# Memorandum

MIAMI-DADE COUNTY

(Public Hearing 5-6-09)

Date: November 6, 2008

Special Item No. 1

To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Ordinance Acting Upon April 2008 Amendments to the Comprehensive Development Master Plan

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**Recommendation**

It is recommended that the Board of County Commissioners (Board) adopt the attached ordinance, (Special Item No. 4) which provides for the Commission to adopt, adopt with change or deny the pending April 2008 Cycle applications to amend the Comprehensive Development Master Plan (CDMP). It is recommended that first reading occur at the conclusion of the CDMP public hearing scheduled for Tuesday, November 6, 2008, to address transmittal of the referenced applications to the Florida Department of Community Affairs (DCA) for review and issuance of Objections, Recommendations and Comments (ORC) report. It is further recommended that final action be taken on the ordinance at the conclusion of the public hearing that will be scheduled for April 2009.

Please be aware that Section 163.3177(12)(j), Florida Statutes (F.S.) precludes local governments from adopting amendments that increase residential density until a public school facilities element has been adopted. Thus, the Florida Department of Community Affairs (DCA) may find the land use amendments increasing residential density invalid until an amendment to the CDMP, and an Interlocal Agreement with the School Board of Miami-Dade County and the municipalities in Miami-Dade County establishing a public school concurrency program have been adopted and found incompliance with State law as required by Section 163.3177(12)(j), F.S. Accordingly, DCA will not conduct a compliance review or issue a notice of intent on an ordinance containing such land use amendments. This finding may be made by DCA even with a delayed effective date clause pending school concurrency in the ordinance.

**Scope**

The CDMP is a broad-based countywide policy-planning document to guide future growth and development to ensure the adequate provision of facilities and services for existing and future populations, and to maintain or improve the quality of the natural and man-made environment. While the adopted text of the CDMP generally applies countywide, individual, site-specific Land Use Plan map amendment applications may have localized impact on one or more Commission Districts. Application Nos. 1 are 2 are located within Commission District 1 (Commissioner Jordan). Application Nos. 3 and 4 are located within Commission District 2 (Commissioner Rolle). Application Nos. 5, 6 and 7 are located within Commission District 12 (Commissioner Diaz). Application Nos. 8 and 9 10 are located within Commission District 10 (Commissioner Souto). Application No. 10 is located within Commission District 8 (Commissioner Sorenson).

**Fiscal Impact**

Fiscal impact means the cost to the County of implementing the activities or actions that would be incurred after approval of the ordinance. Ordinance 94-238 requires a statement of fiscal impact on all activities and actions resulting from approval of an ordinance. In addition, Ordinance 01-163 requires the review procedures for amendments to the CDMP to include for any proposed land use change a written evaluation of the estimated incremental and cumulative impact on Miami-Dade County for bringing such infrastructure to the area as well as the costs of operating it annually. Details on the fiscal impacts of each Land Use Plan map application can be found in the "Initial Recommendations" report dated August 25, 2008.

Based on the information provided by service agencies, the fiscal impacts of the proposed land use changes vary based on the type of request and location. The proposals involving non-residential development impact fewer services than the proposals for residential development. For example, the Miami-Dade County Public Schools Board limits its impact reviews to the proposals for residential development or those that may allow residential development. Of the proposed ten (10) CDMP land use amendment applications, Application Nos. 1, 8 and 10 will have a fiscal impact on the Miami-Dade Public Schools system.

Application No. 1 will have the most significant fiscal costs for schools, water and sewer facilities and roads. If the original 165.8 acres were developed at maximum residential development, the capital costs for schools would be $24,705,633. If the application site is reduced to 48 acres as recommended by staff and is developed at maximum residential development, the capital costs for schools would be $6,082,596. This application if developed as originally proposed, the costs for constructing water and sewer facilities would be $1,094,427 and the annual operating costs would be $559,424. Application No. 6 would require almost as much ($1,025,308) for constructing water and sewer facilities. Any development on the site of Application No. 1 would require in the short-term an estimated $20,597,585 (excluding right-a-way acquisition costs) for widening segments of NW 47 Avenue (NW 215 Street and NW 183 Street) and NW 202 Street (NW 57 Avenue to NW 67 Avenue) to four lanes.

**Housing Impact**

Of the ten (10) proposed applications to amend the Land Use Plan (LUP) map in unincorporated areas of Miami-Dade County, five (5) applications (three small-scale and two standard) could impact the supply of housing. These applications have the potential to reduce or increase the County's housing supply, based upon the current land use designation of the application sites, the requested re-designation and voluntary restrictions on density. The applications adding to the supply of housing are Application No. 1 (385 net units on the original 165.8-acre site or 156 net units on the recommended 48-acre site) and Application No. 4 (100 net units). The applications decreasing the supply of housing are Application No. 2 (33 net units), Application No. 8 (467 net units) and Application No. 9 (533 net units). Based on the fact that the yearly estimate by the DP&Z of the housing demand is 14,155 units, the cumulative reduction of 548 units from the proposed amendments will be a loss to the supply of housing.

**Track Record/Monitor**

CDMP Amendments do not involve contracts so a Track Record/Monitor is not applicable.

**Background**

The attached ordinance provides for action on the April 2008 Cycle applications requesting standard amendments to the CDMP (Application Nos. 1, 6 through 11, 13, 15, 17 through 20), and provides for final action on any of the four small-scale amendments (Application Nos. 2, 3, 4 and 5), on which final action is not taken at the scheduled November 6, 2008 public hearing and which the Board elects to transmit to DCA for further review. Application No. 12 (updates to the schedules of improvements in the Capital Improvement Element) is being addressed in another ordinance (Special Item No. 2). Application Nos. 14 and 16 were lawfully withdrawn.

A resolution accompanying this ordinance requests a review and issuance of an ORC report by DCA on all transmitted applications. It is estimated that DCA's ORC report on the applications will be returned to the County in February 2009. The County is required to take final action on transmitted applications within 60 days after receipt of the ORC report. The Department of Planning and Zoning (DP&Z) may issue revised recommendations, and the Planning Advisory Board (PAB) acting as the Local Planning Agency (LPA) may conduct a second public hearing and may issue revised recommendations between the time DCA issues its ORC report and the Board conducts its final hearing. By approving this ordinance on first reading, the Board is in a position to conduct a public hearing and take final action on the applications after receipt of ORC report from DCA.

Assistant County Manager

# MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

DATE: May 6, 2009

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

SUBJECT: Special Item No. 1

**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 _____

Special Item No. 1
5-6-09

ORDINANCE NO. _____

ORDINANCE RELATING TO MIAMI-DADE COUNTY COMPREHENSIVE DEVELOPMENT MASTER PLAN; PROVIDING DISPOSITION OF APPLICATIONS FILED IN APRIL 2008 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**, 18 CDMP amendment applications were filed on or before April 30, 2008 and are contained in the document titled "April 2008 Applications to Amend the Comprehensive Development Master Plan" dated June 5, 2008; and

**WHEREAS,** two (2) additional staff CDMP amendment applications were filed prior to the production of the "Initial Recommendations April 2008 Applications to Amend the Comprehensive Development Master Plan", dated August 25, 2008, bringing the total number of applications filed in the April 2008 cycle CDMP amendments to 20; and

**WHEREAS**, of the 20 amendment applications, six (6) Land Use Plan (LUP) map (Application Nos. 2 to 4 and 8 to 10) and one (1) text (Application No. 11) amendments were privately filed, three (3) LUP map amendments (Application Nos. 5 to 7) were filed by the Aviation Department, and one LUP map (Application No. 1) and 9 (nine) text (Application No Nos. amendments (Application Nos. 12 to 20) amendments were filed by the Department of Planning and Zoning (DP&Z); and

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**WHEREAS**, the DP&Z published its initial recommendations addressing the referenced Applications in the report titled "Initial Recommendations April 2008 Applications to Amend the Comprehensive Development Master Plan" dated August 25, 2008; and

**WHEREAS**, Application Nos. 14 and 16 were lawfully withdrawn by DP&Z; and

**WHEREAS**, the 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, held public hearings and transmitted recommendations for the disposition of such applications to this Board; and

**WHEREAS**, on November 6, 2008, 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**, the Board must take final action to Adopt, Adopt With Change or Deny amendment applications not later than sixty (60) days after receipt of written Objections, Recommendations and Comments (ORC) report 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, 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 2008 cycle for amendments, modifications, additions, or changes to the Miami-Dade County CDMP as follows:

| Application Number | Applicant/Representative<br>Location (Size)<br>Requested Amendments To The CDMP Land Use Plan Map | Final Commission Action |
|---|---|---|
| 1 | Miami-Dade County Department of Planning & Zoning/<br>Subrata Basu, AIA, AICP, Interim Director<br>NW 47 Avenue to NW 55 Court and between NW 199 Street and Snake Creek Canal (165.8 gross acres)<br>FROM: INSTITUTIONS, UTILITIES AND COMMUNICATIONS<br>TO: PARCEL A: INDUSTRIAL AND OFFICE (25 Acres)<br>PARCEL B: BUSINESS AND OFFICE (60 Acres)<br>PARCEL C: LOW MEDIUM DENSITY RESIDENTIAL (6-13 DU/Ac) (80 Acres) | |
| 2 | Tibor Hollo/Jeffrey Bercow, Esq. & Michael J. Marrero, Esq.<br>West side of NW 7 Avenue Between NW 155 Lane and Biscayne Canal (0.84 gross acres)<br>FROM: MEDIUM-HIGH DENSITY RESIDENTIAL (25-60 DU/ Ac)<br>TO: BUSINESS AND OFFICE<br>Small-Scale Amendment | |
| 3 | Lunar Real Estate Services, Inc./Mario J. Garcia-Serra, Esq. & Patrick Range II, Esq.<br>Southwest corner of NE 135 Street and NE 3 Court (2.5 gross acres)<br>FROM: LOW-MEDIUM DENSITY RESIDENTIAL (6-13 DU/Ac)<br>TO: BUSINESS AND OFFICE<br>Small-Scale Amendment | |
| 4 | Sunshine Lakes LLC/Jeffrey Bercow, Esq. & Mathew Amster, Esq.<br>10940 NW 14 Avenue (an area SW of intersection of NW 111 Street) (4.81 gross acres)<br>FROM: LOW-MEDIUM DENSITY RESIDENTIAL (6-13 DU/ Ac)<br>TO: MEDIUM DENSITY RESIDENTIAL WITH ONE DENSITY INCREASE WITH URBAN DESIGN (DI-1; 13-60 DU/ Ac)<br>Small-Scale Amendment | |

| Application Number | Applicant/Representative<br>Location (Size)<br>Requested Amendments To The CDMP Land Use Plan Map | Final Commission Action |
|---|---|---|
| 5 | Miami-Dade County Aviation Department/Jose Abreu, P.E., Director<br>East side of NW 72 Avenue between NW 36 and NW 41 Streets (3.4 Gross Acres)<br>FROM: INSTITUTIONS, UTILITIES AND COMMUNICATIONS<br>TO: BUSINESS AND OFFICE<br>Small-Scale Amendment | |
| 6 | Miami-Dade County Aviation Department/Jose Abreu, P.E., Director<br>Between the Palmetto Expressway (SR 826) and Milam Dairy Road and between NW 14 and NW 19 Streets, west of the Miami International Airport (31.04 gross acres)<br>FROM: INDUSTRIAL AND OFFICE AND TRANSPORTATION TERMINALS<br>TO: BUSINESS AND OFFICE | |
| 7 | Miami-Dade County Aviation Department/Jose Abreu, P.E., Director<br>Northeast corner of Milam Dairy Road and NW 12 Street, at the SW corner of the Miami International Airport (16.9 gross acres)<br>FROM: INDUSTRIAL AND OFFICE<br>TO: BUSINESS AND OFFICE | |
| 8 | Fontainebleau Lakes, LLC/Felix M. Lasarte, Esq.<br>North side of Flagler Street between theoretical NW 90 and NW 94 Avenues (41.0 gross acres)<br>FROM: PARCEL A: MEDIUM DENSITY RESIDENTIAL (13-25DU/Ac) (23 Acres)<br>PARCEL B: PARKS AND RECREATION (18 Acres)<br>TO: BUSINESS AND OFFICE | |
| 9 | Blue Lake Partners, LLC *(Originally filed by Gold River Corporation)*/ Juan J. Mayol, Jr., Esq.<br>Northeast corner of West Flagler Street and NW 102 Avenue (41.04 gross acres)<br>FROM: LOW-MEDIUM DENTSITY RESIDENTIAL (6-13 DU/Ac)<br>TO: BUSINESS AND OFFICE | |
| 10 | Manuel C. Diaz and Live Oak Partners, LLC/Joseph G. Goldstein, Esq., Alan S. Krischer, Esq. & Tracy R. Slavens, Esq.<br>Southwest corner of SW 112 Avenue and SW 248 Street (35.0 gross acres)<br>1. Requested Amendment to the Land Use Plan map.<br>FROM: OFFICE/RESIDENTIAL<br>TO: BUSINESS AND OFFICE<br>2. Requested Amendment to the Land Use Element.<br>Delete existing CDMP Covenant from Official Records Book and add the new CDMP Covenant to the Restrictions Table. | |

| Application Number | Applicant/Representative<br>Requested Change to the CDMP Policies or Text | Final Commission Action |
|---|---|---|
| 11 | Builders Association of South Florida/Jeffrey Bercow, Esq. & Graham Penn, Esq.<br>EDUCATION ELEMENT<br>Revise Policy EDU-2C as presented in the replacement pages for the 2007 Special Amendment. | |
| 13 | Miami-Dade County Department of Planning & Zoning/<br>Subrata Basu, AIA, AICP, Interim Director<br>LAND USE ELEMENT<br>Revise text relating to the "Agriculture" Land Use Plan Map category. | |
| 14 | Miami-Dade County Department of Planning & Zoning/<br>Subrata Basu, AIA, AICP, Interim Director<br>LAND USE ELEMENT<br>Revise text in the Gross Residential Density Section. | WITHDRAWN |
| 15 | Miami-Dade County Department of Planning & Zoning/<br>Subrata Basu, AIA, AICP, Interim Director<br>LAND USE ELEMENT<br>Revise the text of the "Gross Residential Density" section and add a new section titled "Density Bonus Programs for Affordable Housing" after the section titled "Density Increase with Urban Design." | |
| 16 | Miami-Dade County Department of Planning & Zoning/<br>Subrata Basu, AIA, AICP, Interim Director<br>LAND USE ELEMENT<br>Revise text in the Urban Centers Section. | WITHDRAWN |
| 17 | Miami-Dade County Department of Planning & Zoning/<br>Subrata Basu, AIA, AICP, Interim Director<br>LAND USE ELEMENT<br>Revise the text relating to the "Industrial and Office" Land Use Plan Map category. | |
| 18 | Miami-Dade County Department of Planning & Zoning/<br>Subrata Basu, AIA, AICP, Interim Director<br>HOUSING ELEMENT<br>Revise Policy HO-6D. | |
| 19 | Miami-Dade County Department of Planning & Zoning/<br>Marc C. LaFerrier, AICP, Director<br>CONSERVATION, AQUIFER RECHARGE AND DRAINAGE ELEMENT<br>Revise Policy CON-8I. | |
| 20 | Miami-Dade County Department of Planning & Zoning/<br>Marc C. LaFerrier, AICP, Director<br>LAND USE ELEMENT<br>Revise the text relating to Transportation Land Use Plan Map category.<br>TRANSPORTATION ELEMENT, Aviation Subelement;<br>Revise the text in Aviation Facilities Improvements Section. | |

**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." It is further provided that this ordinance shall not take effect until an amendment to the Comprehensive Development Master Plan and an Interlocal Agreement with the School Board of Miami-Dade County and the municipalities in Miami-Dade County establishing a public school concurrency program have been adopted and transmitted to the Florida Department of Community Affairs as required by Section 163.3177(12)(j), Florida Statutes.

PASSED AND ADOPTED:

Approved by County Attorney as to form and legal sufficiency.

Prepared by:

Joni Armstrong Coffey