



MEMORANDUM

Agenda Item No. 5(D)

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

DATE:

Public Hearing 11-15-11)
October 18, 2011

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

SUBJECT: Ordinance relating to zoning;
modifying notice requirements and
procedures for applications to extend
expiration dates, build out dates, and
phasing deadlines certain previously
approved development of regional
impact development orders and
related zoning actions; amending
Sections 33-303.1, 33-309, 33-310,
and 33-311

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Chairman Joe A. Martinez.



R. A. Cuevas, Jr.
County Attorney

RAC/up

Memorandum



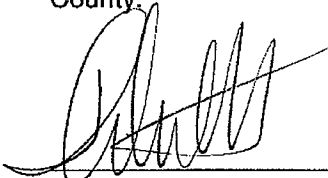
Date: November 15, 2011

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

From: Carlos A. Gimenez
Mayor 

Subject: Ordinance relating to Zoning

The proposed ordinance modifying notice requirements and procedures for applications to extend expiration dates, build out dates, and phasing deadlines in certain previously approved development of regional impact development orders and related zoning actions will not have a fiscal impact to the County.


Office of the Mayor

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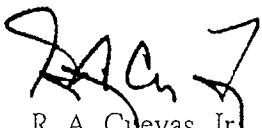


MEMORANDUM

(Revised)

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

DATE: November 15, 2011

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

SUBJECT: Agenda Item No. 5(D)

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 _____

Agenda Item No. 5(D)
11-15-11

ORDINANCE NO. _____

ORDINANCE RELATING TO ZONING; MODIFYING NOTICE REQUIREMENTS AND PROCEDURES FOR APPLICATIONS TO EXTEND EXPIRATION DATES, BUILD OUT DATES, AND PHASING DEADLINES IN CERTAIN PREVIOUSLY APPROVED DEVELOPMENT OF REGIONAL IMPACT DEVELOPMENT ORDERS AND RELATED ZONING ACTIONS; AMENDING SECTIONS 33-303.1, 33-309, 33-310, AND 33-311 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
MIAMI-DADE COUNTY, FLORIDA:**

Section 1. Section 33-303.1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 33-303.1. Developmental Impact Committee

* * *

(D) Duties of the Developmental Impact Committee. The Developmental Impact Committee shall perform the following duties:

* * *

(2) Review and make recommendations concerning all applications for development approval of a development of regional impact and notices of change to a previously approved development if regional impact which would change in any respect the conditions existing in a current development order, resolution

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constituted the amendment proposed. Remaining provisions are now in effect and remain unchanged.

or declaration of restrictions governing land development; provided, however, applications to extend a >>commencement<< build-out date, expiration date, ~~[[or]]~~ phasing deadline >>or applicable mitigation requirements<< for the maximum period of time declared by state law >>regardless of any previous extension<< not to constitute a substantial deviation from existing development orders ~~[[in]]~~ >>for currently valid<< developments of regional impact development orders ~~[[that were under active construction on July 1, 2007]]~~, and related applications for zoning actions to accomplish only the requested extension, shall not be subject to review by the Developmental Impact Committee >>; it is further provided, however, that, pursuant to § 380.06(19)(c)(2), Fla. Stat., the foregoing exception from DIC review shall not apply to development orders for which, before December 1, 2011, the County has notified a developer that has commenced any construction within the phase for which mitigation is required that the County has entered into a contract for construction of a facility with funds to be provided from the development's mitigation funds for that phase as specified in the development order or written agreement with the developer<<.

Section 2. Section 33-309 of the Code of Miami-Dade County, Florida, is hereby

amended to read as follows:

Sec. 33-309. Community Zoning Appeals Board/Board of County Commissioners Applications for public hearing.

All hearings before the Community Zoning Appeals Board or the Board of County Commissioners shall be initiated by the filing with the Department an application on forms prescribed by the Director, executed and sworn to by the owner or owners of at least seventy-five (75) percent of the property described in the application, or by tenant or tenants, with owner's written sworn-to consent or by duly authorized agents, evidenced by a written power of attorney, if not a member of the Florida Bar, or by the Director, or by any person aggrieved by an order, requirement, decision or determination of an administrative official when appealing the same, or by anyone desiring an amendment or repeal to the zoning regulations. All properties described in one (1) application must be contiguous and immediately adjacent to one (1) another, and the Director may require more than one (1) application if the property concerned contains more than forty (40) acres, or the fee paid for one (1) application would not equal the

cost of processing the same. Only applications which the Community Zoning Appeals Board or the Board of County Commissioners are authorized to consider and act upon shall be accepted for filing.

* * *

For property that is the subject of a >>currently valid<< DRI development order ~~[[that was under active construction as of July 1, 2007]]~~, the director shall file an application to extend ~~[[the buildout date, expiration date, and phasing deadlines contained in such development order for the maximum period of time declared by state law not to constitute a substantial deviation from the existing development order,]]~~ >>all commencement, phase, buildout, expiration dates, and applicable mitigation requirements of the DRI for the maximum period of time declared by state law regardless of any previous extension. Such extension shall not constitute a substantial deviation from the existing DRI development order, shall not be subject to further DRI review, and shall not be considered when determining whether a subsequent extension is a substantial deviation under Florida law<<, provided that the owner of the property consents to the application >>no later than December 31, 2011<< and that funds sufficient to pay the costs of >>processing, reviewing,<< advertising and notice as required under Section 33-310 of this code, or sufficient security for such sums, have been provided by or on behalf of the property owner. >>It is provided, however, that, pursuant to § 380.06(19)(c)(2), Fla. Stat., the foregoing provision shall not apply to development orders for which, before December 1, 2011, the County has notified a developer that has commenced any construction within the phase for which mitigation is required that the County has entered into a contract for construction of a facility with funds to be provided from the development's mitigation funds for that phase as specified in the development order or written agreement with the developer.<<

Section 3. Section 33-310 of the Code of Miami-Dade County, Florida, is hereby

amended to read as follows:

Sec. 33-310. Notice and hearing prerequisite to action by the Community Zoning Appeals Board or Board of County Commissioners.

* * *

(d) Mailed notice shall be accomplished by placing in the United States mail a written notice to all property owners of record, as reflected on the Miami-Dade County Property Appraiser's tax roll as updated, within the following radius of the property described in the application, or such greater distance as the Director may prescribe:

(1) Approvals of or modifications to Developments of Regional Impact ("DRI"), including substantial deviation determinations or modifications thereof, one (1) mile; except applications to extend a >>commencement date,<< build-out date, expiration date, ~~[[or]]~~ phasing deadline >>, or applicable mitigation requirement<< for the maximum period of time declared by state law >>regardless of any previous extension<< not to constitute a substantial deviation from ~~[[existing]]~~ development orders ~~[[in]]~~ >>for currently valid<< developments of regional impact development orders ~~[[that were under active construction on July 1, 2007,]]~~ and related applications for zoning actions to accomplish only the requested extension (1,500 feet).

Section 4. Section 33-311 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33-311. Community Zoning Appeals Board -- Authority and duties.

(A) Except as otherwise provided by this chapter, the Community Zoning Appeals Boards and Board of County Commissioners shall have the authority and duty to consider and act upon applications, as hereunder set forth, after first considering the written recommendations thereon of the Director or Developmental Impact Committee. Provided, however, no such action shall be taken until notice of time and place of the hearing at which the Community Zoning Appeals Boards will consider the application has been first published as provided in Section 33-310. The Community Zoning Appeals Boards are advised that the purpose of zoning and regulations is to provide a comprehensive plan and design to lessen the congestion in the highways; to secure safety from fire, panic and other dangers, to promote health, safety, morals, convenience and the general welfare; to provide adequate light and air; to prevent the overcrowding of land and water; to avoid undue concentration of population; to facilitate the adequate

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provisions of transportation, water, sewerage, schools, parks and other public requirements, with the view of giving reasonable consideration among other things to the character of the district or area and its peculiar suitability for particular uses and with a view to conserving the value of buildings and property and encouraging the most appropriate use of land and water throughout the County. The Community Zoning Appeals Board and Board of County Commissioners or any of their members may inspect the premises and area under consideration. The Community Zoning Appeals Board shall have authority over the following zoning applications except where the Board of County Commissioners has direct jurisdiction.

* * *

(9) Hear and make recommendations to the Board of County Commissioners on applications for developments of regional impact and related requests, including requests for modifications thereof and substantial deviation determinations pursuant to Section 380.06(19), Fla. Stat., as amended, as provided by Section 33-314 except an application for modification or elimination of a condition or restrictive covenant that is not a substantial deviation, or an application to extend a >>commencement date<< build-out date, expiration date, ~~[[or]]~~ phasing deadline >>, or applicable mitigation requirements<< for the maximum period of time declared by state law >>regardless of any previous extension<< not to constitute a substantial deviation from ~~[[existing]]~~ development orders ~~[[in]]~~ >>for currently valid<< developments of regional impact development orders ~~[[that were under active construction on July 1, 2007]]~~, and related applications for zoning actions to accomplish only the requested extension, where such application does not contain a request for any other action under this chapter requiring a public hearing apart from modifying the DRI development order >>; it is provided, however, that, pursuant to § 380.06(19)(c)(2), Fla. Stat., the foregoing exception from CZAB review shall not apply to development orders for which, before December 1, 2011, the County has notified a developer that has commenced any construction within the phase for which mitigation is required that the County has entered into a contract for construction of a facility with funds to be provided from the development's mitigation funds for that phase as specified in the development order or written agreement with the developer<<.

* * *

Section 5. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 6. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word “ordinance” may be changed to “section,” “article,” or other appropriate word.

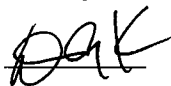
Section 7. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:



Dennis A. Kerbel

Prime Sponsor: Chairman Joe A. Martinez