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

Memorandum

MIAMI-DADE COUNTY

Date: May 6, 2009

Substitute
Special Item No. 1B

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

From: George M. Burgess
County Manager

Ordinance No. 09-29

Subject: Ordinance Nos. 1A and 1B Acting Upon Pending April 2008 Cycle Applications to Amend the Comprehensive Development Master Plan; (DCA No. 09-1)

These Substitute Items differ from the original item (legistar no. 083145) in that they comply with the new rule change regarding substitutes and alternates as provided in Ordinance #09-13, adopted on March 3, 2009. In addition, they differ from the original as follows:

- **The preamble of the Ordinances reflect the actions taken by the Board of County Commissioners (Board) at its "transmittal" public hearing on November 6, 2008, and the receipt of the Objections, Recommendations and Comments (ORC) from the Florida Department of Community Affairs (DCA), by letter dated March 13, 2009;**

- **The two substitute ordinances do not contain the following April 2008 Cycle CDMP amendment applications:**
  - **Application Nos. 1, 14 and 16 which were withdrawn by DP&Z at or prior to the Board's "transmittal" hearing;**
  - **Application No. 17 which was withdrawn by DP&Z at the PAB's final public hearing on April 6, 2009;**
  - **Application Nos. 2, 3 and 5 which were previously adopted as small-scale amendments;**
  - **Application No. 4 which was adopted as a small-scale amendment, however, the amendment is not yet in effect; and**
  - **Application No. 12 (CIE update) which was adopted.**

  Therefore, these two substitute ordinances are limited to the disposition of Application Nos. 6 through 11, 13, 15, and 18 through 20;

- **The two substitute ordinances group the applications as follows:**
  - **Special Item No. 1A (Applications Nos. 6 and 7 which are the Aviation Department's Applications; Application No. 8 which is the "Fontainebleau Lakes" application; Application No. 9 which is the "Blue Lake Partners" application originally known as "Gold River Corp."; Application No. 10 which is the "Manuel Diaz and Live Oak Partners" application; and Application Nos. 13, 18, 19 and 20 which are Staff's applications);**
  - **Special Item No. 1B (Application No. 11 which is the "Builders Association of South Florida" application; and Application No. 15 which is Staff's application).**

Recommendation

It is recommended that the Board of County Commissioners (Board) adopt the attached ordinances~~, (Special Item No. 4)~~ (Substitute Special Item Nos. 1A and 1B), which provide for the Commission to adopt, adopt with change, not adopt, or deny the pending April 2008 Cycle of 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 Tuesday, November 6, 2008, 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 2009.~~

~~Please be aware that Section 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 land use amendments increasing residential density 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 Section 163.3177(12)(j), F.S. Accordingly, DCA will not conduct a compliance review or issue a notice of intent on an ordinance containing such land use amendments. This finding may be made by DCA even with a delayed effective date clause pending school concurrency in the ordinance.~~

It is recommended that final actions be taken on the corresponding ordinances for these pending applications at the conclusion of the public hearing scheduled to begin at 9:30 AM on Wednesday, May 6, 2009. Each 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 each Ordinance in its entirety, incorporating the foregoing entries.

Scope

The CDMP is a broad-based countywide policy-planning document to guide future growth and development to ensure 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. 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 Nos. 1 are~~ and ~~2 are located within Commission District 1 (Commissioner Jordan). Application Nos. 3 and 4 are located within Commission District 2 (Commissioner Rolle).~~ Application Nos. ~~5,~~ 6 and 7 are located within Commission District 12 (Commissioner Diaz); Application Nos. 8 and 9 ~~10~~ are located within Commission District 10 (Commissioner Souto); Application No. 10 is located within Commission District 8 (Commissioner Sorenson); and Application Nos. 11, 13, 15, and 18 through 20 are Countywide.

Fiscal Impact/Funding Source

Fiscal impact means the cost to the County of implementing the activities or actions that would be incurred after approval of the ordinance. The proposed ordinances acting on the pending April 2008 Cycle of applications to amend the CDMP will have some fiscal impacts on Miami-Dade County. Ordinance 94-238 requires a statement of fiscal impact on all activities and actions resulting from approval of an ordinance. In addition, Ordinance 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 on Miami-Dade County for bringing such infrastructure to the area as well as the costs of operating it annually. Details of the fiscal impacts of each ~~Land Use Plan map~~ application can be found in Appendix E at the end of each review of a LUP map application in the document titled "Initial Recommendations April 2008 Applications To Amend The Comprehensive Development Master Plan," dated August 25, 2008."

Based on the information provided by service agencies, the fiscal impacts of the proposed land use changes vary based on the type of request and location. The proposals involving non-residential development impact fewer services than the proposals for residential development. For example, the Miami-Dade County Public Schools Board limits its impact reviews to the proposals for residential development or those that may allow residential development. Of the ~~proposed ten (10)~~ pending five (5) CDMP land use amendment applications, only Application ~~No.~~ Nos. ~~1, 8 and~~ 10 will have a fiscal impact on the Miami-Dade County Public Schools System. Projected annual operating costs as a result of Application No. 10 are $1,958,151.

~~Application No. 1 will have the most significant fiscal costs for schools, water and sewer facilities and roads. If the original 165.8 acres were developed at maximum residential development, the capital costs for schools would be $24,705,633. If the application site is reduced to 48 acres as recommended by staff and is developed at maximum residential development, the capital costs for schools would be $6,082,596. This application if developed as originally proposed, the costs for constructing water and sewer facilities would be $1,094,427 and the annual operating costs would be $559,424. Application No. 6 would require almost as much ($1,025,308) for constructing water and sewer facilities. Any development on the site of Application No. 1 would require in the short-term an estimated $20,597,585 (excluding right-a-of-way acquisition costs) for widening segments of NW 47 Avenue (NW 215 Street and NW 183 Street) and NW 202 Street (NW 57 Avenue to NW 67 Avenue) to four lanes.~~

The Miami-Dade Water and Sewer Department (WASD) estimated the fiscal impacts for providing public water and sewer. WASD has determined for each application site the impact and connection fees as well as annual operations and maintenance costs. Of the pending 2008 Cycle of Applications, the application that generates the most fiscal impacts for water and sewer service is Application No. 10, which will result in annual operating and maintenance costs of $90,152. The cost estimate for water and sewer infrastructure improvements in public right-of-way from Application No. 10 totals $330,994.

Housing Impact

Of the ~~ten (10) proposed~~ five (5) pending April 2008 Cycle of applications to amend the Land Use Plan (LUP) map in unincorporated areas of Miami-Dade County, ~~five (5) (three small-scale and two standard)~~ two (2) applications could impact the supply of housing. These applications

have the potential to reduce or increase the County's housing supply, based upon the current land use designation of the application sites, the requested re-designation, and voluntary restrictions on ~~density~~ residential development. ~~The applications adding to the supply of housing are Application No. 1 (385 net units on the original 165.8-acre site or 156 net units on the recommended 48-acre site) and Application No. 4 (100 net units).~~ No LUP map applications from the pending April 2008 Cycle of amendments would increase the housing supply. The applications decreasing the supply of housing are ~~Application No. 2 (33 net units),~~ Application No. 8 (net ~~467~~ 352 units) and Application No. 9 (533 net units). Based on the fact that the yearly estimate by the DP&Z of the housing demand is ~~14,155~~ 12,161 units, the cumulative reduction of ~~548~~ 885 units from the pending LUP map amendments, will be a loss to the supply of housing.

Track Record/Monitor

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

Background

~~The attached ordinance provides for action on the April 2008 Cycle applications requesting standard amendments to the CDMP (Application Nos. 1, 6 through 11, 13, 15, 17 through 20), and provides for final action on any of the four small-scale amendments (Application Nos. 2, 3, 4 and 5), on which final action is not taken at the scheduled November 6, 2008 public hearing and which the Board elects to transmit to DCA for further review. Application No. 12 (updates to the schedules of improvements in the Capital Improvement Element) is being addressed in another ordinance (Special Item No. 2). Application Nos. 14 and 16 were lawfully withdrawn.~~

~~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 2009. 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 two attached ordinances provide for final actions on the eleven (11) pending April 2008 Cycle of applications requesting amendments to the CDMP (Application Nos. 6 through 11, 13, 15, and 18 through 20). These applications were transmitted to DCA for review and comment. The Board's previous actions on these applications at the November 6, 2008 public hearing were the following: Application No. 6: "ADOPT with Acceptance of Proffered Covenant and TRANSMIT"; Application No. 7: "ADOPT with Acceptance of Proffered Covenant and TRANSMIT"; Application No. 8: "ADOPT with CHANGE (*as provided by the applicant*) and with Acceptance of Two Proffered Covenants and TRANSMIT"; Application Nos. 9 and 10: "ADOPT with Acceptance of Proffered Covenant and TRANSMIT"; Application Nos. 11 and 13: "ADOPT with CHANGES and TRANSMIT"; Application Nos. 15 and 17: "ADOPT and TRANSMIT"; Application No. 18: "ADOPT with Further CHANGES and TRANSMIT"; Application No. 19:

"ADOPT with CHANGE and TRANSMIT"; and Application No. 20: "ADOPT and TRANSMIT." A "Matrix" updated April 6, 2009 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. The issues identified in the Objections, Recommendations and Comments (ORC) report from DCA dated March 13, 2009 include: "lack of need for commercial uses" for Application Nos. 8 and 9; "insufficient road capacity" for Application No. 9; "lack of required data and analysis" for Application No. 11; and "inconsistent with the Public Schools Facilities Element" for Application Nos. 11 and 15. DCA objected to each of these four applications based on these issues.

Attached you will find the Department of Planning and Zoning's (DP&Z) Memorandum, dated March 27, 2009, addressing the pending 12 applications of the April 2008-09 Cycle of amendments. That memo 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 27, 2009.

Revised Recommendations
DP&Z's revised recommendations for Application Nos. 6 and 7 is to "ADOPT As Transmitted With Additional Changes" by re-designating these parcels to "Terminals" instead of "Business and Office" on the Adopted Land Use Plan map; for Application Nos. 8, 9 and 11 to "DENY"; for Application No. 10 "ADOPT with Acceptance of Proffered Covenant"; and for Application Nos. 13, 15, and 18 through 20 "ADOPT As Transmitted."

The Planning Advisory Board (PAB) acting as the Local Planning Agency (LPA) conducted its final public hearing on the pending amendments on April 6, 2009 and issued the following recommendations: for Application Nos. 6 and 7 "ADOPT with Change as Recommended by Staff"; for Application No. 8 "ADOPT as Transmitted to DCA with Acceptance of Two Proffered Covenants"; for Application Nos. 9 and 10 "ADOPT With Acceptance of Proffered Covenant"; for Application Nos. 18, 19 and 20 "ADOPT as Transmitted to DCA"; for Application No. 11 "No Recommendation"; for Application No. 13 "ADOPT The Original Application"; and for Application No. 15 "ADOPT Subject To Being in Compliance with Section 163.3177(12)(j), F.S.". The DP&Z withdrew Application No. 17 at the PAB final public hearing on April 6, 2009.

The PAB recommendations are contained in the attached PAB resolution, the meeting minutes dated April 6, 2009 and the Matrix attached at the end of this memo.

Attachments

Assistant County Manager

MEMORANDUM

(Revised)

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

DATE: May 6, 2009

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

SUBJECT: Substitute Special Item No. 1B

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 Mayor'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**

b

Approved _____ Mayor
Veto _____
Override _____

Substitute
Special Item No. 1B
5-6-09

ORDINANCE NO. 09-29

ORDINANCE RELATING TO MIAMI-DADE COUNTY COMPREHENSIVE DEVELOPMENT MASTER PLAN; PROVIDING DISPOSITION OF APPLICATION NOS. 11 AND 15 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 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, 18 CDMP amendment applications were filed on or before April 30, 2008 and are contained in the document titled "April 2008 Applications to Amend the Comprehensive Development Master Plan" dated June 5, 2008; and

WHEREAS, two (2) additional staff CDMP amendment applications were filed prior to the production of the "Initial Recommendations April 2008 Applications to Amend the Comprehensive Development Master Plan", dated August 25, 2008, bringing the total number of applications filed in the April 2008 cycle CDMP amendments to 20; and

WHEREAS, of the 20 amendment applications, six (6) Land Use Plan (LUP) map (Application Nos. 2 to 4 and 8 to 10) and one (1) text (Application No. 11) amendments were privately filed, three (3) LUP map amendments (Application Nos. 5 to 7) were filed by the Aviation Department, and one LUP map (Application No. 1) and 9 (nine) text (Application No Nos. amendments (Application Nos. 12 to 20) amendments were filed by the Department of Planning and Zoning (DP&Z); and

WHEREAS, the 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, Application Nos. 14 and 16 were lawfully withdrawn by DP&Z; and

WHEREAS, the affected Community Councils, Planning Advisory Board (PAB), and 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 6, 2008, 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, Application No. 1 was withdrawn by the applicant at the Board's public hearing on November 6, 2008; and

WHEREAS, on November 6, 2008, the Board voted to adopt small-scale amendment Application Nos. 2, 3, 4 and 5 with acceptance of proffered covenant, to transmit with intent to adopt Application Nos. 6, 7, 9 and 10 with acceptance of proffered covenant; to transmit with intent to adopt Application No. 8 with changes as provided by the applicant and with acceptance of two proffered covenants; to transmit with intent to adopt Application No. 11 with changes as provided by the applicant; to transmit with intent to adopt Application Nos. 13 and 19 with staff changes; to transmit with intent to adopt Application Nos. 15, 17, and 20; and to transmit with intent to adopt Application No. 18 with further staff changes to the Florida Department of Community Affairs (DCA) for review and comment; and

WHEREAS, on November 20, 2008, the Board voted to adopt Application No. 12 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 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 memorandum dated March 27, 2009; and

WHEREAS, DP&Z has subsequently published a response to the ORC report dated March 27, 2009; and

WHEREAS, Application No. 17 was withdrawn by DP&Z at the PAB's final public hearing on April 6, 2009; and

WHEREAS, Application No. 11 was withdrawn by the Board's public hearing on May 6, 2009; 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. 11 and 15, 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 2008 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	Final Commission Action
11	Builders Association of South Florida/Jeffrey Bercow, Esq. & Graham Penn, Esq. EDUCATION ELEMENT Revise Policy EDU-2C as presented in the replacement pages for the 2007 Special Amendment.	Acceptance of Withdrawal
15	Miami-Dade County Department of Planning & Zoning/ Subrata Basu, AIA, AICP, Interim Director LAND USE ELEMENT Revise the text of the "Gross Residential Density" section and add a new section titled "Density Bonus Programs for Affordable Housing" after the section titled "Density Increase with Urban Design."	Adopt

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." 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 and transmitted to the Florida Department of Community Affairs as required by Section 163.3177(12)(j), Florida Statutes.

PASSED AND ADOPTED: **May 6, 2009**

Approved by County Attorney as
to form and legal sufficiency.

Prepared by:

Joni Armstrong Coffey