

# Application No. 5

## Land Use Element Text Amendment

### APPLICATION SUMMARY

Applicant/Representative: FIR Investments, Corp/Felix Rodriguez

Location: Open Land Subarea 1

Requested Text Changes: Add language to the Open Land and Open Land Subarea 1 text that would allow commercial vehicle storage within Open Land Subarea 1. The text to be amended is on pages I-61 and I-63 of the Land Use Element in the "Adopted Components of the Comprehensive Development Master Plan for Miami-Dade County, Florida, October 2006 Edition."

Amendment Type: Standard Text Amendment

### RECOMMENDATIONS

Initial Staff Recommendation: **DENY AND DO NOT TRANSMIT**  
(August 25, 2009)

Planning Advisory Board (PAB) acting as Local Planning Agency: **ADOPT WITH CHANGES AND TRANSMIT** *(to revise previous changes to include additions/deletions of certain text in the "Open Land" CDMP land use category on Pages I-61 and I-63 to delete references to landfills and resource recovery facilities; and to provide additional language that storage of commercial vehicles on properties greater than 20 acres may be allowed in the "Open Land Subarea 1 (Snake-Biscayne Canal Basin)" including restricting the use of said properties to prohibit maintenance/repair of commercial vehicles)*  
(October 5, 2009)

Board of County Commissioners: **ADOPT WITH CHANGES AND TRANSMIT** *in accordance with the letter submitted by the applicant on November 3, 2009* (November 4, 2009)

Revised Staff Recommendation: **DENY** (March 15, 2010)

Final Recommendation of PAB acting as Local Planning Agency: **TO BE DETERMINED** (March 22, 2010)

Final Action of Board of County Commissioners: **TO BE DETERMINED** (April 7, 2010)

## REQUESTED TEXT AMENDMENT

The following are the modifications to the CDMP Land Use Element 'Open Land' and 'Open Land Subarea 1' text proposed by the applicant and updated on November 3, 2009.

### Open Land

The land designated as "Open Land" is not needed for urban uses between now and the year 2015 and has been set aside for uses other than urban development. It is not simply surplus undeveloped land, but rather it is land that is intended to serve one or more of the following functions: production such as agriculture, limestone extraction or other resource-based activity such as development of potable water supplies; rural residential development at a maximum density indicated for the specific Open Land subarea, but no greater than one unit per five acres; recreation; commercial vehicle storage as indicated for the specific Open Land Subarea; compatible utility and public facilities as indicated for the specific Open Land Subarea, and conservation, maintenance or enhancement of environmental character. Lower residential densities may be required in some areas for purposes of avoiding flood conditions or to avoid degradation of environmental systems or features. Because of the water supply-related or other environmental functions of those areas, they may also be considered for acquisition by federal, State, regional, County or private institutions that would manage these areas to optimize environmental functions, and for location of project features such as reservoirs, stormwater treatment areas, canals, and flow-ways constructed pursuant to the Comprehensive Everglades Restoration Plan.

### Open Land Subarea 1 (Snake-Biscayne Canal Basin)

This subarea is located north of the Miami Canal (Canal-6) in northwestern Miami-Dade County. Rural residential use at 1 dwelling unit per 5 acres, limestone quarrying and ancillary uses, compatible institutional uses, public facilities, utility facilities, and communications facilities, recreational uses and seasonal agriculture<sup>1</sup>, storage of commercial vehicles on properties greater than 20 acres, any portion of which is located within 1500 feet of Okeechobee Road, subject to environmental monitoring to maintain groundwater quality and provided that the maintenance and/or repair of commercial vehicles shall be prohibited, may be considered for approval in this subarea. Uses that could compromise groundwater quality shall not occur west of the Turnpike Extension.

### Revised Staff Recommendation (March 15, 2010)

Staff recommends **DENIAL** of the application to change text as proposed in the Open Land and Open Land Subarea 1 sections of the Land Use Element of the CDMP to allow for the storage of commercial vehicles based on the following:

1. Notwithstanding the modified land uses proposed by the applicant for Open Land Subarea 1, and the new restrictions proposed for inclusion in the text of this section of the CDMP, Principal Reason #1, and reasons #3-8 of the Initial Recommendations are still valid. Agency comments on Application 5 focused on water quality issues, impacts on CERP, and the importance of limiting the

unnecessary expansion of urban and industrial uses, such as commercial vehicle storage, outside of the Urban Development Boundary.

The “environmental monitoring” that has been suggested by the applicant has not been clearly defined such that it addresses concerns that groundwater or surface water may be negatively impacted by the proposed text amendment. The South Florida Water Management District opined that the entity responsible for proposed monitoring should be specified in the proposed text. The South Florida Regional Planning Council suggested that the proposed language that requires monitoring is not accompanied with parameters or possible mitigation strategies.

Since the applicant removed language to allow landfills and resource recovery facilities in Open Land Subarea 1 after the County’s Initial Recommendations report was published, Department of Planning and Zoning (DP&Z) staff has determined that Principal Reason #2, that deals with Solid Waste Subelement Policy SW-1A, is no longer pertinent to this report and should be disregarded.

2. The DP&Z, in addition to the SFRPC and the DCA, conclude that Application 5 and related supporting documents fail to provide adequate data and analysis to show that there is insufficient capacity for this land use within the UDB. The Metropolitan Planning Organization (MPO) is now preparing data and analysis to assist in determining whether there is a need for additional facilities for truck parking in the County.

In December 2009, the MPO agreed to fund a Comprehensive Parking Study for Freight Transport in Miami-Dade County which was requested by the Department of Planning and Zoning. The study will look at two separate issues related to truck parking in Miami-Dade County. The first issue is to determine whether there is an insufficient supply of overnight parking for long-haul truckers who drop off loads in Miami-Dade County and wait for outbound loads. The second issue is to determine whether there is a lack of parking places for independent truckers, who may be residents of Miami-Dade County, to park their trucks when not in use. The study will also identify existing and potential new truck parking facilities. The study will also address the need for the safety and security of the trucks and drivers. The consultant, Marlin Engineering, Inc., should complete the study in nine (9) months (September 2010).

On January 21, 2010, the Board of County Commissioners (BCC) passed and adopted Resolution No. R-53-10 directing the Mayor through the Department of Planning and Zoning to prepare a study analyzing appropriate parcels for tractor-trailer parking. The purpose of the study is to identify parcels of property that would be suitable for tractor-trailer parking, taking into consideration the economic feasibility of tractor-trailer parking for the identified parcels. The study will ensure that the identified parcels can be properly buffered from less intensive land uses, and that the parcels are located near major transportation corridors. The study shall be presented to the BCC within 120 days from the adoption date of the resolution. The MPO’s Comprehensive Parking Study will not be ready until September 2010, therefore the Department of Planning and Zoning, in cooperation with the MPO’s Comprehensive Parking Study consultant, will prepare a White Paper that will be presented to the Board at the April 7, 2010, Final CDMP Hearing. The White Paper will identify potential parcels that

are suitable for tractor-trailer parking, in areas where this type of use is compatible with surrounding land uses and located near major transportation corridors.

### **New Information**

At the Board of County Commissioners' (BCC) Transmittal Hearing held on November 4, 2009, the applicant submitted a fifth letter clarifying the requested text amendment and a bound report entitled, "FIR Investments, Corp. CDMP Application No. 5 (April 2009 Cycle) Nov. 4, 2009". These documents were transmitted to the State of Florida Department of Community Affairs (DCA) on December 8, 2009.

The Department of Planning and Zoning (DP&Z) has received the Department of Community Affairs' (DCA) "Objections, Recommendations and Comments" (ORC) report dated March 5, 2010, that outlines objections to the proposed text amendment. The DP&Z has also received written comments on the proposed text amendment from the South Florida Regional Planning Council, the South Florida Water Management District, and the Florida Department of Environmental Protection. Agency concerns include water resource protection, environmental monitoring responsibilities, and impacts to Comprehensive Everglades Restoration Plan projects.

### ***Objections, Recommendations and Comments Report from the DCA***

The DCA has outlined four main objections to Application 5. The DCA concurs with DP&Z staff that a county-wide need for the storage of commercial vehicles outside of the Urban Development Boundary has not been demonstrated. The DCA notes that the Metropolitan Planning Organization for the Miami area is currently preparing a "Comprehensive Parking Study for Freight Transport in Miami-Dade County" to assess the demand for truck parking and identify suitable locations for this land use. The DCA states that the adoption of the amendment would result in urban sprawl due to premature rural land conversion and failure to protect natural resources.

The DCA has determined that although the applicant has included the following language, "Use of the parcel is subject to environmental monitoring to maintain groundwater quality.", the amendment continues to pose potential impacts to natural resources such as groundwater, the Northwest Wellfield, CERP, and wetlands. They also noted that, "... the nature and scope of that monitoring is not defined."

In addition, the DCA stated that approval of the proposed amendment would be inconsistent with several goals, objectives and policies of the Miami-Dade County CDMP and would cause the CDMP to have internal inconsistencies. The agency recommends that the County not adopt the amendment or "Limit the use to storage of trucks operated by independent truckers used to haul limerock for the local mining industry, provided that the environmental monitoring currently required by the County for private truckers hauling limerock is equally applied."

### **Initial Staff Recommendation (August 25, 2009)**

In the Initial Recommendations Report published on August 25, 2009, the staff recommended to **DENY AND DO NOT TRANSMIT** the proposed amendment to add language to the Open Land and Open Land Subarea 1 section of the Land Use Element

in the “Adopted Components of the Comprehensive Development Master Plan for Miami-Dade County, Florida, October 2006 Edition” that would allow commercial vehicle storage within Open Land Subarea 1. This recommendation was based on the staff analysis as summarized in the Principal Reasons for Recommendation.

### **Principal Reasons for Recommendations**

1. There is no need for an amendment to the Miami-Dade County Comprehensive Development Master Plan (CDMP) to allow for commercial equipment and vehicle storage facilities outside the Urban Development Boundary (UDB). Lands within the UDB that are designated “Industrial and Office” and “Business and Office” on the Adopted 2015 and 2025 Land Use Plan (LUP) map can be utilized for the storage of commercial equipment and vehicle storage. Current estimates from Miami-Dade County Department of Planning and Zoning (DP&Z) land use file records indicate there are approximately 4,530 acres of vacant ‘Industrial and Office’ designated land throughout the County. Commercial vehicle storage facilities can be developed within the County’s existing urban area without an amendment to the CDMP. As discussed in the allowable uses section of this report, the storage of commercial vehicles is allowed in the IU-1, IU-2, IU-3, and BU-3 zoning districts.

In addition, the Applicant has not substantiated claims made in the application including the following statement, “Nonetheless, demand for these uses continues to increase and is a necessary component *[sic]* to support land use activities within non-urban areas throughout the County.” Allowed land uses, where compatible, in Open Land Subarea 1 include seasonal agriculture, rockmining, permitted rural residential uses, and water conservation projects. The Rockmining Overlay Zoning Area (ROZA) regulations already allow uses necessary to support bona fide rockmining activities. Seasonal agriculture, residential use, and water conservation activities do not require industrial uses such as those proposed by the Applicant. The Applicant’s proposed uses are incompatible with uses appropriate for Open Land Subarea 1.

2. Considering the Applicant’s proposal to allow landfills, resource recovery facilities, commercial equipment, and vehicle storage in Open Land Subarea 1, the Applicant has not demonstrated that there is a threat to public health, safety, or welfare that would be eliminated through approval of this application pursuant to Solid Waste Subelement Policy SW-1A. Policy SW-1A requires that the provision of solid waste facilities outside the UDB as depicted on the CDMP Land Use Plan (LUP) map, including Open Land Subarea 1, shall be avoided except where necessary to eliminate a threat to public health, safety, or welfare. Solid waste facilities include landfills and resource recovery facilities. (See Landfills and Resource Recovery Facilities section of report.)
3. The preservation of Open Land areas outside the UDB is necessary to achieve long term County, State and federal goals. The UDB on the LUP map indicates where urban uses should not occur and where expenditures on infrastructure, such as the extension of water and sewer lines, are discouraged. This application proposes urban type uses outside the UDB in areas where urban infrastructure does not exist to support such uses, and should not be extended. The CDMP also states that Open Land subareas have been set aside for purposes that do not include urban uses. Many of these wetland areas are

slated for water and ecosystem restoration projects designed to maintain the quality and quantity of groundwater. Approval of this application would be inconsistent with all of these fundamental planning objectives outlined in the CDMP and supported by various state and federal policies.

4. Approval of this application would be inconsistent with and contradictory to multiple goals, objectives, and policies in the CDMP related to the protection of groundwater quality. Industrial uses such as those proposed by the Applicant are known to cause groundwater contamination in many instances. Miami-Dade County Department of Environmental Resources Management (DERM) staff included the following statement in their review of this application, "The uses proposed within this application have the potential to significantly degrade both surface and groundwater quality..."

The wellfield protection area for the County's largest public wellfield, the Northwest Wellfield, lies adjacent to Open Land Subarea 1. Allowing land uses that may threaten groundwater directly adjacent to the Northwest Wellfield Protection Area, as proposed by the Applicant, increases the likelihood of the contamination of the County's sole source of drinking water, the Biscayne Aquifer. Initial published studies (discussed in more detail in the staff analysis) have also shown that excavation resulting in lakes, such as those in the subarea, accelerate the flow of groundwater to the wellfield thereby increasing the risk of groundwater contamination within the wellfield.

5. Approval of the application could jeopardize some of the water resource initiatives outlined in the Comprehensive Everglades Restoration Plan (CERP). Land uses that could contaminate the soil and groundwater, such as landfills, would contradict CERP plans involving water storage for ecosystem rehydration. Mitigation for these uses presents additional costs for achieving regional wetland and water management goals shared by County, State, and federal agencies. Approval of this application would be inconsistent with several CDMP policies that require CERP goals to be considered and upheld through ongoing development activity within the County. To change the allowed land uses in Subarea 1, a comprehensive planning process is appropriate that would consider the far-reaching potential impacts to water resources that any new uses may present. Input from state and regional agencies should also be considered prior to approval of any new land uses in this area.
6. The CDMP includes several objectives and policies (CON-4A, CON-7, CON-7C) that support the preservation of wetlands. Federal, state, and local agencies are in agreement that wetlands provide critical habitat for animal and plant species and provide necessary hydrologic functions. The approval of this application would be inconsistent with related conservation policies in the CDMP and sections of Chapter 24, Miami-Dade County Code (24-48 Natural and Biological Environmental Resources Permitting and Protection).
7. The application as proposed would create an internal inconsistency within the text of Open Land Subarea 1. The Applicant's proposed text change, if approved, would allow commercial equipment and vehicle storage, landfills and resource recovery facilities, while at the same time, the last sentence of the text prohibits such uses. The last sentence of Open Land Subarea 1 reads, "Uses that could

compromise groundwater quality shall not occur west of the Turnpike Extension.” Open Land Subarea 1 is located west of the Turnpike Extension and commercial equipment and vehicle storage, landfills and resource recovery facilities are uses that could compromise ground water quality, as established by DERM.

8. The Metropolitan Planning Organization (MPO) for the Miami Urbanized Area will conduct a “Comprehensive Parking Study for Freight Transport in Miami-Dade County” as part of the MPO’s Fiscal Years (FY) 2009 and 2010 Unified Planning Work Program (UPWP). The UPWP describes transportation planning activities to be accomplished in and for Miami-Dade County. The study’s objective is to identify suitable locations and to assess the demand for short-term (overnight) and long-term parking of freight transport within Miami-Dade County. The study is anticipated to commence by October 2009 with DP&Z input. The CDMP Traffic Circulation Subelement Policy TC-7B requires the County to coordinate local transportation planning of the MPO with the CDMP. This application proposes to amend the CDMP Open Land Subarea 1 text to allow commercial equipment and vehicle storage facilities in an environmentally sensitive area of the County without coordination with CERP goals, DERM, or the MPO. It is therefore, premature to consider this proposed text amendment prior to release of the MPO’s study and without the data and analysis necessary to demonstrate the need for the application.