MEMORANDUM

Agenda Item No. 7(H)

(Second Reading 12-3-13)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: October 22, 2013

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

SUBJECT: Ordinance relating to zoning; modifying procedures for amending Urban Center District regulating plans; creating Section 33-284.89.3 and amending Section 33-314 of the Code

The accompanying ordinance was prepared by the Regulatory and Economic Resources Department and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman and Co-Sponsor Vice Chair Lynda Bell.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

Memorandum

MIAMI-DADE COUNTY

Date: December 3, 2013

To: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Proposed Zoning Ordinance Updating the Standard Urban Center District Regulations and amending Section 33-314 of the Zoning Code

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Recommendation
It is recommended that the Board of County Commissioners (BCC) adopt the attached zoning ordinance updating the County's Standard Urban Center District (SUCO) Regulations and amending Section 33-314 of the Zoning Code of Miami-Dade County.

Scope
Areas zoned Urban Center and Urban Area District in unincorporated Miami-Dade.

Fiscal Impact/Funding Source
The proposed ordinance creates no fiscal impact on Miami-Dade County.

Track Record/Monitor
Not applicable.

Background
On July 7, 2005, the Board of County Commissioners adopted Ordinance 05-143 establishing Article XXXIII(K) of the Zoning Code, the County's Standard Urban Center District Regulations. The Standard Urban Center District provides the regulatory framework that guides the development within the Comprehensive Development Master Plan (CDMP) designated urban centers and mixed-use corridors and that also constitutes the modern, form-based portion of the County's Zoning Code. The adoption of SUCO Regulations has been followed by the BCC's establishment of the area-specific urban center districts which include those addressing the areas of Cutler Ridge, Goulds, Leisure City, Model City, Naranja, North Central, Ojus, Perrine, and Princeton. To establish an urban center or urban area district, a two-step process is used. The BCC first adopts an ordinance, through its legislative process, that sets forth the boundaries of the urban center, the land use plan designating the uses permitted on each property, and other regulating plans and regulations applicable to that urban center district; second the BCC holds a quasi-judicial zoning hearing on a district boundary change, to rezone each of the underlying properties to the urban center district. Upon the rezoning there is no formal process for an individual property owner or staff to change the land use category or other regulating plan of the urban center or urban area district.

This proposed ordinance will establish a one-step process that property owners and staff can utilize to initiate a change in land use category or other regulating plan for properties located in an urban center or urban area district. This new process will be quasi-judicial and require the submittal of a zoning application with the BCC having direct jurisdiction to hear such applications.

Jack Osterholt, Deputy Mayor

MEMORANDUM
(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: December 3, 2013

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

SUBJECT: Agenda Item No. 7(H)

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 Mayor'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. 7(H)
12-3-13

ORDINANCE NO. _____

ORDINANCE RELATING TO ZONING; MODIFYING PROCEDURES FOR AMENDING URBAN CENTER DISTRICT REGULATING PLANS; CREATING SECTION 33-284.89.3 AND AMENDING SECTION 33-314 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA ("CODE"); PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, the County's Zoning Code (Chapter 33 of the County Code), provides for unique zoning districts, the "urban center districts," that are intended to be moderate- to high-intensity design-unified areas that contain a concentration of different urban functions integrated both horizontally and vertically; and

WHEREAS, establishment of an urban center district is a two-step process: first, this Board adopts an ordinance, through its standard legislative process, that sets forth the boundaries of the urban center, the land use plan designating the uses permitted on each property, and other regulating plans and regulations applicable to that urban center district; and second, this Board holds a quasi-judicial zoning hearing on a district boundary change, to rezone each of the underlying properties to the urban center district; and

WHEREAS, once the district boundary change is completed, each individual property within the urban center bears a zoning designation of "urban center district," but the specific land use category that defines the permitted uses and the other development parameters applicable to a particular property are identified only in the regulating plans set forth in the ordinance; and

WHEREAS, changing the land use category or other regulating plan applicable to a particular property within the urban center is similar to the two-step process used to establish the

district, in that: (1) such an amendment requires a change to the regulating plans set forth in the urban center ordinance itself, which is a legislative act; but (2) it also requires a quasi-judicial hearing because it involves the zoning of a specific property; and

WHEREAS, the current urban center district regulations do not provide a specific process to change the land use category or other regulating plans applicable to a particular property; and

WHEREAS, this Board desires to create a process for urban center districts to allow a land use category or other regulating plan applicable to a particular property to be amended in a single hearing that is both efficient and respectful of the rights and obligations attendant to quasi-judicial matters,

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

Section 1. Section 33-284.89.3 of the Code of Miami-Dade County, Florida, is hereby created as follows:

>>**Sec. 33-284.89.3. – Amendments to Urban Center District Land Use Plan Category or Other Regulating Plan.**

Notwithstanding any other provision of this code, for properties that have a zoning classification of urban center district, the following procedures shall govern (i) any amendment to an urban center district land use plan to change the land use category to which a specific property is designated; or (ii) any amendment to other urban center regulating plan as applicable to the particular property:

(A) *Application.* The amendment process shall be initiated by filing with the Department an application, on forms prescribed by the Director.

(i) The application form shall be 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.

(ii) All properties described in one application must be contiguous and immediately adjacent to one another, and the Director may require more than one application if the property concerned contains more than forty (40) acres, or the fee paid for one application would not equal the cost of processing the same.

(iii) The amendment shall be presented as an ordinance amending the applicable urban center district regulations.

(B) *Notice.*

(i) Notice of the amendment ordinance shall be provided in accordance with the standard procedures for consideration of legislative ordinances.

(ii) In addition, notice of the public hearing date on the amendment ordinance shall be provided in accordance with the requirements of Section 33-310 of this code applicable to an application for district boundary change to an urban center district. The first reading of the ordinance shall not be subject to this additional notice requirement.

(C) *Hearings.* The amendment ordinance shall be introduced on first reading at a regular meeting of the Board of County Commissioners. The ordinance shall thereafter be set for public hearing and second reading at a regular meeting of the Board of County Commissioners. The ordinance shall be considered as a quasi-judicial item and shall be accompanied by the written recommendation of the Director, prepared in accordance with Section 33-310 of this chapter. The hearing shall be conducted in accordance with the procedures for direct zoning applications to the Board of County Commissioners, as set forth in Sections 33-314 and 33-311 of this chapter.

(D) *Exhaustion of remedies; judicial review.*

(i) No person aggrieved by any zoning ordinance, resolution, order, requirement, decision, or determination of an administrative official or by any decision of the Board of County Commissioners may apply to the Court for relief unless such person has first exhausted the remedies provided for herein and taken all available steps provided in this section and complied with all other requirements concerning exhaustion of remedies and court review

set forth in Section 33-316 of this chapter. Judicial review of any decision pursuant to this section shall be governed by the procedures set forth in Section 33-316 of this chapter.

(ii) Any person or entity claiming a particular action under this section constitutes or would constitute a temporary or permanent taking of private property or an abrogation of vested rights must affirmatively demonstrate the legal requisites of the claim by exhausting the administrative remedy provided in Section 2-114.1 of this code.<<

Section 2. Section 33-314 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

Sec. 33-314. - **Direct applications and appeals to the County Commission.**

* * *

(C) The County Commission shall have jurisdiction to directly hear other applications as follows:

* * *

>>(20) Applications for amendment to an urban center district land use plan category or other regulating plan, as provided in Section 33-284.89.3 of this chapter.<<

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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 by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby

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

ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a 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 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.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by: