

Memorandum



(Public Hearing 3-5-14)

Date: November 20, 2013

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

Special Item No. 1

From: Carlos A. Gimenez
Mayor

Subject: Ordinance Acting upon the May 2013 Cycle of Applications to Amend the Comprehensive Development Master Plan (Standard Applications)

Recommendation

It is recommended that the Board of County Commissioners (Board) take action on the attached ordinance (Special Item No. 3), which provides for the Board to adopt, adopt with change or deny the May 2013 Cycle Applications to amend the Comprehensive Development Master Plan (CDMP). It is recommended that first reading occur at the conclusion of the public hearing scheduled for November 2013 in the Commission Chamber. This public hearing is to address the transmittal of applications filed in the May 2013 CDMP Amendment Cycle, to the State Land Planning Agency and other state and regional agencies (reviewing agencies) for review and comments pursuant to Section 163.3184, Florida Statutes. It is further recommended that final action be taken on the ordinance at the conclusion of the public hearing that will be scheduled for March 2014.

Scope

The CDMP is a broad-based countywide policy-planning document created to guide future growth and development, to ensure the adequate provision of public 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 in the County. While the adopted text of the CDMP generally applies countywide, some text amendment applications and individual, site-specific Land Use Plan map amendment applications may have localized impact on one or more Commission Districts. Such as Application Nos. 1, 4 and 5, which are located within Commissioner Diaz's District 12; Application Nos. 2 and 3 (a covenant modification request/CDMP text amendment), which are located within Commissioner Souto's District 10; and Application No. 7, which is located within Commissioner Moss's District 9. Application No. 6 was lawfully withdrawn by the applicant by letter received by the Department of Regulatory and Economic Resources (Department) on October 15, 2013.

Fiscal Impact

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 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 impacts from the referenced small-scale CDMP amendment applications are contained in the document titled,

"Initial Recommendations May 2013 Applications To Amend The Comprehensive Development Master Plan," dated September 13, 2013.

Fiscal impacts 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 (WASD), if the site subject to Application No. 1 is developed with 850,000 square feet of retail, in accordance with the proffered Declaration of Restrictions (covenant), the annual operating and maintenance cost for water and sewer services is estimated at \$85,976 (the covenant allows for a minimum 4.5 acre water park for which additional information is required from the applicant in order for its impacts to be appropriately evaluated). If the site subject to Application No. 2 is developed with 40,075 square feet of retail (maximum retail development allowed under the requested CDMP land use designation of "Business and Office"), the annual operating and maintenance cost for water and sewer services is estimated at \$4,054; applicant proffered a covenant prohibiting residential development on the application site. For Application No. 3, if the application is approved and the application site is developed with 375,000 square feet of retail and 200 multi-family dwelling units, maximum development that would be allowed in accordance with the proffered covenant, the annual operating and maintenance cost for water and sewer services is estimated at \$68,276. If Application No. 4 is approved and the application site is developed with 100,000 square feet of retail, in accordance the proffered covenant, the annual operating and maintenance cost for water and sewer services is estimated at \$10,115. If Application No. 5 is approved and the application site is developed with 113,700 square feet of retail, in accordance with the proffered covenant, the annual operating and maintenance cost for water and sewer services is estimated at \$11,501. If Application No. 7 is approved, in accordance with the proffered covenant and the application site is developed with 272 multi-family dwelling units, the annual operating and maintenance cost for water and sewer services is estimated at \$41,269.

Housing Impact

The May 2013 Cycle Applications have the potential to reduce or increase the County's housing supply, based upon the current CDMP land use designation of the application site, the requested CDMP land use designation and voluntary restrictions on residential density. For instance, Application Nos. 3 and 7 have the potential to increase the County's housing supply by 66 dwelling units. Approval of Application No. 3 could increase the County's housing supply by 45 units; and approval of Application No. 7, with acceptance of the proffered covenant, could increase the County's housing supply by 21 units.

The applicants for Application Nos. 1, 2, 4 and 5 proffered covenants prohibiting residential development on the application sites. Currently, the site subject to Application No. 1 could be developed with a maximum of 17 single-family dwelling units. If Application No. 1 is approved with acceptance of the proffered covenant, the County's housing supply could be reduced by 17 units. Currently, Application No. 2 could be developed with a maximum of 198 multi-family dwelling units. Therefore, if Application No. 2 is approved with acceptance of the proffered covenant, the County's housing supply could be reduced by 198 units. Approval of Application Nos. 4 and 5 with acceptance of the proffered covenant would not impact the County's housing supply, since residential development is currently not allowed on the properties subject to each of the applications, and would be prohibited under the requested CDMP land use designation of "Business and Office" as per the proffered covenant. Application No. 6 was legally withdrawn by the applicant by letter received by the Department on October 15, 2013.

Honorable Chairwoman Rebeca Sosa
And Members Board of County Commissioners
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Track Record/Monitor

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

Background

Seven applications (Application Nos. 1, 2, 3, 4, 5, 6 and 7) were filed during the May 2013 CDMP Amendment Cycle. Application No. 6 was a Land Use Plan map amendment request, but was legally withdrawn by the applicant by letter received by the Department on October 15, 2013. Of the six remaining applications, Application Nos. 1, 2, 4, 5 and 7 request amendments to the CDMP Adopted 2015 and 2025 Land Use Plan map, and Application No. 3 requests an amendment to an existing covenant in the CDMP Land Use Element text.

A resolution accompanying this ordinance (Special Item No. 2) requests review and comments by the reviewing agencies on all transmitted applications. It is estimated that the reviewing agencies will return their comments to Miami-Dade County by January 2014. The County is required to take final action on the pending May 2013 Cycle Applications within 45 days after receipt of comments from the reviewing agencies, unless a greater time period is deemed necessary by the Department. In addition, the Department may issue final recommendations between the time the reviewing agencies issue their comments and the Board conducts its final public hearing. By approving attached ordinance (Special Item No. 3) on first reading, the Board is in a position to conduct a public hearing and take final action on the pending May 2013 Cycle Applications after receipt of comments from the reviewing agencies.



Jack Osterholt
Deputy Mayor



MEMORANDUM
(Revised)

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

DATE: March 5, 2014

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

SUBJECT: 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 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 _____

Special Item No. 1
3-5-14

ORDINANCE NO. _____

ORDINANCE RELATING TO MIAMI-DADE COUNTY
COMPREHENSIVE DEVELOPMENT MASTER PLAN;
PROVIDING DISPOSITION OF APPLICATIONS FILED IN
MAY 2013 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, seven (7) CDMP Land Use Plan map amendments (Application Nos. 1, 2, 3, 4, 5, 6 and 7), were filed by private parties on or before May 31, 2013, and are contained in the document titled "May 2013 Applications to Amend the Comprehensive Development Master Plan," dated June 21, 2013; and

WHEREAS, of the seven (7) applications, six (6) are Land Use Plan map amendments (Application Nos. 1, 2, 4, 5, 6 and 7) and one (1) is a CDMP Declaration of Restrictions amendment (Application No. 3); 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, two (2) Land Use Plan map amendments (Application Nos. 2 and 5) are eligible and have requested expedited adoption as small-scale CDMP amendments; and

WHEREAS, the Department of Regulatory and Economic Resources (Department) issued its initial recommendations addressing the May 2013 Cycle Applications in a report titled "Initial Recommendations May 2013 Applications to Amend the Comprehensive Development Master Plan", dated September 13, 2013, 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, Application No. 6 was lawfully withdrawn by the applicant by letter received by the Department on October 15, 2013, pursuant to Section 2-116.1(3)(b) of the Code of Miami-Dade County, Florida; and

WHEREAS, the Planning Advisory Board, acting as the Local Planning Agency, conducted a duly noticed public hearing on October 21, 2013, to address the May 2013 Cycle Applications, the recommendations of the Department and the affected community councils, to formulate recommendations regarding the adoption of the May 2013 Cycle Applications, and to address the transmittal of standard May 2013 Cycle Applications to the reviewing agencies pursuant to Section 163.3184, Florida Statutes, for review and comment; and

WHEREAS, at its October 21, 2013, public hearing, the Planning Advisory Board, acting as the Local Planning Agency, made recommendations to the Board regarding adoption of eligible small-scale amendment Application Nos. 2 and 5, transmittal of standard amendment Application Nos. 1, 3, 4 and 7, and regarding subsequent final action by the Board on the transmitted applications; and

WHEREAS, the Board must take final action to Adopt, Adopt With Change or Deny applications to amend the CDMP no later than forty (45) days after receipt of written comments from the reviewing agencies addressing transmitted applications, unless a greater time period is deemed necessary by the Director of the Department, pursuant to Section 2-116.1(4)(a) of the Code of Miami-Dade County, Florida; 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:

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 applications filed for review during the May 2013 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>Turnberry/Doral Development, Limited Partnership, LLC/Jeffrey Bercow, Esq. and Michael J. Marrero, Esq.</p> <p>Northwest and southwest corners of NW 41 Street and the Homestead Extension of the Florida Turnpike (HEFT) (±96.79 Gross; ±81.31 Net)</p> <p><u>Requested CDMP Amendment</u></p> <ol style="list-style-type: none"> 1. Expand the Urban Development Boundary (UDB) to include the application site. 2. Redesignate the application site on the Land Use Plan map From: "Open Land" To: "Business and Office" 3. Revise the CDMP Land Use Element Policy LU-8G (i) text to exempt the application area from the areas that shall not be considered for addition to the UDB, after demonstrating that a need exists in accordance to the Policy LU-8F. 4. Revise the Restrictions Table on Page I-74.1 of the CDMP Land Use Element to include the Proffered Declaration of Restrictions if accepted by the Board. 5. On September 11, 2013, the Applicant submitted an additional request to Amend Policy CON-3E in the CDMP Conservation, Aquifer Recharge and Drainage Element to allow for urban land uses on the site. <p>Standard Amendment</p>	

Application Number	Applicant/Representative Location and Size Requested Amendments to the CDMP Land Use Plan Map or Text	Final Action
2	<p>OROT Flagler, LLC/Juan J. Mayol, Jr., Esq. and Tracy R. Slavens, Esq.</p> <p>Southwest corner of the intersection of West Flagler Street and SW 92 Avenue (±3.3 Gross; ±2.3 Net)</p> <p><u>Requested CDMP Amendment</u></p> <ol style="list-style-type: none"> 1. Redesignate application site on the Land Use Plan map: <ul style="list-style-type: none"> From: "Office/Residential" To: "Business and Office" 2. Revise the Restrictions Table on Page I-74.1 of the CDMP Land Use Element to include the Proffered Declaration of Restrictions if accepted by the Board. <p>Small-Scale Amendment</p>	
3	<p>Fontainebleau Place, LLC/Juan J. Mayol, Jr., Esq., Richard A. Perez, Esq. and Tracy R. Slavens, Esq.</p> <p>Northeast corner of the intersection of West Flagler Street and NW 102 Avenue ±41.0 Gross; ±39.0 Net)</p> <p><u>Requested CDMP Amendment</u></p> <p>Modify existing Declaration of Restrictions (April 2008 Cycle Application No. 9) in the Restrictions Table on Page I-74.1 of the CDMP Land Use Element to replace the commitment to develop a minimum of 150 "elderly housing" units with a provision allowing the development on the subject property of "no less than 150 and no more than 200 dwelling units designated for elderly housing"; or "no less than 125 and no more than 150 dwelling units designated for student housing"; or "no less than 150 and no more than 175 conventional multi-family dwelling units."</p> <p>Standard Amendment</p>	
4	<p>Master Development, Inc./Tracy R. Slavens, Esq. and Hugo P. Arza, Esq.</p> <p>Southwest corner of the intersection of NW 6 Street and NW 137 Avenue (±11.49 Gross; ±9.92 Net)</p> <p><u>Requested CDMP Amendment</u></p> <ol style="list-style-type: none"> 1. Redesignate application site on the Land Use Plan map: <ul style="list-style-type: none"> From: "Industrial and Office" To: "Business and Office" 2. Revise the Restrictions Table on Page I-74.1 of the CDMP Land Use Element to include the Proffered Declaration of Restrictions if accepted by the Board. <p>Standard Amendment</p>	

Application Number	Applicant/Representative Location and Size Requested Amendments to the CDMP Land Use Plan Map or Text	Final Action
5	<p>Master Development, Inc./Tracy R. Slavens, Esq. and Hugo P. Arza, Esq.</p> <p>Northwest corner of the intersection of theoretical SW 2 Street and SW 137 Avenue (±9.84 Gross; ±9.1 Net)</p> <p><u>Requested CDMP Amendment</u></p> <ol style="list-style-type: none"> 1. Redesignate application site on the Land Use Plan map: From: "Industrial and Office" To: "Business and Office" 2. Revise the Restrictions Table on Page I-74.1 of the CDMP Land Use Element to include the Proffered Declaration of Restrictions if accepted by the Board. <p>Small-Scale Amendment</p>	
6	<p>Master Development, Inc./Jeffrey Bercow, Esq. and Monika Entin, Esq.</p> <p>Northwest corner of the intersection of theoretical SW 143 Street and SW 137 Avenue (±16.18 Gross; ±13.7 Net)</p> <p><u>Requested CDMP Amendment</u></p> <ol style="list-style-type: none"> 1. Redesignate application site on the Land Use Plan map: From: "Industrial and Office" To: "Business and Office" 2. Revise the Restrictions Table on Page I-74.1 of the CDMP Land Use Element to include the Proffered Declaration of Restrictions if accepted by the Board. <p>Standard Amendment</p>	

Application Number	Applicant/Representative Location and Size Requested Amendments to the CDMP Land Use Plan Map or Text	Final Action
7	<p>137 Holdings, LLC/Graham Penn, Esq. and Melissa Tapanes Llahues, Esq.</p> <p>Southwest corner of the intersection of SW 137 Avenue and SW 168 Street (±12.0 Gross; ±10.7 Net)</p> <p><u>Requested CDMP Amendment</u></p> <ol style="list-style-type: none"> 1. Redesignate Parcel B of the application on site on the Land Use Plan map: <ul style="list-style-type: none"> From: “Low-Medium Density Residential (6 -13 dwelling units per gross acre)” and “Business and Office” To: “Medium Density Residential (13 to 25 dwelling units per gross acre)” 2. Release and delete the Declaration of Restrictions recorded in Book 22345 Pages 1710 to 1725 of the County Official records; and 3. Revise the Restrictions Table on Page I-74.1 of the CDMP Land Use Element to include the new Proffered Declaration of Restrictions, if accepted by the Board. <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.



Prepared by:



Craig H. Coller