



MEMORANDUM

Amended  
Agenda Item No. 7(E)

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

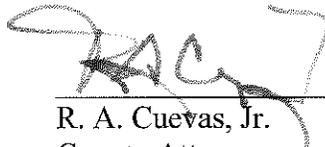
**DATE:** October 2, 2012

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

**SUBJECT:** Ordinance relating to planning;  
modifying vote requirements  
to delete or modify  
declarations of restrictions  
previously accepted in  
connection with applications to  
amend the Comprehensive  
Development Master Plan  
("CDMP")  
Ordinance No.12-81

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The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Barbara J. Jordan and Co-Sponsors Commissioner Lynda Bell and Commissioner Rebeca Sosa.

  
\_\_\_\_\_  
R. A. Cuevas, Jr.  
County Attorney

RAC/smm

# Memorandum



**Date:** October 2, 2012

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

**From:** Carlos A. Gimenez  
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez", written over the name in the "From:" field.

**Subject:** Ordinance modifying voting requirements regarding the Comprehensive Development Master Plan

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The proposed ordinance amending Section 2-116.1 regarding any decision amending, modifying, adding or changing a declaration of restrictive covenants that was previously accepted in connection with a prior application to amend the Comprehensive Development Master Plan will require a vote of two-thirds (2/3) of the total membership of the County Commission. The implementation of this ordinance will not have a fiscal impact to the County.

A handwritten signature in black ink, appearing to read "Jack Osterholt", written over a horizontal line.

Jack Osterholt  
Deputy Mayor

Fis7212



# MEMORANDUM

(Revised)

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

**DATE:** October 2, 2012

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

**SUBJECT:** Amended  
Agenda Item No. 7(E)

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 Amended  
Veto \_\_\_\_\_ Agenda Item No. 7(E)  
Override \_\_\_\_\_ 10-2-12

ORDINANCE NO. 12-81

ORDINANCE RELATING TO PLANNING; MODIFYING VOTE REQUIREMENTS TO DELETE OR MODIFY DECLARATIONS OF RESTRICTIONS PREVIOUSLY ACCEPTED IN CONNECTION WITH APPLICATIONS TO AMEND THE COMPREHENSIVE DEVELOPMENT MASTER PLAN ("CDMP"); AMENDING SECTION 2-116.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA ("CODE"); 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 2-116.1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:<sup>1</sup>

**Sec. 2-116.1. - Amendment procedure for Comprehensive Development Master Plan.**

\* \* \* \*

(3) *Procedure upon application; Director of Planning and Zoning, Community Councils, Planning Advisory Board (PAB), and Board of County Commissioners; applications pursuant to an emergency or a compliance agreement.*

\* \* \* \*

(g) The Board of County Commissioners shall hold one public hearing during November following the filing of April period applications and during May following the filing of October period applications. Hearing(s) held pursuant to this paragraph shall be advertised in accordance with Section 163.3184(15)(b) and (c), F.S., and shall be

<sup>1</sup> 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.

held on a weekday not less than ten (10) days after the day that the advertisement is published. At these hearings the Department of Planning and Zoning shall present to the Board the listing of applications filed pursuant to Section 2-116.1(3)(b), Code of Miami-Dade County, and the Board shall consider the expedited adoption or adoption with change of any requested small-scale amendments and the transmittal of the standard amendment applications to the State land planning agency and any requested small-scale amendments not adopted. If any requested small-scale amendments will be considered for adoption at a public hearing conducted pursuant to this paragraph, the Department shall, prior to said hearing, submit to the Board of County Commissioners an ordinance for first reading providing for Commission action on said small-scale amendments. The action to adopt any small-scale amendment to the CDMP shall be by ordinance enacted only upon vote of the majority of the total membership of the County Commission then in office, except that any decision to include any additional land within the UDB, or to redesignate to an urban use any land located outside the UDB, shall require a vote of two-thirds (2/3) of the total membership of the County Commission then in office. >>Notwithstanding any other provision to the contrary, any decision to make amendments, modifications, additions, or changes to a declaration of restrictive covenants that was accepted in connection with a prior application to amend the CDMP shall require a vote of two-thirds (2/3) of members present, but not less than seven affirmative votes.<< The transmittal action shall be taken by resolution of the Board of County Commissioners. The resolution pertaining to transmittal shall also specify that the County requests the State land planning agency to review the transmitted proposed amendments pursuant to Section 163.3184(6), F.S. The decision to transmit shall be by affirmative vote of not less than a majority of the total membership of the County Commission then in office. Following the adoption of the resolution pertaining to transmittal, the Board may consider the approval on first reading of one (1) or more ordinances to subsequently take final action on the transmitted applications. The Board of County Commissioners hereby authorizes and directs the County Manager or his designee to transmit all documents and information required by Sections 163.3184(3) and (7), F.S., and Chapter 9J-11, Florida Administrative Code,

following the hearing, on behalf of the Board.

\* \* \* \*

(4) *Procedures for final actions after transmittal to state review agencies.* After the County Manager or his designee transmits the applications instructed by the Board of County Commissioners pursuant to foregoing paragraph 3(g), subsequent County actions shall be as follows:

\* \* \* \*

(c) All public hearings conducted by the Board of County Commissioners pursuant to foregoing paragraph (4)(b) to take final action on applications to amend the CDMP shall be advertised in the manner required by Section 163.3184(15), F.S. All such hearings shall be held on a weekday approximately ten (10) days after the date that the advertisement is published. All amendments, modifications, additions or changes to the comprehensive development master plan shall be by ordinance enacted only upon vote of the majority of the total membership of the County Commission then in office, except that any decision to include any additional land within the Urban Development Boundary shall require a vote of two-thirds (2/3) of the total membership of the County Commission then in office. >>Notwithstanding any other provision to the contrary, any decision to make amendments, modifications, additions, or changes to a declaration of restrictive covenants that was accepted in connection with a prior application to amend the CDMP shall require a vote of two-thirds (2/3) of members present, but not less than seven affirmative votes.<< Findings, if any, made by the Board of County Commissioners which are not included in the ordinance adopting plan amendments and which provided the basis for adoption or determination not to adopt shall be transmitted to the State land planning agency with the adopted amendments. In addition, the Department of Planning and Zoning shall prepare for transmittal a statement in support of the Commission's actions indicating the relationship, if any, of the changes not previously reviewed by the State land planning agency to the comments, objections and recommendations submitted by said agency pursuant to Section 163.3184(6), F.S. The County Manager is hereby authorized and directed to transmit, on behalf of the Board, the adopted amendments, adopting ordinance and all other necessary information and

documents required by Chapter 9J-11, Florida Administrative Code. Copies of adopted proposals shall be transmitted by the County Manager to said agency after adoption pursuant to Section 163.3184(7), F.S.

\* \* \* \*

**Section 2.** Applications that were filed in the October 2011 or April 2012 CDMP Amendment Cycles to modify, change, or amend existing CDMP covenants shall continue to be subject to the CDMP amendment procedures in effect as of their filing date. All future applications to modify, change, or amend any existing CDMP covenants, except as provided herein, shall be subject to the provisions of this ordinance.

**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 by such invalidity.

**Section 4.** 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 5.** 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: October 2, 2012

Approved by County Attorney as  
to form and legal sufficiency:



Prepared by:

Dennis A. Kerbel

Prime Sponsor: Commissioner Barbara J. Jordan  
Co-Sponsors: Commissioner Lynda Bell  
Commissioner Rebeca Sosa