

Memorandum



Date: October 3, 2012

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

From: Carlos A. Gimenez
Mayor

Subject: Ordinance Acting upon the October 2011 Cycle of Applications to Amend the Comprehensive Development Master Plan (Standard Applications)

Substitute
Special Item No. 1

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 May 16, 2012, and acknowledges correspondence received from the State Land Planning Agency and other reviewing agencies issued between June 13, 2012 and July 10, 2012. This substitute ordinance addresses the disposition of pending Application Nos. 1, 2 and 3 filed in the October 2011 Cycle of Applications to Amend the Comprehensive Development Master Plan (CDMP).

Recommendation

It is recommended that the Board of County Commissioners (Board) take action on the attached ordinance (Substitute Special Item No. 1), which provides for the Board to adopt, adopt with change or deny the October 2011 Cycle Applications to amend the CDMP.

It is recommended that final action be taken on this substitute ordinance for the referenced CDMP amendment applications at the conclusion of the public hearing scheduled for October 2012. The ordinance follows the same format used in previous CDMP amendment cycles. That is, it contains blank spaces to record your actions on the requests contained in the referenced CDMP amendment applications.

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 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 map amendment applications may have localized impact on one or more Commission Districts. For example, Application No. 1 is located in District 2 (Commissioner Monestime); Application No. 2 is located in Commission District 11 (Commissioner Martínez); and Application No. 3 is located in Commission District 9 (Commissioner Moss).

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 the Appendix E at the end of each application review in the document titled, "Initial Recommendations October 2011 Applications to Amend the Comprehensive Development Master Plan," dated February 25, 2012.

Fiscal impact from approved 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 subject property identified in Application No. 1 were developed with the proposed industrial and retail uses pursuant to the proffered Declaration of Restrictions (covenant), the annual operating and maintenance costs for water and sewer service to the application site are estimated at \$171,643. If the subject property were developed with the proposed industrial uses and the maximum allowable residential development, in place of retail, the annual operating and maintenance costs for water and sewer service are estimated at \$586,775. The subject property identified in Application No. 2 is prohibited by an existing covenant from being developed with residential uses. If the site were developed with retail uses, the annual operating and maintenance costs for water and sewer service are estimated at \$77,454. If the requested deletion of the existing covenant is approved and the property developed with the maximum allowed 546 single-family attached dwelling units, the annual operating and maintenance costs for water and sewer service are estimated at \$113,475. For Application No. 3, if approved, and the subject site were developed with the proposed 370,000 square feet of retail use and 900 single-family attached units, pursuant to the proffered covenant, the annual operating and maintenance costs are estimated at \$229,766. If the site were developed without the restrictions in the proffered covenant with 1,118,793 square feet of retail uses, and 957 single family attached units, the annual operating and maintenance costs for water and sewer service are estimated at \$328,069.

Housing Impact

The October 2011 Cycle Applications have the potential to reduce or increase the County's housing supply, based upon the application site's current Land Use Plan map designation, the requested Land Use Plan map designation, and voluntary restrictions on residential density. For example, the property subject to Application No. 1 could be developed with a maximum of 1,736 residential units under the current Land Use Plan map designations of "Parks and Recreation" and "Low-Medium Density Residential (6 to 13 dwelling units/gross acre)". Under the proposed amendment, the application site could be developed with a maximum of 2,886 dwelling residential units. Therefore, if approved, the proposed amendment could increase the County's housing supply by 1,150 dwelling units. If the application is approved with the acceptance of the revised Declaration of Restrictions, which limits residential development on the application site to a maximum of 2000 dwelling units, the proposed amendment could increase the County's housing supply by 264 dwelling units. The subject site identified in Application No. 2 is restricted by an existing covenant that prohibits residential development on the application site. This application requests the release and deletion of the existing covenant, and if approved, the subject property could be developed with a maximum of 546 residential units; thus, 546 residential units could be added to the County's housing supply. The subject site identified in Application No. 3 is restricted by a covenant to the development of a maximum 1,200 dwelling units. This application requests a land use designation change to allow for additional retail on a portion of the property together with the release of the existing covenant and the acceptance of a new covenant that would further restrict the number of residential units that could be

developed on the application site to 900. Therefore, if approved, the proposed amendment would reduce the County's housing supply by 300 dwelling units.

Track Record/Monitor

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

Background

The attached ordinance (Substitute Special Item No. 2) provides for final action on the pending October 2011 Cycle Application Nos. 1, 2 and 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 May 31, 2012. The Board's previous actions at the May 16, 2012 public hearing were for Application No. 1 to "Transmit with the Proffered Declaration of Restrictions and Deny", for Application No. 2 to "Transmit and Adopt", and for Application No. 3 to "Transmit with Acceptance of the Proffered Declaration of Restrictions and Adopt".

The State Land Planning Agency coordinated the state agency reviews of the transmitted CDMP amendment applications at the request of Miami-Dade County. The State Land Planning Agency presented no comments on the transmitted amendment applications, but, the Florida Department of Education and the Florida Department of Transportation made comments on Application No. 1. The Department of Regulatory and Economic Resources' response to the comments of the Florida Department of Education and the Florida Department of Transportation are contained in the attached Response to the State and Regional Reviewing Agency Comments, dated August 10, 2012. Application No. 4 was withdrawn by the applicant by letter dated May 14, 2012.

Final Recommendations

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



Jack Osterholt, Deputy Mayor



MEMORANDUM
(Revised)

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

DATE: October 3, 2012

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

Approved _____ Mayor
Veto _____
Override _____

Substitute
Special Item No. 1
10-3-12

ORDINANCE NO. _____

ORDINANCE RELATING TO MIAMI-DADE COUNTY COMPREHENSIVE DEVELOPMENT MASTER PLAN; PROVIDING DISPOSITION OF APPLICATIONS FILED IN OCTOBER 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 Miami-Dade 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

WHEREAS, four (4) applications to amend the CDMP were filed on or before October 31, 2011 and are contained in the document titled "October 2011 Applications to Amend the Comprehensive Development Master Plan," dated December 2, 2011; and

WHEREAS, of the four (4) applications, two (2) Land Use Plan map amendments (Application Nos. 1 and 3) and two (2) text amendments to the CDMP (Application Nos. 2 and 4), were filed by private parties; and

WHEREAS, Miami-Dade County's procedures provide for the expedited processing of small-scale amendments as defined in section 163.3187, Florida Statutes; and

WHEREAS, no small-scale amendment applications were filed during the October 2011 Cycle of Applications to amend the CDMP; and

WHEREAS, the >>Department of Regulatory and Economic Resources<<¹
[[~~Sustainability, Planning and Economic Enhancement Department~~]] (Department) issued its initial recommendations addressing the October 2011 Cycle Applications in a report titled "Initial Recommendations October 2011 Applications to Amend the Comprehensive Development Master Plan", dated February 25, 2012, as required by Section 2-116.1, Code of Miami-Dade County, and may issue final recommendations on transmitted applications prior to final action by the Board; 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 applications to amend the Comprehensive Development Master Plan that would directly impact their respective council areas and issued recommendations to the Planning Advisory Board and the Board; and

WHEREAS, the Planning Advisory Board, acting as the Local Planning Agency, conducted a duly noticed public hearing on April 16, 2012, to address the October 2011 Cycle Applications, the recommendations of the Department and the affected community councils, to formulate recommendations regarding the adoption of the October 2011 Cycle Applications, and to address the transmittal of standard October 2011 Cycle Applications to the State Land Planning Agency and other state and regional agencies (reviewing agencies) pursuant to Section 163.3184, Florida Statutes, for review and comment; and

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

WHEREAS, at its April 16, 2012 public hearing, the Planning Advisory Board, acting as the Local Planning Agency, made recommendations to the Board regarding transmittal of standard amendment Application Nos. 1, 2, 3 and 4; and

>>WHEREAS, Application No. 4 was withdrawn by the applicant by letter dated May 14, 2012; and<<

>>WHEREAS, on May 16, 2011, this Board, by Resolution, accepted the withdrawal of Application No. 4 and instructed the Mayor to transmit standard amendment Application Nos. 1, 2 and 3 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, the State Land Planning Agency by letter dated July 6, 2012, the Florida Department of Agriculture and Consumer Services by letter dated June 27, the South Florida Water Management District by letter dated June 29, 2012, the South Florida Regional Planning Council by letter dated July 10, 2012, and the Florida Department of Environmental Protection by letter dated June 21, 2012, each identified no adverse impacts to state facilities and resources and thereby made no comments on the referenced CDMP amendment applications; and<<

>>WHEREAS, the Florida Department of Education by letter dated June 13, 2012, and the Florida Department of Transportation by letter dated July 6, 2012, presented comments on Application No. 1 of the pending October 2011 cycle of amendments to the CDMP; and<<

>>WHEREAS, the Department published a response to the state and regional reviewing agency comments, dated August 10, 2012; and<<

>>WHEREAS, the Planning Advisory Board, acting as the Local Planning Agency, conducted a duly noticed public hearing on August 20, 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 applications to amend the CDMP no later than sixty (60) days after receipt of written comments from the reviewing agencies addressing transmitted applications; and

WHEREAS, all existing lawful uses and zoning in effect prior to an amendment to the CDMP are deemed to remain consistent with this Plan 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 this Plan; 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, 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 action on >>pending Application Nos. 1, 2 and 3<< [[applications]] filed for review during the October 2011 Cycle for amendments, modifications, additions, or changes to the CDMP as follows:

Application Number	Applicant/Representative Location and Size Requested Amendments to the CDMP Land Use Plan Map or Text	Final Action
1	<p>Rosal Westview, LLC/Jeffrey Bercow, Esq. & Melissa Tapanes Llahues, Esq.</p> <p>Between NW 22 Avenue and NW 27 Avenue, and between NW 132 Street and NW 107 Street (±196 Gross Acres; ±180.4 Net Acres)</p> <p>1. From: Parks and Recreation (±191.6 gross acres); and Low-Medium Density Residential (6 to 13 dwelling units per gross acre; ±4.4 gross acres)</p> <p>To: Industrial and Office (±148.1 gross acres; Part 1 & Part 4 of Application site) and Business and Office (±47.9 gross acres; Part 2 & Part 3 of Application site);</p> <p>2. Revise the Restrictions Table in the Land Use Element on page I-74.1 of the CDMP to include the proffered Declaration of Restrictions, if accepted by the Board.</p> <p>Standard Amendment</p>	
2	<p>Kendall Investors 172, LLC./Juan J. Mayol, Esq.</p> <p>South of SW 88 Street/Kendall Drive and west of SW 167 Avenue (±42 Gross Acres; 38.5 Net Acres)</p> <p>Release and delete current Declaration of Restrictions that prohibits residential development on the 42-acre application area from the Restrictions Table in the Land Use Element on Page I-74.1 of the CDMP.</p> <p>Standard Amendment</p>	
3	<p>RAM Development Company/Juan J. Mayol, Esq. Joseph G. Goldstein, Esq., Tracy R. Slavens, Esq.</p> <p>Southwest corner of SW 124 Avenue and SW 152 Street (±141.57 Gross Acres; 137.89 Net Acres)</p> <p>1. From: Low-Medium Density Residential Communities (6 to 13 dwelling units/gross acre)</p> <p>To: Business and Office on Parcel A (±67.89 gross</p>	

Application Number	Applicant/Representative Location and Size Requested Amendments to the CDMP Land Use Plan Map or Text	Final Action
	<p>acres) of the application site;</p> <p>2. Release current Declaration of Restrictions governing the overall application site; and</p> <p>3. Revise the Restrictions Table in the Land Use Element on page I-74.1 of the CDMP, as necessary, to include the new proffered Declaration of Restrictions, if accepted by the Board.</p> <p>Standard Amendment</p>	
[[4]]	<p>[[Cemex Construction Materials Florida, LLC /Kerri L. Barsh, Esq.</p> <p>Revise the third paragraph of the "Agriculture" land use category text, on page I-59 of the Land Use Element to exempt existing quarrying and ancillary uses and the expansion thereof in areas designated Agriculture from the requirements of Land Use Element Policy LU-3F.</p> <p>Standard Amendment]]</p>	

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, Florida Statutes, 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, Florida Statutes, 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), Florida Statutes, 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:

CAC

Craig H. Coller