Memorandum

MIAMI-DADE COUNTY

(Public Hearing 10-6-10)

Date: May 5, 2010

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 The October 2009 Cycle of Applications to Amend the Comprehensive Development Master Plan (Standard Applications)

Recommendation

It is recommended that the Board of County Commissioners (Board) adopt the attached ordinance, (Special Item No. 3) which provides for the Commission to adopt, adopt with change or deny the October 2009 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 to begin at **9:30 AM on Wednesday, May 5, 2010**, to address transmittal of the October 2009 Cycle standard 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 October 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 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 allow 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).

Housing Impact

Of the applications filed to amend the CDMP, only Application Nos. 1, 2, 3 (small-scale applications) and 6 (standard application) could impact the supply of housing in unincorporated Miami-Dade County. These four (4) applications have the potential to reduce or increase the County's housing supply, based upon the current CDMP land use designation of the application sites, the requested re-designations, and voluntary restrictions on density. Under its current CDMP land use designation, Application No. 1 could be developed with a maximum of 18 dwelling units (DU) per gross acre and with a maximum of 21 DUs/gross acre under the proposed CDMP land use designation, thus, 3 net residential units could be added to the supply of housing. Application No. 2 could be developed with a maximum of 22 units under its current CDMP land use designation. On January 28, 2010, a Declaration of Restrictions was proffered, which limits residential development on the subject property to a maximum of 94 dwelling units based upon the maximum units that could potentially be developed under the proposed CDMP land use designation, thus 72 units net could be added to the supply of housing. Application No. 3 could add 16 net units. It is important to note that, although not a request to amend the LUP map of the CDMP, Application No. 6 could allow up to 1,200 dwelling units to the supply of housing in the County. Application No. 6 is a request to release the owner of the application site from a previously adopted Declaration of Restrictions that prohibited residential use on the property and the proffer of new covenant that proposes to develop up to a maximum of 1,200 residential units on a 37.0 gross acre site.

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 lawfully 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 ordinance provides for action on the October 2009 Cycle standard applications requesting amendments to the CDMP.

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 August 2010. The County is required to take final action on transmitted applications within 60 days after receipt of the ORC report. The 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.

Alex Muñoz
Assistant County Manager

MEMORANDUM
(Revised)

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

DATE: October 6, 2010

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

SUBJECT: 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

Approved _____ Mayor

Veto _____

Override _____

Special Item No. 1
10-6-10

ORDINANCE NO. _____

ORDINANCE RELATING TO MIAMI-DADE COUNTY COMPREHENSIVE DEVELOPMENT MASTER PLAN; PROVIDING DISPOSITION OF 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 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, 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 foregoing State Statutes and Administrative Code; 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 lawfully withdrawn by the applicant by letter dated March 5, 2010; and

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WHEREAS, Application No. 8 was legally withdrawn by the applicant by letter dated March 30, 2010; 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 of 2010 to receive public comments on specific applicable 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, 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 CDMP amendment applications filed for review during the October 2009 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	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. Revise the Open Land Subarea 1 (Snake-Biscayne Canal Basin) text on Page I-63 of the CDMP to include nurseries and tree farms in the list of allowable uses.	
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 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 (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, 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