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OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

(Public Hearing 11-6-08)

Special Item No. 1A

Ordinance No. 08-122

Date: October 21, 2008

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

From: George M. Burgess
County Manager

Subject: Ordinance Acting Upon April 2008 Small-Scale Amendments to the Comprehensive Development Master Plan

O#08-122

Recommendation

It is recommended that the Board of County Commissioners (Board) adopt the attached Ordinance, (Special Item No. 1), which provides for the Board to adopt, adopt with change or deny the pending April 2008 Cycle Small-Scale Applications to amend the adopted Land Use Plan (LUP) map of the Comprehensive Development Master Plan (CDMP). Final action is recommended to be taken on the Ordinance at the conclusion of the CDMP public hearing scheduled to begin at 9:30 AM on Thursday, November 6, 2008.

Please be aware that Chapter 163.3177(12)(j), Florida Statutes (F.S.) precludes local governments from adopting amendments that increase residential density until a public school facilities element has been adopted. Thus, the Florida Department of Community Affairs (DCA) may find the following land use amendments invalid until an amendment to the CDMP, 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 as required by Chapter 163.3177(12)(j), F.S. This finding may be made by DCA even with a delayed effective date clause pending school concurrency in the ordinance.

Scope

The CDMP is a broad-based countywide policy-planning document to guide future growth and development in the County. This plan seeks to insure 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 April 2008 Cycle Applications have a countywide impact.

Fiscal Impact/Funding Source

The cost of implementing these four applications is minimal. County Ordinance No. 01-163 requires the evaluation of fiscal impacts for land use changes. Information on the fiscal impact of each request to amend the LUP map is presented in Appendix E at the end of each application review in the Department of Planning and Zoning's (DP&Z) Initial Recommendations Report (dated August 25, 2008). The Report is included in the agenda materials for the November 6, 2008 Public Hearing addressing all the April 2008 Applications to amend the CDMP, at which final action on this Ordinance will be considered.

Housing Impact

Adopting these four small-scale applications would only add a total of 67 dwelling units to the supply of housing in the County. All four Small-Scale Applications in this amendment cycle contain Declarations of Restrictions, or covenants, that limit residential development. The covenant for Application No. 2 does not allow an increase in residential development, the covenant for Application No. 3 limits development only to the commercial use shown on the site plan, and Application No. 5 prohibits residential development. Since residential development is currently allowed on the site of Application No. 3, limiting it to commercial development would decrease the supply of housing by 33 dwelling units. Application No. 4 allows an additional 100 dwelling units, with five-percent (or 15 dwelling units) dedicated as workforce housing units. If all the other factors in the cost of housing were equal, an increase in supply might nominally decrease the cost of residential land, and hence, decrease the growth in housing costs. As the acreage involved is very small, the change in housing costs is not measurable at this point.

Track Record/Monitor

CDMP amendments do not involve contracts; therefore, a Track Record/Monitor is not applicable.

Background

The attached Ordinance provides for actions on four applications that were filed during the April 2008-Cycle requesting Small-Scale amendments to the LUP map of the CDMP (Application Nos. 2, 3, 4 and 5). State law allows the adoption of the small-scale application at the November 6, 2008 public hearing.

An application is eligible under State law to be processed as a Small-Scale amendment if it involves 10 or fewer acres and, if residential, it allows a density of 10 dwelling units per acre (10 du/ac) or less. Densities may be higher than 10 du/ac if the parcel involves the construction of affordable housing that meets state requirements, or is located in an Urban Redevelopment Area, Transportation Concurrency Exception Area or a Regional Activity Center. The maximum total acreage in a year of Small-Scale amendments is 120 acres for jurisdictions such as Miami-Dade County, which contain designated redevelopment and downtown revitalization areas, urban infill areas, transportation concurrency exception areas, and regional activity centers. However, a 60-acre annual limitation applies to areas outside of these specifically designated urban areas.

The four pending April 2008 Cycle applications involve a total of 11.75 gross acres, bringing the total gross acreage for the year for Small-Scale amendments to 22.73 gross acres (including the adopted October 2007 Cycle Small-Scale amendments). Therefore, based on the above acreage limitations, the Board has the ability to approve any or all of these proposed Small-Scale amendments without prior DCA review.

The Planning Advisory Board acting as Miami-Dade County's Local Planning Agency conducted its public hearing on October 6, 2008, at which they formulated their recommendations to the Board on all of the April 2008 cycle amendment applications. Attached is a matrix, titled Summary of Recommendations by the Department of Planning and Zoning, Community Councils and the Planning Advisory Board, addressing only the Small-Scale amendment requests to amend the LUP map of the CDMP.

At the November 6, 2008 public hearing, the Board could elect to adopt, adopt with change, or not adopt the Small-Scale amendments. If the Board does not adopt a Small-Scale amendment, it may elect, by separate resolution, to transmit it to DCA for review and to take final action in April 2009 after State-agency review. Denial or failure to adopt as a Small-Scale amendment and failure to transmit an application to DCA for review effectively denies approval of the application for this amendment cycle.

Ordinance Format

The Ordinance follows the same format for previous CDMP amendment cycles. That is, it contains blank spaces to record your action on each request contained in each application. However, the section that provides for the Board's action in the Ordinance is expanded and separated with the corresponding Applications. Therefore, Sections 2, 3, 4 and 5 of the Ordinance are for the Small-Scale applications, and Section 8 of the Ordinance contains the effective date language pertaining to the Small-Scale applications. After the Board adopts individual entries indicating its action on each application, the Board will take action adopting the Ordinance in its entirety, incorporating the foregoing entries. A minimum of seven affirmative votes is required by County Code to amend the CDMP.

Attachments

Assistant County Manager

Summary of Initial Recommendations
April 2008 Applications to Amend the Comprehensive Development Master Plan for Miami-Dade County, Florida
August 25, 2008

Application Number/ Type	Location/Acreage/ Requested Amendment	BCC District/ Commissioner	DP&Z Initial Recommendation August 25, 2008	Community Council Recommendation and Date	Local Planning Agency Recommendation October 6, 2008	BCC Recommendation November 6, 2008
			Land Use Plan Map Amendments			
1/ Standard	NW 47 Avenue to 660' east of NW 57 Avenue and between NW 199 Street and Snake Creek Canal (165 gross acres) From: Institutions, Utilities, and Communications To: A. Industrial and Office (25 gross acres) B. Business and Office (60 gross acres) C. Low-Medium Density Residential (6 to 13 DU/ac.) (80 gross acres)	1/ Jordan	Adopt with Change and Transmit	Deny and Transmit with recommendation to present to Community Council with additional recommendations, a covenant to restrict residential, and to identify funding source(s) for proposed improvements September 17, 2008		
2/ Small-Scale	West side of NW 7 Avenue between NW 155 Lane and Biscayne Canal (0.84 gross acres) From: Medium-High Density (25 to 60 DU/ac.) To: Business and Office	1/ Jordan	Adopt with Acceptance of Proffered Covenant	Adopt with Acceptance of Proffered Covenant September 17, 2008		
3/ Small-Scale	Southwest corner of NE 135 Street and NE 3 Ct. (2.5 gross acres) From: Low-Medium Density Residential (6 to 13 DU/ac.) To: Business and Office	2/ Rolle	Deny	Adopt with Acceptance of Proffered Covenant September 17, 2008		
4/ Small-Scale	10940 NW 14 Avenue (4.81 gross acres) From: Low-Medium Density Residential (6 to 13 DU/ac.) To: Medium Density Residential with Density Increase 1	2/ Rolle	Adopt with Change and with Acceptance of Proffered Covenant	Adopt with Acceptance of Proffered Covenant September 17, 2008		

Application Number/ Type	Location/Acreage/ Requested Amendment	BCC District/ Commissioner	DP&Z Initial Recommendation August 25, 2008	Community Council Recommendation and Date	Local Planning Agency Recommendation October 6, 2008	BCC Recommendation November 6, 2008
5/ Small-Scale	Northeast corner of Milam Dairy Road/NW 72 Avenue and NW 36 Street (±3.4 gross acres) From: Institutions, Utilities, and Communications To: Business and Office	12/ Diaz	Adopt with Acceptance of Proffered Covenant	Adopt with Department's Recommendations and Acceptance of Proffered Covenant September 17, 2008		
6/ Standard	West side of Milam Dairy Road/NW 72 Avenue and between NW 14 and NW 19 Streets (±31 gross acres) From: Transportation Terminals (15 Acres) & Industrial and Office (16 Acres) To: Business and Office	12/ Diaz	Adopt with Acceptance of Proffered Covenant and Transmit	Adopt with Department's Recommendations and Acceptance of Proffered Covenant September 17, 2008		
7/ Standard	Northeast corner of Milam Dairy Road/NW 72 Avenue and NW 12 Street (±16.9 gross acres) From: Industrial and Office To: Business and Office	12/ Diaz	Adopt with Acceptance of Proffered Covenant and Transmit	Adopt with Department's Recommendations and Acceptance of Proffered Covenant September 17, 2008		
8/ Standard	North side of West Flagler Street between theoretical NW 90 and 94 Avenues (41 gross acres) From: Medium Density Residential (13 to 25 DU/Ac) (23 gross acres) & Parks and Recreation (18 gross acres) To: Business and Office	10/ Souto	Deny, Do Not Transmit	Adopt with Change and Acceptance of Proffered Covenant and Transmit September 23, 2008		
9/ Standard	Northeast corner of West Flagler Street and NW 102 Avenue (41 gross acres) From: Low-Medium Density Residential (6 to 13 DU/ac.) To: Business and Office	10/ Souto	Deny And Transmit	Adopt With Acceptance of Proffered Covenant and Transmit September 23, 2008		

Application Number/ Type	Location/Acreage/ Requested Amendment	BCC District/ Commissioner	DP&Z Initial Recommendation August 25, 2008	Community Council Recommendation and Date	Local Planning Agency Recommendation October 6, 2008	BCC Recommendation November 6, 2008
10/ Standard	Southwest corner of SW 112 Avenue and SW 248 Street (35 gross acres) 1. From: Office/Residential To: Business and Office 2. Replace existing covenant with new covenant	8/ Sorenson	Adopt with Acceptance of Proffered Covenant and Transmit	Adopt With Acceptance of Proffered Covenant and Transmit September 18, 2008		
Text Amendments						
11/ Standard	Educational Element Add textual reference for Charter Schools into Element	Countywide	Deny, Do Not Transmit	NA		
12/ Standard	Capital Improvements Element Tables of Proposed Projects. Modify the following currently adopted tables as indicated in the application and related information: Table 2, Aviation; Table 3, Coastal Management; Table 4, Conservation; Table 5, Drainage; Table 6, Park and Recreation; Table 7, Seaport; Table 8, Sewer Facilities; Table 9, Solid Waste Management; Table 10, Traffic Circulation; Table 11, Mass Transit; and Table 12, Water Facilities.	Countywide	Adopt	NA		
13/ Standard	Land Use Element Revise Agriculture Section text	Countywide	Adopt and Transmit	NA		
14/ Standard	Land Use Element To provide density bonuses for modular, manufactured or panel constructed homes	Countywide	Withdrawn by DP&Z			
15/ Standard	Land Use Element Provide density bonuses for affordable housing	Countywide	Adopt and Transmit	NA		
16/ Standard	Land Use Element To revise text of Urban Centers	Countywide	Withdrawn by DP&Z			

Application Number/ Type	Location/Acreage/ Requested Amendment	BCC District/ Commissioner	DP&Z Initial Recommendation August 25, 2008	Community Council Recommendation and Date	Local Planning Agency Recommendation October 6, 2008	BCC Recommendation November 6, 2008
17/ Standard	Land Use Element Revise text in Industrial and Office land use category	Countywide	Adopt and Transmit	NA		
18/ Standard	Housing Element Provide for adoption by reference of the Workforce Housing Plan	Countywide	Adopt With Change and Transmit	NA		
19/ Standard	Conservation Element Revise Policy CON-8I	Countywide	Adopt and Transmit	NA		
20/ Standard	Land Use Element and Aviation Subelement Revise text on non-aviation related uses for land-side areas at airports	Countywide	Adopt and Transmit	NA		

Source: Miami-Dade County Department of Planning and Zoning
Notes:

**Asterisk with italics indicates adjacent commission district boundary in close proximity to the application site*
NA: Not Applicable
DU/ac: Dwelling units per gross acre
DP&Z: Department of Planning and Zoning
BCC: Board of County Commissioners

MEMORANDUM

(Revised)

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

DATE: November 6, 2008

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

SUBJECT: Special Item No. 1A

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

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Approved _____ Mayor
Veto _____
Override _____

Special Item No. 1A
11-06-08

ORDINANCE NO. 08-122

ORDINANCE RELATING TO MIAMI-DADE COUNTY COMPREHENSIVE DEVELOPMENT MASTER PLAN ACTING UPON SMALL-SCALE AMENDMENT APPLICATION NO.4 FILED IN APRIL 2008 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, eighteen (18) CDMP amendment applications were filed on or before May 1, 2008 and are contained in the document titled "April 2008 Applications to Amend the Comprehensive Development Master Plan" dated June 5, 2008; and

WHEREAS, Application Nos. 19 and 20 were filed by the Miami-Dade County Department of Planning and Zoning (DP&Z) on August 25, 2008; and is contained in the document entitled "Initial Recommendations April 2008 Applications to Amend the Comprehensive Development Master Plan" dated and published on August 25, 2008; and

WHEREAS, the Department of Planning and Zoning (DP&Z) published its initial recommendations addressing the referenced Applications in the report titled "Initial Recommendations April 2008 Applications to Amend the Comprehensive Development Master Plan" dated August 25, 2008; and

WHEREAS, Miami-Dade County's procedures provide for the expedited processing of small-scale amendments as defined in Section 163.3187, F.S.; and

WHEREAS, of the twenty (20) applications comprising ten (10) Land Use Plan map amendments and ten (10) text amendment filed for processing during the April 2008 CDMP amendment cycle, four (4) eligible applications requested expedited adoption as small-scale plan amendments; and

WHEREAS, text applications Nos. 14 and 16 were withdrawn by the Department of Planning and Zoning in the Initial Recommendations Report dated August 25, 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, the Board can, by ordinance, take final action to Adopt, Adopt With Change, Not Adopt, or Deny requested small-scale amendment applications at the public hearing conducted to address the question of transmittal to the Florida Department of Community Affairs (DCA); 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:

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 small-scale amendment Application No. 4 filed for review during the April 2008 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 SMALL SCALE AMENDMENTS TO THE CDMP	Action on Small-Scale Amendment
4	Sunshine Lakes LLC/Jeffrey Bercow, Esq. and Matthew Amster, Esq. 10940 NW 14 Avenue (4.81 Gross Acres; 4.693 Net Acres) From: Low-Medium Density Residential (6 to 13 DU/Ac) To: Medium Density Residential with DI-1 Small-Scale Amendment	ADOPT with Change as recommended by staff and Acceptance of Proffered Covenant

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.

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 shall become effective ten (I0) days after the date of enactment, unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board; provided, however, that the effective date of any small-scale plan amendment approved by

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this ordinance shall be thirty-one (31) days after adoption by this Board (effective date of ordinance). If challenged within thirty (30) days after adoption, the challenged small-scale plan amendment shall not become effective until the DCA or the Administration Commission, respectively, issues a final order determining the adopted small-scale amendment is in compliance. 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. 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 as required by Section 163.3177(12), Florida Statutes.

PASSED AND ADOPTED: **November 6, 2008**

Approved by County Attorney as
to form and legal sufficiency.

Prepared by:

Joni Armstrong Coffey