Memorandum

MIAMI-DADE COUNTY

Date: July 7, 2011

Substitute
Special Item No. 1

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Alina T. Hudak
County Manager

Subject: Ordinance Providing Disposition of the Homestead-Miami Speedway, LLC Application to Amend the Comprehensive Development Master Plan

This substitute item differs from the original item, as amended, in that it complies with the 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 revises the preamble of the original ordinance to reflect the receipt of the Objections, Recommendations and Comments (ORC) issued by the Florida Department of Community Affairs (DCA) by letter dated May 13, 2011. This substitute ordinance addresses the disposition of the Homestead-Miami Speedway, LLC, Application to Amend the Comprehensive Development Master Plan (CDMP).**

Recommendation

It is recommended that the Board of County Commissioners (Board) approve the attached ordinance (Substitute Special Item No. 1), which provides for adoption, adoption with change, or denial of the Homestead-Miami Speedway, LLC Application to amend the CDMP.

It is recommended that final action be taken on this substitute ordinance for the referenced CDMP amendment application at the conclusion of the public hearing scheduled to begin at **9:30 AM on Thursday, July 7, 2011 in the Commission Chamber**. The ordinance follows the same format used in previous CDMP amendment cycles. That is, it contains a blank space to record your action on the request contained in the referenced CDMP amendment application. After the Board adopts the entry indicating its action on the Homestead-Miami Speedway, LLC, CDMP Amendment Application, the Board will take final action adopting the ordinance in its entirety, incorporating the foregoing entry. Following the final action will be a transmittal of the adopted CDMP amendment application to the DCA for its compliance review and issuance of a Notice of Intent (NOI).

Scope

The CDMP is a broad-based countywide policy-planning document to guide future growth and development, to insure 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. The application site is located within Commission District 9 (Commissioner Moss). The proposed CDMP amendment is expected to have a countywide impact since it involves a regional facility.

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 costs. Also, in accordance with Resolution No. 530-10, County departments are required to include detailed financial costs and budgetary impact analysis for items that have a fiscal impact. Since the subject property is located within the City of Homestead, the municipality will assume the capital costs and annual operating and maintenance costs associated with any public infrastructure improvements for the proposed development.

According to WASD, the City of Homestead's water treatment plant is operating at capacity and extension of the municipality's water distribution system within the area proposed for development is required. Miami-Dade County on July 9, 2010, entered into a 20-year contract to provide wholesale water service to the City of Homestead. The municipality requested the County to provide 3 million gallons per day (MGD) to replace the withdrawal reduction of their Consumptive Use Permit by the South Florida Water Management District (SFWMD). WASD will also provide 0.5 MGD of water for the remainder of the current fiscal year and an additional 0.5 MGD on an annual basis for five years until September 30, 2015, and 3 MGD annually thereafter. In addition, the City of Homestead is currently in agreement with Miami-Dade County to send a minimum of 2 million gallons per month of wastewater to the County's South District Wastewater Treatment Plant for treatment and disposal. If future development occurs within the application site requiring water and sewer services, the City of Homestead needs to contact WASD to address water and/or sewer connections.

Track record/monitor
CDMP Amendments do not involve contracts; therefore, information on Track Record/Monitoring is not applicable.

Background
The attached substitute ordinance provides for the Board's final action on the Homestead-Miami Speedway, LLC, Application to amend the CDMP. The Board's previous action on referenced CDMP amendment application at the March 22, 2011 public hearing was to "TRANSMIT and ADOPT with Acceptance of the Proffered Declaration of Restrictions." A "Summary of Recommendations" matrix updated in June 2011, which summarizes the previous recommendations of the DP&Z, the Planning Advisory Board (PAB) and the Board, as well as the final recommendation of the DP&Z, is enclosed with the Board's agenda package.

The referenced CDMP amendment application was transmitted to the DCA by letter dated April 4, 2011 for review and comment. The DCA coordinated the State agency consistency reviews on the transmitted CDMP amendment application at the request of Miami-Dade County. The DCA presented its findings on the Homestead-Miami Speedway, LLC, Application in its ORC report, dated May 13, 2011. The DCA did not have any objections or recommendations on the referenced CDMP amendment application.

Revised Recommendations
The DP&Z's final recommendation on the Homestead-Miami Speedway, LLC, Application to amend the CDMP is to "Adopt as Transmitted with Acceptance of the Proffered Declaration of Restrictions."
Section 2-116.1(5)(a)14 of the Code of Miami-Dade County, Florida, provides that the PAB/LPA shall not conduct a public hearing on a Development of Regional Impact (DRI)-related CDMP amendment application if the DCA does not review the transmitted application or does not issue

written objections or recommendations on said application. Therefore the PAB/LPA did not conduct a final public hearing to address this CDMP amendment application.

Assistant County Manager

MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

DATE: July 7, 2011

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

4

Substitute

Approved _____ Mayor

Special Item No. 1

Veto _____

7-7-11

Override _____

ORDINANCE NO. _____

ORDINANCE RELATING TO MIAMI-DADE COUNTY COMPREHENSIVE DEVELOPMENT MASTER PLAN; PROVIDING DISPOSITION OF APPLICATION REQUESTING AMENDMENTS TO THE COMPREHENSIVE DEVELOPMENT MASTER PLAN FILED FOR CONCURRENT PROCESSING WITH PROPOSED CHANGES TO "VILLAGES OF HOMESTEAD" DEVELOPMENT OF REGIONAL IMPACT (DRI) NOTICE OF PROPOSED CHANGE (NOPC); PROVIDING SEVERABILITY, EXCLUSION FROM THE CODE AND EFFECTIVE DATE

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 Board of County Commissioners >>(Board)<< [1] in 1988; and

WHEREAS, Chapter 380.06(6), F.S., provides a procedure for accepting and processing applications to amend a local comprehensive plan concurrently with a Notice of Proposed Change (NOPC) to an existing Development of Regional Impact (DRI); 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, the Homestead-Miami Speedway, LLC filed an application to amend the CDMP and is being processed concurrently with a Notice of Proposed Change, filed with the

---

[1] The differences between the substitute and the original item are indicated as follows: words double stricken through and/or [[double bracketed]] shall be deleted, words double underlined and/or >>double arrowed<< constitute the amendment proposed.

City of Homestead, requesting approval of changes to the existing Villages of Homestead DRI, as provided in Chapter 380.06(6), F.S., and Section 2-116.1, of the County Code; and

WHEREAS, the Homestead-Miami Speedway, LLC [[~~application~~]] >>Application<< to amend the CDMP and the initial recommendation of the Department of Planning and Zoning (DP&Z) required by Section 2-116.1, Code of Miami-Dade County, are contained in a document titled "Application and Initial Recommendation Homestead-Miami Speedway, LLC, Application to Amend the Miami-Dade County Comprehensive Development Master Plan," dated November 29, 2010; and

WHEREAS, the Planning Advisory Board (PAB), acting as the Local Planning Agency (LPA), conducted a duly noticed public hearing on December 16, 2010, to address the subject CDMP amendment Application, the recommendations of the DP&Z, transmittal of the amendment application to the Florida Department of Community Affairs (DCA) for State agency review, and to formulate recommendations regarding final action on the requested Plan amendment; and

>>**WHEREAS,** on March 22, 2011, the Board voted to Transmit with Intent to Adopt as Amended and with Acceptance of the Proffered Covenant, the Homestead-Miami Speedway, LLC, Application to amend the CDMP to the DCA for review and comment; and <<

WHEREAS, the Board hereby strikes the first sentence in the second paragraph under "Fiscal Impact/ Funding Source in the County Manager's memorandum to this ordinance; and

WHEREAS, the DP&Z and the PAB may issue revised recommendations addressing the transmitted CDMP amendment application after receipt of comments from the DCA, prior to final hearing and action by the Board of County Commissioners; and

>>**WHEREAS,** the DCA reviewed the referenced CDMP amendment application at the request of this Board and has issued its Objections, Recommendations and Comments (ORC) report, dated May 13, 2011, pursuant to Section 163.3184 (6)(c), F.S.; and

WHEREAS, the DCA issued no objections or recommendations on the referenced CDMP amendment application in its ORC report dated May 13, 2011; and

WHEREAS, Section 2-116.1(5)(a)(4) of the Code of Miami-Dade County, Florida, provides that the PAB/LPA shall not conduct a public hearing on a DRI-related CDMP amendment application if the DCA does not review the transmitted application or does not issue written objections or recommendations on said application; and

WHEREAS, pursuant to Section 2-116.1(5)(a)(4) of the Code of Miami-Dade County, Florida, the PAB/LPA did not conduct a final public hearing to address the pending Homestead-Miami Speedway, LLC, Application to amend the CDMP; and<<

WHEREAS, the Board [[~~of County Commissioners~~]] must take final action to Adopt, Adopt With Change, or Not Adopt the >>referenced CDMP<< amendment [[~~Application~~]] >>application<< not later than sixty (60) days after receipt of written comments from the DCA addressing the subject Application; and

WHEREAS, consideration of subject application is exempt from the twice-per-year statutory limitation on adoption of comprehensive plan amendments pursuant to Chapter 163, F.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 of County Commissioners, in conjunction with a particular zoning action, finds such preexisting zoning or

uses to be inconsistent with the CDMP based upon a planning study or activity 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 >>Homestead-Miami Speedway, LLC, Application to amend the<< CDMP [[~~amendment application~~]] filed in association with the Notice of Proposed Change for the Villages of Homestead DRI as follows:

Application	Applicant/Representatives Location (Size) REQUESTED CHANGES TO THE CDMP	Final Commission Action
[[~~Villages of Homestead DRI~~]] >>Homestead-Miami Speedway, LLC, Application to Amend the CDMP<<	Homestead-Miami Speedway, LLC / Jeffrey Bercow, Esq., and Melissa Tapanes Llahues, Esq. Between SW 132 and SW 142 Avenues, and between theoretical SW 333 and SW 336 Streets (±120 Acres). Requested Land Use Plan Map Changes: 1. Expand the 2015 Urban Development Boundary (UDB) to include the application site; and 2. Re-designate the ±120-acre application site on the adopted 2015-2025 Land Use Plan (LUP) map from "Agriculture" to "Business and Office." Other Proposed Changes: 3. Add text to Policy LU-8G in the Land Use Element that defines a 'unique regional facility' and provides criteria to be used when considering UDB amendment applications to bring land within the UDB for the expansion of an existing unique regional facility; and 4. Add a proffered Declaration of Restrictions, if accepted by the Board, to the table titled "Restrictions Accepted by the Board of County Commissioners in Association with Land Use Plan Map Amendments" in the Land Use Element.	

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 adopted by this ordinance shall not be affected thereby.

Section 4. It is the intention of the Board of County Commissioners, 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 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 plan 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 plan amendment approved by this ordinance shall be the date a final order is issued by the Department of Community Affairs or Administration Commission finding the 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 amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this 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."

Section 6. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Craig H. Coller