Memorandum

MIAMI-DADE COUNTY

Substitute
Special Item No. 1

Date: May 5, 2010

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

From: George M. Burgess
County Manager

Subject: Substitute Ordinance Acting Upon the October 2009 Cycle Small-Scale Applications to Amend the Comprehensive Development Master Plan

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This substitute item differs from the original item (Legistar No. 100778) in that it complies with the new rule change regarding substitutes and alternates as provided in Ordinance No. 09-13, adopted on March 3, 2009. In addition, this ordinance differs from the original as follows:

- **This substitute ordinance makes a correction to the Fiscal Impact /Funding Source statement by identifying Application No. 2 (not Application No. 3) as having the highest fiscal cost to Miami-Dade County.**

Recommendation

It is recommended that the Board of County Commissioners (Board) adopt the attached Ordinance (Special Item No. 1), which provides for the Board to adopt, adopt with change or deny the pending October 2009 Cycle Small-Scale Applications to amend the adopted Land Use Plan (LUP) map of the Comprehensive Development Master Plan (CDMP). Final action is recommended to be taken on the Ordinance at the conclusion of the CDMP public hearing scheduled to begin at 9:30 AM on Wednesday, May 5, 2010.

Scope

The CDMP is a broad-based countywide policy-planning document to guide future growth and development in the County. This plan seeks to ensure 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 (LUP) map amendment applications may have localized impact on one or more Commission Districts. Application Nos. 1, 2 are located in Commission District 2 and Application No. 3 is located in Commission District 8.

Fiscal Impact/Funding Source

The cost of implementing these three applications is minimal, with Application No. [[~~3~~]] >>2<< having the highest fiscal cost, with a sewer impact fee of [[~~$40,600~~]] >>$105,280 <<. County Ordinance No. 01-163 requires the evaluation of fiscal impacts for land use changes. Information on the fiscal impact of each request to amend the LUP map is presented in Appendix E at the end of each application review in the Department of Planning and Zoning's (DP&Z) Initial Recommendations Report (dated February 25, 2010). The Report is included in

the agenda materials for the May 5, 2010 Public Hearing addressing all the October 2009 Applications to amend the CDMP, at which final action on this Ordinance will be considered.

Housing Impact

Adopting these three small-scale applications would potentially add a total of 91 dwelling units to the supply of housing in the County. Of the small-scale applications, only Application No. 2 contains a covenant that was proffered on January 28, 2010, which limits residential development on the property to a maximum of 94 units or a net 74 units based on the maximum units that could potentially be developed under the current designation. If all the other factors in the cost of housing were equal, an increase in supply might nominally decrease the cost of residential land, and hence, decrease the growth in housing costs. As the acreage involved in these Small-scale amendments is very small, the change in housing costs is not measurable at this point.

Track Record/Monitor

CDMP amendments do not involve contracts; therefore, a Track Record/Monitor is not applicable.

Background

The attached Ordinance provides for separate actions on three Small-scale applications that were filed during the October 2009 Cycle requesting amendments to the LUP map of the CDMP (Application Nos. 1, 2, and 3). State law allows for the adoption of these Small-scale applications at the May 5, 2010 public hearing.

An application is eligible under State law to be processed as a Small-scale amendment if it involves 10 or fewer acres and, if residential, it allows a density of 10 dwelling units per acre (10 DU/ac) or less. Densities may be higher than 10 du/ac if the parcel involves the construction of affordable housing that meets state requirements, or is located in an Urban Redevelopment Area, Transportation Concurrency Exception Area or a Regional Activity Center. The maximum total acreage in a year of Small-scale amendments is 120 acres for jurisdictions such as Miami-Dade County, which contain designated redevelopment and downtown revitalization areas, urban infill areas, transportation concurrency exception areas, and regional activity centers. However, a 60-acre annual limitation applies to areas outside of these specifically designated urban areas. The three pending October 2009 Cycle Small-scale applications involve a total of 7.72 gross acres, which is also the total gross acreage in 2010 for Small-Scale amendments. Therefore, based on the above acreage limitations, the Board has the ability to approve any or all of the proposed Small-scale amendments without prior DCA review.

The Planning Advisory Board acting as Miami-Dade County's Local Planning Agency conducted its public hearing on April 5, 2010, at which they formulated their recommendations to the Board on all of the October 2009 Cycle CDMP amendment applications. A matrix containing the PAB and Community Council actions will be provided as part of your agenda kit for the public hearing.

At the May 5, 2010 public hearing, the Board could elect to adopt, adopt with change, or not adopt the Small-scale amendments. If the Board does not adopt a Small-scale amendment, it may elect, by separate resolution, to transmit it to DCA for review and to take final action in

October 2010 after State-agency review. Denial or failure to adopt as a Small-scale amendment and failure to transmit an application to DCA for review, effectively denies approval of the application for this amendment cycle.

Alex Muñoz
Assistant County Manager

MEMORANDUM
(Revised)

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

DATE: May 5, 2010

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

SUBJECT: Substitute Special Item No. 1

Please note any items checked.

_____ "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

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

✓ No committee review

_____ Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve

_____ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

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Approved _____ Mayor
Veto _____
Override _____

Substitute
Special Item No. 1
5-5-10

ORDINANCE NO. _____

ORDINANCE RELATING TO MIAMI-DADE COUNTY COMPREHENSIVE DEVELOPMENT MASTER PLAN ACTING UPON SMALL-SCALE AMENDMENT APPLICATIONS FILED IN OCTOBER 2009 CYCLE TO AMEND, MODIFY, ADD TO OR CHANGE COMPREHENSIVE DEVELOPMENT MASTER PLAN; PROVIDING SEVERABILITY, EXCLUSION FROM THE CODE AND AN EFFECTIVE DATE

WHEREAS, the Miami-Dade County 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, ten (10) CDMP amendment applications (Application Nos. 1 through 10) were filed on or before November 2, 2009 and are contained in a report titled "October 2009 Applications to Amend the Comprehensive Development Master Plan" dated December 5, 2009; and

WHEREAS, two additional applications (Application Nos. 11 and 12) were filed by the Miami-Dade County Department of Planning and Zoning (DP&Z) on February 25, 2010 and are contained in a report titled "Initial Recommendations October 2009 Applications to Amend the Comprehensive Development Master Plan" dated February 25, 2010; and

WHEREAS, DP&Z published its initial recommendations addressing the referenced Applications in the report titled "Initial Recommendations October 2009 Applications to Amend the Comprehensive Development Master Plan" dated February 25, 2010; and

WHEREAS, Miami-Dade County's procedures provide for the expedited processing of small-scale amendments as defined in Section 163.3187, F.S.; and

WHEREAS, of the total 12 applications comprising five (5) Land Use Plan map amendments and seven (7) text amendments filed for processing during the October 2009 CDMP amendment cycle, three (3) eligible applications (Application Nos. 1, 2 and 3) requested expedited adoption as small-scale plan amendments; and

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WHEREAS, the 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, the Board 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 the Florida Department of Community Affairs (DCA); and

WHEREAS, the Board will consider approving a resolution transmitting to the DCA any eligible small-scale amendments that are not adopted but not denied, and which this Board desires to further consider after review by DCA; and

WHEREAS, the Board 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, 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:

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 small-scale amendment applications filed for review during the October 2009 cycle for amendments, modifications, additions, or changes to the CDMP as follows:

Application Number	Applicant/Representative Location/(Size) REQUESTED SMALL SCALE AMENDMENTS TO THE CDMP	Action on Small-Scale Amendment
1	Ellen Gardner 79th St LLC/Michael Gil, Esq., Michael Larkin, Esq., Bercow Radell & Fernandez PA Area between NW 79 Street and NW 79 Terrace and between NW 21 and NW 22 Avenues/(1.63 gross acres) From: Low Density Residential (2.5 to 6 dwelling units per gross acre (du/ac); 0.37 gross acres) and Business and Office (1.26 gross acres) To: Business and Office	
2	Tradewinds Associates, Ltd/Jeffrey Bercow, Esq., Michael J. Marrero, Esq., Bercow Radell & Fernandez PA Southwest corner of NW 19 Avenue and NW 81 Street/(3.79 gross acres) From: Low Density Residential (2.5 to 6 du/ac) To: Medium Density Residential (13 to 25 du/ac)	
3	Apostolic Alliance Church of the Lord Jesus Christ, Inc./Felix Lasarte, Esq., The Felix Lasarte Law Firm, LLP Southwest corner of SW 127 Avenue and SW 200 Street/(2.3 gross acres) From: Low Density Residential (2.5 to 6 du/ac) To: Business and Office	

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

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Section 5. This ordinance shall become effective ten (10) days after the date of enactment, unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board provided, however, that the effective date of any small-scale plan amendment approved by this ordinance shall be thirty-one (31) days after adoption by this Board (effective date of ordinance). If challenged within thirty (30) days after adoption, the challenged small-scale plan amendment shall not become effective until the final order is issued determining the adopted small-scale amendment to be in compliance.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Joni Armstrong Coffey