



DATE: DECEMBER 21, 2017

TO: COUNCIL MEMBERS

FROM: STAFF

SUBJECT: DOWNTOWN MIAMI AREAWIDE DEVELOPMENT OF REGIONAL IMPACT (DRI)
INCREMENT III CERTIFIED DEVELOPMENT ORDER

Background

On October 26, 2017, the City of Miami adopted the Development Order (File Number 1220, Enactment Number 13704) for the Downtown Miami Areawide DRI Increment III by a vote of 3-0. The Council received a certified copy of the adopted Development Order (DO), which is attached, on December 4, 2017.

At its June 6, 2016 meeting, the South Florida Regional Planning Council adopted the Regional Impact Assessment Report for the DRI. Section 380.06(12), Florida Statutes (Fla. Stat.), outlines the review criteria the Council employed to develop and consider the Regional Impact Assessment Report. Section 380.06(12), Fla. Stat., states:

- (a) In preparing its report and recommendations, the regional planning agency shall identify regional issues based upon the following review criteria and make recommendations to the local government on these regional issues, specifically considering whether, and the extent to which:
 - 1. The development will have a favorable or unfavorable impact on state or regional resources or facilities identified in the applicable state or regional plans...
 - 2. The development will significantly impact adjacent jurisdictions. At the request of the appropriate local government, regional planning agencies may also review and comment upon issues that affect only the requesting local government.
 - 3. As one of the issues considered in the review in subparagraphs 1. and 2., the development will favorably or adversely affect the ability of people to find adequate housing reasonably accessible to their places of employment. The determination should take into account information on factors that are relevant to the availability of reasonably accessible adequate housing. Adequate housing means housing that is available for occupancy and that is not substandard.
- (b) At the request of the regional planning agency, other appropriate agencies shall review the proposed development and shall prepare reports and recommendations on issues that are clearly within the jurisdiction of those agencies. Such agency reports shall become part of the regional planning agency report; however, the regional planning agency may attach dissenting views. When water management district and Department of Environmental Protection permits have been issued



pursuant to chapter 373 or chapter 403, the regional planning council may comment on the regional implications of the permits but may not offer conflicting recommendations.

- (c) The regional planning agency shall afford the developer or any substantially affected party reasonable opportunity to present evidence to the regional planning agency head relating to the proposed regional agency report and recommendations.

The Regional Impact Assessment Report noted the DRI would not create adverse impacts to any state or regional resources or facilities; however, the Applicant voluntarily proffered the following mitigation:

1. Affordable Housing (DO Condition 24);
2. Transportation (DO Conditions 14 and 15);
3. Sea Level Rise (DO Condition 13); and
4. Economic Development (DO Condition 23).

In addition, the adopted DO order requires the Applicant to comply and coordinate with the City of Miami, Miami-Dade County, Miami-Dade Public Schools, South Florida Regional Planning Council as well as other state and regional agencies regarding infrastructure provision; environmental, historic, and archeological resource protection and management; construction; emergency management services; hurricane evacuation; and concurrency management consistent with applicable statutes, rules, regulations, and guidelines.

After the Council's approval of the Regional Impact Assessment Report, Council staff continued its assistance to the City of Miami and its Downtown Development Authority (the co-applicants), adjacent local governments, and other review agencies as part of the process of finalizing the DO for consideration. The Council's current responsibility is to advise the state land planning agency regarding the adopted DO. Pursuant to §380.07(2), Fla. Stat.:

[w]henver any local government issues any development order in any area of critical state concern, or in regard to any development of regional impact, copies of such orders as prescribed by rule by the state land planning agency shall be transmitted to the state land planning agency, the regional planning agency, and the owner or developer of the property affected by such order. The state land planning agency shall adopt rules describing development order rendition and effectiveness in designated areas of critical state concern. Within 45 days after the order is rendered, the owner, the developer, or the state land planning agency may appeal the order to the Florida Land and Water Adjudicatory Commission by filing a petition alleging that the development order is not consistent with the provisions of this part. ***The appropriate regional planning agency by vote at a regularly scheduled meeting may recommend that the state land planning agency undertake an appeal of a development-of-regional-impact development order. Upon the request of an appropriate regional planning council, affected local government, or any citizen, the state land planning agency shall consider whether to appeal the order and shall respond to the request within the 45-day appeal period.***
[Emphasis added]

The Florida Department of Economic Opportunity (DEO) serves as the state land planning agency and will finalize its decision regarding whether to appeal the DO on January 8, 2018. Since the next, regularly scheduled meeting of the Council is January 22, 2018, this item is being presented to the emergency December 19, 2017 meeting of the Council's Executive Committee for consideration to fulfill the Council's legislatively-codified role under §380.06 and §380.07, Fla. Stat., Rule 73C-40, F.A.C., as well as §186.502,

Fla. Stat., which states: “the regional planning council is designated as the primary organization to address problems and plan solutions that are of greater-than-local concern or scope, and the regional planning council shall be recognized by local governments as one of the means to provide input into state policy development.”

A recommendation from the Council to appeal an adopted DO is based on the following criteria:

1. The adopted DO is inconsistent with the requirements of §380.06, Fla. Stat., and/or Rule 73C-40, Florida Administrative Code (F.A.C.);
2. The adopted DO is inconsistent with the *Strategic Regional Policy Plan for South Florida*; and/or
3. The adopted DO is inconsistent with the Regional Impact Assessment Report adopted by the Council on June 6, 2016.

Staff Analysis

Council staff reviewed the adopted DO using the criteria. The adopted DO is consistent with §380.06, Fla. Stat.; Rule 73C-40, F.A.C.; *Strategic Regional Policy Plan for South Florida*; and the Regional Impact Assessment Report adopted by the Council on June 6, 2016.

Recommendation

Motion to approve the Council recommending to DEO it find the DO consistent with applicable criteria and, therefore, DEO advise the Florida Land and Water Adjudicatory Commission it should not appeal the adopted DO.