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

Memorandum

MIAMI-DADE COUNTY

Date: April 27, 2011

Substitute
Special Item No. 1

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Alina T. Hudak
County Manager

Ordinance No. 11-21

Subject: Ordinance Acting Upon the Pending April 2010 Cycle Applications to Amend the Comprehensive Development Master Plan (Standard Applications)
O#11-21

This substitute item differs from the original item (Legistar No. 102653) in that it complies with the new rule change regarding substitute or alternate items as provided in Ordinance No. 09-13, adopted March 3, 2009. This substitute 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 18, 2010, and the receipt of the Objections, Recommendations and Comments (ORC) from the Florida Department of Community Affairs (DCA) by letter dated March 23, 2011. This substitute ordinance addresses the disposition of pending Application Nos. 4, 5 and 6 filed in the April 2010 Cycle of Applications;**

- **Application No. 3 was previously adopted on November 18, 2010 (Ordinance No. 10-80) as the required annual update to the Capital Improvements Element (CIE) of the Comprehensive Development Master Plan (CDMP) for Miami-Dade County, Florida.**

Recommendation

It is recommended that the Board of County Commissioners adopt the attached ordinance (Substitute Special Item No. 1), which provides for the Board to adopt, adopt with change or deny the pending April 2010 Cycle applications to amend the CDMP.

It is recommended that final action be taken on this substitute ordinance for the pending April 2010 Cycle CDMP Amendment Applications at the conclusion of the public hearing scheduled to begin at **9:30 AM on Wednesday, April 27, 2011 in the Commission Chamber**. 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 CDMP amendment application. After the Board adopts individual entries indicating its action on each CDMP amendment application, the Board will take final action adopting the ordinance in its entirety, incorporating the foregoing entries.

Following the final action will be a transmittal of the adopted April 2010 Cycle Applications to the DCA for its compliance review and issuance of a Notice of Intent (NOI).

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. It is important to note that Application No. 1 was legally withdrawn by the applicant by letter dated August 26, 2010 and Application No. 2 was removed prior to publication of the Department of Planning and Zoning's (DP&Z) Initial Recommendations Report, dated August 25, 2010. Therefore, these two CDMP amendment applications do not impose any impact to Miami-Dade County. Application No. 3 is the annual update to the Capital Improvements Element of the CDMP and was subject to final action and adopted by the Board on November 18, 2010 (Ordinance No. 10-80). The pending April 2010 Cycle Application Nos. 4, 5 and 6 are text amendments to the CDMP, and thus, have 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 to Miami-Dade County for bringing such infrastructure to the area, as well as annual operating costs. Also, in accordance with Resolution No. 530-10, County departments are required to include detailed financial costs and budgetary impact analysis for items that have a fiscal impact. The pending April 2010 Cycle Application Nos. 4, 5, and 6 are text amendments to the CDMP, and therefore, do not impose a fiscal impact to Miami-Dade County.

Housing Impact

Since Application Nos. 4 through 6 are text amendments to the CDMP, none would impact the supply of housing in unincorporated Miami-Dade County.

Track Record/Monitor

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

Background

The attached substitute ordinance provides for the Board's final action on the three (3) pending April 2010 Cycle Applications requesting amendments to the CDMP (Application Nos. 4, 5 and 6). The Board's previous actions on all three (3) CDMP amendment applications at the November 18, 2010 public hearing were to "ADOPT and TRANSMIT." A "Summary of Recommendations" matrix updated March 28, 2011, which summarizes the previous recommendations of the DP&Z, the Planning Advisory Board (PAB) and the Board, as well as the revised recommendations of the DP&Z and the final recommendations of the PAB is enclosed at the end of this memo.

These CDMP amendment applications were transmitted to the DCA by letter dated January 6, 2011 for review and comment. The DCA coordinated the State agency consistency reviews on the transmitted CDMP amendment applications at the request of Miami-Dade County. The DCA presented its findings on Application Nos. 4, 5 and 6 in its ORC report, dated March 23, 2011. No objections were raised by the DCA on the referenced CDMP amendment applications.

Revised Recommendations
The DP&Z's revised recommendations for the three (3) pending April 2010 Cycle Applications are as follows: Application No. 4: "Adopt as Transmitted"; Application No. 5: "Adopt as Transmitted"; and Application No. 6: "Adopt with Additional Changes".

The Planning Advisory Board, acting as the Local Planning Agency, conducted its final public hearing on the pending April 2010 Cycle Applications in March 28, 2011. The PAB's final recommendations are as follows: Application No. 4: Adopt as Transmitted; Application No. 5: Deny; and Application No. 6: Adopt with Additional Changes. The PAB's final recommendations on the referenced CDMP amendment applications are also contained in the attached PAB resolution, the meeting minutes dated March 28, 2011 and the "Summary of Recommendations" matrix attached at the end of this memo.

Assistant County Manager

MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

DATE: April 27, 2011

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
4-27-11

ORDINANCE NO. 11-21

ORDINANCE RELATING TO MIAMI-DADE COUNTY COMPREHENSIVE DEVELOPMENT MASTER PLAN; PROVIDING DISPOSITION OF APPLICATIONS FILED IN APRIL 2010 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, five (5) CDMP amendment applications were filed on or before April 30, 2010 and are contained in the document titled "April 2010 Applications to Amend the Comprehensive Development Master Plan", dated June 5, 2010; and

WHEREAS, one (1) CDMP amendment (Application No. 6) was filed in the Initial Recommendations Report, bringing the total number of CDMP amendment applications filed in the April 2010 Cycle of Amendments to six (6); and

WHEREAS, of the six (6) CDMP amendment applications, two (2) Land Use Plan (LUP) map amendments (Application Nos. 1 and 2) were privately filed, and four (4) CDMP text amendments (Application Nos. 3, 4, 5 and 6) were filed by the Department of Planning and Zoning (DP&Z); and

WHEREAS, Application No. 2 was removed by DP&Z prior to the publication of the Initial Recommendations Report, dated August 25, 2010; and

WHEREAS, Application No. 1 was legally withdrawn by the applicant by letter dated August 26, 2010; and

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WHEREAS, eligible Application No. 3, which updates the Schedule of Improvements in the Capital Improvements Element (CIE) of the CDMP, [[~~will be~~]][1] >>was<< subject to final action [[~~by Ordinance (Special Item No. 1)~~]] >>(Ordinance No. 10-80)<< at the November 18, 2010 public hearing; and

WHEREAS, the DP&Z issued its initial recommendations addressing Application Nos. 3 through 6 in a report titled "Initial Recommendations April 2010 Applications to Amend the Comprehensive Development Master Plan" dated August 25, 2010, 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, the Planning Advisory Board (PAB), >>acting as the Local Planning Agency (LPA),<< and >>the<< DP&Z have acted in accordance with the referenced State and County procedures and have accepted applications, held public hearings and transmitted recommendations for the disposition of such applications to this Board; and

WHEREAS, on November 18, 2010, 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 18, 2010, the Board voted to adopt Application No. 3 updating the Capital Improvements Element of the CDMP; and

WHEREAS, on November 18, 2010, the Board voted to transmit with intent to adopt Application Nos. 4, 5 and 6 to the DCA for review and comment; and

WHEREAS, the DCA reviewed the pending April 2010 Cycle Applications at the request of this Board and has issued its Objections, Recommendations and Comments (ORC) report, dated March 23, 2011, pursuant to Section 163.3184 (6)(c), F.S.; and<<

WHEREAS, the Board must take final action to Adopt, Adopt With Change or Deny CDMP 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

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[1] The differences between the substitute and the original item are indicated as follows:
Words double stricken through and/or [[double bracketed]] shall be deleted, words double underlined and/or >>double arrowed<< constitute the amendment proposed.

>>**WHEREAS**, the Board must take final action specifically on pending Application Nos. 4, 5 and 6 of the April 2010 Cycle of Amendments, 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 final action on the >>pending<< CDMP amendment applications filed for review during the April 2010 Cycle for amendments, modifications, additions, or changes to the Miami-Dade County CDMP as follows:

Application Number	Applicant/Representative Location (Size) Requested Amendments to the CDMP Land Use Plan Map or Text	[[~~Recommended Action and/or Transmittal Instruction~~]] >>Final Commission Action<<
4	Miami-Dade County Department of Planning and Zoning/ Marc C. LaFerrier, AICP, Director Requested Amendment to the CDMP Add a new optional Community Health and Design Element to the CDMP. Standard Amendment	Adopt As Transmitted
5	Miami-Dade County Department of Planning and Zoning/ Marc C. LaFerrier, AICP, Director Requested Amendment to the CDMP Revise the Open Land Subarea 4 (East Everglades Residential Areas) text on Page I-63 of the Land Use Element to include agriculture production[[;]] >>and the<< limited raising of livestock [[~~, nurseries and tree farms~~]] in the list of allowable uses. Standard Amendment	Adopt As Transmitted
6	Miami-Dade County Department of Planning and Zoning/ Marc C. LaFerrier, AICP, Director Requested Amendment to the CDMP Amend the text of the Land Use Element of the CDMP to allow bed and breakfast lodgings in all residential land use categories. Standard Amendment	Withdrawn

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 27, 2011

Approved by County Attorney as
to form and legal sufficiency.

Prepared by:

Craig Coller