

Memorandum



Date: January 18, 2013

To: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor 

Subject: Status Report of CDMP Covenants following Annexation/Incorporation

This memorandum is provided in response to a request made by Commissioner Jordan at the December 12, 2012 Infrastructure and Land Use Committee meeting for an analysis of all Comprehensive Development Master Plan (CDMP) Declarations of Restrictions (covenants) accepted by the Board of County Commissioners (Board) in order to determine whether there are instances in which the Board has lost authority over such covenants due to annexation or incorporation.

CDMP covenants comprise voluntary proffers made by private property owners for the Board's consideration along with a CDMP amendment application. Covenants that are accepted by the Board upon adoption of a CDMP amendment application commits the subject property(s) to development conditions/restrictions detailed in the covenant.

Regarding the authority over CDMP covenants, the County's Home Rule Charter provides that "each municipality shall have the authority to exercise all powers relating to its local affairs not inconsistent with this Charter. Each municipality may provide for higher standards of zoning, service, and regulation than those provided by the Board of County Commissioners in order that its individual character and standards may be preserved for its citizens." Therefore, except where the Board specifically retains jurisdiction through a clause in the covenant, resolution designating the property as a Facility of Countywide Significance, Interlocal Agreement (ILA) or municipal charter provision, the County would not retain authority over CDMP covenants following annexation or incorporation of properties subject to such covenants.

Attachment A lists thirteen (13) CDMP amendment applications that were adopted by the Board with acceptance of proffered covenants since 1988. These amendments are on properties that were in unincorporated Miami-Dade County (11 amendments) and subsequently annexed or incorporated, and on property within an existing municipality (2 amendments). Of the properties subject to the eleven CDMP amendments that were previously within unincorporated Miami-Dade County, eight (8) were developed subject to the conditions specified in the respective CDMP covenants prior to annexation/incorporation and three (3) remain vacant. The two (2) amendments on properties within existing municipalities occurred on property within the City of Homestead and the City of Miami Gardens, where the County retained jurisdiction over land use on the subject properties. This is due to the County having jurisdiction over all requests to amend the Urban Development Boundary (UDB) as in the case of the amendment in the City of Homestead, and for the amendment in the City of Miami Gardens, the City Charter provides that the County retains jurisdiction over land use decisions on the subject property.

The CDMP amendment applications mentioned above where the subject properties remain vacant are described below in more detail:

I. April 2007 CDMP Amendment Cycle – Application No. 3 (No. 11 on Attachment A); and October 2009 CDMP Amendment Cycle – Application No. 7 (No. 11 on Attachment A)

Municipality: Sweetwater
 Acreage: ±64
 Current Uses: vacant

The covenant associated with this application was accepted by the Board in 2008 and later modified in 2010. The covenant requires the property owner to fund, construct and dedicate to the County a MetroBus Terminal with adequate land for a future Metrorail station. In 2010, the Board adopted Ordinance No. 10-70 amending the boundaries of the City of Sweetwater to include the subject property. At the time of annexation, the City of Sweetwater assumed exclusive jurisdiction over changes to the CDMP covenant restrictions related to the private development.

COVENANT RESTRICTIONS	
CAPITAL FACILITIES	Owner shall fund, construct and dedicate to the County a MetroBus Terminal within the “triangular parcel”. Additionally, owner agrees to reserve within the area that will be dedicated to the County sufficient land for a future Metrorail station.
	Owner shall also dedicate an ingress/egress easement from NW 12 th Street to the transportation facility.
	Owner shall construct roadway improvements including 3 rd northbound lane on NW 111 Avenue, 3 rd eastbound lane on NW 14 Street and 4 th southbound lane on NW 107 th Avenue.
OTHER RESTRICTIONS	The development program shall not exceed the following: 1) Residential: 1050 dwelling units or 1,701,000 gross square feet [GSF]; 2) Retail/Service: 799,900 GSF; 3) Hotel: 430 rooms or 225,000 GSF; and 4) Office: 225,000 GSF. Density/intensity for land use categories can be adjusted provided: 1) the net PM peak hour trips do not exceed 2,807; 2) the average daily potable water demand does not exceed 0.361 million gallons per day [MGPD]; or 3) the maximum daily potable water demand does not exceed 0.812 MGPD
	Owner agrees not to obtain Certificate of Occupancy (CO) for any building, except the Public Transportation Facility, until the Dolphin Fire Rescue Station has received a temporary CO or other fire rescue station designated by the Fire Rescue Dept that will service the property.
	All buildings shall be LEED certified
	Provide a minimum of 10% workforce housing
	Utilize water conservation measures for the residential and commercial development

II. April 1995 CDMP Amendment Cycle – Application No. 1 (No. 5 on Attachment A); and October 2001 CDMP Amendment Cycle – Application No. 1 (No. 10 on Attachment A)

Municipality: Miami Gardens
 Acreage: ±12
 Current Uses: vacant

In 2003, the Board adopted Ordinance 03-59 authorizing the establishment of a new municipality known as the City of Miami Gardens which included incorporation of the two subject properties. Following adoption of the CDMP covenant and incorporation, the subject property was acquired by Miami-Dade County for use as a future bus transit hub and transit-oriented development. The Request for Proposals issued for development of the site indicates that land use and zoning approvals will be through the City of Miami Gardens.

COVENANT RESTRICTIONS (April 1995 CDMP Amendment Cycle)
Provide a 50' buffer area (may only include fences, walls and the like)
Provide a 5' wide landscape buffer
Owner shall not request to redesignate Parcel B to Business and Office.
No BU-2 or BU-3 uses for Property A nor any use listed in Exhibit "E"
Where business is adjacent to residential, a 6' high masonry wall shall be provided.
Lighting shall be directed away from the western and southern boundaries of Property A.
Solid waste receptacles shall be located in a manner that minimizes the impacts on adjacent residential.

COVENANT RESTRICTIONS (October 2001 CDMP Amendment Cycle)
Residential density not to exceed 6 units per acre, for a maximum of 15 units. Restriction does not prohibit development of the property for hotel/motel or other use permitted in the Office/Residential category.

III. Dolphin Center North DRI CDMP Amendment Application (No. 13 on Attachment A)

Municipality: Miami Gardens
 Acreage: 38.75
 Current Uses: the site is currently used for parking, development has not commenced

In 2003, the Board adopted Ordinance 03-59 authorizing the establishment of a new municipality known as the City of Miami Gardens which included incorporation of the subject property. Jurisdiction over changes to the CDMP covenant for the subject property remained with Miami-Dade County due to specific language in the municipal charter. The adopted Charter of the City of Miami Gardens (Section 9.6 Stadium

Properties; Dolphin Center DRI) states that "jurisdiction over the Properties for purposes of zoning and building approvals...shall remain with Miami-Dade County".

COVENANT RESTRICTIONS
Development shall be limited to 1) uses permitted under Office/Residential, 2) a water park tourist attraction and ancillary, associated and accessory uses.

IV. Homestead Miami Speedway DRI CDMP Amendment Application (No. 12 on Attachment A)

Municipality: Homestead
Acreage: 122.9
Current Uses: vacant

At the time of the CDMP amendment application, the subject property was located within the boundaries of the City of Homestead. Since the proposed amendment included a request to amend the Urban Development Boundary, the application required approval by the Board of County Commissioners. Typically, properties that were brought inside of the Urban Development Boundary would no longer require authorization by the Board for amendments to the CDMP covenant, however, the Board specifically retained jurisdiction over future changes to the CDMP covenant. The 'Modification, Amendment, Release' Section of the CDMP covenant requires all changes to be approved by the Board of County Commissioners.

COVENANT RESTRICTIONS
Property shall only be used for up to 12,000 additional spectator seats (including limited ancillary uses) and limited agricultural uses. In no event shall the property be developed for hotel/motel, residential, commercial office buildings, shopping centers or other similar uses.
100% of the stormwater runoff from the 100 year, 3 day storm event shall be retained on-site.

Should you have any questions, please contact Mark R. Woerner, Assistant Director for Planning, Department of Regulatory and Economic Resources, at (305) 375-2835 or me directly.

Attachment

c: Jack Osterholt, Deputy Mayor/Director, Department of Regulatory and Economic Resources

ATTACHMENT A
List of CDMP Covenants Adopted by the BCC
that are now located within a municipality (1988 to 2012)

No.	City	Description	Cycle & App. No.	Type of Amendment	Ordinance No. & Date	Ac.	Yr. Incorp. or Annexed	Built & Yr.
1	Doral	Bus. & Off.	October 1991-92 Applic. No. 1	Standard w/ Covenant	Ord. No, 92-125 Oct. 20, 1992	1.3	June 24, 2003	Yes / 2001
2	Miami Gardens	Bus. & Off.	April 1992-93 Applic. No. 1	Standard w/ Covenant	Ord. No, 93-25 April 1, 1993	4.9	May 13, 2003	Yes / 1997 & 2008
3	Doral	Bus. & Off.	Nov. 1993-94 Applic. No. 1	Small-Scale w/ Covenant	Ord. No, 94-105 June 7, 1994	2.3	June 24, 2003	Yes / 1996
4	Doral	Bus. & Off.	Nov. 1993-94 Applic. No. 2	Small-Scale w/ Covenant	Ord. No, 94-105 June 7, 1994	4.2	June 24, 2003	Yes / 1996
5	Miami Gardens	Bus. & Off.	April 1995-1996 Applic. No. 1	Small-Scale w/ Covenant	Ord. No, 95-206 Nov. 21, 1996	9.0	May 13, 2003	Vacant / NA
6	Sweetwater	Bus. & Off.	Beacon Tradeport 1996-97	Concurrent DRI w/ a Covenant	Ord. No, 97-24 Mar. 24, 1997	196.3	2012	Yes / 2000
7	Doral	Bus. & Off.	May 1997-98 Applic. No. 1	Small-Scale w/ Covenant	Ord. No, 97-224 Dec. 16, 1997	10.3	June 24, 2003	Yes / 1999, 2001 & 2003
8	Doral	Bus. & Off.	Oct. 1997-98 Applic. No. 2	Small-Scale w/ Covenant	Ord. No, 98-158 Oct. 8, 1998	4.0	June 24, 2003	Yes / 2001-02
9	Miami Lakes	Office/Resid.	Oct. 1999-00 Applic. No. 2	Small-Scale w/ Covenant	Ord. No, 00-71 May 25, 2000	6.5	Sept. 19, 2000	Yes / 1990
10	Miami Gardens	Office/Resid.	Oct. 2001-02 Applic. No. 1	Small-Scale w/ Covenant	Ord. No, 02-87 May 30, 2002	2.6	May 13, 2003	Vacant / NA

11	Sweetwater	Bus. & Off.	April 2007-08 Applic. No. 3A/B; and Oct. 2009-10 Applic. No. 7	Standard & CH. 380 RAC w/ Covenant (amended in 2010)	Ord. No, 08-43 Apr. 24, 2008; and Ord. No, 10-68 Oct. 6, 2010	64.0	2012	Vacant / NA
12*	Homestead	Bus. & Off.	Homestead- Miami Speedway DRI/CDMP	Concurrent DRI/ CDMP w/ Change w/ Covenant & Move UDB	Ord. No, 11-36 July 7, 2011	122.9	Jan. 16, 1996	Vacant / NA
13*	Miami Gardens	Bus. & Off.	Dolphin CTR North NOPC	BCC Adopted Concurrent DRI/CDMP w/ Covenant.	Ord. No, 11-56 July 21, 2011.	38.7	Sept. 19, 2000	Vacant / NA

* These CDMP amendment applications with proffered covenants were located within a municipality at the time of application but required approval by the Board due to a requested amendment to the Urban Development Boundary (UDB) or an Interlocal Agreement with the municipality that allowed the County to retain jurisdiction over land use decisions.

CDMP Covenants shown in bold are detailed in the memorandum.