill during developments appear on the LUP map (or will **appear** on the color version printed after readoption of the Plan). Estuaries have not **been** mapped. **per se**, because their extent **varies** depending on the season and the amount of rainfall. In the **very** flat coastal glades in south Dade County, the freshwater/saltwater **ecotone** may migrate as much as a mile or more **landward** or **bayward** depending upon antecedent **climatic** conditions. Extensive background information on these resources is presented in the **Coastal** Management Element.

**Floodplains.** As shown on Figure 8, a very large percentage of the land within Dade County is considered to **be a** floodplain, or area that **can** be expected to **flood** during a 1 in 100 year storm to a depth of one **foot** or more. Additional areas may **flood** to a depth of less than one foot. Within the urban area, all of the former sloughs and transverse glades and the barrier islands are **floodplains** under this definition. For purposes of clarification, an additional **map** is presented to show the **areas that are subject to** coastal flooding during hurricanes of varying intensities (Figure 9). Neither the floodplain nor the areas subject to coastal flooding are **ex-**pected to change noticeably prior to the year **2000**. However, by the year 2010 the area **subject** to coastal flooding may increase if current predictions about the **rate** of sea **level rise** prove to be true. Additional information **on** floodplains and drainage issues is presented **in** the **Analysis** chapter in the **Land Use Element Support Components report**, and in the **Conservation, Aquifer Recharge and Drainage Element**.

**Wetlands.** Future Freshwater and Coastal Wetlands are shown on Figure 10. Extensive information on these systems is presented in the **Conservation, Aquifer Recharge and Drainage Element**, and the Coastal Element, and summarized in the Analysis chapter of the Land Use

Element **Support** Components report. The terms "stressed" and "relatively unstressed" generally indicate the degree to which an **area** is expected to be invaded by exotic vegetation, **particularly Melaleuca**, Brazilian Pepper and Australian Pine. An area is designated as "stressed" if it is expected that large wetland areas **will be** destroyed or invaded by exotics, **and it** is highly unlikely that revegetation with native wetland species will occur without an **active mitigation and revegetation** program. The areas that are designated as "relatively unstressed" are not expected to become heavily invaded by exotic plants and should not be **rockmined, rockplowed, or developed**.

There are **several** factors that will determine the future of the wetland communities in Dade County. Among the most important will be the ability of Dade County and the South Florida Water Management District to forestall and **reverse** attempts to lower water table levels or **hydroperiods** in these areas: the **ability** of the U.S. Army **Corps** of Engineers to recreate a more natural flow of **water into** the NE Shark River Slough and Everglades National Park; the speed with which biological or other controls for the spread of Melaleuca can be found, tested **and** implemented; and the commitment to wetland mitigation and restoration efforts.

**Mineral Resources.** Most of Dade County is underlain by Miami limestone. The general extent of Miami Limestone and mineral extraction areas is shown on Figure 11. The Conservation Element presents the locations of existing rock quarries in Dade County. The NW **Wellfield** Area is **expected** to continue to be the **area** of greatest mineral extraction activity in the **County** through the year 2010.

**Soils.** The soils that **overlay** the limestone in the County can generally be grouped into five broad categories: peats and mucks, marls, sands, rocky lands and man-made soils. These are shown on **Figure** 12. In general, the peats and mucks are unsuitable foundations for buildings or roadways and must be removed prior to development. Marls also frequently require special treatment prior to construction.

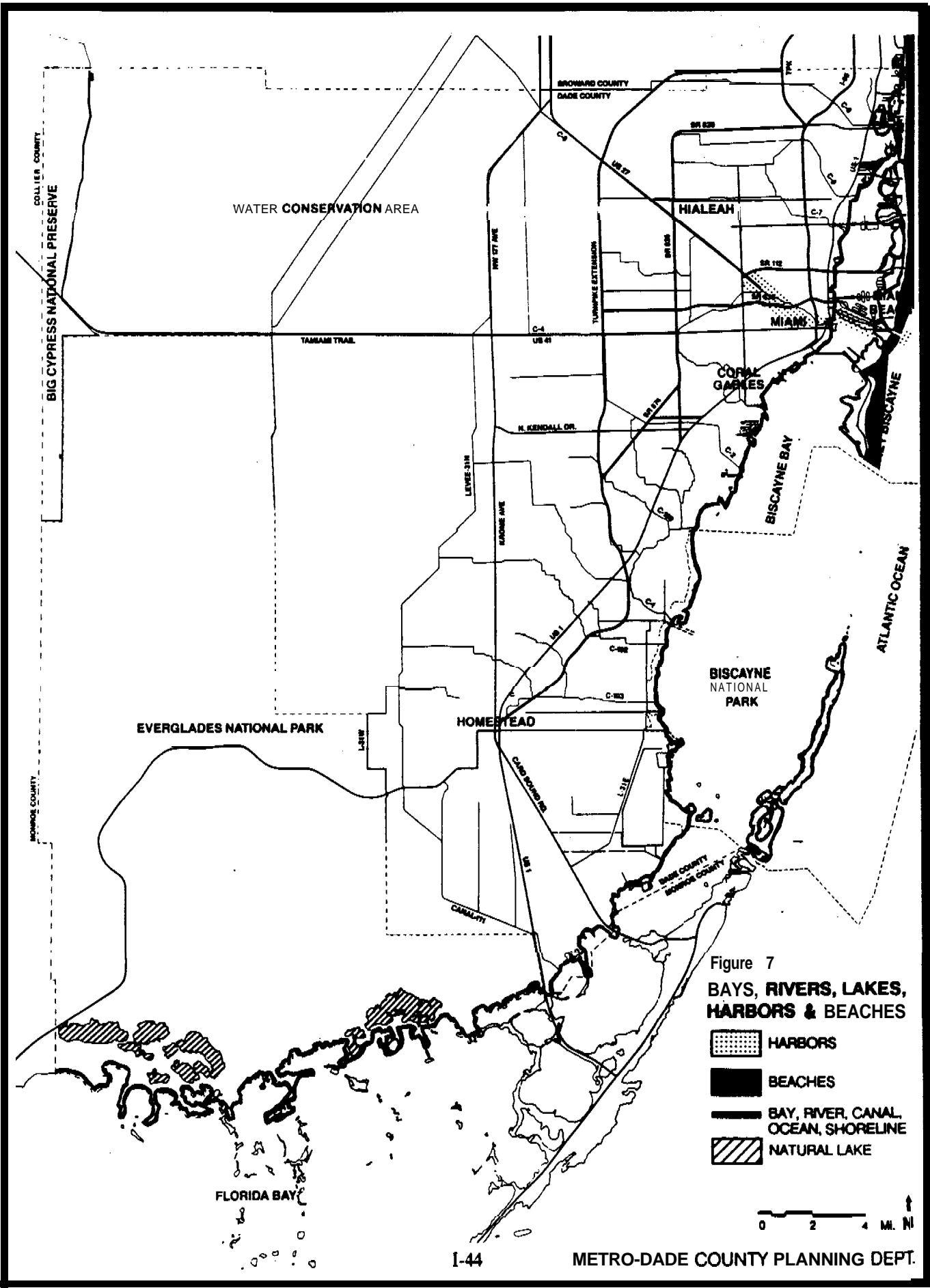




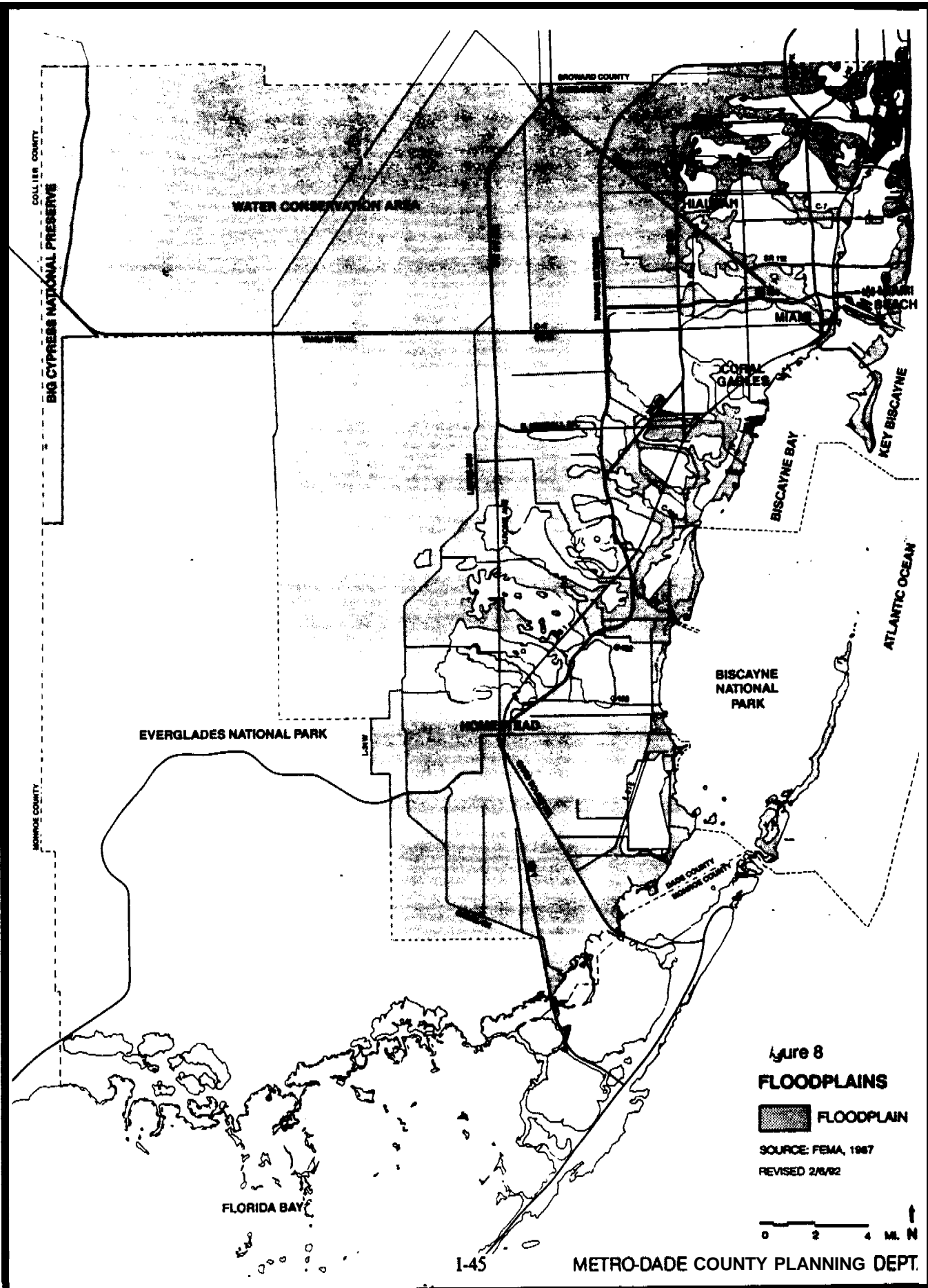
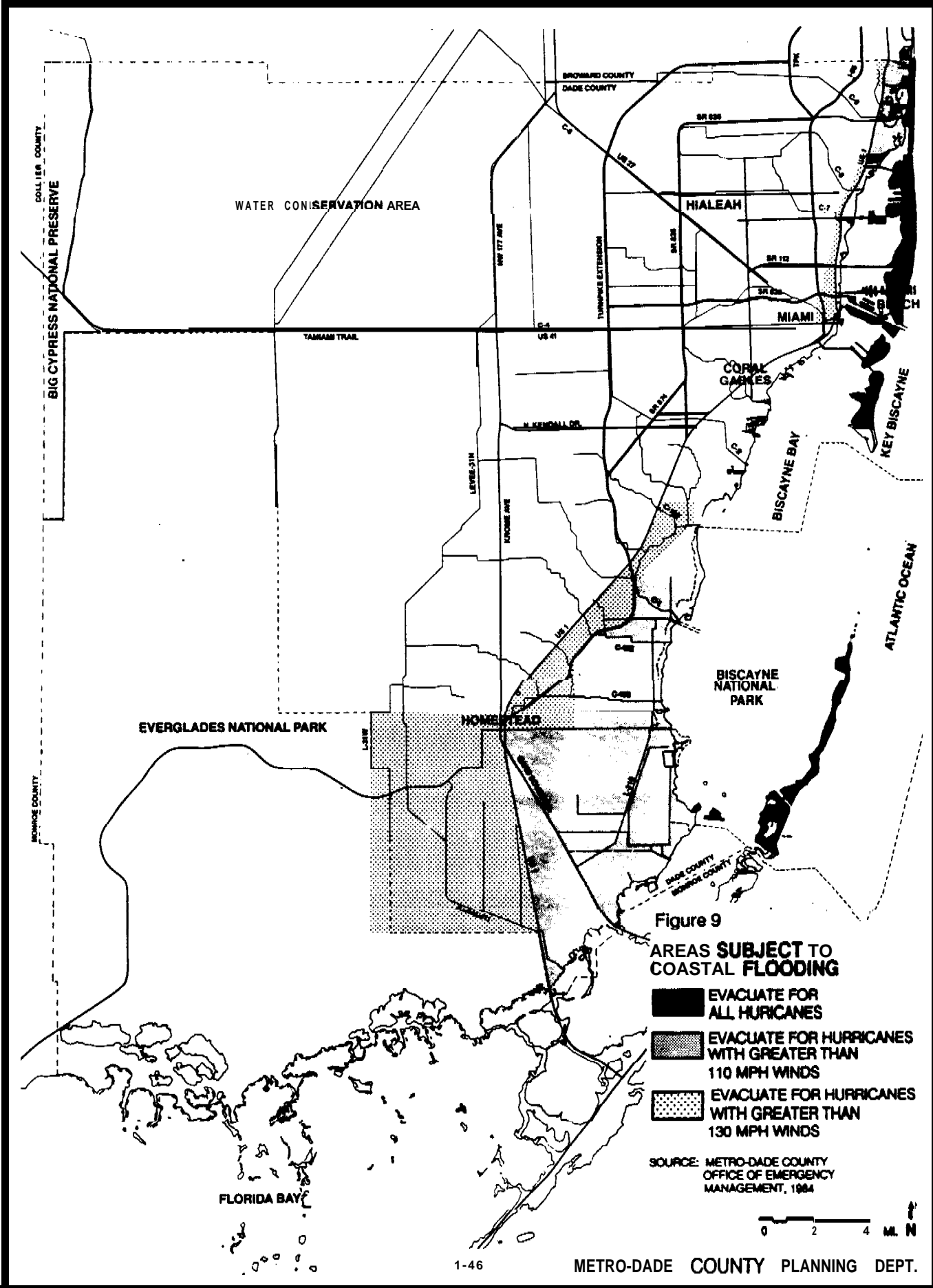


Figure 7  
**BAYS, RIVERS, LAKES,  
 HARBORS & BEACHES**

-  HARBORS
-  BEACHES
-  BAY, RIVER, CANAL, OCEAN, SHORELINE
-  NATURAL LAKE



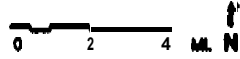




**Figure 9**  
**AREAS SUBJECT TO**  
**COASTAL FLOODING**

- EVACUATE FOR ALL HURICANES
- EVACUATE FOR HURRICANES WITH GREATER THAN 110 MPH WINDS
- EVACUATE FOR HURRICANES WITH GREATER THAN 130 MPH WINDS

SOURCE: METRO-DADE COUNTY OFFICE OF EMERGENCY MANAGEMENT, 1984



UNABLE TO SCAN MAP



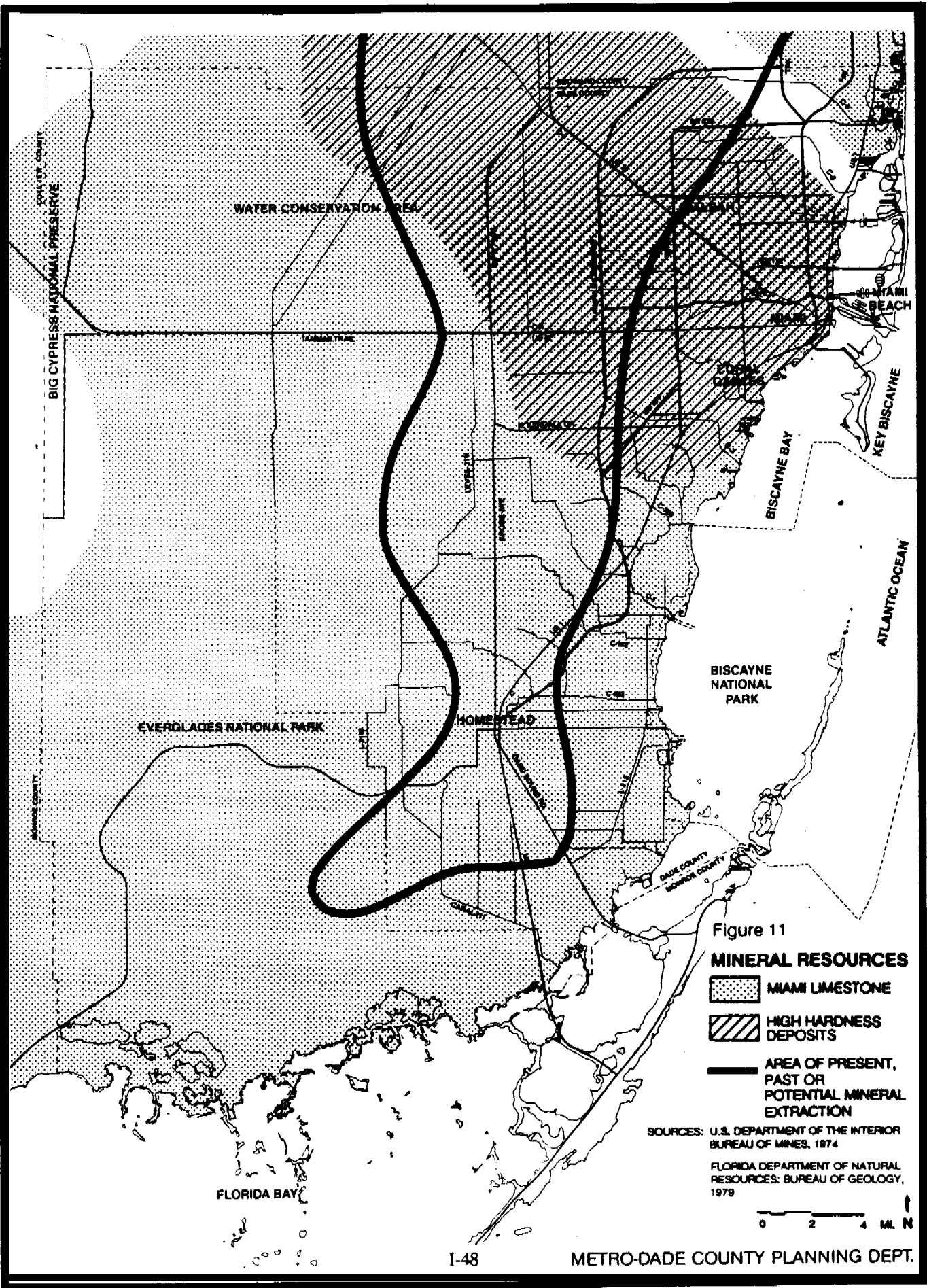



Figure 11

**MINERAL RESOURCES**

 MIAMI LIMESTONE

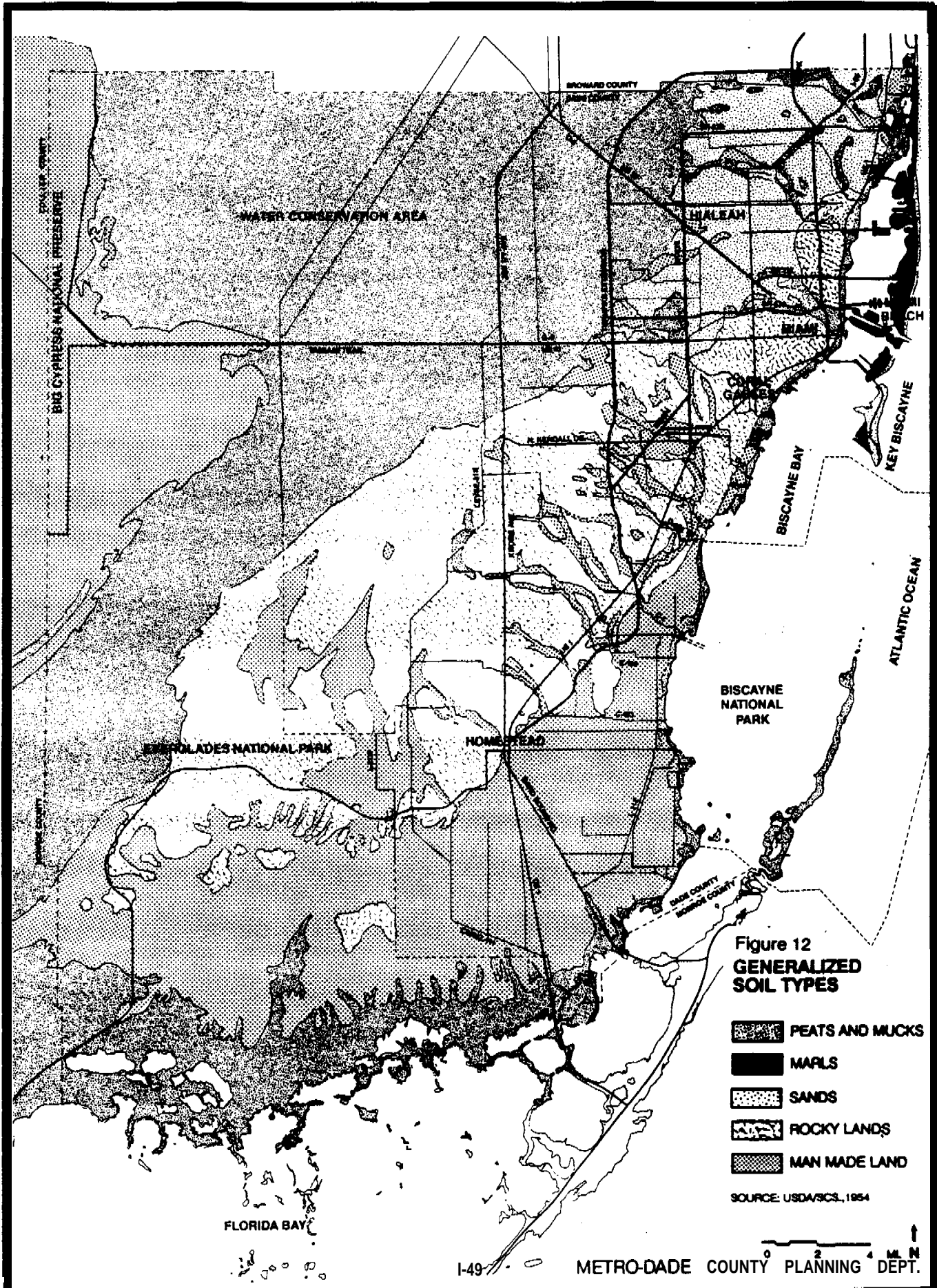
 HIGH HARDNESS DEPOSITS

 AREA OF PRESENT, PAST OR POTENTIAL MINERAL EXTRACTION

SOURCES: U.S. DEPARTMENT OF THE INTERIOR BUREAU OF MINES, 1974

FLORIDA DEPARTMENT OF NATURAL RESOURCES: BUREAU OF GEOLOGY, 1979





## Land Use Monitoring Program and Evaluation and Appraisal Reporting Procedures

In order to enable the preparation of the **periodic** Evaluation and Appraisal Report (EAR) as required by Section 163.3191, Florida Statutes (F.S.), the **Minimum** Criteria Rule (Rule **9J-5**, Florida Administrative Code [F.A.C.]) requires that local comprehensive plans contain adopted procedures for monitoring and evaluating the Plan and its implementation (Sections **9J-5.005[1][c][5]**, and **9J-5.005[7]**, F.A.C). In **addition**, successful **implementation** of level of **service** standards, and **requirements** that services be available at the time of development, also require the establishment or enhancement of monitoring **and** reporting programs.

This section outlines Dade **County's** monitoring program **pertinent** to the objectives, policies and parameters referenced in the **Land Use** Element. It should **be** understood that the proposed programs or program improvements will be refined over time, particularly as experience is gained. Undoubtedly, by the time that the first EAR is prepared, the measures and procedures outlined herein will have **been** significantly enhanced to reflect practical experience.

The administrative **requirements** for **monitoring** and preparation of the EAR as outlined in Section **9J-5.005[7]**, F.A.C. are also included here. They are not repeated in the other Elements **to** avoid redundancy. However, the reader is referred to the other Plan Elements for a **presentation** of the **substantive monitoring** requirements of **those Elements**.

The first section of this presentation relates directly to the Objectives of the Land Use **Element**. Here, "measures" are listed which will be monitored to enable determinations to be made regarding progress in achieving the Element's eight Objectives. These "measures" are **variables** which are referenced directly in a **Objec-**

tive or one or more of the policies listed **under** the Objective, or **which closely** relate and are valid **measurable** indicators of progress toward the Objective. Other basic characteristics of the monitoring **activity** are also noted, such as the agencies involved and **frequency** of reporting. Next, a synopsis of Dade County's procedures for formulating **EARs** is presented.

### Measures to be Monitored

Objective **1**. **The** extent of area experiencing conditions below minimum adopted LOS, at LOS, and substantially above minimum LOS will be monitored by the Planning Department and reported in the EAR for each service addressed in the CDMP.

Objective **2**. **Number** of dwelling units and other structures approved which are inconsistent with Dade County's East Everglades Zoning Overlay regulation (**Chapter 33-8**, Code of Metro-Dade County), and any **CDMP** amendments that **would** increase the allowable number of **dwelling** units or nonresidential **floor** area on coastal barrier **islands**. Any such approvals shall **be** logged by the Planning **Department** and reported in the EAR.

### Objective 3.

A. Acreage of subdivisions not contiguous to other urban development; and population density **within** the UDB of **the** LUP map. These measurements shall be made by the Planning Department immediately preceding preparation of the EAR.

B. Residential dwelling units and non-residential square footage permitted, or for which certificates of use and occupancy (**COs**) have been issued (for new uses and rehabilitation) in unincorporated Community Development (CO) Target Areas. This information will be compiled annually by the Planning Department from the Building and **Zoning** Department computerized permitting file. **The** cumulative totals will be reported in the EAR.

C. Numbers and dollar value of public facility improvements in CD Target Areas. The



## Appendix Part 2

M E M O R A N D U M

Substitute  
Special Item No. 1

TO: Honorable Chairperson and **Members**  
Board of County Commissioners

DATE: April 18, 1995

  
FROM: Armando Vidal, P.E.  
County Manager

SUBJECT: Ordinance Acting Upon  
May 1994 Standard  
Applications to  
Amend the Comprehensive  
Development Master Plan

**0495-72**

RECOMMENDATION

It is recommended that the Board act on the attached ordinance which provides **for the** Commission to adopt, adopt with change, or not adopt, eight pending M a y 1994-95 cycle applications to amend the Comprehensive Development Master Plan (CDMP). It is recommended that action be taken on the ordinance at the conclusion of the public hearing scheduled to begin at 9:00 **AM** on **Thursday**, April 13, 1995. The original version of this **ordinance** was approved on first reading on November 29, 1994.

BACKGROUND

The attached ordinance provides for final action on the eight **May 1994-cycle** applications requesting standard amendments to the Comprehensive Development Master Plan (Application Nos. 6 through 11, 13 and **14**).

These applications were the subject of a public hearing by this board on November 29, 1994. At that hearing two small-scale amendments were adopted (Application Nos. 2 and 3), two small-scale amendments were denied (Application Nos. 4 and 5), and one standard application (Application No. **12**) was not transmitted by the Commission. This ordinance recognizes review of the standard applications by the Florida Department of Community Affairs (DCA) at the request of Dade county. The DCA did not issue objections to any of the applications.

At the April 13, **1995** public hearing the Commission could elect to adopt, adopt with change, or not adopt the pending standard amendments.

Ordinance Format

The ordinance follows the same format used in previous CDMP amendment cycles. That is, it contains blank spaces **for** recording your action on each request contained in each application. After the Board adopts individual

entries indicating its action on each application, the Board will take action adopting the ordinance in its entirety, incorporating the foregoing entries. A minimum of seven affirmative votes are required to amend the CDMP.

#### Substitute Ordinance

Revisions were made to the preamble of the ordinance to reflect the actions that the Commission took on November 29, 1994 following a public hearing adopting or not adopting certain small-scale amendment requests, and not transmitting a standard application (No. 12) to DCA, and in Section 2 of the ordinance reference to small-scale amendments and standard Application No. 12 were deleted as the Commission has taken final action on these amendment requests.

#### Fiscal Impact

Approval of this ordinance would only amend the CDMP and would not in itself have a fiscal impact on the County's budget. Subsequent Board action implementing the ordinance's provisions, however, may result in fiscal impacts.

Application No. 6 modifies the Land Use Plan map and policies to authorize expansion of the Port on the mainland, and No. 9 would authorize limited County reuse of the Homestead Air Reserve Base. Direct costs to the County will be subject to subsequent Board actions in approving interlocal agreements, contracts, budgets, and detailed development plans. Application No. 7 provides guidelines for private development, and Application No. 8 allows for increased thresholds for DRI review in the **Dadeland** area, which do not have impact on the County budget. Application No. 10 reflects an item already approved by the MPO, and funded by the FDOT. Application No. 11 deletes a two-lane roadway, resulting in no costs to the County. Application No. 13 depicts **metrobus** service areas and proposed mass transit facilities which are subject to separate budgeting actions. Application No. 14 contains Capital Improvement Element (**CIE**) tables which reflect the Metro-Dade Capital Budget and Multi-Year Capital Plan. Planned expenditures, total costs, available funding and funding sources are noted on the CIE tables.

#### ECONOMIC ANALYSIS

1. Economic impact of the ordinance on the County's budget.

There will be no impact on the County's ~~budget~~ in terms of Planning Department budgeting, staffing or operating expenses. This ordinance, however, does amend the Comprehensive Development Master Plan (CDMP) which is the County's official guide for managing countywide growth and development. Amending the CDMP does not in itself impact the County's budget. Subsequent Board action implementing provisions within the CDMP, however, may impact the budget. [In this regard, the ordinance has budgetary implications through amendments which affect the County's land use patterns and its provision of services and facilities]. Capital and operating unit costs for public facilities and services can be lessened through promotion of efficient land use patterns. Higher density contiguous development is relatively more efficiently served than low-density or scattered development. In general, the CDMP is aimed at achieving this result.

2. Economic impact of the ordinance on the private sector:

Approval of the ordinance will have an insignificant impact on the private sector. Certain applications to amend the Land Use Element could increase the value of affected land parcels. In a Countywide sense, however, the economic outlook will remain essentially unchanged by enactment of these ordinances.

3. Effect of the ordinance on public or private employment:

Adoption of this ordinance will have no significant impact on projected employment for the County as a whole, or in any statistical subdivision.

4. Costs and benefits, both direct and indirect, of establishing and maintaining the program set forth in the ordinance:

See response to item 1, above.

5. Whether the ordinance is **necessary** to enable the County to obtain State or federal grants or other financing:

No.

6. Whether another ordinance which is already in existence should be repealed or amended:

No.



Honorable Chairperson and Members  
Board of County Commissioners  
Page 4

7. Whether the creation of a new ordinance is ~~the~~ best method of achieving the benefit derived:

Adoption of CDMP amendments by ordinance is required under Section 2.116.1, code of Metropolitan Dade County, and Section 163.3184(15), Florida Statutes.

gmhw:3(A)

ORDINANCE NO.                      95-72

ORDINANCE RELATING TO DADE COUNTY COMPREHENSIVE DEVELOPMENT MASTER PLAN; PROVIDING DISPOSITION OF APPLICATIONS FILED IN MAY 1994 CYCLE TO AMEND, MODIFY, ADD TO OR CHANGE COMPREHENSIVE DEVELOPMENT MASTER PLAN AND REVIEWED BY FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS AT REQUEST OF DADE COUNTY; PROVIDING SEVERABILITY, EXCLUSION FROM THE CODE AND AN EFFECTIVE DATE

WHEREAS, this Board has provided a procedure (codified as Section 2-116.1 of the Code of Metropolitan Dade County, Florida) to amend, modify, add to or change the Dade County Comprehensive Development Master Plan (CDMP); and

WHEREAS, Dade County's procedures reflect and comply with the procedures for adopting or amending local comprehensive plans as set forth in Section 163, Part II, Florida Statutes; and

WHEREAS, fourteen CDMP amendment applications were filed on or before May 31, 1994 and are contained in the document entitled "**May 1994** Applications to Amend the Comprehensive Development Master **Plan**" dated June 30, 1994; and

WHEREAS, Application Number 1 was withdrawn at the request of the applicant; and

WHEREAS, the western 120 feet of Application No. 4 was withdrawn by written request of the applicant on October 19, 1994; and

WHEREAS, Application Numbers 2 through 5 **requested** expedited processing under Dade County's procedures as small-scale amendments as defined in Section **163.3187(1)(c)**, F.S.; and .

WHEREAS, on November 29, 1994 this Board-, **by** Ordinance 94-214, adopted **Application** Numbers 2 and 3 as **small-scale** amendments, and did not adopt Application Numbers 4 and 5; and

**WHEREAS**, on November 29, 1994 this Board, by Resolution 1762-94, instructed the County Manager to transmit Application Numbers 6 through **11**, 13 and 14, and **to not transmit** Application Number 12, to the Florida Department of Community Affairs for review pursuant to Section **163.3184(3)**, F.S.; **and**

WHEREAS, the Planning Advisory Board and the Planning Department have acted in accordance with the referenced State and County procedures and have accepted applications, held public hearings and transmitted recommendations for final disposition of such applications to this Board; and

WHEREAS, the Florida Department of Community Affairs (**DCA**) reviewed certain applications at the request of this Board and has transmitted written comments pursuant to Section 163.3184 **(6)(c)**, F.S.; and

WHEREAS, the Board of County Commissioners must take final action to Adopt, Adopt With Change or Not Adopt amendment

applications not later than sixty (60) days after receipt of written comments from DCA addressing the **application(s)**; and

WHEREAS, all existing lawful uses and zoning in effect prior to a **CDMP** amendment **are** deemed to remain consistent with the CDMP as amended unless the Board of County Commissioners, in conjunction with a particular zoning action, finds such preexisting zoning or uses to be inconsistent with the CDMP based upon a planning study addressing the criteria set forth in the CDMP; and

WHEREAS, the approval of an amendment to **the CDMP** does not assure favorable action upon any application for zoning or other land use approval but is part of the overall land use policies of the County; and

WHEREAS, any application for zoning or other land use approval involves the application of the County's overall land use policies to the particular request under consideration; and

**WHEREAS**, the county's overall land use policies include, but are not limited to, the **CDMP** in its entirety and the County's land development regulations; and

WHEREAS, this Board has conducted the public hearings **required** by the referenced procedures preparatory to enactment of this ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE **BOARD OF** COUNTY COMMISSIONERS OF DADE COUNTY, FLORIDA:

Section 1. All matters set forth in the preamble are found to be true and are hereby incorporated by reference as if set forth verbatim and adopted.

Section 2. This Board hereby desires to take further action on pending **Application** Numbers 6 through 11, 13 and 14 filed for review during the May **1994 cycle** for amendments, **modifications,** additions, or changes to the 'Dade County Comprehensive Development Master Plan as follows:

Appl. No.	Applicant/Representative REQUESTED CHANGE TO THE LAND USE PLAN MAP OR PLAN ELEMENT (Page)	Final Commission Action
6	Metro-Dade County Planning Department on behalf of Seaport <b>Department/Guillermo</b> E. Olmedillo A. LAND USE PLAN MAP Bicentennial Park and " <b>FEC</b> " Property, border- ed by Biscayne Bay on the east, Port Boulevard on the south, Biscayne Boulevard on the west, and I-395 on the north. (56.0 Acres) <b>FROM PARKS AND RECREATION TO TRANSPORTATION</b> TERMINALS (56.0 Acres)	ADOPT WITH CHANGE as <b>transmitt-</b> ed to DCA
	B. COASTAL MANAGEMENT ELEMENT (Page lx-13 and IX-15) Revise Policies <b>1A</b> and <b>1B</b> to recognize mainland Port facilities, and add new Policy to include recreational and cultural uses as ancillary uses to Port facilities.	

Appl. No.	Applicant/Representative REQUESTED CHANGE TO THE LAND USE PLAN MAP OR PLAN ELEMENT (Page)	Final Commission Action
7	Metro-Dade County Planning Department/ E. Olmedillo A. LAND USE ELEMENT (Page I-10) Replace first paragraph under "Residential Communities" and add new material providing guidelines for neighborhood development. B. LAND USE ELEMENT (Page 1-21) Add new text under " <b>Activity Centers</b> " to provide development guidelines.	ADOPT WITH CHANGE as transmitted to <b>DCA</b>
8	Metro-Dade County Planning Department/ Guillermo E. Olmedillo LAND USE ELEMENT (Page 1-21) In "Activity Centers" section, add the new <b>paragraph</b> titled "Chapter 380 Regional <b>Activity Centers</b> " as area proposed for increased <b>DRI</b> review thresholds, and <b>add</b> new <b>Figure 1A</b> delineating <b>Dadeland Ch. 380 Regional Activity Center</b> .	ADOPT WITH CHANGE as transmitted to <b>DCA</b> with further change reco'ended by Planning Department and the PAB to specify in the last sentence " <b>subject</b> to amendment of the Regional Plan for South Florida by the South Florida Regional Planning Council,"
9	Metro-Dade County Planning Department/ Guillermo E. Olmedillo A. LAND USE ELEMENT (Page 1-22) After the first paragraph under the heading " <b>Institutional</b> and Public Facility" add new paragraph describing Homestead Air Reserve Base. B. PORT AND AVIATION ELEMENT ( <b>Pages</b> II-S, IV-6, and IV-8) Revise Policies 2A and 2D and revise list of " <b>Future</b> Aviation Facilities" to reflect new status of Homestead Air Reserve Base.	ADOPT WITH CHANGE as transmitted to <b>DCA</b>
10	Metro-Dade County Planning Department/ Guillermo E. Olmedillo TRAFFIC CIRCULATION ELEMENT (Page II-9 Figure 1) Amend "Planned Year 2010 Roadway Network" map to change NW 138 Street between NW 57 Avenue and 67 Avenue from 2 lanes to 4 lanes.	ADOPT

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<b>Appl.</b> No.	Applicant/Representative REQUESTED CHANGE TO <b>THE</b> LAND USE PLAN MAP OR PLAN ELEMENT (Page)	<b>Final</b> Commission Action
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11	Metro-Dade County Planning Department on behalf of Metro-Dade Public Works <b>Department/Guillermo E. Olmedillo</b> TRAFFIC CIRCULATION ELEMENT (Page 11-9, 11-11) Revise "Planned Year 2010 Roadway Network" and "Roadway Functional Classification <b>2010</b> " maps; by deleting NW 117 Avenue from NW 12 Street to NW 122 Street as a 2-Lane Collector, LAND USE PLAN MAP Delete NW 117 Avenue as Minor Roadway to reflect above change.	ADOPT
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13	Metro-Dade County Planning Department/ <b>Guillermo E. Olmedillo</b> MASS TRANSIT ELEMENT (Pages <b>III-4</b> , III-S, III-6 and 111-7) Add new paragraph defining "Transit Centers" and update text regarding the Metromover System; and revise Future <b>Mass</b> Transit System Figures 1, 2 and <b>3</b> .	ADOPT WITH CHANGE as transmitted to <b>DCA</b>
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14	Metro-Dade County Planning Department/ <b>Guillermo E. Olmedillo</b> CAPITAL-IMPROVEMENTS ELEMENT (Tables 2, 3, 4, 5, 6 7, 8, 9, 10, 11, and 12) Update the Schedules of Improvements Tables.	ADOPT WITH CHANGE as transmitted to <b>DCA</b>
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Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected thereby.

Section 4. It is the Intention of- the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance shall be excluded from the Code of Metropolitan Dade County, Florida.

Section 5. This ordinance shall become effective ten (10) **days** after the date of its enactment, however, the **effective** date of any plan amendment shall be in accordance with the **following** language which is included at the request of the Department of Community Affairs without any admission by Dade County of the authority of the Department of Community Affairs or any other governmental entity to request or require such language: "**The** effective **date** of any plan amendment approved by this ordinance shall be the date a final order is issued by the Department of Community Affairs or Administration Commission finding the amendment in compliance in **accordance** with Section **163.3184**, Florida Statutes, whichever occurs earlier. No development orders, development permits, or land uses dependent on such amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be filed with the Clerk of the Board and sent to the Department of Community Affairs, Bureau of Local Planning, 2740 **Centerview** Drive, Tallahassee, Florida 32399-2100. The Department's notice of intent to find a plan amendment in compliance shall be deemed to be a final order if no timely petition challenging the amendment is filed."



PASSED AND ADOPTED:      **APR 18 1995**

Approved by County Attorney as  
to form **and legal** sufficiency. —RAG

**Prepared by :**                      JM

gmhw3(b)

STATE OF FLORIDA )  
                          ) ss:  
                          )

I, HARVEY RUVIN, Clerk of the Circuit Court in and for Dade County, Florida, and Ex-Officio Clerk of the Board of County Commissioners of said County, DO HEREBY CERTIFY that the above foregoing is a true and correct

COPY OF ORDINANCE 95-72 PASSED AND ADOPTED APRIL 18, 1995

\_\_\_\_\_ as appears of record.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this 17 day of JANUARY, A.D. 19 96.

HARVEY RUVIN, Clerk  
Board of County Commissioners  
Dade County, Florida

By *Grant Smith*  
Deputy Clerk

SEAL




Board of County Commissioners  
Dade County, Florida

## MEMORANDUM

Substitute  
Special Item No. 1

To: Honorable Chairperson and Members  
Board of County Commissioners

From:  Armando Vidal, P.E.  
County Manager

Date: November 14, 1995

Subject: Ordinance Acting Upon May 1995  
Small-Scale Applications to Amend  
the Comprehensive Development  
Master Plan Land Use Plan Map

**0#95-206**

### RECOMMENDATION

It is recommended that the Board adopt the attached ordinance which provides for the Commission to adopt, adopt with change, **not** adopt, or deny six pending May 1995-96 cycle small-scale applications to amend the Comprehensive Development Master Plan (CDMP) Land Use Plan map. It is recommended that final action be taken on the ordinance at the conclusion of the public hearing scheduled to begin at 9:00 AM on Tuesday, November 14, 1995. The original version of this ordinance was approved on first reading October 17, 1995.

### BACKGROUND

The attached ordinance provides for action on the six May **1995-cycle** applications requesting small-scale amendments to the Comprehensive Development Master Plan Land Use Plan map (Application Nos. 1, 4 through 7, and 9).

A procedure is provided under the revised Metro-Dade Plan amendment process for the expedited processing of "Small-Scale" amendments as defined in Section 163.3 187(1)(c), F.S. This procedure authorizes the Board of County Commissioners to take **final** action on small-scale requests to amend the Land Use Plan Map after a single public hearing without prior review and comment by the Florida DCA, as is required of standard CDMP amendment proposals. An amendment application is eligible for expedited processing as a "small-scale" amendment if the proposed amendment requests a change of future land use, is 10 acres or smaller **and**, if residential, authorizes a density of 10 units per acre or less. No more than 60 acres can be amended **in** this manner, annually.

At the November 14, 1995 public hearing, the Commission could elect to adopt or not adopt small-scale amendments; if it does not adopt a small-scale amendment, the Commission may elect, by separate resolution, to transmit it to DCA for review along with the standard (non-small-scale) amendment requests (Nos. 2, 8, 10 through 14) and to take final action in April 1996 after State-agency review. Of course, denial or

failure to adopt as a small-scale amendment and failure to transmit it to DCA effectively denies approval of the application for this amendment cycle. a

### ORDINANCE FORMAT

The ordinance follows the same format used in previous CDMP amendment cycles. That is, it contains blank spaces to record your action on each request contained in each application. After the Board adopts individual entries indicating its action on each application, the Board will take action adopting the Ordinance in its entirety, incorporating the foregoing entries. A minimum of six **affirmative** votes are required by County Code to amend the CDMP.

### SUBSTITUTE ORDINANCE

The substitute ordinance differs from the original ordinance by reflecting the withdrawal of Application No. 3, and by adding four whereas clauses prior to the final whereas clause to clarify that approval of CDMP amendments does not assure subsequent approval of any zoning or other land use request.

### ECONOMIC ANALYSIS

1. Economic impact of the ordinance on the County's budget:

There will be no impact on the County's budget in terms of Planning Department budgeting, **staffing** or operating expenses. This ordinance, however, does amend the Comprehensive Development Master Plan (CDMP) which is the County's **official** guide for managing countywide growth and development. In this regard, the ordinance may indirectly impact the County's Budget through amendments which affect the County's land use patterns and its provision of services and facilities. Capital and operating unit costs for public facilities and services can be lessened through promotion of efficient land use patterns. Higher density contiguous development is relatively more efficiently served than low-density or scattered development. In general, the CDMP is aimed at achieving this result.

2. Economic impact of the ordinance on the private sector:

Approval of the ordinance will have an insignificant impact on the private sector. Certain applications to amend the Land Use Element could increase the value of affected land parcels. In a Countywide sense, however, the economic outlook will remain essentially unchanged by enactment of these ordinances.

3. Effect of the ordinance on public or private employment:

Adoption of this ordinance will have no significant impact on projected employment for the County as a whole, or in any statistical subdivision.

4. Costs and benefits, both direct and indirect, of establishing and maintaining the program set forth in the ordinance:

See response to item 1, above.

5. Whether the ordinance is necessary to enable the County to obtain State or federal grants or other financing:

No.

6. Whether another ordinance which is already in existence should be repealed or amended:

No.

7. Whether the creation of a new ordinance is the best method of achieving the benefit derived:

Adoption of **CDMP** amendments by ordinance is required under Section 2.116.1, Code of Metropolitan Dade County, and Section 163.3 **184(15)**, Florida Statutes.

Substitute  
Special Item No. 1  
11-14-95

ORDINANCE NO. 95-206

ORDINANCE RELATING TO DADE COUNTY COMPREHENSIVE DEVELOPMENT MASTER PLAN; ACTING UPON SMALL-SCALE AMENDMENT APPLICATIONS FILED IN MAY 1995 CYCLE TO AMEND, MODIFY, ADD TO OR CHANGE COMPREHENSIVE DEVELOPMENT MASTER PLAN; PROVIDING SEVERABILITY, EXCLUSION FROM THE CODE AND AN EFFECTIVE DATE

WHEREAS, this Board has provided a procedure (codified as Section 2-116.1 of the Code of Metropolitan Dade County, Florida) to amend, modify, add to or change the Dade County Comprehensive Development Master Plan (CDMP); and

WHEREAS, Dade County's procedures reflect and comply with the procedures for adopting or amending local comprehensive plans as set forth in Section 163, Part II, Florida Statutes; and

WHEREAS, thirteen CDMP amendment applications were filed on or before May 31, 1995 and are contained in the document entitled "May 1995 Applications to Amend the Comprehensive Development Master Plan" dated June 30, 1995; and

WHEREAS, Special Application Number 14 was filed on August 15, 1995 at the request of the Board of County Commissioners and is contained in the document titled "Initial Recommendations, May 1995 Applications to Amend the Comprehensive Development Master Plan"; dated September 25, 1995; and

WHEREAS, Application No. 3 was withdrawn by the applicant in a letter dated October 12, 1995; and

WHEREAS, Dade County's procedures provide for the expedited processing of small-scale amendments as defined in Section 163.3 187(1)(c), F.S.; and

WHEREAS, Application Numbers 1, 4 through 7, and 9 have requested processing as small-scale amendments and have been determined eligible for such processing; and

WHEREAS, the Planning Advisory Board and the Planning Department have acted in accordance with the referenced State and County procedures and have accepted applications, held public hearings and issued recommendations for final disposition of such small-scale amendment applications; and

WHEREAS, the Board of County Commissioners can, by ordinance, take final action to Adopt, Adopt With Change, Not Adopt, or Deny requested small-scale amendment applications at the public hearing conducted to address the question of transmittal to DCA of other pending amendment requests; and

**WHEREAS**, the Board of County Commissioners will consider approving a resolution transmitting to the Florida Department of Community Affairs @CA) **CDMP** amendment applications which are not eligible for expedited processing as small-scale amendments (standard amendments), and any eligible small-scale amendments that are not adopted but not denied which this Board desires to further consider after review by DCA; and

WHEREAS, the Board of County Commissioners can, by resolution, transmit to DCA small-scale amendment applications not adopted but not finally denied; and

WHEREAS, all existing lawful uses and zoning in effect prior to a CDMP amendment are deemed to remain consistent with the CDMP as amended unless the Board of County Commissioners, in conjunction with a particular zoning action, **finds** such preexisting zoning or uses to be inconsistent with the **CDMP** based upon a planning study addressing the criteria set forth in the CDMP; and

WHEREAS, the approval of an amendment to the CDMP does not assure favorable action upon any application for zoning or other land use approval but is part of the overall land use policies of the County; and

WHEREAS, any application for zoning or other land use approval involves the application of the County's overall land use policies to the particular request under consideration; and

WHEREAS, the County's overall land use policies include, but are not limited to, the CDMP in its entirety and the County's land development regulations; and

WHEREAS, this Board has conducted the public hearing required by the referenced procedures preparatory to enactment of this ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF DADE COUNTY, FLORIDA:

~~Sections 1~~ Sections 1 set forth in the preamble are found to be true and are hereby incorporated by reference as if set forth verbatim and are adopted.

Section 2. This Board hereby desires to take action on the **pending small-scale amendment** applications filed for review during the May 1995 cycle for amendments, modifications, additions, or changes to the Dade County Comprehensive Development **Master Plan**, as follows:

Appl. No.	Applicant/Representative	Action
	REQUESTED CHANGE TO THE LAND USE PLAN MAP ( <b>Acres</b> )	on Small-Scale Amendment
1	Everglades Sugar & Land Partners, Ltd./ Jeffrey Bercow, Esq. The property is located at the Southwest corner of NW 27 Avenue and NW 2 15 Street (County Line Road). (9.07 Acres) FROM: LOW DENSITY RESIDENTIAL TO: BUSINESS AND OFFICE Small-Scale Amendment	ADOPT' subject to a covenant
4	<b>Bersin Development Corp.</b> and Documentation Corp./ Georgia A. Wright The property is located at the Southeast corner of SW 123 Avenue and theoretical SW 83 Street. (5.5 acre) FROM: LOW DENSITY RESIDENTIAL TO: BUSINESS AND OFFICE Small-Scale Amendment	<b>ADOPT as modified to include only the lesser included use of Hotel and deny the remaining</b>



Appl. No.	Applicant/Representative REQUESTED CHANGE TO THE LAND USE PLAN MAP (Acres)	Action on Small-Scale Amendment
5	<b>Suchman</b> Retail Group Inc./ Lawrence E. <b>Suchman</b> The property is located at the Southwest comer of SW 124 Avenue and theoretical SW 86 street. (5.0 acres) FROM: OFFICE/ RESIDENTIAL TO: BUSINESS & OFFICE Small-Scale Amendment	ADOPT
6	Manuel Zaiac & Alberto <b>Chalem/Manuel</b> Zaiac The property is located at the west side of SW 152 Avenue ap proximately 500 feet south of Sunset Drive. (1 .0 acre) FROM: LOW-MEDIUM DENSITY RESIDENTIAL TO: BUSINESS & OFFICE Small-Scale Amendment	DENY
7	Paul Palmer, Trustee/ <b>Jeffrey</b> Bercow, Esq. & Ben <b>Fernandez</b> , Esq. The property is located on the north side of Kendall Drive (SW 88 Street) approximately 660 feet west of SW 162 Avenue. (5.73 Acres) FROM: LOW DENSITY RESIDENTIAL TO: BUSINESS & OFFICE Small-Scale Amendment	DO NOT ADOPT TRANSMIT TO DCA as <b>Standard</b> Amendment
9	<b>Rancho</b> Santa Fe, Inc. c/o Weitzer Homebuilders, <b>Inc./ Jeffrey</b> Bercow, Esq. and <b>Jana</b> K. McDonald, Esq. The property is located at the Northwest comer of theoretical SW 176 <b>Street</b> and SW 137 Avenue. (2.6 Acres) FROM: INDUSTRIAL & OFFICE TO: BUSINESS & OFFICE Small-Scale Amendment	ADOPT

**Section 3.** If any section, subsection, sentence, clause or provision of **this** ordinance is held invalid, the remainder of this ordinance shall not be affected thereby.

**Section 4.** intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance shall be excluded from the Code of Metropolitan Dade County, Florida.

Section Ordinance shall become effective ten (10) days after the date of its enactment, however, the effective date of any plan amendment shall be in accordance with the following language which is included at the request of the Department of Community Affairs without any admission by Dade County of the authority of the Department of Community Affairs or any other governmental entity to request or require such language: "The effective date of any **small-scale** development plan amendment approved by this ordinance shall be thirty-one (31) days after adoption, unless the amendment is challenged pursuant to Section 163.3 **187(3)** Florida Statutes. If challenged, the effective date of any amendment shall be the date a **final** order is issued by the Department of Community Affairs or Administration Commission finding **the** amendment in compliance in accordance with Section 163.3 184, Florida Statutes. No development orders, development permits, or land uses dependent on such amendment may be issued or commence before the amendment has become effective. If a **final** order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be filed with the Clerk of the Board and sent to the Department of Community Affairs, Bureau of Local Planning, 2740 Centerview Drive, Tallahassee, Florida **32399-2100**". Furthermore, the foregoing amendments shall not become effective until the Department of Community Affairs issues a determination that Dade County's Adopted 1995 Evaluation and Appraisal Report is sufficient, pursuant to Chapter 163.3 191(9), F.S. or, if not so found by DCA, until said report is finally found to be sufficient by any administrative or judicial authority having jurisdiction.

PASSED AND ADOPTED:            N O V 21 1995

Approved by County Attorney as  
to form and legal sufficiency. RAC  
Prepared by: RRK

STATE OF FLORIDA )  
                          ) ss:  
                          )

I, HARVEY RUVIN, Clerk of the Circuit Court in and for Dade County, Florida, and Ex-Officio Clerk of the Board of County Commissioners of said county, DO HEREBY CERTIFY that the above foregoing is a true and correct

COPY OF ORDINANCE 95-206 PASSED AND ADOPTED NOVEMBER 21, 1995.

\_\_\_\_\_ as appears of record.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this 17 day of JANUARY, A.D. 19 96.

HARVEY RWIN, Clerk  
Board of County Commissioners  
Dade County, Florida

By *Loew R. Smith*  
Deputy Clerk

SEAL



Board of County Commissioners  
Dade County, Florida