



To: Mayor and Commissioners

From: Craig E. Leen, City Attorney for the City of Coral Gables

RE: Legal Opinion Regarding Residential Speed Limit Signs

Date: May 30, 2017

Please see the attached legal memorandum addressing residential speed limit signs, which was prepared by special counsel in consultation with my office. As indicated in the memorandum, general law provides chartered municipalities in Florida significant authority over local roads and local speed limits. This cannot be reasonably contested, even if the County argues otherwise, because the County is subject to general law as indicated in the Miami-Dade Home Rule Amendment to the Florida Constitution. Moreover, section 6.02 of the Miami-Dade Home Rule Charter expressly recognizes the ability of a municipality to establish higher standards of zoning, regulation, and service, which would include higher standards of regulation and service on local roads (indeed, a higher standard of zoning could potentially apply as well since the residential zone is the entire focus). These general principles should be raised when addressing this matter with the County to ensure a balancing of interests occurs, as also required by general law.

The specific legal question here involves the interaction between sections 316.189(1), 316.189(3), and 316.183 of the Florida Statutes.

The County appears to be taking a much more conservative approach to this question than the law requires. As an initial matter, section 316.189(1) expressly allows for a municipality to establish a 25 mile per hour speed limit in a residential zone, which the City has done here by ordinance consistent with the statute. Then, Section 316.189(3) indicates that posting of a speed limit sign is required to alter the speed limit from the default speed limit, which is either 30 mph or a speed limit "established in s. 316.183." (emphasis added). Section 316.183 expressly allows municipalities to establish the speed limit at 25 miles per hour on local roads. Thus, when reading these three statutes together, it is clear that the City can set a 25 mph limit for a municipal zone as authorized by state law, and then posting would only need to be done when the speed limit was changing from 25 mph (not from 30mph) since that is the established speed.

Of course, there would need to be adequate notice that the speed limit is 25mph in the residential zones, which could potentially be done through an "unless otherwise posted" sign as indicated in

the attached memorandum. The memorandum analyzes this potential solution under the Manual on Uniform Traffic Control Devices and the FDOT Speed Zoning Manual, citing to both positive and negative language therein, and ultimately concluding it is a potential way forward based on the express language in MUTCD 2B.13 Section 08 (please note, the MUTCD has been adopted through Rule 14-15.010 of the Florida Administrative Code).

One issue that exists, which is obvious from reviewing the attached diagram, is that the County's use of a higher speed limit than 25mph on Granada, San Amaro, and other local collector roads within the residential zone is what appears to be leading to the need for many of the signs under the County's approach. If the speed limit were 25 mph on all of these local roads, many less signs would be needed even under the County's approach, because there would be no change in the speed limit when turning off of one of these local collector roads onto a local residential street.

I plan to briefly describe this opinion at the Commission meeting on Tuesday in order to obtain feedback from the Commission. Following the meeting, I plan to share this analysis and the attached memorandum with the County Attorney's Office and enter into a dialog with them to see if an agreed way forward can be reached.

This opinion, including the attached legal memorandum, is issued pursuant to sections 2-201(e)(1) and (8) of the City Code.

MEMORANDUM

To: Craig Leen
City Attorney
City of Coral Gables

From: Israel U. Reyes, Managing Partner
Manuel A. Guarch, Senior Associate Attorney
The Reyes Law Firm, P.A.
Police Legal Advisors

Date: May 29, 2017

Re: “Unless Otherwise Posted” Residential Speed Limit Sign Placement

The issue pending before the Commission is that of a disagreement between the City and the County concerning the proper interpretation and application of Florida law and administrative standards governing the placement of a speed limit signs relating to the City’s recently enacted reduced speed limit of 25 miles per hour on local residential roads in Coral Gables. The City, as outlined below, has original jurisdiction pursuant to State law over the roads within its boundaries, including but not limited to the placement of Uniform Traffic Control Devices. Pursuant to the County charter and ordinances, Miami-Dade County maintains it has the authority to approve or deny the City’s proposed design scheme. The City seeks to maintain its world-renown aesthetic by minimizing signage and clutter contributing to visual pollution throughout the City while promoting the safety of Coral Gables residents and visitors. To this end, this memorandum outlines the City’s argument in favor of a reduced signage “Unless Otherwise Posted” traffic control device design which would post the appropriate signage at the entrances to residential zones..

Florida Statutes Chapter 316 is the Florida Uniform Traffic Control Law, which is intended by the legislature “to make uniform traffic laws to apply throughout the state and its several counties and uniform traffic ordinances to apply in all municipalities.”¹ Notwithstanding this statement of legislative intent, the legislature recognized that “there are conditions which require municipalities to pass certain other traffic ordinances in regulation of municipal traffic that are not required to regulate the movement of traffic outside of such municipalities.”

Pursuant to Section 316.006(2)(a), “(a) **Chartered municipalities shall have original jurisdiction over all streets and highways located within their boundaries**, except state roads, and may place and maintain such traffic control devices which conform to the manual and specifications of the Department of Transportation upon all streets and highways under their

¹ §316.002, Fla. Stat. (2016).

original jurisdiction as they shall deem necessary to indicate and to carry out the provisions of this chapter or to regulate, warn, or guide traffic.” Whereas, Counties “shall have original jurisdiction over all streets and highways located within their boundaries, *except all state roads and those streets and highways specified in [Section 316.006(2)]*.” § 316.006, Fla. Stat. (2016).

To this end, Florida Statutes Section 316.008 enumerates the area within which municipalities may control certain traffic movement or parking in their respective jurisdictions, without conflicting with the Florida Uniform Traffic Control Law. Section 316.008, Florida Statutes, expressly recognizes areas in which local authorities may exercise control with respect to the streets and highways under their jurisdiction and within the reasonable exercise of the police power. Among those areas enumerated is the power to alter or establish speed limits within the provisions of Chapter 316.² In considering the application of section 316.006, the court in *State v. Williams*, 303 So. 2d 74, 74 (Fla. 3d DCA 1974), *dismissed*, 314 So. 2d 591 (Fla. 1975)(in determining whether or not a municipal police officer has a right to arrest a motor vehicle operator for violations of the State traffic code occurring on an interstate highway within the geographical limits of the municipality), stated that the statute vests exclusive jurisdiction in the various governmental entities enumerated, in that case the State, through the Department of Transportation, for the establishment of traffic control devices, *speed limits*, signs, etc., on state roads.

The maximum speed limits for highways and streets are established by Section 316.183(2), which provides, in relevant part, “[o]n all streets or highways, the maximum speed limits for all vehicles must be 30 miles per hour in business or residence districts, and 55 miles per hour at any time at all other locations.” However, in accordance with Sections 316.002 and 316.008(1)(j), 316.183(2) provides, with respect to speed limits established by municipalities, “with respect to a residence district, a county or **municipality may set a maximum speed limit of 20 or 25 miles per hour on local streets and highways after an investigation determines that such a limit is reasonable.**”^{3,4,5} Similarly, section 316.189(1), Florida Statutes, provides in part that the maximum speed within any municipality is 30 miles per hour, although a municipality may set speed zones altering the speed limit, both as to maximum and minimum, after an investigation determines that such a limit is reasonable. Section 316.189(1) specifically provides, “[w]ith respect to residence districts, a municipality may set a maximum speed limit of 20 or 25 miles per hour on local streets and highways after an investigation determines that such a limit is reasonable.” Finally, Section 316.189(3), with respect to the posting of speed limits, “[n]o change in speeds from 30 miles per hour *or from those established in s. 316.183* shall take effect until the zone is posted by the authority changing the speed pursuant to this section and s. 316.187.”

² §316.008(1)(j), Fla. Stat. (2016).

³ “It is not necessary to conduct a separate investigation for each residence district.” §316.183, Fla. Stat. (2016)

⁴ “Business district.--The territory contiguous to, and including, a highway when 50 percent or more of the frontage thereon, for a distance of 300 feet or more, is occupied by buildings in use for business.” §316.003(7), Fla. Stat. (2016).

⁵ “Residence district.--The territory contiguous to, and including, a highway, not comprising a business district, when the property on such highway, for a distance of 300 feet or more, is, in the main, improved with residences or residences and buildings in use for business.” §316.003(60), Fla. Stat. (2016).

Consistent with its authority and jurisdiction pursuant to Sections 316.006(2)(a), 316.183, the City has duly encoded a residential speed limit of 25 miles per hour on local residential roads within the City of Coral Gables. However, in order for this newly enacted residential speed limit to be considered effective, pursuant to Section 316.189(3), the change in speed must be posted by the responsible authority.

The Manual on Uniform Traffic Control Devices (MUTCD) is incorporated by reference in 23 Code of Federal Regulations (CFR), Part 655, Subpart F and is recognized as the national standard for all traffic control devices installed on any street, highway, bikeway, or private road open to public travel in accordance with 23 U.S.C. 109(d) and 402(a).⁶ Additionally, the State of Florida Department of Transportation has adopted the MUTCD pursuant to Rule 14-15.010, F.A.C. The Florida Department of Transportation Speed Zoning Manual provides, as it relates to speed limit signs, “[a]ll speed zones and related roadway signs must be in compliance with requirements set forth in the MUTCD as adopted by the State of Florida...” FDOT Speed Zoning Manual (2010), p. 24. The purpose of the Florida Department of Transportation Speed Zoning Manual is “[t]o provide guidelines and recommended procedures for establishing uniform speed zones on State, Municipal, and County roadways throughout the State of Florida.”

Section 2B.13 of the MUTCD governs the placement and design of Speed Limit Signs. Specifically, this section contains five relevant “standards” and one relevant “option.” Pursuant to Section 1A.13 of the MUTCD, a standard is defined as “a statement of required, mandatory, or specifically prohibitive practice regarding a traffic control device.” However, as the MUTCD makes clear, “[s]tandard statements are sometimes modified by Options.” The MUTCD further defines “Option(s)” as “a statement of practice that is a permissive condition and carries no requirement or recommendation. Option statements sometime contain allowable modifications to a Standard or Guidance statement.”

As it relates to a signage design scheme wherein an “unless otherwise posted” plaque is used, the MUTCD provides favorable language, specifically stating,

If a jurisdiction has a policy of installing Speed Limit signs in accordance with statutory requirements only on the streets that enter a city, neighborhood, or residential area to indicate the speed limit that is applicable to the entire city, neighborhood, or residential area unless otherwise posted, a CITYWIDE (R2-5aP), NEIGHBORHOOD (R2-5bP), or RESIDENTIAL (R2-5cP) plaque may be mounted above the Speed Limit sign and an UNLESS OTHERWISE POSTED (R2-5P) plaque may be mounted below the Speed Limit sign (see Figure 2B-3).

The reference to this “Unless Otherwise Posted” scheme within the MUTCD acknowledges that such a design is not prohibited by the MUTCD and therefore by implication the FDOT Speed Zoning Manual. In fact, the approval by the MUTCD of specific plaques, and formulations for

⁶ The U.S. Secretary of Transportation, under authority granted by the Highway Safety Act of 1966, decreed that traffic control devices on all streets and highways open to public travel in accordance with 23 U.S.C. 109(d) and 402(a) in each State shall be in substantial conformance with the Standards issued or endorsed by the Federal Highway Administration.

“RESIDENTIAL” and “UNLESS OTHERWISE POSTED” signage indicates that their use in such a design scheme is perfectly acceptable. Further, this is supported by Section 12 of the FDOT Speed Zoning Manual, entitled “Area Wide ‘Blanket’ Speed Restrictions”. The final paragraph of Section 12 of the FDOT Speed Zoning Manual provides, as follows;

This manual sets forth the FDOT criteria to establish specific speed zones and in no way provides a means whereby a blanket speed limit, such as 25 mph, can be enacted by local ordinance (often with signs placed at city limits declaring, 25 mph, UNLESS POSTED). To do so is contrary to the intent of the statutory 30 mph Blanket Speed Limit, which **only can be altered upward or downward on a location basis by the traffic engineering procedures described herein.**

While initially this paragraph may be interpreted as prohibiting, or disfavoring, a scheme such as the “Unless Otherwise Posted” design scheme supported by the City, a closer reading of the provision indicates that the paragraph merely restates Florida law as it relates to the requirements for any upward or downward modification of the statutory 30MPH speed limit, specifically, that the modification in residential districts to 20 or 25MPH may only occur “after an investigation determines that such a limit is reasonable.”⁷ Further, the City has not enacted a City-wide “Blanket” speed limit, but rather, has codified a reduced speed limit of 25MPH solely in its local residential roads as authorized by Sections 316.183 and 316.189, Florida Statutes.

Following the MUTCD 2B.13 Section 08 option, the City would be able to place signs at the entrances to the City’s residential areas and eliminate much of the signage needed otherwise needed at intersections where there is a change in speed on cross streets such as the example of cross streets off of Granada mentioned above.

It should be noted that of the five standards found within MUTCD Section 2B.13, two potentially weigh against the City’s proposed “Unless Otherwise Posted” design scheme.⁸ Standard 03 of Section 2B.13, states, “Speed Limit (R2-1) signs, indicating speed limits for which posting is required by law, shall be located at the points of change from one speed limit to

⁷ It is the authors understanding that the appropriate traffic study supporting the implementation of the 25MPH Speed Limit has been conducted.

⁸ The City’s proposed design scheme would comply with Section 2B.13 Standards 01, 02, and 05, which provide, in relevant part;

01 Speed zones (other than statutory speed limits) shall only be established on the basis of an engineering study that has been performed in accordance with traffic engineering practices. The engineering study shall include an analysis of the current speed distribution of free-flowing vehicles.

02 The Speed Limit (R2-1) sign (see Figure 2B-3) shall display the limit established by law, ordinance, regulation, or as adopted by the authorized agency based on the engineering study. The speed limits displayed shall be in multiples of 5 mph.

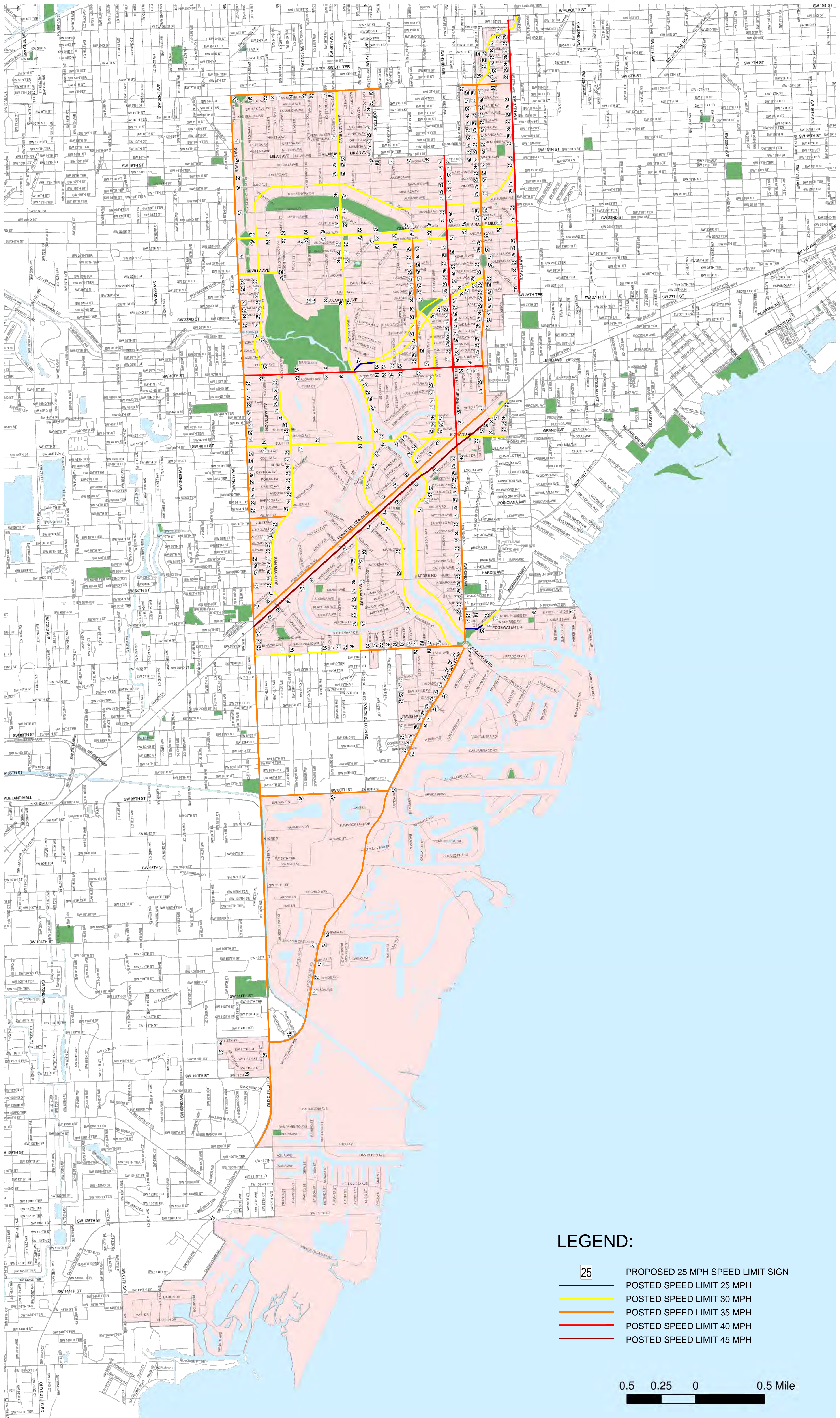
05 Speed Limit signs indicating the statutory speed limits shall be installed at entrances to the State and, where appropriate, at jurisdictional boundaries in urban areas.

another,” and the second sentence of Standard 04 states, “[a]dditional Speed Limit signs shall be installed beyond major intersections and at other locations where it is necessary to remind road users of the speed limit that is applicable.” *Id.* These Standards can be read to require the posting of 25MPH signs at each cross-street exiting from roadways such as Maynada Street, San Amaro Drive, Granada, Grand Avenue, Segovia Street, Le Jeune Road, Old Cutler Road, and Giralda Avenue, among others. Such an application of the Standards would require an inordinate number of signs being placed at each cross-street from non-local residential roads leading into residential areas of the City. However, the first “Option” enumerated within Section 2B.13 provides, for lack of a better word, an option for the City to avoid this tremendous visual pollution.

Finally, it is worth noting that if the City and County mutually agreed to reduce the speed limit of all roadways within the City’s residential districts, including but not limited to those mentioned above (i.e. Granada, etc.) to 25MPH, the disagreement concerning the application of the MUTCD in the present circumstances would be moot as neither Standard 03 or 04 of Section 2B.13 would be implicated for vehicles traveling within the City’s residential districts.

CITY OF CORAL GABLES

SPEED LIMITS



From: [Leen, Craig](#)
To: [Paulk, Enga](#)
Subject: FW: Residential Speed Limit Signs
Date: Tuesday, May 30, 2017 12:33:50 AM
Attachments: [2010.01 Unless Otherwise Posted Speed Sign Placement \(RLF\).pdf](#)
[PROPOSED_25MPH signs.pdf](#)
[image002.png](#)
[image001.png](#)

Please publish.

Craig E. Leen, City Attorney

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Celebrating 90 years of a dream realized.

From: Leen, Craig
Sent: Tuesday, May 30, 2017 12:31 AM
To: Commissioners <Commissioners1@coralgables.com>
Cc: Swanson-Rivenbark, Cathy <cswanson@coralgables.com>; Foeman, Walter <wfoeman@coralgables.com>; Iglesias, Peter <piglesias@coralgables.com>; Fernandez, Frank <ffernandez@coralgables.com>; Ramos, Miriam <mramos@coralgables.com>; Suarez, Cristina <csuarez@coralgables.com>; Throckmorton, Stephanie <sthrockmorton@coralgables.com>; Hudak, Edward <ehudak@coralgables.com>; Santamaria, Eduardo <esantamaria@coralgables.com>; Keller, Jessica <jkeller@coralgables.com>
Subject: Residential Speed Limit Signs

Mayor and Commissioners,

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Craig E. Leen, City Attorney

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