Memorandum

MIAMI-DADE COUNTY

Date: May 5, 2010

Special Item No. 2

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

From: George M. Burgess
County Manager

Subject: Resolution and Public Hearing for the Transmittal to the Florida Department of Community Affairs of the October 2009 Cycle Applications to Amend the Comprehensive Development Master Plan

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Recommendation

It is recommended that the attached resolution be adopted after the public hearing on the October 2009 Cycle of applications to amend the Comprehensive Development Master Plan (CDMP) scheduled to begin at **9:30 AM on Wednesday, May 5, 2010**. This resolution provides for the transmittal of certain October 2009 Cycle of Applications to amend the CDMP to the Florida Department of Community Affairs (DCA) and other agencies for state and regional review as required pursuant to Section 163.3184, Florida Statutes, (F.S.).

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 and 6 are located in Commission District 2 (Commissioner Rolle); Application No. 3 is located in Commission District 8 (Commissioner Sorenson); Application No. 4 is located in Commission District 9 (Commissioner Moss); and Application No. 5 is located in Commission District 13 (Commissioner Seijas).

Fiscal Impact/Funding Source

Fiscal impact means the cost to the County of implementing the activities or actions that would be incurred after approval of the ordinance. Ordinance No. 94-238 requires a statement of fiscal impact on all activities and actions resulting from approval of an ordinance. In addition, Ordinance No. 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 to Miami-Dade County for bringing such infrastructure to the area as well as annual operating and management (O&M) costs. 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 the October 2009 Cycle applications to amend the CDMP.

The fiscal cost to the County of implementing the proposed five (5) LUP map amendments is as follows: Annual operating and management costs for LUP map amendment Application Nos. 1, 2 and 3 are negligible. Application No. 4 generates the highest fiscal impact to the County with $185,238 in annual operating costs. This Application is estimated to generate $363,970 in total cost for water services (which includes 105 linear feet of 12-inch water main, one 4-inch turbo meter, and one 2-inch meter) and sewer services (which includes 85 feet of 12-inch force main and one private pump station). Application No. 6 requests the owner be released of a previously proffered and adopted Declaration of Restrictions on the subject property and to replace this original covenant with a new covenant. The proposed new covenant could add 1,200 housing units on the subject property. This Application is estimated to generate $152,361 in annual operating costs; $321,089 in total cost for water services (which includes 1,380 linear feet of 12-inch water main) and sewer services (which includes 35 linear feet of 8-inch gravity main).

Track Record/Monitor

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

Background

Twelve (12) applications to amend the CDMP were filed during the October 2009 Cycle of amendments under the County's jurisdiction. Application Nos. 1 through 5 request changes to the Adopted 2015-2025 LUP map of the CDMP. Application Nos. 6 and 7 involve changes to previously adopted Declaration of Restrictions, and Application Nos. 9, 11 and 12 involve text changes to the Adopted Components of the CDMP. Application Nos. 8 and 10 were legally withdrawn by their respective applicants by letters dated March 30, 2010 and March 5, 2010, respectively; leaving ten (10) pending applications to amend the CDMP in this amendment cycle. The attached resolution provides for transmittal to DCA for review and issuance of its Objections, Recommendations and Comments (ORC) report on the proposed October 2009 Cycle of Applications.

It is anticipated that the DCA will return an ORC report in August 2010 addressing the transmitted applications. Preceding the final hearing by the Board, the DP&Z will respond to any DCA objections and may issue revised recommendations. The Local Planning Agency (i.e., Planning Advisory Board) will conduct an additional public hearing on September 20, 2010 and may issue revised recommendations. The Board is scheduled to conduct a final public hearing on the transmitted amendments on October 6, 2010.

Recommendations of the Department of Planning and Zoning
The DP&Z published its initial recommendations for the October 2009 Cycle Applications in a report titled, "Initial Recommendations October 2009 Applications To Amend The Comprehensive Development Master Plan," dated February 25, 2010. DP&Z's initial recommendations for the proposed October 2009 Cycle of Applications are as follow:

Pending Small-Scale Amendments (Total=3)

- Application No. 1: "ADOPT As Small-Scale Amendment";
- Application No. 2: "ADOPT WITH CHANGE As Small-Scale Amendment";
- Application No. 3: "ADOPT As Small-Scale Amendment";

Pending Standard Amendments (Total =7):

- Application No. 4: "TRANSMIT With CHANGE And TRANSMIT";
- Application No. 5: "ADOPT And TRANSMIT";
- Application No. 6: "ADOPT With Acceptance Of Proffered Covenant And TRANSMIT";
- Application No. 7: "DENY And Do Not TRANSMIT";
- Application No. 9: "ADOPT With CHANGE And TRANSMIT";
- Application No. 11: "ADOPT And TRANSMIT";
- Application No. 12: "ADOPT And TRANSMIT"

Local Planning Agency Recommendations
The recommendations Planning Advisory Board (PAB) on the October 2009 Cycle of applications to amend the CDMP, acting as Miami-Dade County's Local Planning Agency (LPA), are contained in the PAB's resolution and in the summary matrix included in the agenda kit materials for this public hearing.

Resolution Format

As provided in the County Code, transmittal instructions are to be issued by Resolution. Section 1 of the attached resolution contains spaces where the Board's adopted transmittal instruction will be entered for each individual amendment application. Transmittal instructions shall be "Transmit" or "Do Not Transmit". Transmittal does not constitute adoption of an application; however, denial of transmittal in effect denies any further consideration of an application during this CDMP amendment cycle. To transmit any application, County Code requires the affirmative vote of a majority (7) of the Commissioners in office. Section 2 of the Resolution requests DCA to review and return its ORC report on all the transmitted applications, before the Board conducts its next public hearing to take final action on the applications. On Section 3, the Board reserves its right to take final action without prejudice at a later date to adopt, adopt with changes, or not adopt any and all pending applications and proposals following receipt of notice or comments by DCA. On Section 4, the Board declares its intention to conduct and advertise one or more public hearings in 2010 to address the October 2009 Cycle of applications to amend the Comprehensive Development Master Plan.

After the Board adopts its entries to Section 1 of the Resolution, it must take a final vote to adopt the Resolution in its entirety, incorporating the foregoing entries.

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: Special Item No. 2

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**

Approved _____ Mayor

Veto _____

Override _____

Special Item No. 2

5-5-10

RESOLUTION NO. _____

RESOLUTION PERTAINING TO THE OCTOBER 2009 CYCLE APPLICATIONS REQUESTING AMENDMENTS TO THE COMPREHENSIVE DEVELOPMENT MASTER PLAN; INSTRUCTING THE COUNTY MANAGER WHETHER OR NOT TO TRANSMIT APPLICATIONS TO THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS; REQUESTING FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS TO REVIEW APPLICATIONS; RESERVING THE RIGHT TO TAKE FINAL ACTION AT A LATER DATE; AND DECLARING INTENT TO CONDUCT ONE OR MORE SUBSEQUENT PUBLIC HEARINGS

WHEREAS, pursuant to Chapter 163, Part 2, Florida Statutes (F.S.) and Chapters 9J-5, 9J-11, and 9J-12, Florida Administrative Code (F.A.C.), the Comprehensive Development Master Plan (CDMP) for Miami-Dade County was adopted by the Miami-Dade County Board of County Commissioners (Board) in 1988; and

WHEREAS, Section 2-116.1 of the Code of Miami-Dade County, Florida, provides procedures for amending the CDMP which comply with the requirements of the Florida Statutes and Administrative Code referenced above; and

WHEREAS, ten (10) CDMP amendment applications were filed on or before November 2, 2009, and are contained in the document titled "October 2009 Applications to Amend the Comprehensive Development Master Plan," dated December 5, 2009; and

WHEREAS, two (2) additional CDMP amendment applications were filed prior to the production of the report titled, "Initial Recommendations October 2009 Applications To Amend The Comprehensive Development Master Plan", dated February 25, 2010, bringing the total number of the applications filed in the October 2009 CDMP amendment cycle to twelve (12); and

WHEREAS, of the twelve (12) CDMP amendment applications, eight amendments (Application Nos. 1, 2, 3, 6, 7, 8, 9 and 10) were filed by private parties, one (1) CDMP amendment (Application No. 4) was filed by Miami-Dade County General Services Administration, and three (3) amendments (Application Nos. 5, 11 and 12), were filed by DP&Z; and

WHEREAS, Application No. 10 was legally withdrawn by the applicant by letter dated March 5, 2010; and

WHEREAS, Application No. 8 was legally withdrawn by the applicant by letter dated March 30, 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 twelve (12) CDMP amendment applications filed during this October 2009 Cycle of amendments, three (3) Land Use Plan (LUP) map amendment Application Nos. 1, 2 and 3 request expedited adoption, if eligible, as small-scale plan amendments; and

WHEREAS, eligible applications requesting processing as small-scale LUP map amendments may be subject to final action by ordinance at the May 5, 2010 public hearing or, alternatively, may be transmitted as standard amendments to the Florida Department of Community Affairs (DCA) for review and issuance of Objections, Recommendations and Comments (ORC) report prior to subsequent final action by the Board; and

WHEREAS, the DP&Z issued its initial recommendations addressing the referenced Applications in a report titled "Initial Recommendations October 2009 Applications To Amend The Comprehensive Development Master Plan," dated February 25, 2010, as required by Section 2-116.1 of the Code of Miami-Dade County, and may issue revised recommendations on transmitted applications prior to final action by the Board; and

WHEREAS, affected Community Councils have acted in accordance with Miami-Dade County procedures, conducted duly noticed public hearings during the month of March 2010 to receive public comments on specific applications and on the recommendations of the DP&Z, and issued recommendations regarding the proposed amendments directly affecting their areas; and

WHEREAS, the Planning Advisory Board (PAB) acting as the Local Planning Agency (LPA) conducted a duly noticed public hearing on April 5, 2010, to address the referenced applications, the recommendations of affected Community Councils and the DP&Z, to formulate recommendations regarding adoption of the proposed small-scale amendments, and to address transmittal of standard amendment applications to the DCA and other State and regional agencies for review and comment; and

WHEREAS, at the conclusion of the foregoing public hearing, the LPA adopted its recommendations to the Board regarding adoption of certain small-scale amendment applications and transmittal of the remaining standard October 2009 Cycle CDMP amendment Application Nos. 4 through

7, 9, 11 and 12 to DCA, recommendations regarding State agency review of the transmitted application(s), and recommendations regarding subsequent final action by the Board as required by Section 2-116.1, Code of Miami-Dade County, and Section 9J-11, F.A.C., with the understanding that the LPA will further evaluate the transmitted application(s) which is/are reviewed by the DCA and any others not reviewed by the DCA but requested by the Board to be further reviewed by the LPA, and may issue revised recommendations on said applications following one or more duly noticed public hearings in 2010; 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 activity or study addressing the criteria set forth in the CDMP; and

WHEREAS, 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 desires to further evaluate, without prejudice, those applications filed for review and action during the October 2009 CDMP amendment cycle that are hereby transmitted;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. The Board, having considered the following application(s) requesting amendment to the CDMP, hereby directs the County Manager to act in accordance with the transmittal instructions set forth in this section for such application(s). For any such application where the instruction is to transmit, pursuant to Section 2-116.1(3)(g), Miami-Dade County Code, the Commission directs the Manager to transmit the application to the Florida DCA and to all other agencies required pursuant to Chapter 163.3184, F.S., along with all other materials required by Chapter 9J-11, F.A.C.

Application Number	Applicant/Representative Location (Size) Requested Change to the CDMP Land Use Plan Map, Policies or Text	Recommended Action and/or Transmittal Instruction
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; 1.1 Net Acres) From: Low Density Residential (2.5 to 6 dwelling units per gross acres (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, P.A. Southwest corner of NW 19 Avenue and NW 81 Street (3.79 Gross Acres; 3.24 Net 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; 1.78 Net Acres) From: Low Density Residential (2.5 to 6 du/ac) To: Business and Office	

Application Number	Applicant/Representative Location (Size) Requested Change to the CDMP Land Use Plan Map, Policies or Text	Recommended Action and/or Transmittal Instruction
4	Miami-Dade County General Services Administration/Wendy Norris, Director Southwest corner of SW 117 Avenue and SW 152 Street (±286 Gross Acres; ±279.38 Net Acres) 1. Modify the "Miami Metrozoo Entertainment Area" land use category text in the Land Use Element to establish Areas I and II. 2. Add "Miami Metrozoo Entertainment Area I" to site currently designated on the Adopted 2015 and 2025 Land Use Plan (LUP) map as "Miami Metrozoo Entertainment Area". 3. Change the land use designation on the subject property (Areas A, B, C & D) as follows: Area A: ±19.97 Gross Acres From: Low Medium Density Residential To: Miami Metrozoo Entertainment Area II Area B: ±134.75 Gross Acres From: Institutions, Utilities and Communications To: Miami Metrozoo Entertainment Area II Area C: ±70.9 Gross Acres From: Institutions, Utilities and Communications To: Environmentally Protected Park Area D: ±60.6 Gross Acres From: Institutions, Utilities and Communications To: Miami Metrozoo Entertainment Area II	
5	Department of Planning and Zoning/ Marc LaFerrier, AICP, Director Amend the Adopted 2015 and 2025 Land Use Plan to include a new Community Urban Center in the area generally bounded by NW 57 Avenue on the east, the Moors residential development on the west, NW 167 Street on the south and NW 183 Street on the north.	
6	Imperial Management, LLC/Jeffrey Bercow, Esq. & Michael J. Marrero, Esq. Bercow, Radell & Fernandez, PA Location: Southwest corner of NW 32 Avenue and NW 79 Street (37.0 Gross Acres; 37.0 Net Acres) Release/delete previously proffered and accepted Declaration of Restrictions for Application No. 7 of the October 2005 Cycle CDMP Amendments as indicated on Page I-74.2 of the CDMP; and proffer a new Declaration of Restrictions for consideration by the Board of County Commissioners.	

Application Number	Applicant/Representative Location (Size) Requested Change to the CDMP Land Use Plan Map, Policies or Text	Recommended Action and/or Transmittal Instruction
7	107th Avenue Gamma, LLC/Jeffrey Bercow, Esq. & Michael Gil, Esq. Bercow, Radell & Fernandez, PA. Location: Northwest corner of NW 107 Avenue and NW 12 Street (63.95 Gross Acres; 54.24 Net Acres) Delete and Replace Previously Proffered and Accepted Declaration of Restrictions for Application No. 3 of the April 2007 CDMP Amendment Cycle as indicated in the Restrictions Table on Page I-74.5 of the CDMP.	
9	Vecellio & Grogan, Inc. d/b/a White Rock Quarries/Ms. Kerri L. Barsh, Esq. Greenberg Traurig, P.A. Modify the text of Open Land Subarea 1 (Snake-Biscayne Canal Basin) in the Land Use Element of the Comprehensive Development Master Plan (CDMP), to allow nurseries and tree farms.	
11	Department of Planning and Zoning/ Marc LaFerrier, AICP, Director A. Revise Land Use Element Policy LU-2A to refer to provisions in the "Concurrency Management Program" in the Capital Improvements Element (CIE); and B. Revise the text in Concurrency Management Program of the CIE on page IX-15 to reflect the level of public school facilities concurrency review for zoning actions consistent with the Interlocal Agreement for Public School Facility Planning between Miami-Dade County and Miami-Dade County Public Schools.	
12	Department of Planning and Zoning/ Marc LaFerrier, AICP, Director Revise Policies LU-3G and LU-3H in the Land Use Element to clarify that the super majority vote applies to text changes in the CDMP as well as the Land Use Plan map amendments.	

Section 2. The Board hereby requests DCA to review all transmitted applications pursuant to Chapter 163.3184(6), F.S.

Section 3. The Board hereby reserves its right to take final action without prejudice at a later date to adopt, adopt with changes, or not adopt any and all pending applications and proposals following receipt of notice or comments by DCA, and following one or more final public hearings by this Board, all as authorized by Chapter 163.3184, F.S., and Section 2-116.1, Code of Miami-Dade County, Florida.

Section 4. The Board declares its intention to conduct and advertise one or more public hearings in 2010 to address the October 2009 Cycle applications to amend the Comprehensive Development Master Plan.

The foregoing resolution was offered by Commissioner , who moved its adoption. The motion was seconded by Commissioner and upon being put to a vote, the vote was as follows:

Dennis C. Moss, Chairman
Jose "Pepe" Diaz, Vice-Chairman

Bruno A. Barreiro	Audrey M. Edmonson
Carlos A. Gimenez	Sally A. Heyman
Barbara J. Jordan	Joe A. Martinez
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 5th day of May, 2010. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Joni Armstrong Coffey

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