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OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Amended
Agenda Item No. 7(I)

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

DATE: September 1, 2009

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

SUBJECT: Ordinance relating to zoning; modifying notice requirements and procedures for applications

Ordinance No. 09-76

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Natacha Seijas.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

Memorandum

MIAMI-DADE COUNTY

Date: September 1, 2009

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

From: George M. Burgess
County Manager

Subject: Ordinance Relating to Zoning; Modifying Notice Requirements and Procedures for Applications

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The ordinance relating to zoning, modifying notice requirements and procedures for applications to extend expiration dates, build-out dates, phasing deadlines in certain previously approved development of regional impact development orders, and related zoning actions, will not have a fiscal impact on Miami-Dade County.

Alex Munoz
Assistant County Manager

fis05009

MEMORANDUM

(Revised)

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

DATE: September 1, 2009

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

SUBJECT: Agenda Item No. 7(I)

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**

Approved _____ Mayor
Veto _____
Override _____

Amended
Agenda Item No. 7(I)
9-1-09

ORDINANCE NO. **09-76**

ORDINANCE RELATING TO ZONING; MODIFYING NOTICE REQUIREMENTS AND PROCEDURES FOR APPLICATIONS TO EXTEND EXPIRATION DATES, BUILD-OUT DATES AND PHASING DEADLINES IN CERTAIN PREVIOUSLY APPROVED DEVELOPMENT OF REGIONAL IMPACT DEVELOPMENT ORDERS AND RELATED ZONING ACTIONS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 33-303.1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

Sec. 33-303.1. Developmental Impact Committee.

* * *

(D) Duties of the Developmental Impact Committee. The Developmental Impact Committee shall perform the following duties:

* * *

(2) Review and make recommendations concerning all applications for development approval of a development of regional impact and notices of change to a previously approved development of regional impact which would change in any respect the conditions existing in a current development order, resolution or declaration of restrictions governing land

[1] Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

development; >>provided, however, applications to extend a build-out date, expiration date, or phasing deadline for the maximum period of time declared by state law not to constitute a substantial deviation from existing development orders in developments of regional impact development orders that were under active construction on July 1, 2007, and related applications for zoning actions to accomplish only the requested extension, shall not be subject to review by the Developmental Impact Committee.<<

Section 2. Section 33-310 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33-310. Notice and hearing prerequisite to action by the Community Zoning Appeals Boards or Board of County Commissioners.

* * *

(c) No action on any application shall be taken by the Community Zoning Appeals Boards or the Board of County Commissioners on any appeal, until a public hearing has been held upon notice of the time, place and purpose of such hearing, the cost of said notice to be borne by the applicant. Notice shall be provided as follows:

(1) Said notice shall be published twice in newspapers of general circulation in Miami-Dade County, as follows: (A) a full legal notice, to be published no later than twenty (20) days and no earlier than thirty (30) days prior to the public hearing, to contain the date, time and place of the hearing, the property's location (and street address, if available) and legal description, and nature of the application, including all specific variances and other requests; and (B) a layman's notice, to be published in the newspaper of largest circulation in Miami-Dade County, no later than twenty-five (25) days and no earlier than thirty-five (35) days prior to the public hearing, to contain the same information as the above described full legal notice except that the property's legal description may be omitted and the nature of the application and requests contained therein may be summarized in a more concise, abbreviated fashion. The layman's notice may be published in a section or a supplement of the newspaper distributed only in the locality where the property subject to the application lies. In the event that any time periods specified in this subsection shall conflict with any applicable provision of the Florida Statutes, the provision of the Florida Statutes shall govern.

(2) Mailed notice containing general information, including, but not limited to, the date, time and place of the hearing, the property's location (and street address, if available), and nature of the application shall be sent as provided by Subsection 33-310(d) no later than thirty (30) days prior to the hearing.

(3) The property shall be posted no later than twenty (20) days prior to the hearing in a manner conspicuous to the public, by a sign or signs containing information including but not limited to the applied for zoning action and the time and place of the public hearing.

(d) Mailed notice shall be accomplished by placing in the United States mail a written notice to all property owners of record, as reflected on the Miami-Dade County Property Appraiser's tax roll as updated, within the following radius of the property described in the application, or such greater distance as the Director may prescribe:

(1) Approvals of or modifications to Developments of Regional Impact ("DRI"), including substantial deviation determinations or modifications thereof, one (1) mile; >>except applications to extend a build-out date, expiration date, or phasing deadline for the maximum period of time declared by state law not to constitute a substantial deviation from existing development orders in developments of regional impact development orders that were under active construction on July 1, 2007, and related applications for zoning actions to accomplish only the requested extension (1500 feet).<<

* * *

Section 3. Section 33-311 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33-311. Community Zoning Appeals Board – Authority and duties.

(A) Except as otherwise provided by this chapter, the Community Zoning Appeals Boards and Board of County Commissioners shall have the authority and duty to consider and act upon applications, as hereinafter set forth, after first considering the written recommendations thereon of the Director or Developmental Impact Committee. Provided, however, no such

action shall be taken until notice of time and place of the hearing at which the Community Zoning Appeals Boards will consider the application has been first published as provided in Section 33-310. The Community Zoning Appeals Boards are advised that the purpose of zoning and regulations is to provide a comprehensive plan and design to lessen the congestion in the highways; to secure safety from fire, panic and other dangers, to promote health, safety, morals, convenience and the general welfare; to provide adequate light and air; to prevent the overcrowding of land and water; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, sewerage, schools, parks and other public requirements, with the view of giving reasonable consideration among other things to the character of the district or area and its peculiar suitability for particular uses and with a view to conserving the value of buildings and property and encouraging the most appropriate use of land and water throughout the County. The Community Zoning Appeals Board and Board of County Commissioners or any of their members may inspect the premises and area under consideration. The Community Zoning Appeals Boards shall have authority over the following zoning applications except where the Board of County Commissioners has direct jurisdiction.

* * *

(9) Hear and make recommendations to the Board of County Commissioners on applications for developments of regional impact and related requests, including requests for modifications thereof and substantial deviation determinations pursuant to Section 380.06(19), Fla. Stat., as amended, as provided by Section 33-314 except an application for modification or elimination of a condition or restrictive covenant that is not a substantial deviation, >>or an application to extend a build-out date, expiration date, or phasing deadline for the maximum period of time declared by state law not to constitute a substantial deviation from existing development orders in developments of regional impact development orders that were under active construction on July 1, 2007, and related applications for zoning actions to accomplish only the requested extension,<< where such application does not contain a request for any other action under this chapter requiring a public hearing apart from modifying the DRI development order.

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Section 4. Section 33-309 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

> Sec. 33-309. Community Zoning Appeals Board/Board of County Commissioners Applications for public hearing.
>
> All hearings before the Community Zoning Appeals Board or the Board of County Commissioners shall be initiated by the filing with the Department an application on forms prescribed by the Director, executed and sworn to by the owner or owners of at least seventy-five (75) percent of the property described in the application, or by tenant or tenants, with owner's written sworn-to consent or by duly authorized agents, evidenced by a written power of attorney, if not a member of the Florida Bar, or by the Director, or by any person aggrieved by an order, requirement, decision or determination of an administrative official when appealing the same, or by anyone desiring an amendment or repeal to the zoning regulations. All properties described in one (1) application must be contiguous and immediately adjacent to one (1) another, and the Director may require more than one (1) application if the property concerned contains more than forty (40) acres, or the fee paid for one (1) application would not equal the cost of processing the same. Only applications which the Community Zoning Appeals Board or the Board of County Commissioners are authorized to consider and act upon shall be accepted for filing. All hearings before the Community Zoning Appeals Board or the Board of County Commissioners shall be initiated by the filing with the Department an application on forms prescribed by the Director, executed and sworn to by the owner or owners of at least seventy-five (75) percent of the property described in the application, or by tenant or tenants, with owner's written sworn-to consent or by duly authorized agents, evidenced by a written power of attorney, if not a member of the Florida Bar, or by the Director, or by any person aggrieved by an order, requirement, decision or determination of an administrative official when appealing the same, or by anyone desiring an amendment or repeal to the zoning regulations. All properties described in one (1) application must be contiguous and immediately adjacent to one (1) another, and the Director may require more than one (1) application if the property concerned contains more than forty (40) acres, or the fee paid for one (1) application would not equal the cost of processing the same. Only applications which the Community Zoning Appeals Board or the Board of County Commissioners are authorized to consider and act upon shall be accepted for filing.

* * *

>>For property that is the subject of a DRI development order that was under active construction as of July 1, 2007, the director shall file an application to extend the buildout date, expiration date, and phasing deadlines contained in such development order for the maximum period of time declared by state law not to constitute a substantial deviation from the existing development order, provided that the owner of the property consents to the application and that funds sufficient to pay the costs of advertising and notice as required under Section 33-310 of this code, or sufficient security for such sums, have been provided by or on behalf of the property owner.<<

Section 5. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 6. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 7. This ordinance 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.

PASSED AND ADOPTED: **September 1, 2009**

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Joni Armstrong Coffey

Prime Sponsor Commissioner Natacha Seijas