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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

# Memorandum

MIAMI-DADE COUNTY

Date: April 28, 2010

To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Substitute
Special Item No. 1

**Ordinance No. 10-26**

Subject: Ordinance Acting Upon April 2009 Amendments to the Comprehensive Development Master Plan (Standard Applications)

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**This substitute item differs from the original item (Legistar No. 092891) in that it complies with the new rule change regarding substitutes and alternates as provided in Ordinance No. 09-13, adopted on March 3, 2009. In addition, this ordinance differs from the original as follows:**

- **This substitute ordinance revises the preamble of the original ordinance to reflect the actions taken by the Board of County Commissioners (board) at its "transmittal" public hearing held November 4, 2009, and the receipt of the Objections, Recommendations and Comments (ORC) from the Florida Department of Community Affairs (DCA) by letter dated March 5, 2010. This substitute ordinance addresses the disposition of Application Nos. 3, 4, 5, 6, 8 and 9;**

- **Application No. 7 was previously adopted on December 1, 2009 (Ordinance No. 09-106) as the required annual update to the Capital Improvements Element (CIE) of the CDMP.**

**Recommendation**

It is recommended that the Board of County Commissioners (Board) adopt the attached ordinance, ~~(Special Item No. 3)~~ (Substitute Special Item No.1) which provides for the Commission to adopt, adopt with change or deny the pending April 2009 Cycle applications to amend the Comprehensive Development Master Plan (CDMP). ~~It is recommended that first reading occur at the conclusion of the CDMP public hearing scheduled for Wednesday, November 4, 2009, to address transmittal of the referenced applications to the Florida Department of Community Affairs (DCA) for review and issuance of Objections, Recommendations and Comments (ORC) report. It is further recommended that final action be taken on the ordinance at the conclusion of the public hearing that will be scheduled for April 2010.~~

It is recommended that final actions be taken on this substitute ordinance for these pending applications at the conclusion of the public hearing scheduled to begin at 9:30 AM on Wednesday, April 28, 2010. 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 the Ordinance in its entirety, incorporating the foregoing entries. Following the final action will be a transmittal of the adopted April 2009

Cycle amendment package 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 in Miami-Dade County, 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 (LUP) map amendment applications may have localized impact on one or more Commission Districts. Application No. 3, for instance, is located within Commission District 10 (Commissioner Javier Souto); Application No. 4 is located within Commission District 11 (Commissioner Joe A. Martinez); and Application No. 6, which is both a CDMP LUP map amendment and a text amendment, is located in Commission District 9 (Commissioner Dennis C. Moss).

**Fiscal Impact**

Fiscal impact means the cost incurred by the County of implementing the activities or actions 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 to Miami-Dade County for bringing such infrastructure to the area, as well as annual operating costs. Below is a brief summary of the fiscal impacts from the ~~proposed~~ pending CDMP LUP map amendments of the April 2009 Cycle of Applications. Details of the fiscal impacts of each application can be found in Appendix D at the end of each review of a LUP map application, in the report titled "Initial Recommendations April 2009 Applications To Amend The Comprehensive Development Master Plan," dated August 25, 2009. ~~This report is included in the agenda materials for the November 4, 2009 public hearing addressing the April 2009 Cycle of applications.~~

Based on the information provided by County agencies, the fiscal impacts from the April 2009 Cycle of Applications CDMP LUP map amendments vary, based on the type of request and location. Proposals involving non-residential development have less impact on infrastructure and public services than proposals involving residential development. For example, the Miami-Dade County Public Schools Board limits its impact reviews to proposals involving residential development or those that may allow residential development. The LUP map applications will not result in an increase in residential development because of voluntary restrictions or the requested redesignation does not increase residential density. Construction costs for water and sewer infrastructure improvements from Application No. 4 are estimated at $495,450; annual operating cost for water and sewer facilities is estimated at $21,971. Application No. 3 will not incur water and sewer infrastructure costs because there is an existing water main and a sanitary sewer gravity system on the application site. However, if the application site were developed at maximum residential development, Application No. 3 will have the greater annual operating cost for water and sewer facilities, estimated at $94,587.

**Housing Impact**

None of the ~~proposed~~ pending CDMP Land Use Plan map amendment applications (Application Nos. 3 and 4) would reduce or increase the supply of housing in Miami-Dade County. This determination is based upon the current CDMP land use designation of the application sites, the requested re-designation, and voluntary restrictions on residential development.

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

**Background**
~~The attached substitute ordinance provides for action on the April 2009 Cycle standard applications requesting amendments to the CDMP; Application Nos. 3 to 6, 8, and 9. Application No. 7 (updates to the Capital Improvements Element) is being addressed in another ordinance (Special Item No. 1). Application Nos. 1 and 2 were lawfully withdrawn by letters dated August 5, 2009 and August 31, 2009, respectively.~~

~~A resolution accompanying this ordinance requests a review and issuance of an ORC report by DCA on all transmitted applications. It is estimated that DCA's ORC report on the applications will be returned to the County in February 2010. The County is required to take final action on transmitted applications within 60 days after receipt of the ORC report. The Department of Planning and Zoning (DP&Z) may issue revised recommendations, and the Planning Advisory Board (PAB) acting as the Local Planning Agency (LPA) may conduct a second public hearing and may issue revised recommendations between the time DCA issues its ORC report and the Board conducts its final hearing. By approving this ordinance on first reading, the Board is in a position to conduct a public hearing and take final action on the applications after receipt of ORC report from DCA.~~

The attached substitute ordinance provides for final actions on the six (6) pending April 2009 Cycle of applications requesting amendments to the CDMP (Application Nos. 3, 4, 5, 6, 8 and 9). These applications were transmitted to DCA for review and comment. The Board's previous actions on these applications at the November 4, 2009 public hearing were the following: Application No. 3: "ADOPT with Acceptance of Proffered Covenant and TRANSMIT"; Application No. 4: "TRANSMIT WITHOUT RECOMMENDATION and with Acceptance of Proffered Covenant"; Application No. 5: "ADOPT with CHANGE (*as provided by the applicant*) and TRANSMIT"; Application Nos. 6: "ADOPT AND TRANSMIT Request No. 4 and TRANSMIT WITHOUT RECOMMENDATION the remainder of application"; Application No. 8: "ADOPT with CHANGES and TRANSMIT"; and Application No. 9: "ADOPT and TRANSMIT with memorandum dated November 3, 2009." A "Matrix" updated April 7, 2010 summarizing the previous recommendations of the DP&Z, affected Community Councils, PAB and BCC, and the revised recommendations of the DP&Z and PAB is enclosed at the end of this memo.

DCA coordinated the State agency consistency reviews on the transmitted applications at the request of Miami-Dade County. DCA presented its objections to Application Nos. 4 and 5 in its Objections, Recommendations and Comments (ORC) report, dated March 5, 2010. Issues raised for Application No. 4 include: the lack of need for additional commercial land; the amendment encourages the proliferation of urban sprawl; the amendment would impact natural resources and it would result in the loss of viable agricultural land. Issues raised for Application No. 5 include the lack of need for proposed project; the amendment encourages the proliferation of urban sprawl and the amendment lacks adequate data and analysis that would demonstrate that adverse impacts to natural resources would not occur.

Attached you will find the Department of Planning and Zoning's (DP&Z) report, dated March 15, 2010, addressing the pending 6 applications of the April 2009 Cycle of amendments. This report summarizes the pending applications as transmitted to DCA and presents the DP&Z's revised recommendations and principal reasons for the revised recommendations. Attached you will also find DP&Z's response to the ORC report, dated March 15, 2010.

Revised Recommendations
DP&Z's revised recommendations for Application Nos. 3 and 8 are to "ADOPT As Transmitted To DCA"; for Application Nos. 4 and 5 to "DENY"; and for Application Nos. 6 and 9 to "ADOPT With Changes."

The Planning Advisory Board (PAB) acting as the Local Planning Agency (LPA) conducted its final public hearing on the pending amendments on March 22, 2010 and concurs with DP&Z recommendations on Application Nos. 3, 8 and 9. PAB recommends Adopt with Acceptance of verbally proffered covenant for Application No. 4, which limits development of subject property to retail commercial and office uses (75,000 sq. ft.); adopt with amended language in applicant's letter of March 18, 2010 for Application No. 5; and Adopt Application No. 6 with Change, reflecting applicant's letter dated March 16, 2010, and staff language changing the timing of temporary roadway improvements from 3 years to 2 years prior to and after construction of Turkey Point Units 6 and 7.

The PAB recommendations are contained in the attached PAB resolution, the meeting minutes dated March 22, 2010 and the Matrix attached at the end of this memo.

Alex Muñoz
Assistant County Manager

# MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: April 28, 2010

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

SUBJECT: Substitute Special Item No. 1

Please note any items checked.

_____ "3-Day Rule" for committees applicable if raised

_____ 6 weeks required between first reading and public hearing

_____ 4 weeks notification to municipal officials required prior to public hearing

_____ Decreases revenues or increases expenditures without balancing budget

_____ Budget required

_____ Statement of fiscal impact required

_____ Ordinance creating a new board requires detailed County Manager's report for public hearing

✓ No committee review

_____ Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____ ) to approve

_____ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Substitute
Special Item No. 1
4-28-10

ORDINANCE NO. 10-26

ORDINANCE RELATING TO MIAMI-DADE COUNTY COMPREHENSIVE DEVELOPMENT MASTER PLAN; PROVIDING DISPOSITION OF APPLICATIONS FILED IN APRIL 2009 CYCLE TO AMEND, MODIFY, ADD TO OR CHANGE COMPREHENSIVE DEVELOPMENT MASTER PLAN; PROVIDING SEVERABILITY, EXCLUSION FROM THE CODE AND AN EFFECTIVE DATE

**WHEREAS**, the 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**, Section 2-116.1 of the Code of Miami-Dade County, Florida, provides procedures for amending the CDMP which comply with the requirements of the foregoing State Statutes and Administrative Code; and

**WHEREAS**, seven (7) CDMP amendment applications were filed on or before April 30, 2009 and are contained in the document titled "April 2009 Applications to Amend the Comprehensive Development Master Plan", dated June 5, 2009; and

**WHEREAS,** two (2) additional staff CDMP amendment applications were filed prior to the production of the report titled, "Initial Recommendations April 2009 Applications To Amend The Comprehensive Development Master Plan", dated August 25, 2009, bringing the total number of applications filed in the April 2009 CDMP amendment cycle to nine (9); and

**WHEREAS**, of the nine (9) amendment applications, four (4) Land Use Plan (LUP) map amendments (Application Nos. 1 through 4) and one (1) CDMP text amendment (Application No. 5) [[~~was~~]] were privately filed, one (1) CDMP text and LUP map amendment (Application No. 6) [[~~was~~]] were privately filed, two (2) CDMP text amendments (Application Nos. 7 and 9) were filed by the Department of Planning and Zoning (DP&Z), and one (1) CDMP text amendment (Application No. 8) was jointly filed by the Park and Recreation Department and DP&Z; and

**WHEREAS**, Application Nos. 1 and 2 were lawfully withdrawn by the applicants by letters dated August 5, 2009 and August 31, 2009, respectively; and

**WHEREAS**, the DP&Z issued its initial recommendations addressing Application Nos. 3 through 9 in a report titled "Initial Recommendations April 2009 Applications to Amend the Comprehensive Development Master Plan" dated August 25, 2009, as required by Section 2-116.1, Code of Miami-Dade County, and may issue revised recommendations on transmitted applications prior to final action by the Board; and

**WHEREAS**, affected Community Councils have acted in accordance with Miami-Dade County procedures, conducted duly noticed public hearings during the month of September of 2009 to receive public comments on specific applicable applications and on the recommendations of the DP&Z, and issued recommendations regarding the proposed amendments directly affecting their areas; and

**WHEREAS**, on November 4, 2009, this Board, by Resolution, 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**, on November 4, 2009, the Board voted to transmit with intent to adopt Application No. 3 and with acceptance of proffered covenant; to transmit without recommendation Application No. 4 and with acceptance of a proffered covenant; to transmit with intent to adopt Application No. 5 with changes as provided by the applicant by letter dated November 3, 2009; to transmit with intent to adopt request No. 4 (as amended by applicant's letter dated October 23, 2009) of Application No. 6 and transmit without recommendation the remainder of the application and two alternative road configuration maps; to transmit with intent to adopt Application No. 8 with staff changes contained in the October 2, 2009 memorandum; and to transmit with intent to adopt Application No. 9 with memorandum dated November 3, 2009 to the Florida Department of Community Affairs (DCA) for review and comment; and

**WHEREAS**, on December 1, 2009, the Board voted to adopt Application No. 7 that updated the Capital Improvements Element; and

**WHEREAS**, DCA reviewed the proposed applications at the request of this Board and has issued its Objections, Recommendations and Comments (ORC) report, dated March 5, 2010, pursuant to Section 163.3184 (6)(c), F.S.; and

**WHEREAS**, DP&Z has subsequently published its revised recommendations addressing the transmitted amendment applications in a report titled, "Revised Recommendations April 2009 Applications to Amend the Comprehensive Development Master Plan" dated March 15, 2010; and

**WHEREAS**, DP&Z has subsequently published a response to the ORC report dated March 15, 2010; and

**WHEREAS**, Application No. 4 was lawfully withdrawn by applicant's letter dated April 26, 2010, and the withdrawal was formally accepted by the Board at its hearing on April 28, 2010; and

**WHEREAS**, the Board must take final action to Adopt, Adopt With Change or Deny 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 must take final action specifically on Application Nos. 3, 4, 5, 6, 8 and 9, which are the subjects of this Ordinance; 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 the pending amendment applications filed for review during the April 2009 cycle for amendments, modifications, additions, or changes to the Miami-Dade County CDMP as follows:

| Application Number | Applicant/Representative<br>Location (Size)<br>Requested Amendments To The CDMP Land Use Plan Map/Text | Final Commission Action |
|---|---|---|
| 3 | Baptist Hospital of Miami, Inc./Joseph G. Goldstein, Esq. and Tracy R. Slavens, Esq.<br>Northeast corner of SW 137 Avenue and SW 96 Street<br>(19.55 Gross Acres /16.02 Net Acres)<br><br>Requested amendment<br>Redesignate the subject property:<br>FROM: OFFICE/RESIDENTIAL<br>TO: BUSINESS AND OFFICE<br><br>Standard Amendment | Adopt as Transmitted to DCA and with Acceptance of Proffered Declaration of Restrictions (covenant) |
| 4 | Ferro Investment Group II, LLC/Miguel Diaz De la Portilla, Esq.<br>Southeast corner of SW 167 Avenue and SW 104 Street.<br>(9.9 Gross Acres/8.38 Net Ac.)<br><br>Requested Amendments<br>1. Redesignate the subject property:<br>FROM: AGRICULTURE<br>TO: BUSINESS AND OFFICE<br>2. Expand the UDB to include the subject property<br>3. Add the Declaration of Restrictions to the 'Restrictions Table' in the Land Use Element<br><br>Standard Amendment | Withdrawn by applicant's letter dated April 26, 2010 and Accepted by the Board at the April 28, 2010 public hearing |

| Application Number | Applicant/Representative<br>Location (Size)<br>Requested Amendments To The CDMP Land Use Plan Map/Text | Final Commission Action |
|---|---|---|
| 5 | F I R Investments, Corporation/Felix Rodriquez<br><br>Requested Amendment<br>Revise the text in the Land Use Element to allow for new ancillary uses in the OPEN LAND CDMP land use category, as well as a more detailed list of allowable uses in the OPEN LAND Subarea 1.<br><br>Standard Amendment | Adopt with Changes as contained in the Applicant's "6th Amended Letter of Intent", dated March 24, 2010; and with Further Changes approved on April 28, 2010 to the Open Land Subarea 1 section in the Land Use Element requiring annual operating permits for the parking and storage of vehicles and equipment, quarterly ground water monitoring, paved impervious surfaces, prohibition of liquid or hazardous wastes and the exclusion of stand-alone automobile parking and storage uses such as car rental facilities |

| Application Number | Applicant/Representative<br>Location (Size)<br>Requested Amendments To The CDMP Land Use Plan Map/Text | Final Commission Action |
|---|---|---|
| 6 | Florida Power & Light Company/Jeffrey Bercow, Esq. and Michael A. Gil, Esq.<br><br>Requested Amendments<br>1) Amend the Roadway network on the Adopted 2015-2025 Land Use Plan (LUP) map<br>2) Amend the Transportation Circulation Subelement:<br>a) Add two new paragraphs of text for the definition of Temporary Roadways; and<br>b) Planned 2025 Future Roadway Network map of the Future Traffic Circulation Map Series<br>c) Add New Transportation map locating these Temporary Roadways.<br>3) Add the Declaration of Restrictions to the 'Restrictions Table' in the Land Use Element, if proffered<br><br>Standard Amendment | Adopt with Staff Recommended Further Changes as contained in a document dated April 21, 2010; and with Further Changes approved on April 28, 2010 to the Traffic Circulation Subelement that included Figure 3.1 with the SW 359th Street Option and revisions to the text that addressed the return of temporary roads to prior status, required consistency with the objectives of CERP, enhanced the protection of wildlife, and identified DERM as the agency with enforcement responsibilities |
| 8 | Department of Planning and Zoning/Marc LaFerrier, AICP, Director; Park and Recreation Department/ Jack Kardys, Director<br><br>Requested Amendments<br>A. Revise the text in the Recreation and Open Space Element to reflect the 2007 *Miami-Dade County Parks and Open Space Master Plan (OSMP)*.<br><br>B. Revise the Recreation and Open Space Element to reflect other updates and policy changes not related to OSMP, including revisions to Policy ROS-4E, allowing new mechanisms for accepting open space conservation areas; and revisions to Policy ROS-5C iii, allowing greater protection of park sites with natural, historical, or archeological resources.<br><br>Standard Amendment | Adopt as Transmitted to DCA |

| Application Number | Applicant/Representative<br>Location (Size)<br>Requested Amendments To The CDMP Land Use Plan Map/Text | Final Commission Action |
|---|---|---|
| 9 | Department of Planning and Zoning/Marc LaFerrier, AICP, Director<br><br>Requested Amendment<br>Revise the text of the Housing Element to provide language that allows Miami-Dade County to enhance and preserve mobile home parks as viable options for affordable housing.<br><br>Standard Amendment | Adopt with Changes as Recommended by Staff in DP&Z's April 27, 2010 document; and with Further Changes approved on April 28, 2010 to Housing Element Policy HO-7E |

**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 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, 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 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."

PASSED AND ADOPTED: **April 28, 2010**

Approved by County Attorney as
to form and legal sufficiency.

Prepared by:

Joni Armstrong Coffey