

MEMORANDUM

Agenda Item No. 7(C)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: (Second Reading 1-20-21)
October 20, 2020

FROM: Geri Bonzon-Keenan
Successor County Attorney

SUBJECT: Ordinance relating to land use; amending sections 2-105 and 2-116.1 of the Code; conforming Code provisions to changes in state law; repealing procedures related to “essentially built out” agreements and substantial deviation determinations for comprehensive plan amendment with concurrent modification of approved development of regional impact; amending article XXXVI of chapter 33; repealing process related to substantial deviation and “essentially built out” determinations for developments of regional impact; making conforming changes to process and voting requirements based on such repeal; repealing procedure for requesting amendments to Zoning Code from Community Zoning Appeals Board; amending sections 33E-14, 33H-14, 33I-7, and 33J-8; revising exemptions from certain impact fees relating to developments of regional impact; making technical changes

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Joe A. Martinez.



Geri Bonzon-Keenan
Successor County Attorney

GBK/smm

Memorandum



Date: October 20, 2020

To: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A handwritten signature in blue ink, appearing to read "Carlos A. Gimenez". The signature is fluid and cursive, with a prominent loop at the end.

Subject: Fiscal Impact Statement for Ordinance Relating to Land Use; Built Out Agreements

The implementation of this ordinance will not have a fiscal impact to Miami-Dade County as the proposed changes will not require additional staffing resources nor generate additional operational expenses.

A handwritten signature in blue ink, appearing to read "Jack Osterholt". The signature is fluid and cursive, with a prominent loop at the end.

Jack Osterholt
Deputy Mayor

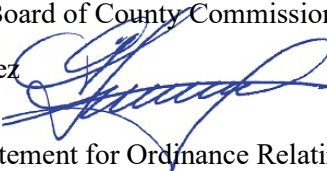
Fis00721 202083

Memorandum



Date: October 20, 2020

To: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor 

Subject: Social Equity Statement for Ordinance Relating to Land Use

The proposed ordinance relating to Land Use amends Sections 2-105, 2-116.1 and Chapter 33 of the Code of Miami-Dade County (Code) conforming code provisions to changes in State Law. The proposed ordinance seeks to bring the County Code into conformance with a series of amendments to Chapter 380 of the Florida Statutes that were adopted in 2018 with the purpose of streamlining the Development of Regional Impact (DRI) process by, among others things, eliminating the procedure for substantial deviation, enabling the exclusive local review of any DRI modifications, and eliminating the procedure determining that a DRI is essentially built out. The proposed ordinance authorizes the Developmental Impact Committee to make recommendations to the Board of County Commissioners regarding any request to abandon a DRI.

Implementation of the proposed ordinance may result in the reduction of time to process zoning applications in connection with existing DRI. No other specific social equity or benefit can be determined at this time.



Jack Osterholt
Deputy Mayor


202083



MEMORANDUM
(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: January 20, 2021

FROM: 
Gen Bonzon-Keenan
Successor County Attorney

SUBJECT: Agenda Item No. 7(C)

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
- Statement of social equity 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 present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) 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(C)

1-20-21

ORDINANCE NO. _____

ORDINANCE RELATING TO LAND USE; AMENDING SECTIONS 2-105 AND 2-116.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; CONFORMING CODE PROVISIONS TO CHANGES IN STATE LAW; REPEALING PROCEDURES RELATED TO “ESSENTIALLY BUILT OUT” AGREEMENTS AND SUBSTANTIAL DEVIATION DETERMINATIONS FOR COMPREHENSIVE PLAN AMENDMENT WITH CONCURRENT MODIFICATION OF APPROVED DEVELOPMENT OF REGIONAL IMPACT; AMENDING ARTICLE XXXVI OF CHAPTER 33; REPEALING PROCESS RELATED TO SUBSTANTIAL DEVIATION AND “ESSENTIALLY BUILT OUT” DETERMINATIONS FOR DEVELOPMENTS OF REGIONAL IMPACT; MAKING CONFORMING CHANGES TO PROCESS AND VOTING REQUIREMENTS BASED ON SUCH REPEAL; REPEALING PROCEDURE FOR REQUESTING AMENDMENTS TO ZONING CODE FROM COMMUNITY ZONING APPEALS BOARD; AMENDING SECTIONS 33E-14, 33H-14, 33I-7, AND 33J-8; REVISING EXEMPTIONS FROM CERTAIN IMPACT FEES RELATING TO DEVELOPMENTS OF REGIONAL IMPACT; MAKING TECHNICAL CHANGES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, in 2018, the Florida Legislature adopted chapter 2018-158, Laws of Florida, amending section 380.06, Florida Statutes, which governs Developments of Regional Impact (“DRIs”); and

WHEREAS, the amendments eliminated the unique procedure for review of substantial deviations, in contrast to other modifications, and the requirement that an applicant submit a Notice of Proposed Change to the regional planning council when seeking to modify a DRI; and

WHEREAS, subsection (7) of section 380.06, Florida Statutes, was amended to provide for DRI modifications to be subject only to local government review rather than also requiring review by the applicable regional planning council; and

WHEREAS, the amendments also eliminated the procedures for determining that a DRI is “essentially built out;” and

WHEREAS, this Board now wishes to amend the County Code to conform the Code to the 2018 amendments to section 380.06; and

WHEREAS, this Board also wishes to make technical amendments to reorganize the planning, zoning, and impact fee ordinances being amended herein, and to delete a procedure that currently authorizes Community Zoning Appeals Boards to consider applications requesting amendments to the Zoning Code,

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

Section 1. Section 2-105 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 2-105. - Director—Duties.

>>(1)<< Under the supervision of the Mayor and with the advice of the Planning Advisory Board, the Director shall among other things:

* * *

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.

~~[[(k) To enter into an "essentially built out" agreement with a developer and the state land planning agency where it has been finally determined that a development of regional impact ("DRI") is "essentially built out", in accordance with the procedures set forth in Section 33-303.1, Code of Miami Dade County, as amended, and Section 380.06(15)(g)(3), Florida Statutes, as amended.]]~~

>>(2)<< The Department ~~[[of Planning and Zoning]]~~ shall be responsible for the enforcement of the Planning and Zoning laws of the County, in accordance with the provisions of this Code ~~[[, including but not limited to Sections 2-968, 2-969 and 33-39.21]]~~, and shall perform such other duties and functions as the County Commission may prescribe.

>>(3)<< The Department is authorized to charge and collect fees and furnish copies of plans, permits, and other department records to the public provided that a schedule of the type and amount of fees >>is established by implementing order approved by the Board of County Commissioners<< ~~[[to be charged is first filed with the Clerk of the Board of County Commissioners in accordance with the provisions of Section 2-3 of this Code]]~~.

Section 2. Section 2-116.1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 2-116.1. - Amendment procedure for Comprehensive Development Master Plan.

* * *

(5) *Additional exceptions from application cycle filing and other procedural requirements.* Notwithstanding other requirements of this section, the following types of applications shall be exempt from the requirement to file within an application cycle.

* * *

(b) *Procedure for amendment concurrently with Development of Regional Impact Development Order.* Applications related to a proposed development of regional impact (DRI), including requests ~~>>to modify<< [[for approval of a substantial deviation from]]~~ an approved DRI, may be filed at times other than the filing periods prescribed herein as provided by ~~>>section<< [[Section]] 380.06>>, Florida Statutes<< [[, F.S., in instances where a CDMP amendment would be necessitated by the DRI approval sought]].~~ Such applications shall be processed in accordance with the following provisions:

- (1) Whenever an ~~>>application to approve or modify<< [[applicant for]]~~ a DRI development order seeks a related amendment to the CDMP, the applicant must ~~[[inform the Director of the Department of the amendment requested by filing]]~~ ~~>>file<<~~ an application in the form prescribed by the Director pursuant to this section. ~~[[The application must be accompanied by a copy of the letter submitted to the regional planning council applying for DRI development approval, the data and analysis and any other information specified at the preapplication conference with the regional planning council staff, or its successor agency, upon which the County can determine whether or not to transmit the proposed CDMP amendment pursuant to Section 163.3184, F.S. The application filing date is hereby deemed to be the later of the dates on which the Director of the Department]] receives a completed CDMP amendment application, or the date on which the Director receives notification from the regional planning council or its successor agency that the application for development approval is sufficient.]]~~
- (2) Where an application directly impacts a Community Council as determined by the Director ~~[[of the Department]]~~, the subject Community Council shall be provided with an opportunity to conduct a public hearing

and issue recommendations on the application in the manner set forth in ~~[[Section]]~~ >>subsection<< 2-116.1(3) herein; provided, however, such hearing and review shall take place within >>75<< ~~[[twenty (20)]]~~ days after an application is filed pursuant to this paragraph and before the public hearing conducted by the Local Planning Agency.

>>(3)<< The Planning Advisory Board acting as the Local Planning Agency (LPA) shall conduct a public hearing to address the application not later than >>90<< ~~[[thirty (30)]]~~ days after an application is filed pursuant to this paragraph.

>>(i)<< This public hearing shall be noticed in accordance with the notice provisions contained in ~~[[Section]]~~ >>subsection<< 2-116.1(3) herein.

>>(ii)<< At the conclusion of the public hearing, the LPA shall issue >>recommendations regarding<< the following to the Board of County Commissioners:

>>a.<< ~~[[1) recommendations regarding]]~~ transmittal of the application ~~[[by the Board of County Commissioners]]~~ to the State review agencies pursuant to >>section<< ~~[[Section]]~~ 163.3184, >>Florida Statutes<< ~~[[F.S.]]~~; and

>>b.<< ~~[[2) recommendations regarding]]~~ subsequent final action ~~[[by the Board of County Commissioners]]~~ on the plan amendment(s) being proposed for transmittal ~~[[to the State Land Planning Agency and other review agencies]]~~.

>>(4)<< ~~[[3)]]~~ Not later than >>120<< ~~[[sixty (60)]]~~ days after the filing of an application pursuant to this paragraph, the Board of County Commissioners shall conduct a

public hearing and make a determination on the transmittal of the application pursuant to >>section<< [[Section]] 163.3184, [[F.S.]] >>Florida Statutes.

(i)<< The public hearing shall be advertised [[once not later than thirty (30) days after the filing of the application]] in the manner required by >>section<< [[Section]] 163.3184, [[F.S.]] >>Florida Statutes,<< for the advertisement of public hearings at which the Board of County Commissioners will consider the transmittal of proposed plan amendments.

>>(ii)<< The transmittal actions of the Board of County Commissioners and the transmittal by the County Mayor or the Mayor's designee shall occur in the manner prescribed in [[Section]] >>subsection<< 2-116.1(3) herein.

>>(5)<<[[(4)]] The Board of County Commissioners shall take final action on the application filed pursuant to this paragraph at the same public hearing as it acts upon the application for approval of or the proposed change to, the DRI development order.

>>(i)<< However, the Board of County Commissioners shall take action separately on the application for development approval or the proposed change and on the CDMP amendment.

>>(ii)<< This public hearing shall occur no sooner than >>30<< [[thirty (30)]] days and no later than >>60<< [[sixty (60)]] days after receipt of the response from the State Land Planning Agency and other review agencies pursuant to >>section<< [[Section]] 163.3184, [[F.S.]] >>Florida Statutes.<<

>>(iii)<< This public hearing to consider amending the CDMP shall be advertised in the manner prescribed in

>>section<< [[Section]] 163.3184, [[F.S.]] >>Florida Statutes,<< for the advertisement of public hearings at which the Board of County Commissioners will consider adoption of CDMP amendments.

>>(6)<< [[(5)]] Board of County Commissioners >>final<< actions [[to transmit, adopt, or adopt with changes]] >>on<< any application filed pursuant to this paragraph >>(b)<< shall be by affirmative vote of not less than a majority of the total membership of the County Commission then in office, except that >>:

(i)<< any decision to include any additional land within the Urban Development Boundary, or to redesignate to urban use any land outside the Urban Development Boundary, or to modify the Urban Expansion Area boundary shall require the affirmative vote of two-thirds [[(-2/3-)] of the total membership of the County Commission then in office [[- Notwithstanding any other provision to the contrary,]] >>; and

(ii)<< any decision to make amendments, modifications, additions, or changes to a declaration of restrictive covenants that was accepted in connection with a prior application to amend the CDMP shall require a vote of two-thirds [[(-2/3-)] of members present but not less than seven affirmative votes.

>>(7)<< [[(6)]] The deadlines established in >>this paragraph<< [[paragraphs 2-116.1(5)(a)(2) through (4), above,]] may be extended only at the written request of the applicant received by the Director [[of the Department]] prior to the earliest of the dates that the Department submits public hearing advertisements for newspaper publication or

mails hearing notices to neighboring property owners. After this date, such ~~[[written]]~~ requests may be approved only by motion by the Board of County Commissioners.

* * *

Section 3. Article XXXVI of chapter 33 of the Code of Miami-Dade County, Florida,

is hereby amended to read as follows:

ARTICLE XXXVI. - ZONING PROCEDURE

* * *

Sec. 33-303.1. - Developmental Impact Committee.

* * *

(D) Duties of the Executive Council of the Developmental Impact Committee. The Executive Council shall perform the following duties:

* * *

(2) Upon application, ~~>>~~make recommendations to the Board of County Commissioners regarding any request for an order to abandon~~<< [[determine whether]]~~ a development of regional impact ("DRI") ~~>>~~and associated development order pursuant to section 380.06(11), Florida Statutes.~~<< [[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 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 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.]]~~

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Sec. 33-304. – Applications.

(a) All requests for a district boundary change, ~~[[changes in the zoning regulations, appeals of administrative decisions, special exceptions or unusual uses, new uses, variances, approvals of or modifications to developments]]~~ >>appeal of administrative decision, special exception, unusual use, new use, variance, approval of or modification to a development~~<< of regional impact (“DRI”), [[including substantial deviation determinations, and determinations that a DRI is essentially built out,]]~~ >>or for other zoning action~~<< shall be made by filing an application therefor with the Director on application forms prescribed by the Director or by rule and regulation of the Developmental Impact Committee.~~

>>(1) *Disclosure of interests required.*~~<< Forms shall include, but not be limited to, disclosure forms for corporations, trusts, and partnerships, and disclosure of information regarding contract purchasers and their percentage(s) of interest.~~

>>(a)~~<< Disclosure shall not be required of: i) any entity, the equity interests in which are regularly traded on an established securities market in the United States or another country; or ii) pension funds or pension trusts of more than >>5,000<< [[five thousand (5,000)]] ownership interests; or iii) any entity where ownership interests are held in a partnership, corporation or trust consisting of more than >>5,000<< [[five thousand (5,000)]] separate interests, including all interests at every level of ownership, and where no one [(4)] person or entity holds more than a total of five [(5)] percent of the ownership interest in the partnership, corporation or trust.~~

>>(b)~~<< Entities whose ownership interests are held in a partnership, corporation, or trust consisting of more than >>5,000<< [[five thousand (5,000)]] separate interests, including all interests at every level of ownership, shall only be required to disclose~~

those ownership interest which exceed five ~~[[5]]~~ percent of the ownership interest in the partnership, corporation, or trust.

>>(c)<< Disclosure forms shall be established by >>implementing order<< ~~[[administrative order to be]]~~ approved by the Board of County Commissioners.

>>(d)<< Such disclosure forms shall be included in the agendas distributed in connection with the public hearing on the application.

>>(2) Statement of consistency with comprehensive plan required.<< Where applicable, >>applications<< ~~[[requests]]~~ shall specify whether, and the extent to which, the requested change in land use or proposed development conforms to the Comprehensive Development Master Plan for Miami-Dade County, Florida.

>>(3) Boundary survey required.<< All requests >>to authorize or permit<< ~~[[which authorizes or permits]]~~ development filed pursuant to this section shall include a boundary survey of the property >>that<< ~~[[which]]~~ is the subject of the application performed in accordance with ~~[[Chapter 61G17-6.0031, Florida Administrative Code as may be amended from time to time in the event]]~~ >>rule 5J-17.052, Florida Administrative Code, as may be amended from time to time.

(a) The survey shall also identify<< any portion of the property >>that<< is contiguous to or across the street from a municipal boundary.

>>(b)<< It is further provided that such survey shall depict the location of any municipal boundary on or across the property being surveyed.

>>(c)<< The boundary survey submitted shall have been updated within one year >>preceding<< ~~[[preceeding]]~~ the date of an application filed pursuant to this section.

>>(4) Limitations on filing of subsequent applications.

(a)<< Upon the approval of a zoning application in whole or in part, a period of six ~~[[6]]~~ months must run prior to the filing of any subsequent application on the same property; provided that the appropriate board upon approving the

application may provide for a different waiting period upon a showing of good cause.

- >>(b)<< Applications approved for withdrawal without prejudice must wait a period of six ~~[[6]]~~ months prior to the filing of any subsequent application on the same property; provided that the appropriate board upon approving the withdrawal without prejudice may provide for a different waiting period upon a showing of good cause.
- >>(c)<< Upon the final denial of a zoning application without prejudice, a period of one ~~[[1]]~~ year must run prior to the filing of a subsequent application on the same property; provided that the appropriate board upon denying the application without prejudice may provide for a different waiting period upon a showing of good cause.
- >>(d)<< Upon the withdrawal or final denial of a zoning application with prejudice in whole or in part, a period of >>18<< ~~[[eighteen (18)]]~~ months must run prior to the filing of a subsequent application.
- >>(e)<< In the event an application in whole or in part has been twice or more denied or withdrawn, a period of two ~~[[2]]~~ years must run prior to the filing of any subsequent application.
- >>(f)<< Such periods of limitation shall not commence to run until the decision has been rendered by the last Board to consider the application.
- >>(g) Such<<[[~~Further, such~~]] periods of limitation shall not apply to applications filed by the Director or the Zoning Official.
- >>(h)<< Notwithstanding >>any provisions to the contrary<< ~~[[the provisions in the foregoing paragraph,]]~~ it is expressly provided that, except for applications that have been twice or more denied or withdrawn, there shall be no period of limitation for either >>:
 - (i)<< ~~[[1]]~~ a subsequent application that proposes a lesser total density or a less intense use than the preceding

application, as determined by the Director at the time of filing;

>>(ii)<< ~~[[2]]~~ a subsequent application that proposes five ~~[[5]]~~ or fewer residential units; or

>>(iii)<< ~~[[3]]~~ a subsequent application that proposes development in the “urban infill area,” as that area is defined in the Comprehensive Development Master Plan.

>>(5) Time for requesting withdrawal. The following time frames govern requests for withdrawal:

(a)<< An application may be withdrawn without prejudice by the applicant as a matter of right, provided the request for withdrawal is in writing and executed in the same manner as provided by >>section<< ~~[[Section]]~~ 33-309 for the executing of application, and filed with the Department no later than >>40<< ~~[[forty(40)]]~~ days prior to the public hearing;

>>(b)<< otherwise all such requests for withdrawal shall be with prejudice save and except that the Community Zoning Appeals Boards or the Board of County Commissioners may permit withdrawals without prejudice at the time the matter is considered by such Boards;

>>(c)<< provided, further, no application may be withdrawn after final action has been taken.

* * *

Sec. 33-310. - Notice and hearing prerequisite to action by the Community Zoning Appeals Boards or Board of County Commissioners.

* * *

(d) Mailed notice shall be accomplished by placing in the United States mail a written notice to all property owners of record, as reflected on the Miami-Dade County Property Appraiser's tax roll as updated, within the following radius of the property described in the application, or such greater distance as the Director may prescribe:

- (1) Approvals of or modifications to Developments of Regional Impact (“DRI”) ~~[[, including substantial deviation determinations or modifications thereof]],~~ one ~~[[(1)]]~~ mile.

* * *

Sec. 33-311. - Community Zoning Appeals Board—Authority and duties.

- (A) Except as otherwise provided by this chapter, the Community Zoning Appeals Boards ~~[[Community Zoning Appeals Boards]]~~ ~~and~~ ~~Board of County Commissioners~~ shall have the authority and duty to consider and act upon applications, as hereinafter set forth, after first considering the written recommendations thereon of the Director or Developmental Impact Committee ~~[[at which the Community Zoning Appeals Boards will consider the application has been first published as provided in Section 33-310.2]].~~ ~~[[Community Zoning Appeals Boards]]~~ ~~and~~ ~~Board of County Commissioners~~ ~~[[Community Zoning Appeals Board and Board of County Commissioners]]~~ ~~or any of their members~~ may inspect the premises and area under consideration. The Community Zoning Appeals Boards shall have authority over the following zoning applications except where the Board of County Commissioners has direct jurisdiction.

* * *

(9) Hear and make recommendations to the Board of County Commissioners on applications for developments of regional impact and related requests, including requests for modifications thereof ~~[[and substantial deviation determinations pursuant to F.S. § 380.06(19), as amended]]~~, as provided by ~~>>section<< [[Section]]~~ 33-314 ~~[[except]] >>~~.

(a) It is provided, however, that the CZABs shall not make recommendations regarding an application for any of the following extensions of a DRI development order, where such application does not contain a request for any other action under this chapter requiring a public hearing apart from those necessary to accomplish the requested extension:~~<< [[an application for modification or elimination of a condition or restrictive covenant that is not a substantial deviation, or]] an application to extend a commencement date, 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 development orders for currently valid developments of regional impact development orders]]~~, and related applications for zoning actions to accomplish only the requested extension ~~[[, where such application does not contain a request for any other action under this chapter requiring a public hearing apart from modifying the DRI development order; it]] >>~~.

(b) It~~<<~~ is provided, however, that ~~[[, pursuant to F.S. § 380.06(19)(c)(2),]]~~ the foregoing exception from CZAB 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.

* * *

Sec. 33-313. – Appeals to Board of County Commissioners.

* * *

(D) Upon the taking of an appeal, the County Commission shall conduct a de novo hearing and shall consider why the decision of the Community Zoning Appeals Board should or should not be sustained or modified.

>>(1)<< By resolution, the Board shall either affirm, modify or reverse the >>CZAB's<< [~~Community Zoning Appeals Board's~~] decision [~~and such~~] >>.

(2) Such<< action of the County Commission shall be by a majority vote of all members present >>,<< except that a two-thirds [~~(2/3)~~] vote of all members present shall be required to reverse any >>CZAB<< [~~Community Zoning Appeals Board~~] decision denying a request for zoning action [~~or to approve any Development of Regional Impact or modifications thereof, substantial deviation determination or related request pursuant to Section 33-314 where a Community Zoning Appeals Board's recommendation is for denial~~].

* * *

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

(A) The County Commission shall have jurisdiction to directly hear the following applications:

(1) Applications for development approval of Developments of Regional Impact (“DRI”) >>or<< [~~] modification thereof [~~or substantial deviation determination or modification thereof~~], including applications for modifications to restrictive covenants related thereto, after hearing and recommendation by the Community Zoning Appeals~~

Board or Boards having jurisdiction over the area encompassed by the entire Development of Regional Impact.

>>(a)<< Where an application ~~[[substantial deviation determination or]]~~ for development approval of a DRI >>or<< ~~[[;]]~~ modification thereof ~~[[or substantial deviation determination]]~~ also contains a request for any other action under this chapter requiring a public hearing or where there is pending on any property an application of or development approval for a DRI and an application for any other action under this chapter requiring a public hearing (related requests), ~~[[except applications for essentially built out determinations,]]~~ all such applications shall be heard in their entirety by the Board of County Commissioners after hearing and recommendation of the Community Zoning Appeals Board or Boards having jurisdiction over the area encompassed by the application or applications.

>>(b)<< Where an application requests >>an extension to a DRI development order that is otherwise exempt from CZAB review pursuant to section 33-311<< ~~[[a modification or elimination of a condition or restrictive covenant not constituting a substantial deviation]]~~, and where such application does not contain a request for any other action under this chapter requiring a public hearing apart from >> those necessary to accomplish the requested extension<< ~~[[modifying the DRI development order]]~~, then such application shall be heard directly by the Board of County Commissioners after recommendation of the Developmental Impact Committee.

>>(c)<< Where practicable, all such items shall be acted upon at the same public hearing.

>>(d)<< Hearings pursuant to this subsection shall be noticed in the same manner as applications filed before the Community Zoning Appeals Boards.

>>(e) Where a CZAB’s recommendation is for denial, a two-thirds vote of all members present shall be required to approve any Development of Regional Impact or modifications thereof or related request.<<
[[~~The procedural requirements of Section 33-311(F) and 33-311(G) shall apply to hearings held pursuant to this section.~~]]

* * *

(E) If an application is before the Board of County Commissioners pursuant to this article, be it by way of appeal, recommendation or otherwise, it shall have authority to consider and take final action upon any and all matters and requests contained in the application, any other provisions in this article notwithstanding.

>>(1)<< In making any final decisions, the Commission shall be guided by the standards and guides applicable to the Community Zoning Appeals Boards or as otherwise specified in this chapter.

>>(2)<< It shall consider all relevant and material evidence offered to show the impact of the development upon Miami-Dade County.

>>(3)<< The procedural requirements of >>sections<< [[Sections]] 33-311(F) and 33-311(G) shall apply to hearings held pursuant to this section.

* * *

~~[[Sec. 33-315. -- Regulation amendment request.~~

~~(A) Request for regulation amendments may be filed with the Director who shall assign the request on a blind filing basis to a Community Zoning Appeals Board.~~

~~(B) Notice of the Board's action on a request for regulation amendment shall be limited to the advertisement provision of Section 33-310(C)(1) except the property's location and legal description need not be included.~~

~~(C) The Community Zoning Appeals Board's action on a regulation amendment shall take the form of a recommendation which shall be transmitted to the Board of County Commissioners.~~

~~(D) Recommendations of the Community Zoning Appeals Board for or against regulation amendments when received by the~~

~~Board of County Commissioners shall be considered and if it is determined to amend the regulations in any manner, such amendment shall be enacted by ordinance as provided by law.]]~~

* * *

Section 4. Section 33E-14 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33E-14. - Exemptions and credits.

* * *

(b) Unless provided for to the contrary in the current effective development order, all development activity which is subject to an existing Development of Regional Impact Development Order adopted pursuant to >>chapter<< [[Chapter]] 380, Florida Statutes prior to June 4, 1989 shall be exempt from this chapter with regard to development approved by such development order.

>>(1)<< This exemption provision does not apply to >>:

(i)<< those development orders which may have been revoked or determined to be null and void >>:<< or

>>(ii)<< to any development not authorized in such development order by Miami-Dade County or another unit of local government in Miami-Dade County issuing such development order.

>>(2)<< This exemption shall not apply to any additional development >>approved through a modification of the development order<< [[regardless of whether or not such additional development constitutes a substantial deviation pursuant to Chapter 380, Florida Statutes]].

>>(3)<< Any Development of Regional Impact development order amended after January 1, 2009, which generates additional vehicular trips above the previously approved development order shall be not be exempt for said additional trips.

* * *

Section 5. Section 33H-14 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33H-14. - Exemptions and credits.

* * *

(b) >>Development activity approved through a development of regional impact development order shall be exempt from this chapter, subject to the requirements of section 33E-14.<<
[[~~All development activity permitted by an existing development of regional impact development order (D.O.) adopted pursuant to Chapter 380, Florida Statutes, approved prior to the effective date of this chapter shall be exempt from this chapter unless otherwise provided in the development order. This exemption provision does not apply to those development orders which have been revoked or determined to be null and void or to any development not authorized in such development order by Miami Dade County. This exemption shall not apply to any additional development regardless of whether or not such additional development constitutes a substantial deviation pursuant to Chapter 380, Florida Statutes.~~]]

* * *

Section 6. Section 33I-7 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33I-7. - Exemptions.

* * *

(e) >>Development activity approved through a development of regional impact development order shall be exempt from this chapter, subject to the requirements of section 33E-14.<< [[~~All development activity which is subject to an existing development of regional impact development order (D.O.) adopted pursuant to Chapter 380, Florida Statutes,~~

~~approved prior to the effective date of this chapter, shall be exempt in its entirety from this chapter with regard to development approved by such development order, unless otherwise provided for in the current development order. This exemption provision does not apply to those development orders which have been revoked or determined to be null and void or to any development not authorized in such development order by Miami Dade County. This exemption shall not apply to any additional development regardless of whether such additional development constitutes a substantial deviation under Chapter 380, Florida Statutes.]]~~

* * *

Section 7. Section 33J-8 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33J-8. - Exemptions.

* * *

(b) >> Development activity approved through a development of regional impact development order shall be exempt from this chapter, subject to the requirements of section 33E-14.<< ~~[[All development activity which is subject to an existing development of regional impact development order (D.O.) adopted pursuant to Chapter 380, Florida Statutes, approved prior to the effective date of this chapter, shall be exempt in its entirety from this chapter with regard to development approved by such development order, unless otherwise provided for in the current development order. This exemption provision does not apply to those development orders which have been revoked or determined to be null and void or to any development not authorized in such development order by Miami Dade County. This exemption shall not apply to any additional development regardless of whether such additional development constitutes a substantial deviation under Chapter 380, Florida Statutes.]]~~

* * *

Section 8. 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 9. 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 10. 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:

Dennis A. Kerbel

Prime Sponsor: Commissioner Joe A. Martinez