



MEMORANDUM
OFFICE OF THE MAYOR

DATE: October 6, 2009

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

FROM: 
Carlos Alvarez
Mayor

SUBJECT: Miami Dade County v. Department of Community Affairs
Case Number 1D09-4832 - Ordinance No. 08-44

Agenda Item No. 6(B)1
November 3, 2009

On April 24, 2008, the Board of County Commissioners (Board) adopted a Future Land Use Map (FLUM) amendment, Ordinance No. 08-44 ("Application No. 5") which would change Parcel A (21.6 acres) from Open Land to Business and Office, and change Parcel B (30.1 acres) from Open Land to Institution, Utilities, and Office. The Amendment further sought to expand the Urban Development Boundary (UDB) to encompass these parcels. As you recall, I vetoed this ordinance and, on May 6, 2008, the Board overrode my veto.

In accordance with the process established for amendments to the Comprehensive Development Master Plan (CDMP), the Board recommended sending the amendment to the Florida Department of Community Affairs (DCA) for review. On July 18, 2008, the DCA issued its Notice of Intent to find the amendment "not in compliance," as defined in section 163.3184(1)(b), Florida Statutes. In response to this, the County requested an administrative hearing on Application No. 5 in order to further argue the rationale for approving the amendment. Once again, the application was deemed "not in compliance."

On July 30, 2009, the Florida Cabinet, acting in their capacity as the State Administration Commission, issued a Final Order and concurred that Application No. 5 was "not in compliance" with the CDMP. To this end, on August 31, 2009, the Miami-Dade County Attorney's Office (CAO) filed an appeal with the First District Court of Appeals seeking a review of the Final Order. On September 11, 2009, the First District Court of Appeals determined that the order on appeal does not appear to be final. On September 21, 2009, the CAO filed a Response to the Court's motion.

I urge the Board to reconsider pursuing further legal action with regards to Application No. 5 ("Lowe's Amendment"). To date, the Board has not accepted the recommendations of the County's own professional staff, the Florida Department of Community Affairs, an Administrative Hearing Officer, and the Governor and Cabinet. Pursuant to Florida Statutes, the County faces potential sanctions by pursuing this further. This application has received its due process. I also understand that just because you can continue to appeal through the legal process, it doesn't necessarily mean it's the right thing to do.

As I indicated in my original veto message over a year ago, there is clearly a lack of merit in proceeding with this application. I strongly believe it is in the County's best interest to recognize that there is no real justification for dedicating additional time and resources into this matter. It is time to move forward in considering future land use decisions that will have a lasting impact on the residents we are elected to serve.

c: Honorable Charlie Crist, Governor and the Florida Cabinet
Honorable Harvey Ruvin, Clerk of the Circuit and County Courts
R.A. Cuevas, Jr., County Attorney
Denis Morales, Chief of Staff
George Burgess, County Manager