

Application No. 12

NEW APPLICATION

Countywide

APPLICATION SUMMARY

Applicant/Representative: Miami-Dade County Department of Planning and Zoning / Marc C. LaFerrier, ACIP, Director Miami-Dade County

Element to be Amended: Land Use Element

Requested Text Changes: Revise Policies LU-3-G, and LU-3H in the Land Use Element to indicate that the super majority vote applies to text changes in the CDMP as well as land use map amendments.

Amendment Type: Standard Text Amendment

RECOMMENDATIONS

Staff: **ADOPT AND TRANSMIT** (February 25, 2010)

Community Councils: **NOT APPLICABLE**

Planning Advisory Board (PAB) acting as Local Planning Agency: **TO BE DETERMINED** (April 5, 2010)

Board of County Commissioners: **TO BE DETERMINED** (May 5, 2010)

Final Recommendation of PAB acting as Local Planning Agency: **TO BE DETERMINED** (Sept. 20, 2010)

Final Action of Board of County Commissioners: **TO BE DETERMINED** (Oct. 6, 2010)

STAFF RECOMMENDATION

Staff recommends: **ADOPT AND TRANSMIT** the proposed amendment for the following reasons:

Principal Reasons for Recommendations

1. Current CDMP text language associated with Policy LU-3G and LU-3H of the Land Use Element state that any amendment to the Land Use plan map that would authorize uses other than those currently allowed in Open Land or Environmental Protection for land within 1 mile of Krome and outside the Urban Development Boundary (UDB) would require a 2/3 affirmative vote of the total membership Board of County Commissioners for such approval. This super-majority vote is already required for Land Use plan map amendments by Section 2-116(4)(c), Miami-Dade County Code. However, additional use allowances through text amendments are not properly addressed in these policies, and use changes in the Open Land and Environmental Protection categories that are in close proximity to Krome Avenue can occur with a simple majority vote.
2. The BCC expressed, through adoption of Policies LU-3-F, LU-3G, and LU-3H, the intent to prevent sprawl along Krome Avenue. The long history of these amendments indicates that the BCC did not want additional uses along Krome as a result of the widening project. Additionally, the original policy developed by the staff, Policy LU-3F, restricting uses on land designated "Agriculture" along Krome Avenue, was stated for any CDMP amendment. Policies LU-3G and LU-3H, developed in response to State objections, only addressed the changes to the Land Use Plan (LUP) map.
3. CDMP policies should be consistent as to the amendment process. Currently an amendment to change a land use on the LUP map outside the UDB requires a 2/3 majority vote of the BCC. A private text application was filed in each of the April 2009 and October 2009 CDMP Amendment cycles, which would allow uses other than those currently allowed on lands designated either "Agriculture" or "Open Land". In both cases, the proposed amendment was filed to satisfy the needs of a single applicant and do not demonstrate an overwhelming need within the category.

In the April 2009 Amendment cycle an amendment was filed to allow truck parking in Open Land Subarea 1. This application was filed to legalize a land use which was under enforcement. The language of Policies LU-3G and LU-3H, intended to restrict new uses around Krome Avenue on lands designated Open Land and Environmental Protection, currently require a 2/3 vote only to amendments to the Land Use plan map. As a result, a use such as truck parking in the Open Land can be approved with a simple majority vote.

Policy LU-3F states that changes to the CDMP "for uses on land designated "Agriculture" within one mile of Krome Avenue that are not related to direct agriculture production or rural residential will require a 2/3 affirmative vote by the BCC." Based on this language, Application No. 8, filed in the October 2009 CDMP cycle, which proposes amended language to the Agricultural text to allow for the expansion of existing rockmining operations in agricultural areas, would require an affirmative vote of at least 9 BCC members for final approval.

4. If approved, the modifications to the text will require any amendment to the CDMP to have a super majority vote if the amendment liberalizes uses outside the UDB and within one mile of Krome Avenue, other than those uses identified in the adopted policies. This would reduce the ability of applicants to circumvent the intent of the Krome Avenue policies with the filing of text amendments. Additionally, the language of Section 2-116 (c)(4) should be modified to require a 2/3 affirmative vote of the total Board membership for any CDMP amendment that adds uses to land use categories outside the UDB. This will prevent land

use changes in categories outside the UDB from being filed through CDMP text amendments.

Recommended Text Changes

- LU-3G. Any zoning action, or amendment to the ~~Land Use plan map~~ CDMP that would approve a use of property other than limestone quarrying, seasonal agriculture or permitted residential use in an area designated as Open Land on land that is, a) outside the Urban Development Boundary (UDB), and b) within one mile of the right-of-way line of any portions of Krome Avenue designated in this Plan for improvement to 4-lanes, shall require an affirmative vote of not less than five members of the affected Community Zoning Appeals Board and two-thirds of the total membership of the Board of County Commissioners then in office, where such Community Zoning Appeals Board or Board of County Commissioners issues a decision. This policy is not intended to permit any use not otherwise permitted by the CDMP. Any modification to this section to allow additional uses within the one mile distance from Krome Avenue shall require an affirmative vote of not less than two-thirds of the Board of County Commissioners then in office.
- LU-3H. Any zoning action, or amendment to the ~~Land Use plan map~~ CDMP that would approve a use of property other than seasonal agricultural use in the Dade-Broward Levee Basin or permitted residential use in an area designated as Environmental Protection, on land that is, a) outside the Urban Development Boundary (UDB), and b) within one mile of the right-of-way line of any portions of Krome Avenue designated in this Plan for improvement to 4-lanes, shall require an affirmative vote of not less than five members of the affected Community Zoning Appeals Board and two-thirds of the total membership of the Board of County Commissioners then in office, where such Community Zoning Appeals Board or Board of County Commissioners issues a decision. This policy is not intended to permit any use not otherwise permitted by the CDMP. Any modification to this section to allow additional uses within the one mile distance from Krome Avenue shall require an affirmative vote of not less than two-thirds of the Board of County Commissioners then in office.

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APPENDIX A

APPLICATION 12

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APPLICATION NO. 11

**APPLICATION REQUESTING AMENDMENT TO THE
COMPREHENSIVE DEVELOPMENT MASTER PLAN**

1. APPLICANT

Miami- Dade County Department of Planning and Zoning
111 NW 1 Street, Suite 1110
Miami, Florida 33128-1972
(305) 375-2840

2. APPLICANT'S REPRESENTATIVE

Marc C. LaFerrier, AICP, Director
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(305) 375-2840

By:  February 25, 2010

3. DESCRIPTION OF REQUESTED CHANGES

It is recommended that the Land Use Element Policy LU-2A be amended as follows:

- A. LU-2A. All development order authorizing new or significant expansion of existing urban land uses shall be contingent upon the provision of services at or above the Level of Service (LOS) standards specified in the Capital Improvements (CIE), except as otherwise provided in the "Concurrency Management Program" section of the CIE.
- B. Revise the text in the Concurrency Management Program of the Capital Improvements Element on page IX-15 as follows:

In its concurrency management program, Miami-Dade County shall make appropriate concurrency determinations in conjunction with the following development approval activities: 1) at the time of zoning actions, site plan approvals and subdivision approvals; 2) prior to the issuance of building permits; and 3) prior to the issuance of certificates of use and occupancy. Consideration will be given to effective measures which may be employed to mitigate traditional service impacts of developments. In general, no zoning action authorizing a new use or the expansion of an existing use and no subdivision plat or site plan shall be approved unless the facilities necessary to maintain level of service standards exist or are projected to exist when necessary to serve the development. For all public facilities and services, except public schools facilities, zoning approvals shall be based on inclusion of necessary facilities in the applicable service Element of the Comprehensive Development Master Plan, in the adopted Capital

Improvements Element of the CDMP, ~~in the adopted Miami-Dade County Public Schools Facilities Work Program dated September 2007,~~ for educational facilities, or in the plan or work program of the State agency having functional responsibility for provision of the facilities. Such findings shall be included in staff recommendations to the Board of County Commissioners, Community Zoning Appeals Board (CZAB), or other applicable board of agency. If the foregoing plans and programs indicate a low probability that concurrency will be met, but the necessary facilities are technically feasible, such rezoning action should be preceded by a CDMP amendment to add the necessary facilities. Alternatively, such zoning may be approved if the applicant executes a written agreement to provide the necessary facilities on a timely basis. Consistent with Education Element Policy EDU-1F and the provisions in the Interlocal Agreement for Public School Facility Planning between Miami-Dade County and Miami-Dade County Public Schools, a Schools Planning Level Review will be conducted for zoning actions containing residential units and such reviews will not constitute a public school concurrency review. As described below, a principal concurrency determination will be made for adequate public schools prior to approval of final subdivision plats or site plan approval, or the functional equivalent. All such development approvals prior to the "Principal Concurrency Determination" will contain a notice reserving the right of the County to make its principal concurrency determination prior to issuance of building permits.

4. REASONS FOR AMENDMENT

The above-referenced amendments are needed to maintain consistency among the affected CDMP elements and the Interlocal Agreement for Public School Facility Planning between Miami-Dade County and Miami-Dade County Public Schools (Interlocal Agreement) as it relates to school concurrency reviews for zoning actions.

The 2005 Florida Legislature amended Chapter 163, Florida Statutes, to require a public school facilities element, school concurrency and updates to the Interlocal Agreement for Public School Planning. Miami-Dade County first adopted an Educational Element in 1996. Amendments were required to existing elements and Interlocal Agreement for Public School Facility Planning between Miami-Dade County and Miami-Dade County Public Schools. In July of 2008, Miami-Dade County adopted a level of service standard for public school facilities. Amendments also included revisions to the Educational Element, Intergovernmental Coordination and Capital Improvements Elements of the Comprehensive Development Master Plan (CDMP) and to the Interlocal Agreement. The amendments were approved and found in compliance with state law by the Florida Department of Community Affairs in July 2009.

As the County and Miami-Dade County Public Schools began implementing public school concurrency, it has been determined that there is an inconsistency between the concurrency management provisions contained in the Land Use Element, Capital Improvements Element, Educational Element and the Interlocal Agreement. The inconsistency relates to the timing of concurrency determinations for zoning actions.

Section 7.5 of the Interlocal Agreement describes the review at the time of zoning are as follows:

The review by School Board staff regarding comprehensive plan amendments, rezoning and Development of Regional Impact proposals or amendments containing residential units shall be classified as "Public Schools Planning Level Review (Schools Planning Level Review)". The Schools Planning Level Review does not constitute public school concurrency review. This Section shall not be construed to obligate the County to deny or approve (or to preclude the County approving or denying) an application.

Therefore, the amendments are needed to maintain consistency between the CDMP and the Interlocal Agreement.

5. ADDITIONAL MATERIAL SUBMITTED

None.

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