

Date: July 1, 2008

To: Honorable Chairman Bruno A. Barreiro and Members
Board of County Commissioners

Substitute
Special Item No. 1

From: George M. Burgess
County Manager

Ordinance No. 08-74

Subject: Public Hearing on Special Application to Amend the Educational, Intergovernmental Coordination and Capital Improvements Elements and Preface of the Comprehensive Development Master Plan

THE ENCLOSED SUBSTITUTE ORDINANCE DIFFERS FROM THE ORIGINAL IN THAT IT REVISES THE PREAMBLE OF THE ORDINANCE TO REFLECT THE ACTIONS TAKEN BY THE BOARD OF COUNTY COMMISSIONERS (BOARD) AT ITS "TRANSMITTAL" PUBLIC HEARING ON JULY 12, 2007, AND THE RECEIPT OF THE OBJECTIONS, RECOMMENDATIONS AND COMMENTS (ORC) FROM THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS (DCA) BY LETTER DATED SEPTEMBER 28, 2007.

RECOMMENDATION

It is recommended that the Board adopt the attached ordinance (Substitute Special Item No. 1), which provides for the Board to adopt, adopt with change, not adopt, or deny the pending Special Application to amend the Educational, Intergovernmental Coordination and Capital Improvements Elements and Preface of the Comprehensive Development Master Plan (CDMP). It is recommended that final action be taken on the ordinance at the conclusion of the public hearing currently scheduled for **Tuesday, July 1, 2008 beginning at 9:30 AM in the Commission Chamber**. Should the Special Application be adopted, a final amendment package will be transmitted to the Florida Department of Community Affairs (DCA) for its compliance review and issuance of a Notice of Intent.

SCOPE

The CDMP is a broad-based countywide policy-planning document to guide future growth and development to ensure the adequate provision of facilities and services for existing and future populations, and to maintain or improve the quality of the natural and man-made environment. The application has a countywide impact regarding public schools, capital improvements and intergovernmental coordination.

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. The proposed text changes in the Special Application to amend the CDMP currently have no fiscal impact to the County.

TRACK RECORD/MONITOR

CDMP amendments do not involve contracts so a Track Record/Monitor is not applicable.

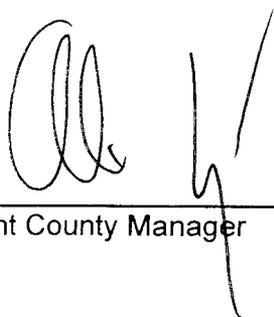
BACKGROUND

At a public hearing held May 22, 2007, the Board adopted Resolution No. R-613-07 directing the County Manager to file a special application to amend the CDMP, on a special schedule set forth in R-613-07, to comply with statutory requirements for public school facilities. The attached ordinance provides for final action on the special application to amend the CDMP. This application was transmitted to DCA for review and comment on July 12, 2007. The Board's previous action on this application was to "transmit with recommendation to adopt".

The Planning Advisory Board (PAB) acting as the Local Planning Agency (LPA) conducted its final public hearing on the pending amendments on November 5, 2007, and issued recommendations to "adopt with additional change". The additional PAB recommended changes included: the use of charter schools with distance requirements as a viable mitigation option, and the establishment of a single countywide concurrency district. In addition, the PAB recommended a 45-day deferral of the BCC final adoption hearing on this application. The PAB recommendations and reasons are contained in the PAB resolution and meeting minutes dated November 5, 2007.

The DCA coordinated the State agency consistency review on the transmitted application at the request of Miami-Dade County and issued certain objections in its Objections, Recommendations and Comments (ORC) report dated September 28, 2007. This ORC report and the staff's response to the ORC are included as Appendix A and Appendix B, respectively of the Revised Recommendation: Special Application to Amend the CDMP, dated October 30, 2007, which is included in the agenda materials for this public hearing.

The "Revised Recommendation: Special Application to Amend the CDMP" prepared by DP&Z summarizes the pending application as transmitted to DCA, and presents the DP&Z's revised recommendation and principal reasons for the recommendation. Additional changes to the staff's revised recommendation were issued by DP&Z on June 10, 2008. The report and the additional changes are included in the agenda materials for this public hearing.



Assistant County Manager



MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

DATE: July 1, 2008

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

SUBJECT: Substitute
Special Item No. 1

Please note any items checked.

- "4-Day Rule" ("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
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

W

Approved _____ Mayor
Veto _____
Override _____

Substitute
Special Item No. 1
7-1-08

ORDINANCE NO. 08-74

ORDINANCE RELATING TO THE MIAMI-DADE COUNTY COMPREHENSIVE DEVELOPMENT MASTER PLAN; PROVIDING DISPOSITION OF SPECIAL APPLICATION FILED TO AMEND, MODIFY, ADD TO OR CHANGE THE COMPREHENSIVE DEVELOPMENT MASTER PLAN; PROVIDING SEVERABILITY, EXCLUSION FROM THE CODE AND AN EFFECTIVE DATE

WHEREAS, the Miami-Dade County 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, pursuant to the direction of the Board under Resolution No. R-613-07 and pursuant to Section 2-116.1 of the Code of Miami-Dade County, Florida, a special application was filed by the Miami-Dade County Department of Planning and Zoning (DP&Z) on July 3, 2007 to amend and update the CDMP text and policies of the Educational, Intergovernmental Coordination and Capital Improvements Elements, and the Preface of the CDMP to implement recommendations from the Growth Management Legislation of 2005; and

WHEREAS, the DP&Z has published its initial recommendation addressing the referenced special application in the report titled "Application and Initial Recommendations

Special Application to Amend the Comprehensive Development Master Plan" dated July 3, 2007; and

WHEREAS, on July 12, 2007, the Board, by Resolution, instructed the County Manager to transmit the Special Application to Amend the Comprehensive Development Master Plan to the Florida Department of Community Affairs (DCA) pursuant to Section 163.3184(3), F.S.; and

WHEREAS, DCA reviewed the proposed applications at the request of this Board and has issued its Objections, Recommendations and Comments (ORC) report pursuant to Section 163.3184 (6)(c), F.S.; and

WHEREAS, DP&Z has subsequently published its revised recommendations addressing the issues contained in the ORC report in the report titled "revised Recommendations: Special Application to Amend the Comprehensive Development Master Plan," dated October 30, 2007; and

WHEREAS, the Board must take final action to Adopt, Adopt with Change or Not Adopt the amendment application not later than sixty days after receipt of written Objections, Recommendations and Comments report from DCA addressing the application; and

WHEREAS, this Board has conducted the public hearings 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 further action on the pending amendment application as follows:

Application	Applicant/Representative Miami-Dade County Department of Planning and Zoning/ Subrata Basu, Interim Director REQUESTED CHANGE TO THE CDMP ELEMENTS:	Final Commission Action
Special Application	Part A: Revise the text of the Educational Element	ADOPT as Transmitted with Additional Changes
	Part B: Revise the text of the Intergovernmental Coordination Element	ADOPT as Transmitted with Additional Changes
	Part C: Revise the text of the Capital Improvements Element	ADOPT as Transmitted with Additional Changes
	Part D: Revise the text of the Preface	ADOPT as Transmitted

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, F.S., 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, the effective date of any individual plan amendment included within the overall amendment shall be in accordance with the following language which is included at the request of the DCA without any admission by Miami-Dade County of the authority of the DCA or any other governmental entity to request or require such

language: "The effective date of any [individual] plan amendment approved by this ordinance [and included within the overall amendment] shall be the date a final order is issued by the Department of Community Affairs or Administration Commission finding the [individual] amendment in compliance in accordance with Section 163.3184(1)(b), Florida Statutes, whichever occurs earlier. 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, this [individual] amendment may nevertheless be made effective 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 Department of Community Affairs, Division of Community Planning, Plan Processing Team. The Department's Notice of Intent to find a plan amendment in compliance shall be deemed to be a final order if no timely petition challenging the amendment is filed."

PASSED AND ADOPTED: July 1, 2008

Approved by County Attorney as
to form and legal sufficiency.




Prepared by:

Dennis A. Kerbel