OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Substitute
Special Item No. 1

TO:	Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners	**DATE:**	October 19, 2011
FROM:	R. A. Cuevas, Jr. County Attorney	**SUBJECT:**	Ordinance relating to Miami-Dade County Comprehensive Development Master Plan; providing disposition of applications filed in October 2010 Cycle to amend, modify, add to or change Comprehensive Development Master Plan; providing severability, exclusion from the Code and an effective date

Ordinance No. 11-81

This item differs from the original item as stated in the Mayor's memorandum.

The accompanying ordinance was prepared by the Sustainability, Planning & Economic Enhancement and placed on the agenda at the request of Prime Sponsor Commissioner Dennis C. Moss.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

Memorandum

MIAMI-DADE COUNTY

Date: October 19, 2011

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

From: Carlos A. Gimenez
Mayor

Subject: Ordinance Acting Upon The October 2010 Cycle Application to Amend the Comprehensive Development Master Plan (Standard Application)

This substitute item differs from the original item (Legistar No. 111062) in that it complies with the rule change regarding substitute and alternate items as provided in Ordinance No. 09-13, adopted on March 3, 2009. In addition, this 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 May 18, 2011, and the comments issued by the State of Florida Land Planning Agency (SLPA) by letter dated July 8, 2011. This substitute ordinance addresses the disposition of the pending October 2010 Cycle Application to Amend the Comprehensive Development Master Plan (CDMP).**

Recommendation

It is recommended that the Board of County Commissioners (Board) adopt the attached ordinance (Substitute Special Item No. 1), which provides for the Board to adopt, adopt with change or deny the pending October 2010 Cycle Application (Application No. 3) to amend the CDMP.

It is recommended that final action be taken on this substitute ordinance for the referenced CDMP amendment application at the conclusion of the public hearing scheduled to begin at **9:30 AM on Wednesday, October 19, 2011 in the Commission Chamber**. The ordinance follows the same format used in previous CDMP amendment cycles. That is, it contains a blank space to record your action on the request contained in the referenced CDMP amendment application. After the Board adopts the entry indicating its action on the pending October 2010 Cycle Application No. 3, the Board will take final action adopting the ordinance in its entirety, incorporating the foregoing entry.

Following the final action the adopted CDMP amendment application will be a transmitted to the SLPA and other state and regional agencies for their review.

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. For example, Application No. 3 is located in Commission District 9 (Commissioner Moss).

Fiscal Impact

Fiscal impact means the cost to Miami-Dade County of implementing the activities or actions that would be incurred after approval of an ordinance. Ordinance No. 94-238 requires a statement of fiscal impact on all activities and actions resulting from approval of an ordinance. Also, in accordance with Resolution No. 530-10, County departments are required to include detailed financial cost and budgetary impact analysis for items that have a fiscal impact to the County. 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 infrastructure to the area as well as the annual operating and management (O&M) costs. Information on the fiscal impact of each request to amend the Adopted 2015-2025 LUP map of the CDMP is presented in Appendix E at the end of each application review in the Department of Planning and Zoning's (DP&Z) Initial Recommendations Report, dated February 25, 2011.

Fiscal impacts to the County from the October 2010 Cycle Applications vary depending on the type of CDMP amendment request and location of the land use change. According to Miami-Dade Water and Sewer Department (WASD), for Application No. 3, the annual O&M cost is estimated at $31,511, if the property is developed with the proposed retail use.

Housing Impact

Application No. 3 has the potential to reduce the County's housing supply based upon the current CDMP land use designation of the application site, the requested CDMP land use designation, and voluntary restrictions on residential development. The subject property could be developed with a maximum of 136 residential units under its current CDMP land use designation of "Low Density Residential Communities (2.5 to 6 DU/gross acre)" and "Business and Office". However, on February 2, 2011, the applicant submitted to the DP&Z a Declaration of Restrictions prohibiting residential development on the application site. Therefore, Application No. 3 could reduce the County's housing supply by a maximum of 136 units.

Track Record/Monitor

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

Background

The attached substitute ordinance provides for final action on the pending October 2010 Cycle Application No. 3. This standard application was transmitted to the DCA for review and comment. The Board's previous action on the referenced CDMP amendment application at the May 18, 2011 public hearing was to "Transmit with Acceptance of the Proffered Declaration of Restrictions and Adopt".

The SLPA coordinated the State agency consistency reviews on the transmitted CDMP amendment Application No. 3 at the request of Miami-Dade County. The SLPA presented no comments on the referenced CDMP amendment application by letter dated July 8, 2011.

Revised Recommendations

The DP&Z's revised recommendation on the pending October 2010 Cycle Application No. 3 is to "Adopt as Transmitted with Acceptance of the Proffered Declaration of Restrictions".

The PAB's final recommendation on the referenced CDMP amendment application is contained in the attached PAB resolution and the minutes of their final public hearing on the referenced CDMP amendment application.

The following attachments will be included in the Board's Agenda Kit: A "Matrix" updated after the PAB's public hearing held September 19, 2011 summarizing the previous recommendations of the DP&Z, the affected Community Councils, the PAB and BCC; and the revised recommendations of the DP&Z and the PAB.

Jack Osterholt
Deputy Mayor

MEMORANDUM

(Revised)

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

DATE: October 19, 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
10-19-11

ORDINANCE NO. 11-81

ORDINANCE RELATING TO MIAMI-DADE COUNTY COMPREHENSIVE DEVELOPMENT MASTER PLAN; PROVIDING DISPOSITION OF APPLICATIONS FILED IN OCTOBER 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 (F.S.) ; 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, three (3) CDMP Land Use Plan (LUP) map amendments (Application Nos. 1, 2 and 3) were filed by private parties on or before October 30, 2010 and are contained in the document titled "October 2010 Applications to Amend the Comprehensive Development Master Plan" dated December 5, 2010; and

WHEREAS, Miami-Dade County's procedures provide for the expedited processing of small-scale amendments as defined in section 163.3187, F.S.; and

WHEREAS, of the three (3) CDMP Land Use Plan map amendments filed in the October 2010 CDMP Amendment Cycle, Application Nos. 1 and 2 requested expedited adoption, if eligible, as small-scale amendments; and

WHEREAS, the Department of Planning and Zoning (DP&Z) has published its initial recommendations addressing the referenced CDMP amendment applications in the report titled "Initial Recommendations October 2010 Applications to Amend the Comprehensive Development Master Plan," dated February 25, 2011; and

WHEREAS, affected Community Councils have conducted optional public hearings pursuant to Section 2-116.1 (3)(e), Code of Miami-Dade County, to address CDMP amendment applications that would directly impact their respective council areas and issued recommendations to the Planning Advisory Board (PAB) and the Board; and

WHEREAS, the PAB, acting as the Local Planning Agency (LPA), conducted a duly noticed public hearing on April 25, 2011, to address the referenced CDMP amendment applications, the recommendations of the affected community councils and the DP&Z, to formulate recommendations regarding the adoption of the referenced CDMP amendment applications, and to address the transmittal of the standard CDMP amendment application to the [[~~DCA~~]] [1] >>State Land Planning Agency (SLPA) << and other State and regional agencies for review and comment; and

>>**WHEREAS,** on May 18, 2011 at a duly noticed public hearing, the Board adopted Application Nos. 1 and 2 as small-scale amendments (Ordinance No. 11-33) pursuant to Section 163.3187, F.S.; and<<

WHEREAS, on May 18, 2011, this Board, by Resolution, instructed the County Manager to transmit [[~~a certain application~~]] >>standard amendment Application No. 3<< to the >>SLPA and other state and regional agencies for review and comment<< [[~~DCA~~]] pursuant to Section 163.3184(3), F.S.; and

>>**WHEREAS**, the SLPA and other state and regional agencies reviewed the transmitted Application No. 3 pursuant to Sections 163.3184(2) and (3), F.S.; and<<

>>**WHEREAS**, the SLPA by letter dated July 8, 2011, the Florida Department of Environmental Protection (FDEP) by letter dated June 21, 2011, and the Florida Department of Transportation (FDOT) by letter dated July 11, 2011, each identified no adverse impacts to state facilities and resources and thereby made no comments on the referenced CDMP amendment application; and<<

>>**WHEREAS**, the PAB, acting as the Local Planning Agency (LPA), conducted a duly noticed public hearing on September 19, 2011, to address the comments of the SLPA and other

---

[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.

state and regional agencies, and to issue recommendation to the Board regarding final disposition of the pending CDMP amendment application; 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~~]] >>comments<< from the [[~~DCA~~]] >>SLPA and other state and regional agencies<< addressing CDMP amendment applications; and

>>**WHEREAS**, the Board must take final action specifically on Application No. 3 of the October 2010 Cycle of Amendments, which is the subject 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 hearing 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:

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 action on the >>pending<< CDMP amendment application~~s~~ filed for review during the October 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	Final Action
[[~~1~~]]	[[~~GRM Acquisition Corp./Joseph G. Goldstein, Esq. and Tracy R. Slavens, Esq.~~]] [[~~Between Biscayne Boulevard and NE 14 Avenue along theoretical NE 112 Street (3.96 gross acres; 3.60 net acres).~~]] [[~~From: Low-Medium Density Residential Communities [6 to 13 dwelling units (DU)/gross acre] and Business and Office~~ ~~To: Business and Office~~]] [[~~Small-scale Amendment~~]]	
[[~~2~~]]	[[~~SunTrust Bank/Jeffrey Bercow, Esq. and Graham Penn, Esq.~~]] [[~~Southwest corner of SW 83 Avenue and SW 40 Street (4.73 gross acres; 4.07 net acres).~~]] [[~~1. From: Low Density Residential Communities (2.5 to 6 DU/gross acre) and Business and Office~~ ~~To: Business and Office~~]] [[~~2. Add a Declaration of Restrictions to the Restrictions Table in the Land Use Element.~~]] [[~~Small-scale Amendment~~]]	
3	Wal-Mart Stores East, LLP/ Augusto E. Maxwell, Esq. and Joel E. Maxwell, Esq. Southeast corner of SW 137 Avenue and SW 288 Street (18.5 gross acres; 16.8 net acres) 1. From: Low Density Residential Communities (2.5 to 6 DU/gross acre) and Business and Office To: Business and Office 2. Add a Declaration of Restrictions to the Restrictions Table in the Land Use Element Standard Amendment	Adopt as Transmitted with Acceptance of the Proffered Declaration of Restrictions

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 >>thirty-one (31) days after the State Land Planning Agency (SLPA), pursuant to Section 163.3184(3)(c)4, Florida Statutes, notifies the County that the plan amendment package is complete<< [[~~ten (10) days after the date of enactment~~]], unless vetoed by the Mayor, and if vetoed, shall become effective only upon >>: (1)<< an override by this Board >>; and (2) compliance with Section 163.3184(3)(c)4, Florida Statutes. It is provided, however, that, pursuant to Section 163.3184(3)(c)4, Florida Statutes, any individual plan amendment that is timely challenged after adoption shall not become effective until a final order is issued by the SLPA or the Administration Commission determining the adopted individual amendment to be in compliance.<< [[~~; 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 >>SLPA.<< [[~~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: October 19, 2011

Approved by County Attorney as
to form and legal sufficiency.

Prepared by:

Craig Coller