

Memorandum



Date: April 18, 2012

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

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez".

Subject: Ordinance Acting upon the April 2011 Cycle of Applications to Amend the Comprehensive Development Master Plan (Standard Application No. 3)

Substitute
Special Item No. 1B

This substitute ordinance differs from the original in that it revises the preamble of the original ordinance to reflect the actions taken by the Board of County Commissioners (Board) at its "transmittal" public hearing held November 30, 2011, and acknowledges correspondence received from the State Land Planning Agency and other reviewing agencies issued between January 4, 2012 and January 27, 2012. This substitute ordinance addresses the disposition of pending Application No. 3 filed in the April 2011 Cycle of Applications to Amend the Comprehensive Development Master Plan (CDMP).

Recommendation

It is recommended that the Board of County Commissioners (Board) adopt the attached ordinance (Substitute Special Item No. 1B), which provides for the Board to adopt, adopt with change or deny the pending April 2011 Cycle Application No. 3 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 Wednesday, April 18, 2012 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.

Scope

The CDMP is a broad-based countywide policy-planning document to guide future growth and development, to ensure the adequate provision of facilities and services for existing and future populations in Miami-Dade County, 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 CDMP Land Use Plan map amendment applications may have localized impact on one or more Commission Districts. For example, Application No. 3 is located in Commission District 11 (Commissioner Martinez).

Fiscal Impact

Fiscal impact means the cost to the County of implementing the activities or actions that would be incurred after approval of an 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 public 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 to the County. Information on the fiscal impact of each CDMP

amendment application is contained in Appendix E at the end of each application review in the document titled, "Initial Recommendations April 2011 Applications to Amend the Comprehensive Development Master Plan," dated August 25, 2011.

Fiscal impact from approved CDMP Land Use Plan map amendment applications vary depending on the type of request and location. For example, proposals involving non-residential developments have less impact on public infrastructure and services than proposals involving residential developments. According to Miami-Dade Water and Sewer Department, if the property subject to Application No. 3 were developed with the proposed retail use, the annual operating and maintenance costs are estimated at \$15,718.

Housing Impact

Application No. 3, if approved, would have a negligible impact on the County's housing supply. Based upon the current "Agriculture" CDMP land use designation, the subject property could be developed with a maximum of 1 residential unit. Under the proposed CDMP land use designation of "Business and Office", and if the entire property were to be developed with only residential uses, the application site could be developed with a maximum of 59 residential units. However, at the Board's transmittal public hearing on November 30, 2011, the applicant proffered a Declaration of Restrictions prohibiting residential development on the subject property.

Track Record/Monitor

CDMP Amendments do not involve contracts so a Track Record/Monitor is not applicable.

Background

The attached substitute ordinance provides for final action by the Board on the pending April 2011 Cycle Application No. 3. The County transmitted the referenced CDMP amendment applications to the State Land Planning Agency and other state and regional agencies (reviewing agencies) for review and comment by letter dated December 12, 2011. For this Application No. 3, the Board's previous action was to "Transmit with Acceptance of the Proffered Declaration of Restrictions".

The State Land Planning Agency coordinated the state agency review of the transmitted CDMP amendment Application at the request of Miami-Dade County. The State Land Planning Agency presented no comments on the transmitted CDMP amendment application by letter dated January 27, 2012.

Final Recommendations

The Sustainability, Planning and Economic Enhancement Department's (Department) final recommendation on the pending April 2011 Cycle Application No. 3 is to "Deny".

The Planning Advisory Board's final recommendation on the referenced CDMP amendment application is contained in the attached Planning Advisory Board resolution and the minutes of its final public hearing on the pending April 2011 Cycle Applications.



Deputy Mayor

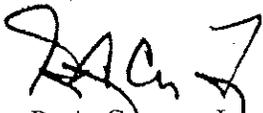


MEMORANDUM

(Revised)

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

DATE: April 18, 2012


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

SUBJECT: Substitute
Special Item No. 1B

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 _____

Substitute
Special Item No. 1B
04-18-12

ORDINANCE NO. _____

ORDINANCE RELATING TO MIAMI-DADE COUNTY
COMPREHENSIVE DEVELOPMENT MASTER PLAN;
PROVIDING DISPOSITION OF APPLICATIONS FILED IN
APRIL 2011 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 (F.S.); 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

WHEREAS, four (4) CDMP amendment applications were filed on or before April 30, 2011 and are contained in the document titled "April 2011 Applications to Amend the Comprehensive Development Master Plan," dated June 3, 2011; and

WHEREAS, of the four (4) CDMP amendment applications, three (3) Land Use Plan ~~[[LUP]]~~¹ map amendments (Application Nos. 1, 2 and 3) were filed by private parties and one (1) CDMP text amendment (Application No. 4) was filed by the Sustainability, Planning and Economic Enhancement Department (Department); and

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.

WHEREAS, the Department issued its initial recommendations addressing the April 2011 Cycle Applications in a report titled "Initial Recommendations April 2011 Applications to Amend the Comprehensive Development Master Plan", dated August 25, 2011, as required by Section 2-116.1, Code of Miami-Dade County; and

WHEREAS, Application No. 4 was subsequently withdrawn by the Department; and

WHEREAS, affected Community Councils have conducted optional public hearings pursuant to Section 2-116.1 (3)(e), Code of Miami-Dade County, to address CDMP amendment applications that would directly impact their respective council areas and issued recommendations to the Planning Advisory Board ~~[[PAB]]~~ and the Board; and

WHEREAS, the ~~>>Planning Advisory Board<< [[PAB]]~~, acting as the Local Planning Agency ~~[[LPA]]~~, conducted a duly noticed public hearing on October 17, 2011, to address the referenced CDMP amendment applications, the recommendations of the Department and the affected community councils, to formulate recommendations regarding the adoption of the April 2011 Cycle Applications, and to address the transmittal of the standard CDMP amendment applications to the State Land Planning ~~[[Agencies (SLPA)]]~~ ~~>> Agency<<~~ and other state and regional agencies [reviewing agencies pursuant to Section 163.3184(1)(c), F.S.] for review and comment; and

WHEREAS, at its October 17, 2011 hearing, the ~~>>Planning Advisory Board<< [[PAB]]~~, acting as the ~~>>Local Planning Agency<< [[LPA]]~~ made recommendations to the Board regarding the adoption of amendment Application No. 1 and the transmittal of standard amendment Application No. 2; and

WHEREAS, the October 17, 2011 hearing was continued on November 7, 2011, at which time the >>Planning Advisory Board<< ~~[[PAB]]~~, acting as the >>Local Planning Agency<< ~~[[LPA]]~~ made recommendation to the Board regarding the transmittal of standard amendment Application No. 3; and

WHEREAS, Application No. 2 was withdrawn by the applicant's letter dated November 29, 2011 and accepted by the Board at the November 30, 2011 public hearing; and

WHEREAS, on November 30, 2011, this Board, by >>resolutions<< ~~[[Resolution]]~~ instructed the County ~~[[Manager]]~~>>Mayor<< to transmit ~~[[certain applications]]~~ >> Application No. 1 and Application No. 3 as standard plan amendments<< to the reviewing agencies for review and comment pursuant to Section 163.3184(3), F.S.; and

>>WHEREAS, the reviewing agencies reviewed the transmitted applications pursuant to Sections 163.3184(2) and (3), F.S.; and

WHEREAS, between January 4, 2012 and January 27, 2012, the State Land Planning Agency, the Florida Department of Agriculture and Consumer Services, the South Florida Regional Planning Council, the South Florida Water Management District, the Florida Department of Education, the Florida Department of Environmental Protection, and the Florida Department of Transportation issued comments regarding impacts of the transmitted applications to federal, state and/or regional facilities and resources pursuant to Sections 163.3184(3), F.S.; and

>WHEREAS, the Planning Advisory Board, acting as the Local Planning Agency, conducted a duly noticed public hearing on February 22, 2012 to address the comments of the



reviewing agencies and to issue recommendations to the Board regarding final disposition of the pending CDMP amendment applications; and<<

WHEREAS, the Board must take final action to Adopt, Adopt With Change or Deny CDMP amendment applications not later than sixty (60) days after receipt of written comments from the reviewing agencies addressing transmitted CDMP amendment applications; 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 hearing 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:

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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 action on >>pending CDMP Application No. 3<< ~~[[the CDMP amendment applications]]~~ filed for review during the April 2011 Cycle for amendments, modifications, additions, or changes to the Miami-Dade County CDMP as follows:

Application Number	Applicant/Representative Location (Size) Requested Amendments to the CDMP Land Use Plan Map or Text	Final Action
3	Ferro Investment Group II, LLC/Miguel Diaz De la Portilla, Esq. Southeast corner of SW 167 Avenue and SW 104 Street (±9.9 gross acres) 1. Expand the [[UDB]] >> <u>Urban Development Boundary</u> << to include the application site 2. Redesignate application site: From: Agriculture To: Business and Office 3. Add the Proffered Declaration of Restrictions to the Restrictions Table 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, 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, pursuant to Section 163.3184(3)(c)4, F.S., the effective date of any individual plan amendment included within the overall amendment shall be 31 days after the State Land Planning Agency notifies the local government that the plan amendment package is complete, if the amendment is not timely challenged. If timely challenged, the amendment shall become effective on the date the State Land Planning Agency or the Administration Commission enters a final order determining the adopted amendment to be in compliance. 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, the individual amendment may nevertheless be made effective, subject to the imposition of sanctions pursuant to Section 163.3184(8), F.S., 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 State Land Planning Agency.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency.

ADW

Prepared by:

CHC

Craig H. Collier