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OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Date: November 20, 2008

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

From: George M. Burgess
County Manager

Substitute
Special Item No. 3

Ordinance No. 08-131

Subject: Substitute Ordinance Acting Upon Pending October 2007 Amendments to the Comprehensive Development Master Plan

O#08-131

THE ATTCAHED 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 MAY 29, 2008, AND THE RECEIPT OF A LETTER FROM THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS (DCA) DATED JUNE 20, 2008 WITH WHICH DCA RETURNED THE TRANSMITTED PROPOSED OCTOBER 2007 CYCLE AMENDMENTS WITHOUT REVIEW BECAUSE OF THE COUNTY'S FAILURE TO ADOPT "PUBLIC SCHOOL FACILITIES ELEMENT AMENDMENT" BY JANUARY 1, 2008. IN SECTION 2 OF THIS SUBSTITUTE ORDINANCE, THE REFERENCES TO APPLICATION NOS. 1, 2 AND 3 ARE DELETED. APPLICATION NO. 1 WAS WITHDRAWN BY THE APPLICANT AT THE PUBLIC HEARING ON MAY 29, 2009; APPLICATION NOS. 2 AND 3 WERE ADOPTED AS SMALL-SCALE AMENDMENTS; AND APPLICATION NO. 4 WAS DENIED AS A SMALL-SCALE AMENDMENT BUT TRANSMITTED AS A STANDARD AMENDMENT WITH NO RECOMMENDATION. THEREFORE, THIS SUBSTITUTE ORDINANCE IS LIMITED TO THE DISPOSITION OF APPLICATION NO. 4, ("209TH STREET ASSOCIATES'" LAND USE MAP AMENDMENT) AND APPLICATION NO. 5, WHICH IS STAFF TEXT AMENDMENT UPDATING THE POPULATION ESTIMATES AND PROJECTIONS IN FIGURE 6 OF THE LAND USE ELEMENT.

Recommendation

It is recommended that the Board of County Commissioners (Board) adopt the attached ordinance, (Substitute Special Item No. 3) which provides for the Commission to adopt, adopt with change, or deny the pending October 2007 Cycle applications to amend the Comprehensive Development Master Plan (CDMP). This ordinance includes a special effective date provision delaying the effectiveness of these applications until approval of school concurrency. It is further recommended that final action be taken on this ordinance at the conclusion of the public hearing beginning at 9:30 AM on Thursday, November 20, 2008. The ordinance follows the same format used in previous CDMP amendment cycles. That is, it contains blank spaces to record your action on each request contained in each application. After the Board adopts individual entries indicating its action on each application, the Board will take action adopting each Ordinance in its entirety, incorporating the foregoing entries. A minimum of seven votes is required by County Code to amend the CDMP. Following the final action will be a transmittal of the adopted October 2007 cycle amendment package to the Florida Department of Community Affairs (DCA) for its compliance review and issuance of a Notice of Intent.

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Scope

The CDMP is a broad-based countywide policy-planning document to guide future growth and development to insure 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. While the adopted text of the CDMP generally applies countywide, individual, site-specific Land Use Plan map amendment applications may have localized impact on one or more Commission Districts. Application No. 4 is located within Commission District 8 (Commissioner Sorenson) while Application No. 5 has a countywide impact.

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 on Miami-Dade County for bringing such infrastructure to the area as well as the annual operating costs. Below is a brief summary of the fiscal impacts of the proposed October 2007 Cycle Applications. Details of the fiscal impacts of Application No. 4 can be found in Appendix E at the end of the review of the subject Land Use Plan (LUP) map application in the "Initial Recommendations October 2007 Applications To Amend The Comprehensive Development Master Plan," dated February 25, 2008.

Based on the information provided by service agencies, the fiscal impact to the County from the October 2007 Cycle Applications land use amendments vary based on the type of request and location. The proposals involving non-residential development impact fewer infrastructure facilities and public services than the proposals for residential development. For Miami-Dade County Public Schools Board, Application No. 4 with an estimated student population of 4 additional students (2, elementary, 1 middle and 1 senior high schools, would have minimal or no fiscal impact on the school system. If Application No. 4 is approved, the estimated total annual operating cost for the additional students residing in this subject application would be $26,196.

The Miami-Dade Water and Sewer Department (WASD) estimated its fiscal impact for providing water and sewer service to the proposed site for Application No. 4. WASD has determined that the projected fiscal impact to its Department for providing water and sewer services are $6,358 and $25,613 respectively. Furthermore, the annual operating cost for providing water and sewer service to the application site is estimated at $4,245. Lastly, the cost of constructing infrastructure improvements for water and sewer on the application site is estimated at $18,349.

Track Record/Monitor

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

Housing Impact

Application No. 4 would not affect the supply of housing based on the land use categories being requested and the associated covenants proffered by the applicant. No additional residential

units beyond the currently allowable number of units based on the restrictive covenant proffered by the applicant.

Background

The attached ordinance provides for final action on the two pending October 2007 Cycle applications requesting amendments to the CDMP (Application Nos. 4 and 5). These applications were transmitted to the DCA for review and comment. The Board's previous actions on these applications at the May 29, 2008 public hearing were: Application No. 4: "DENIED (as Small-Scale Amendment) and TRANSMIT With No Recommendation; and Application No. 5: TRANSMIT With Recommendation to Adopt. The "Matrix" indicating the updated summary of the previous recommendations of the DP&Z, affected Community Councils, PAB and BCC, and the revised recommendations of the DP&Z (if any), and PAB will be distributed at the hearing to allow PAB conduct its final public hearing and make its recommendations on November 19, 2008.

Upon transmitting the amendments to DCA, DCA did not review or coordinate the State agency consistency reviews on the transmitted applications because the County has not adopted school concurrency requirement involving the statutorily required Interlocal Agreement between the County the municipalities and the School Board. Therefore, at means that no Objections, Recommendations and Comments (ORC) report has been issued by DCA on the pending applications to amend the CDMP.

Assistant County Manager

MEMORANDUM

(Revised)

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

DATE: November 20, 2008

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

SUBJECT: Substitute Special Item No. 3

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

Approved _____ Mayor
Veto _____
Override _____

Substitute Special Item No. 3
11-20-08

ORDINANCE NO. 08-131

ORDINANCE RELATING TO MIAMI-DADE COUNTY COMPREHENSIVE DEVELOPMENT MASTER PLAN; PROVIDING DISPOSITION OF APPLICATIONS FILED IN OCTOBER 2007 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 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, five (5) CDMP amendment applications were filed on or before October 31, 2007 and are contained in the document titled "October 2007 Applications to Amend the Comprehensive Development Master Plan", dated December 5, 2007; and

WHEREAS, of the 5 amendment applications, four (4) Land Use Plan (LUP) map amendments (Application Nos. 1 to 4) were privately filed and one (1) text amendment (Application No. 5) was filed by the Department of Planning and Zoning (DP&Z; and

WHEREAS, DP&Z published its initial recommendations addressing the referenced applications in the report titled "Initial Recommendations October 2007 Applications to Amend the Comprehensive Development Master Plan" dated February 25, 2007; and

WHEREAS, Application No. 1 was lawfully withdrawn by the applicant by letter dated March 17, 2008; and

WHEREAS, the Community Councils, Planning Advisory Board (PAB), and DP&Z have acted in accordance with the referenced State and County procedures and have accepted

applications, conducted public hearings and issued recommendations for the disposition of the small-scale amendment requests; and

WHEREAS, on May 29, 2008, this Board, by Resolution No. R-604-08, instructed the County Manager to transmit certain applications to the Florida Department of Community Affairs (DCA) pursuant to Section 163.3184(3), F.S.; and

WHEREAS, the Board must take final action to Adopt, Adopt With Change or Not Adopt amendment applications not later than sixty (60) days after receipt of written Objections, Recommendations and Comments (ORC) report from DCA addressing the application(s); and

WHEREAS, the Board will consider approving a resolution transmitting to the DCA any eligible small-scale amendments that are not adopted but not denied, and which this Board desires to further consider after review by DCA; and

WHEREAS, the Board can, by resolution, transmit to DCA small-scale amendment applications not adopted but not finally denied; and

WHEREAS, all existing lawful uses and zoning in effect prior to a CDMP amendment are deemed to remain consistent with the CDMP 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 study addressing the criteria set forth in the CDMP; 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 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, that:

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 pending standard amendment applications filed for review during the October 2007 cycle for amendments, modifications, additions, or changes to the Miami-Dade County Comprehensive Development Master Plan as follows:

Application Number	Applicant/Representative Location (Size) REQUESTED AMENDMENT TO THE CDMP	Final Commission Action
4	Alfredo Garcia Menocal/Miguel De La Portilla, Esq. Northwest corner of SW 117 Avenue and SW 95 Street (2.5 Gross Acres) From: Estate Density Residential Communities (1 to 2.5 DU/Ac) To: Office/Residential	ADOPTED with Acceptance of Proffered Covenant with additional prohibition of call centers as permitted use
5	Miami-Dade County Department of Planning & Zoning/ Subrata Basu, Interim Director LAND USE ELEMENT: Revise the Population Estimates and Projections by replacing Figure 6.	ADOPTED

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 (l0) 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 Florida Department of Community Affairs without any admission by Miami-Dade County of the authority of the Department of Community Affairs 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, any section hereof 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 Resource Planning and Management, 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." It is further provided that this ordinance shall not take effect until an amendment to the Comprehensive Development Master Plan and an Interlocal Agreement with the School Board of Miami-Dade County and the municipalities in Miami-Dade County establishing a public school concurrency program have been adopted and transmitted to the Florida Department of Community Affairs as required by Section 163.3177(12)(j), Florida Statutes.

PASSED AND ADOPTED: **November 20, 2008**

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Joni Armstrong Coffey

Summary of Recommendations Matrix by DP&Z, Community Councils, PAB and BCC
On the Proposed October 2007 Applications to Amend the CDMP
May 29, 2008

Application Number/ Type of Application	Applicant, Location, Requested Designation and Size	BCC District/ Commissioner	DPZ Initial Recommendation February 25, 2008	Community Council Recommendation, with Resolution No. & date	Local Planning Agency Recommendation April 28, 2008	Board of County Commissioners Recommendation May 29, 2008
1 Small-Scale LUP Map	209th Street Associates, LLC/Juan J. Mayol, Esq. and Tracy Slavens, Esq. Northwest corner of NE 209 Street and NE 26 Court; 1.12 gross acres From: Low-Medium Density Residential (6-13 DU/Ac) To: Office/Residential	4/ Heyman	Adopt	Northeast Community Council (CC2) WITHDRAWN (By Applicant's letter dated March 17, 2008)	Withdrawn	Withdrawal Accepted by the Board
2 Small-Scale LUP Map	Aventura Commons, II, LLC/Juan J. Mayol, Esq. and Tracy Slavens, Esq. An area between NE 205 and NE 206 Streets on the east side of NE 26 Avenue; 2.98 gross acres From: Low-Medium Density Residential (6-13 DU/Ac) To: Office/Residential	4/ Heyman	Deny	Northeast Community Council (CC2) Adopt (March 19, 2008)	Adopt	Adopt
3 Small-Scale LUP Map	Urban League of Greater Miami/Jeffrey Bercow Esq. & Matthew Amster, Esq. An area between NW 51 and NW 53 Streets and between NW 23 Court and NW 24 Avenue; 5.5 gross acres From: Medium Density Residential (13-25 DU/Ac) To: Medium-High Density Residential (25-60 DU/Ac)	3/ Edmonson	Adopt with Acceptance Of Proffered Covenant (Originally recommended Deny but revised to Adopt with Acceptance Of Proffered Covenant at the LPA Hearing on April 28, 2008)	North Central Community Council (CC8) Adopt with Acceptance of Proffered Covenant (March 26, 2008)	Adopt With Acceptance Of Proffered Covenant	Adopt With Acceptance Of Proffered Covenant
4 Small-Scale LUP Map	Alfredo Garcia Menocal/Stanley B. Price, Esq. Northeast corner of SW 117 Avenue and SW 95 Street; 2.5 gross acres From: Estate Density (1-2.5 DU/Ac) To: Office/Residential	8/ Sorenson	Deny	Kendall Community Council (12) Deny (March 19, 2008)	Deny	Denied As a Small-Scale Amendment and Transmit As a Standard Amendment with No Recommendation
5 Standard Text	Updates to Population Estimates and Projections	Countywide	Adopt and Transmit	NA	Adopt and Transmit	Transmit with Recommendation to Adopt

Updated 5/29/08

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