

MEMORANDUM

LUDC
Agenda Item No. 1(G)5


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

DATE: June 12, 2014

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

SUBJECT: Ordinance relating to zoning;
amending the responsibilities
of the Developmental Impact
Committee; amending Section
33-303.1 of the Code

The accompanying ordinance was prepared and placed on the agenda at the request of Co-Prime Sponsors Commissioner Jose "Pepe" Diaz, Chairwoman Rebeca Sosa and Commissioner Esteban L. Bovo, Jr., and Co-Sponsor Commissioner Sally A. Heyman.



R. A. Cuevas, Jr.
County Attorney


RAC/smm

Memorandum



Date: April 8, 2014

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

From: Carlos A. Gimenez
Mayor 

Subject: Proposed Zoning Ordinance Amending Section 33-303.1 of the Code of Miami-Dade County Pertaining to the Developmental Impact Committee

Recommendation

It is recommended that the Board of County Commissioners (BCC) adopt the attached zoning ordinance amending Section 33-303.1 of the Zoning Code of Miami-Dade County pertaining to the Developmental Impact Committee.

Scope

Areas located in unincorporated Miami-Dade County.

Fiscal Impact/Funding Source

The proposed ordinance creates no fiscal impact on Miami-Dade County in the short term as the current fee schedule remains the same. In the future, there may be a need to adjust the fee schedule in order to reflect the streamlined process. At that time, staff will prepare a resolution to amend the implementing order containing the Department's fee schedule and the associated fiscal impact.

Track Record/Monitor

Not applicable.

Background

The purpose of the proposed ordinance is to streamline the County's Developmental Impact Committee zoning process. The Zoning Code requires that zoning applications which would result in developments that exceed the thresholds provided in Section 33-301.1 of the Code be subject to review by the County's Developmental Review Committee (DIC). These are large scale developments within the unincorporated area. The current DIC process requires that applications be reviewed by the DIC's Lower and Executive Councils prior to final zoning action at a Community Council or the Board of County Commissioners. In summary, the proposed ordinance:

1. Establishes the Developmental Impact Committee's Lower Council as the County's "developmental review committee" and assigns to it the technical review of zoning applications.
2. Consolidates the Executive Council functions to primarily serve as the County's Land Development Regulation Commission as provided in Section 163.3164 of the Florida Statutes. The Executive Council will no longer provide a recommendation for zoning

applications and this is expected to reduce the application review process by one to two months.

The proposed changes would render the County's Developmental Impact Committee review process equivalent to that of other local governments' "development review committees." The proposed changes would also result in a streamlined development review process but still maintains the benefits of a collaborative technical review.

The proposed ordinance was developed in consultation with the development community and the County Departments involved in the process.

A handwritten signature in dark ink, appearing to read "JO", is written over a horizontal line.

Jack Osterholt, Deputy Mayor



MEMORANDUM

(Revised)

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

DATE: April 8, 2014

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

SUBJECT: Agenda Item No. 4(I)

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. 4(I)
4-8-14

ORDINANCE NO. _____

ORDINANCE RELATING TO ZONING; AMENDING THE RESPONSIBILITIES OF THE DEVELOPMENTAL IMPACT COMMITTEE; AMENDING SECTION 33-303.1 OF THE CODE OF MIAMI-DADE COUNTY; 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.

- (A) There is hereby established a Developmental Impact Committee >>(DIC), which shall serve as a developmental review committee,<< composed of members representing the following County departments and agencies or their successor departments or agencies:
- (1) Department of Public Works and Waste Management; two (2) members consisting of one representative from the Traffic Division and one representative from the Solid Waste Division.
 - (2) Department of Regulatory and Economic Resources; three (3) members consisting of one representative from the Division of Environmental Resource Management, one representative from the Division of Planning, and one representative from the Development Services Division.
 - (3) Parks, Recreation and Open Spaces Department.
 - (4) Miami-Dade Water and Sewer.

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.

- (5) Miami-Dade Police Department, consisting of a representative with responsibility for budget and the District Commander of the district where the application is located, or his or her designee.
 - (6) Fire Rescue Department.
 - (7) Miami-Dade Transit Department.
 - (8) Metropolitan Planning Organization.
 - (9) The County Mayor shall invite the School Board of Miami-Dade County, Florida and the South Florida Water Management District each to assign a permanent representative to the Developmental Impact Committee who shall remain permanent employees of the School Board and the district respectively.
 - (10) Whenever the Developmental Impact Committee is to consider a development of County impact that is proposed in a municipality, representatives of the municipal government shall be invited to serve and participate as ex officio members of the Committee upon all matters relating to the said development.
- (B) The Executive Council of the Developmental Impact Committee >>(Executive Council)<< shall consist of representatives from the following Departments: Department of Regulatory and Economic Resources; Department of Public Works and Waste Management; Water and Sewer Department; Parks, Recreation and Open Spaces Department; Transit Department; the Secretariat of the Metropolitan Planning Organization (MPO); and the County Mayor or his or her designee. Each Department shall be represented by the Director or an Assistant Director, except that the Department of Regulatory and Economic Resources shall be represented by two of the following: the Director, the Assistant Director for Development Services, or the Assistant Director for Environmental Resources Management. Each member may assign staff of the respective department to act on his/her behalf as needed. The Executive Council shall discharge such duties and functions as conferred by the Code of Miami-Dade County, Florida and by the ordinances, rules

and regulations approved by the Board of County Commissioners. The duties and functions of the Executive Council Chair shall be assumed by each of its members on a rotating basis as needed.

- (C) Each named department shall appoint a representative or representatives to the Committee who shall serve full-time in that capacity unless otherwise permitted by the Chairman. The Chairman and members of the Committee shall be furnished with such administrative and clerical assistance as the County Manager deems necessary. They shall sit en banc and shall hold such meetings as required by the Chairman or as prescribed by this section.

- (D) Duties >>of the Executive Council<< of the Developmental Impact Committee. The >>Executive Council<< ~~[[Developmental Impact Committee]]~~ shall perform the following duties:

~~[[1) Review all developments of County impact and recommend, where applicable, whether, and the extent to which:~~

~~(a) The development, as proposed, conforms to the Comprehensive Development Master Plan for Miami Dade County, Florida, and is consistent with the recommendations of any applicable neighborhood or area studies or plans which have been approved by action of the Board of County Commissioners, or is otherwise compatible with the existing area or neighborhood development;~~

~~(b) The development would serve a public benefit;~~

~~(c) The development, as proposed, will have a favorable or unfavorable impact on the environment and natural resources of Miami Dade County, including a consideration of the means and estimated cost necessary to minimize the adverse impacts, if any; the extent to which alternatives to alleviate adverse impacts may have a significant impact on the natural and human environment, and an identification of~~

~~any irreversible or irretrievable commitment of natural resources which would be involved should the development be implemented;~~

~~(d) The development, as proposed, will have a favorable or unfavorable impact on the economy of Miami Dade County, Florida;~~

~~(e) The development, as proposed, will efficiently use or unduly burden water, sewer, solid waste disposal, education, recreation or other necessary public facilities which have been constructed or planned and budgeted for construction in the area;~~

~~(f) The development, as proposed, will efficiently use or unduly burden or affect public transportation facilities, including mass transit, public streets, roads and highways, which have been planned and budgeted for construction in the area, and if the development is or will be accessible by private or public roads, streets, or highways.]]~~

[[~~(2)~~]]>>(1)<< Review and make recommendations concerning all applications >>submitted after January 1, 2014<< for development approval of a >>new<< 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 or declaration of restrictions governing land development; provided, however, applications to extend a commencement, build out date, expiration date, 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 for currently valid developments of regional impact development orders, 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 F.S. § 380.06(19)(c)(2), 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.]]~~

[[~~(3)~~]]>>(2)<<Upon application, determine whether a development of regional impact ("DRI") is essentially built out and issue an appropriate order.

(a) As used in this subsection "essentially built out" shall mean:

(i) The development is in compliance with all applicable terms and conditions of the development order except the build out date; and

(ii) Either:

(A) the amount of the development that remains to be built is less than the substantial deviation threshold specified in § 380.06(19)(b), Fla. Stat., as amended, for each individual land use category, or, for a multi-use development, the sum total of all unbuilt land used as a percentage of the applicable substantial deviation threshold is equal to or less than 100 percent; or

(B) The Developmental Impact Committee has determined, after the state land planning agency has previously agreed

in writing, that the amount of the development to be built does not create the likelihood of any additional regional impact not previously reviewed.

- (b) Hearings before the Executive Council ~~[[of the DIC]]~~ pursuant to this subsection shall be noticed in the same manner as applications filed before the Community Zoning Appeals Boards pursuant to Section 33-310 for modifications of DRIs.
- (c) The ~~>>Executive Council<<~~ ~~[[DIC]]~~ determination that a DRI is essentially built out may be appealed, within fourteen (14) days to the Board of County Commissioners pursuant to the provisions of Section 33-314, Code of Miami-Dade County. The fourteen (14) day appeal period provided herein shall commence on the fourteenth day after transmittal of an order of the Executive Council to the Director. Where the fourteenth day falls on a weekend or legal holiday, the appeal period shall be deemed to extend to the next business day. If the DIC determination is not appealed, the determination shall become final.

~~[[(4) Review and make recommendations upon]], pursuant to the criteria stated in (D)(1), those applications for zoning action or "development" as defined in Section 33-302 which do not constitute developments of County impact but which, if granted, could result in developments having a significant impact on the natural and human environment of Miami-Dade County, Florida. Such developments shall include but not be limited to those listed in Section 33-303.1(D)(6)(a)1 through 8.~~

~~(5) Identify and develop guidelines, and propose rules and regulations concerning the preparation of recommendations to the Board of County Commissioners required by (D)(1), (3) and (6)(c); provided, however, that, as a minimum standard, all~~

~~recommendations shall fully specify the basis for the conclusions reached as to each item listed in Section 33-303.1(D)(1), (3) and (6)(c). Where a development would have only a neutral impact in terms of the aforesaid items, the recommendation shall so specify.~~

- ~~(6) Upon request, assist the Director and the Zoning Official in the preparation of written recommendations and conditions to the Community Zoning Appeals Board and the Board of County Commissioners as required by Chapter 33 of the Code of Miami Dade County. The nature and extent of such assistance shall be established by the Executive Council, after consultation with the Director and the Zoning Official, and shall be specified and adopted as part of the committee's rules and regulations, as herein prescribed.]]~~
- ~~(7) Review and make recommendations concerning County zoning actions, with the exception of applications which seek only non use variances and/or a modification of a condition(s) or covenant(s) and which do not approve a change of use or an increase in the floor area for any and all nonresidential use(s), which are:~~
 - ~~(a) Required by the regulations to be taken after public hearing, and which would allow individually, or cumulatively within an independent development parcel:~~
 - ~~1. Residential developments involving in excess of two hundred fifty (250) dwelling units.~~
 - ~~2. Business uses involving in excess of ten (10) acres or one hundred thousand (100,000) square feet of retail floor area, or one thousand (1,000) vehicle off-street parking space capacity.~~
 - ~~3. Recreational, cultural, or entertainment facilities involving in excess of one thousand (1,000)~~

~~vehicle off-street parking space capacity for single performance or twenty (20) acres.~~

~~4. Office buildings or office complexes involving in excess of one hundred twenty five thousand (125,000) square feet of floor space, or one thousand (1,000) vehicle off-street parking space capacity.~~

~~5. Industrial, processing or manufacturing activity involving fifty (50) acres, or five hundred (500) vehicle off-street parking space capacity.~~

~~6. Hotel and/or motel developments involving in excess of two hundred fifty (250) units.~~

~~7. All planned area developments.~~

~~8. Mixed-use developments with two (2) or more of the land use types specified in 1. through 6. above where none of the individual land uses in the development meet or exceed the thresholds listed in 1. through 6. above and where the sum of the percentages of the appropriate thresholds listed in 1. through 6. above for each applicable land use in the development is greater than one hundred thirty (130) percent. Where a development addresses more than one (1) threshold within a particular land use type listed in 1. through 6. above, then the threshold in that land use type which generates the highest percentage shall be utilized in the calculation of the total mixed-use percentage for the subject development.~~

~~(b) Required by the regulations to be taken after~~

~~public hearing, which zoning action would change in any respect an existing resolution pertaining to an application reviewed by the Developmental Impact Committee, and is presumed to constitute a substantial deviation. All such applications for change shall be presumed to request substantial deviation, unless the requested action neither equals, exceeds, or conflicts with either of the following limitations and standards:~~

- ~~1. An increase in the number of dwelling units of twenty (20) percent or one hundred (100) units, whichever is less.~~
- ~~2. An increase in the floor area for nonresidential uses of twenty (20) percent or thirty thousand (30,000) square feet, whichever is less;~~

~~The foregoing presumption of substantial deviation shall not apply whenever the Executive Council determines that the requested modification would not constitute a potential negative impact under the guidelines of Section 33-301.1(D)(1). The determination by the Executive Council shall be final and not subject to administrative appeal. There shall be no right of judicial review until after final action on the application by the Board of County Commissioners.~~

- ~~(c) The Committee shall recommend to the applicable Board whether, and to the extent to which, the development permitted by the approval of zoning action referred to in (6)(a) and (b) above will efficiently use or unduly burden water, sewer, solid waste disposal, education, recreation or other necessary public facilities or public transportation facilities, including roads, streets and highways, which have been constructed or planned and budgeted for construction in the area, and whether the proposed development will have a favorable or unfavorable impact on the economy of Miami-Dade County, Florida.~~

- (d) ~~No public hearing shall be held by any board on any application for zoning action approval subject to review by the Developmental Impact Committee until the Committee has made its recommendations with regard thereto.~~
- (e) ~~The Committee shall promulgate rules and regulations establishing guidelines, criteria and procedures for the expeditious review of all said zoning actions involving site or plot use plans. In establishing such criteria, the Committee is instructed to encourage originality, increase residential amenities, enhance the appearance of the neighborhood, and, where possible, to preserve the natural features and encourage the best utilization of the land for the benefit, use, and enjoyment of future residents and owners of the property consistent with the overall good of the community.]]~~

~~[(8) Issue letters of interpretation as to whether an application would permit a "development of County impact."]]~~

~~[(9)]>>(3)<< Assist the Director in the preparation of a development manual prescribing uniform standards of, and procedures for, development in Miami-Dade County.~~

~~[(10)]>>(4)<< Establish, and from time to time amend, rules and regulations relating to the preparation of site plans, and other matters, which will assist the general public in complying with the provisions of this section, or such other ordinances relating hereto as may be enacted; provided, however, that such rules and regulations, and amendments thereto, shall only become effective when approved by the Board of County Commissioners following public hearing thereon and filed with the Clerk of the County Commission.~~

~~[(11)]>>(5)<< Serve, in their individual capacities as Committee members, as liaison to the respective County departments or agencies on all matters herein prescribed.~~

~~[(12)]~~>>(6)<< Render preliminary opinions, following preapplication conferences, if requested, on development impacts of zoning applications as established by rule and regulation.

~~[(13)]~~>>(7)<< Assist in the preparation and updating of a capital improvement program for Miami-Dade County.

~~[(14)]~~>>(8)<< Encourage in any manner deemed appropriate by the Developmental Impact Committee responsible citizen contributions to its deliberative processes prior to making final recommendations to the Board of County Commissioners.

~~[(15)]~~>>(9)<< Perform such other functions as prescribed by the County >>Mayor<< ~~[[Manager]]~~.

~~[(16)]~~>>(10)<< Recommend a reasonable review fee to be established by ~~[[administrative]]~~ >>implementing<< order. No such ~~[[administrative]]~~ >>implementing<< order shall be effective until approved >>by<< ~~[[at a public hearing before]]~~ the Miami-Dade County Board of County Commissioners.

~~[(17)]~~>>(11)<< Serve as the Land Development Regulation Commission as provided for in Section 163.3164, Florida Statutes, and develop, recommend and review land development regulations, or amendments thereto, and make recommendations to the Board of County Commissioners as to the consistency of the proposal with the Comprehensive Development Master Plan.

~~[(18)]~~>>(12)<< Review and make recommendations to the Board of County Commissioners concerning all development agreements as defined in Section 33G-8 as required by Section 33G-8((a) and (b)) of the Code of Miami-Dade County.

~~[(19) Review and make recommendations to the Board of County Commissioners on all applications for~~

~~public charter school facilities and all applications for expansions or modifications to existing public charter school facilities.~~

- ~~(20) Review and accept on behalf of Miami Dade County declarations of restrictive covenants running in favor of Miami Dade County and proffered by applicants for public charter school facilities that are exempt pursuant to Section 33-161 of this code from the zoning hearing process in this article, provided that said declarations provide for development restrictions or enhancements that will ensure development of proposed charter school facilities that are consistent with the Comprehensive Development Master Plan and with applicable zoning regulations.]]~~

>>(E) Duties of the Developmental Impact Committee (DIC). The DIC shall perform the following duties:

- (1) Review, pursuant to the criteria stated in (D)(1), those applications for zoning action or "development" as defined in Section 33-302 which do not constitute developments of County impact but which, if granted, could result in developments having a significant impact on the natural and human environment of Miami-Dade County, Florida. Such developments shall include but not be limited to those listed in Section 33-303.1(E)(2).
- (2) Except for applications which seek only non-use variances and/or a modification of a condition(s) or covenant(s) and which do not approve a change of use or an increase in the floor area for any and all nonresidential use(s), review County zoning actions which are:
 - (a) Required by the regulations to be taken after public hearing, and which would allow individually, or cumulatively within an independent development parcel:
 1. Residential developments involving in excess of two hundred fifty (250) dwelling units.

2. Business uses involving in excess of ten (10) acres or one hundred thousand (100,000) square feet of retail floor area, or one thousand (1,000) vehicle off-street parking space capacity.
3. Recreational, cultural, or entertainment facilities involving in excess of one thousand (1,000) vehicle off-street parking space capacity for single performance or twenty (20) acres.
4. Office buildings or office complexes involving in excess of one hundred twenty-five thousand (125,000) square feet of floor space, or one thousand (1,000) vehicle off-street parking space capacity.
5. Industrial, processing or manufacturing activity involving fifty (50) acres, or five hundred (500) vehicle off-street parking space capacity.
6. Hotel and/or motel developments involving in excess of two hundred fifty (250) units.
7. All planned area developments.
8. Mixed-use developments with two (2) or more of the land use types specified in Subsections (E)(2)(a) 1 through 6 above where none of the individual land uses in the development meet or exceed the thresholds listed in Subsections (E)(2)(a) 1 through 6 above and where the sum of the percentages of the appropriate thresholds listed in Subsections (E)(2)(a) 1 through 6 above for each applicable land use in the development is greater than one

hundred thirty (130) percent. Where a development addresses more than one (1) threshold within a particular land use type listed in 1 through 6 above, then the threshold in that land use type which generates the highest percentage shall be utilized in the calculation of the total mixed-use percentage for the subject development.

(b) Required by the regulations to be taken after public hearing, which zoning action would change in any respect an existing resolution pertaining to an application reviewed by the Developmental Impact Committee, and is presumed to constitute a substantial deviation. All such applications for change shall be presumed to request substantial deviation, unless the requested action neither equals, exceeds, or conflicts with either of the following limitations and standards:

1. An increase in the number of dwelling units of twenty (20) percent or one hundred (100) units, whichever is less.

2. An increase in the floor area for nonresidential uses of twenty (20) percent or thirty thousand (30,000) square feet, whichever is less;

The foregoing presumption of substantial deviation shall not apply whenever the Director determines that the requested modification would not constitute a potential negative impact under the guidelines of Section 33-301.1(D)(1).

(c) The DIC shall address the extent to which the development permitted by the approval of a zoning action will efficiently use or unduly burden water, sewer, solid waste disposal, education, recreation, or other necessary public facilities or public transportation facilities, including roads,

streets, and highways, which have been constructed or planned and budgeted for construction in the area, and whether the proposed development will have a favorable or unfavorable impact on the economy of Miami-Dade County, Florida.

- (d) No public hearing shall be held by any board on any application for zoning action approval subject to review by the DIC until the committee has made its recommendations with regard thereto.
- (e) The DIC shall promulgate rules and regulations establishing guidelines, criteria, and procedures for the expeditious review of all said zoning actions involving site or plot use plans. In establishing such criteria, the DIC is instructed to encourage originality, increase residential amenities, enhance the appearance of the neighborhood, and, where possible, to preserve the natural features and encourage the best utilization of the land for the benefit, use, and enjoyment of future residents and owners of the property consistent with the overall good of the community.
- (3) Review all applications for public charter school facilities and all applications for expansions or modifications to existing public charter school facilities.
- (4) Review on behalf of Miami-Dade County declarations of restrictive covenants running in favor of Miami-Dade County and proffered by applicants for public charter school facilities that are exempt pursuant to Section 33-161 of this Code from the zoning hearing process in this article, provided that said declarations provide for development restrictions or enhancements that will ensure development of proposed charter school facilities that are consistent with the Comprehensive Development Master Plan and with applicable zoning regulations.<<

Section 2. 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 3. 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 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 4. 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:



Lauren E. Morse