MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners

DATE: April 24, 2008

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Substitute Special Item No. 1B

Please note any items checked.

_____ **"4-Day Rule" ("3-Day Rule" for committees) applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Bid waiver requiring County Manager's written recommendation**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **Housekeeping item (no policy decision required)**

√ **No committee review**

Approved _____ Mayor
Veto _____
Override _____

Substitute
Special Item No. 1B
4-24-08

ORDINANCE NO. _____

ORDINANCE RELATING TO MIAMI-DADE COUNTY COMPREHENSIVE DEVELOPMENT MASTER PLAN; PROVIDING DISPOSITION OF APPLICATION NO. 5 FILED IN APRIL 2007 CYCLE TO AMEND, MODIFY, ADD TO OR CHANGE COMPREHENSIVE DEVELOPMENT MASTER PLAN; PROVIDING SEVERABILITY, EXCLUSION FROM THE CODE AND AN EFFECTIVE DATE

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

WHEREAS, Miami-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, 13 CDMP amendment applications were filed on or before April 30, 2007 and are contained in the document titled "April 2007 Applications to Amend the Comprehensive Development Master Plan" dated June 5, 2007; and

WHEREAS, four (4) additional staff CDMP amendment applications were filed prior to the preparation of the "Initial Recommendations April 2007 Applications to Amend the Comprehensive Development Master Plan Volumes 1 and 2," dated August 25, 2007, bringing the total number of applications filed in the April 2007 cycle CDMP amendments to 17; and

WHEREAS, of the 17 amendment applications, 11 Land Use Plan (LUP) map amendments (Application Nos. 1 through 11) were privately filed, five (5) text amendments (Application Nos. 12, 13, 15 16 and 17) were filed by the Department of Planning and Zoning and one (1) text/map amendment (Application No. 14) was filed by the Aviation Department; and

WHEREAS, the Department of Planning and Zoning (DP&Z) published its initial recommendations addressing the referenced Applications in the report titled "Initial

Recommendations April 2007 Applications to Amend the Comprehensive Development Master Plan, Volumes 1 and 2" dated August 25, 2007; and

WHEREAS, Application No. 7 was lawfully withdrawn by the applicant by letter dated October 10, 2007; and

WHEREAS, the applicant modified Application No. 14 in a memo dated October 12, 2007; and

WHEREAS, affected Community Councils, Planning Advisory Board (PAB), and DP&Z have acted in accordance with the referenced State and County procedures and have accepted applications, conducted public hearings and issued recommendations for the disposition of the small-scale amendment requests; and

WHEREAS, on November 27, 2007, this Board, by Resolution, instructed the County Manager to transmit certain applications to the Florida Department of Community Affairs (DCA) pursuant to Section 163.3184(3), F.S.; and

WHEREAS, on November 27, 2007, the Board of County Commissioners voted to adopt small-scale amendment Application Nos. 2 and 10 with acceptance of proffered covenant; to adopt Application No. 11 with change and acceptance of proffered covenant; to deny Application No. 1 as a small-scale amendment and transmit it as a standard application; to deny Application No. 4; and to transmit Application Nos. 3, 5, 6, 8, 9, 12, 13, 14, 15, 16 and 17 to the Florida Department of Community Affairs (DCA) for review and comment; and

WHEREAS, DCA reviewed the proposed applications at the request of this Board and has issued its Objections, Recommendations and Comments (ORC) report pursuant to Section 163.3184 (6)(c), F.S.; and

WHEREAS, DP&Z has subsequently published its revised recommendations addressing the transmitted amendment applications and issues contained in the ORC report in the report titled "Revised Recommendations April 2007 Applications to Amend the Comprehensive Development Master Plan" report, Volumes 1 and 2; and

WHEREAS, the Board must take final action to Adopt, Adopt With Change or Not Adopt amendment applications not later than sixty (60) days after receipt of written ORC report from DCA addressing the application(s); and

WHEREAS, the Board must take final action specifically on Application No. 5, which is the subject of this Ordinance; 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, in conjunction with a particular zoning action, finds such pre-existing 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 MIAMI-DADE COUNTY, FLORIDA THAT:

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 the pending amendment applications filed for review during the April 2007 cycle for amendments, modifications, additions, or changes to the Miami-Dade County CDMP as follows:

Application Number	Applicant/Representative Location (Size) Requested Change to the CDMP Land Use Plan Map, Policies or Text	Final Commission Action
5	Lowe's Home Center, Inc./Juan J. Mayol, Esq. & Richard A. Perez, Esq. Northwest corner of Theoretical SW 138 Ave and SW 8 Street 1. Redesignate the subject property Parcel A (21.6 Gross Acres; 20.5 Net Acres) From: Open Land To: Business and Office Parcel B (30.1 Gross Acres; 30.1 Net Acres) From: Open Land To: Institutions, Utilities and Communications 2. Remove subject site from "Open Land Subareas map (Figure 4). 3. Expand the UDB to include the subject property. 4. Add the Declaration of Restrictions to the Restrictions Table in the Land Use Element.	

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. If any application, or portion of an application is found to be not in compliance pursuant to Section 163.3184, F.S., the remainder of the application subject to such a finding, and the remaining applications adopted by this ordinance shall not be affected thereby.

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

Section 5. This ordinance (overall amendment) shall become effective ten (I0) days after the date of enactment, unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board, however, the effective date of any individual plan amendment included within the overall amendment shall be in accordance with the following language which is included at the request of the Florida Department of Community Affairs without any admission by Miami-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 [individual] plan amendment approved by this ordinance [and included within the overall amendment] shall be the date a final order is issued by the Department of Community Affairs or Administration Commission finding the [individual] amendment in compliance in accordance with Section 163.3184(1)(b), Florida Statutes, whichever occurs earlier. No development orders, development permits, or land uses dependent on such [individual] amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this [individual] 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, Division of Resource Planning and Management, Plan Processing Team. 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:

Approved by County Attorney as to form and legal sufficiency.

Prepared by:

Joni Armstrong Coffey