Chapter 33G SERVICE CONCURRENCY MANAGEMENT PROGRAM

Sec. 33G-1. Title.

This chapter shall be known as the "Metro-Miami-Dade County Service Concurrency Management Program."
(Ord. No. 89-66, § 1, 7-11-89; Ord. No. 91-24, § 1, 2-19-91)

Sec. 33G-2. Legislative intent.

(1) Nothing in this chapter shall be construed to be inconsistent or in conflict with the legislative intent of the adopted Comprehensive Development Master Plan as specified in Section 2-114(c), Code of Metropolitan Miami-Dade County, Florida; and that legislative intent is hereby incorporated by reference and made a part of this chapter.
(2) Nothing in this chapter shall limit or modify the rights of any person to complete any development that has been authorized as a development of regional impact pursuant to Chapter 380, Florida Statutes, or who has been issued a final development order, as defined in this chapter, prior to the adoption of this chapter, and where development has commenced and is continuing in good faith. Subdivision plats or waivers of plat approved prior to July 1, 1989, and for which development has commenced and is continuing in good faith are hereby determined to be final development orders for purposes of this section. It is further determined that, for purposes of this section, development has commenced and is continuing in good faith if one of the following has occurred:
(a) The applicant has received prior tentative plat approval and received final plat approval within one hundred eighty (180) days subsequent thereto, and has applied for a building permit within a period of one hundred twenty (120) days following final plat approval; or
(b) The applicant has received a waiver of plat approval and has applied for a building permit within one hundred twenty (120) days of approval.
(3) Nothing in this chapter shall modify or limit the vested rights of a property as to the specific development and time periods authorized or affirmed through the process specified in Sections 2-114.1, 2-114.2, 2-114.3, and 2-114.4 of the Code of Metropolitan Miami-Dade County, Florida.
(Ord. No. 89-66, § 1, 7-11-89; Ord. No. 91-24, § 1, 2-19-91)

Sec. 33G-3. Definitions.

Except as otherwise provided in this chapter, the following definitions shall apply to this chapter.
(1) *Capacity.* A quantitative measure of the ability of a public service or facility to provide for use of the service or facility.
(2) *Capital Improvements Element (CIE).* The Capital Improvements Element of Miami-Dade County's adopted Comprehensive Development Master Plan.
(3) *Certificate of use and occupancy (CO).* A certificate of use and occupancy, required pursuant to Section 33-8, Code of Metropolitan Miami-Dade County, Florida.
(4) *Chapter 163 Development Agreement.* An agreement as provided for in Chapter 163, Florida Statutes and as further specified in Section 33G-8 herein.
(5) *Concurrency statements.* Written reports issued by concurrency review agencies summarizing existing and anticipated levels of service for those public services and

facilities potentially affected by a proposed development subject to a request for development order. The concurrency report shall analyze:
(a) Whether public facilities and services meet or exceed the standards established in the Capital Improvements Element of the Comprehensive Development Master Plan; and
(b) Whether the requested development order, if approved, would result in a reduction in the level of the service for affected public services and facilities below the level of service standards provided in the Comprehensive Development Master Plan. This report may be included in any other timely report or recommendation of the agency which is required by statute, ordinance or regulation.
(6) *De minimis impact.* An impact on improved property: (1) that would not exceed more than 0.1 percent of the maximum volume at the adopted level of service standard of the affected transportation facility or facilities; and (2) that is caused by an increase of less than or equal to twice the density or intensity of the existing land use within a single ownership. On vacant land, proposed residential development at a density of less than one (1) dwelling unit per quarter acre or for non-residential uses, proposed development with a floor area ratio of 0.1 or less shall be considered de minimis. De minimis exceptions shall be permitted within the Urban Service Area. The cumulative total of the deminimis impacts, from both improved and vacant properties, shall not exceed three (3) percent of the maximum volume at the adopted level of service standard of the affected transportation facility.
(7) *Development.* Any construction, structures, creation of structures or alteration of the land surface, or use of land or natural resources which requires authorization by Metro-Miami-Dade County through issuance of a development order as defined in this section.
(8) *Development order (D.O.).* Any initial development order, intermediate development order, final development order, or certificate of use and occupancy (CO) as defined in this section.
(9) *Enforceable development agreement.* Any Chapter 163 development agreement or any agreement or development order issued pursuant to Chapter 380, Florida Statutes, or any agreement or covenant accepted or entered into by the Board of County Commission.
(10) *Final development order.* Any final plat or waiver of plat approved subsequent to July 1, 1989, or any approved site plan as specified in 33G-3(20) of this section or any building permit(s) authorizing construction of a new building, or the expansion of floor area, or the increase in the number of dwelling units contained in an existing building, or modifications to an existing building or site to accommodate a change in use for which a new certificate of use and occupancy will be required, and any certificate of use and occupancy authorizing a change in the use or authorizing the initial use of a parcel or structure or portion thereof where there is no other final development order in effect, reviewed and approved in accordance with this chapter, authorizing said use. Any site plan recommendation by the Executive Council of the Developmental Impact Committee for any new public educational facility or expansion of an existing public educational facility.
(11) *Funded and programmed.* An improvement included in the current County Capital Budget.
(12) *Initial development order.* Any zoning district boundary change, use variance, new use, unusual use, special exception, site plan approval (other than as defined in 33G-3(20)

of this section), Board of County Commission approval of governmental facilities pursuant to Section 33-303, modification of zoning covenant or conditions, any non-use variance or administrative variance, which variance would effectively increase the potential floor area or number of dwelling units allowed in any building or on any parcel, and any recommendation by the Executive Council of the Development Impact Committee for public educational site acquisitions.

(13) *Improved property*. Any property that has been developed with a building as defined by Section 33-1(16) of the Code of Metropolitan Miami-Dade County and which possesses a valid certificate of use and occupancy or certificate of completion.

(14) *Intermediate development order.* Any final plat or waiver of plat approved prior to July 1, 1989, any tentative plat, or any permit authorizing the alteration of land topography required pursuant to Chapter 24 or Chapter 28, Code of Metropolitan Miami-Dade County.

(15) *Level of service (LOS) standards.* The standards for minimum acceptable levels of service contained in the capital improvements element of Miami-Dade County's adopted Comprehensive Development Master Plan.

(16) *Other service provider.* Any State, regional, municipal or other non-Metro-Miami-Dade County agency having construction, operational or maintenance responsibility for public services or facilities as defined herein.

(17) *Programmed.* An improvement that is included as a proposed project in the Capital Improvements Element (CIE). Such improvements are unfunded unless in the current year of the Capital Budget.

(18) *Programmed for construction.* A proposed project that is included in the Capital Improvements Element and scheduled for construction. Such improvements are unfunded unless in the current year of the Capital Budget.

(19) *Public services and/or public facilities.* Services for which level of service (LOS) standards are included in the Comprehensive Development Master Plan (CDMP), whether such services or facilities are provided by government, quasi-public or private providers. Such services and facilities are roadways (traffic circulation), public transit, parks, water supply, sanitary sewerage, solid waste disposal, and floor protection.

(20) *Reservation.* The act of setting aside a portion of available infrastructure capacity necessary to accommodate valid intermediate or final development orders.

(21) *Service impact mitigation measures.* Measures, other than provision of services or facilities as defined herein, which will demonstrably reduce the impact of the prospective development on said services or facilities.

(22) *Site plan approval.* Those site plans approved pursuant to Chapter 33 of the Code of Metropolitan Miami-Dade County for development on lands having final plat approval prior to July 1, 1990 and located within the Urban Infill Area.

(23) *Special part-time demand.* A project that does not have more than two hundred (200) scheduled events during any calendar year, and does not affect the one hundred (100) highest yearly traffic volume hours.

(24) *Transportation Improvement Program (TIP).* An official document adopted by the Miami-Dade County Metropolitan Planning Organization (MPO) specifying proposed transportation improvements to be implemented over the coming five (5) years.

(25) *Urban Development Boundary (UDB).* The Urban Development Boundary identified on the adopted land use plan map of the Comprehensive Development Master Plan.
(26) *Urban Infill Area (UIA).* The area of Miami-Dade County located east of, and including Northwest and Southwest 77 Avenue (and its theoretical extensions) including the Palmetto Expressway (SR 826), north of and including SW 232 Street.
(27) *Urban service area.* An area inside the UDB which is already built-up and where public facilities and services are already in place.
(28) *Under construction.* A public facility improvement is considered to be under construction from the date the applicable construction permit is issued by the appropriate State, regional, County or municipal provider. When the improvement is the responsibility of the developer approval of such permit shall require proof of sufficient bonding or letter of credit securing construction.
(Ord. No. 89-66, § 1, 7-11-89; Ord. No. 91-24, § 1, 2-19-91; Ord. No. 91-60, § 1, 5-21-91; Ord. No. 92-47, § 1, 6-2-92; Ord. No. 93-84, § 1, 7-29-93; Ord. No. 94-80, § 1, 5-5-94; Ord. No. 95-90, § 1, 5-18-95)

Sec. 33G-4. Concurrency review agencies.
The following Miami-Dade County departments or their successors shall serve as the concurrency review agencies for the services specified:
(1) *Department of Planning and Zoning:* Flood protection for building permits.
(2) *Environmental Resources Management:* Water supply treatment and storage capacities and wastewater treatment capacity, water quality standards and wastewater effluent standards, and flood protection for initial development orders and all site plan reviews.
(3) *Fire and Rescue Department:* Water supply delivery pressure and fire suppression flow rate.
(4) *Metro-Miami-Dade Transit Agency:* Public transit.
(5) *Park and Recreation:* Parks.
(6) *Public Works:* Traffic circulation (streets, roads, highways) for all development orders; and flood protection for intermediate development orders and all final development orders except building permits and site plan reviews.
(7) *Solid Waste Management:* Solid waste.
(Ord. No. 89-66, § 1, 7-11-89; Ord. No. 91-24, § 1, 2-19-91; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 98-125, § 27, 9-3-98)

Sec. 33G-5. Procedures.
(1) As provided herein, no development order shall be issued where levels of service (LOS) for all public services and facilities will not meet or exceed LOS standards or where the issuance of the development order would result in a reduction in the level of service for any service or facility below LOS standards except under the following conditions:
(a) A proposed development will not be denied a concurrency approval for transportation facilities provided that the development is otherwise consistent with the adopted Comprehensive Development Master Plan and it meets one of the criteria listed below:

1. The proposed development is located within the Urban Infill Area; or
2. The proposed development is located in an existing Urban Service Area within the Urban Development Boundary and is located in a Community Development Target Area or Redevelopment Area established pursuant to the Housing and Community Development Act of 1974, as amended, implemented by 24 CFR Part 570; or Chapter 163, Part 3, F.S.; or in an Enterprise Zone established pursuant to Chapter 290, F.S.; or in an Empowerment Zone established pursuant to Federal law; or
3. The proposed development is one which poses only special part-time demands on the transportation system and is located in an existing Urban Service Area inside the Urban Development Boundary; or
4. The proposed development is located inside the Urban Development Boundary, and incorporates within the development a Metrorail, Metromover or TriRail Station, or a Metrobus terminal, as mapped in the Comprehensive Development Master Plan Mass Transit Element, for multiple Metrobus routes; or
5. The proposed development is an office or residential development located in an existing Urban Service Area within the Urban Development Boundary and is located within one-quarter mile of a Metrorail, Metromover or TriRail station, or a Metrobus terminal, as mapped in the Comprehensive Development Master Plan Mass Transit Element, for multiple Metrobus routes; or
6. The proposed development is located in an existing urban service area within the Urban Development Boundary which is determined to have a de minimis impact.

(b) Where a project satisfies the criteria in subsection (a) above and causes a two (2) percent or greater impact on the capacity of any Florida Intrastate Highway System roadway which is presently operating or will, as a result of the project, operate at a level of service standard below the adopted level of service standard; then, the County shall require the developer and successors to implement and maintain trip reduction measures to reduce travel by single-occupant vehicles so that the resultant increase in traffic volume does not exceed two (2) percent of the capacity on a Florida Intrastate Highway System roadway.

(2) When evaluating applications for development orders and impacts on levels of service and in preparing concurrency statements, concurrency review agencies shall utilize and apply the methods and criteria, and shall collect fees, all as established by administrative order of the County Manager and approved by the Board of County Commissioners. No development order shall be granted by any County board, department or agency until the Board, department or agency has received information reflecting one (1) or more of the items listed below, as applicable. The County department having primary responsibility to serve as administrative agency to a board granting development orders shall summarize and convey this information in its recommendations to the Board.

(a) A completed concurrency statement or other notice of approval from all concurrency review agencies addressing the subject application.

(b) Where the type of services or facilities for which a concurrency review agency is responsible are not impacted by a particular type of initial, intermediate, or final development order, or certificate of use and occupancy (CO), the concurrency review agency may file a statement of no impact with the applicable permitting department, agency or board specifying the particular types of development order or CO requests

which do not impact the specified service or facilities and for which individual concurrency statements shall not be required.

(c) The applicable concurrency review agencies, in consultation with the concurrency information center, may designate geographic areas of the County where certain services or facilities have sufficient surplus capacity to sustain projected development of specified types for one (1) to five (5) or more years, as applicable to the service. In areas so designated as having surplus capacity, DO's or CO's for the specified types of development may be issued without requiring individual concurrency statements for the specified services. All surplus capacity designations shall be reviewed no less frequently than annually.

(3) All applications for development orders shall specify, in addition to other requirements, the specific uses to which the land or structures will be put, the numbers of single-family and multifamily residential dwelling units, and the number of square feet devoted to each nonresidential use. Applications for intermediate and final development orders shall also specify the phasing of build-out, if applicable, and any service impact mitigation measures to which the applicant agrees to subsequently commit in a recordable written instrument running with the land.

(4) Complete applications for initial development orders requiring public hearing shall be transmitted to all applicable concurrency review agencies within twenty-one (21) calendar days of receipt of said complete application, and concurrency review agencies shall replay by transmitting their concurrency statements to the agency receiving the application (application agency) within twenty-one (21) calendar days after receipt of the applications. Applications for initial development orders not requiring a public hearing shall be forwarded to all applicable concurrency review agencies within fourteen (14) calendar days after the application is verified by the application agency to be complete, and each concurrency review agency shall transmit its concurrency statement within fourteen (14) calendar days after receipt of the application. An application requesting an intermediate or final development order shall be forwarded to all applicable concurrency review agencies within fourteen (14) calendar days after the application is verified by the application agency to be complete. Each concurrency review agency shall reply to the sending agency by transmitting its concurrency statement within fourteen (14) calendar days after the receipt of the application. If a concurrency review agency is required by other Code requirements to provide comments, recommendations or approvals to the application agency, the foregoing response dates may be modified to coincide with the response date otherwise required. Where more than one (1) development order is applied for simultaneously for a development, a concurrency review agency may conduct a single concurrency statement. Combined statements shall contain all information required prior to issuance of the requested intermediate or final development order, whichever occurs latest in the development approval process, and shall be transmitted within the foregoing time periods.

(5) All concurrency evaluations shall reflect currently available information or computations concerning the impacts on public services and facilities of existing development, and of development previously authorized by intermediate and final development orders which remain in effect, and of the development for which a development order or certificate of use and occupancy is being requested.

(6) No development order shall be issued by any County board, agency or department unless the following conditions are met:

(a) *Initial development orders:*

1. Unless otherwise provided by this chapter, initial development orders may be approved only if all services and facilities (roads, transit, water, sewer, parks, solid waste, and flood protection) meet or exceed LOS standards and the development authorized by issuance of the initial development order must not result in a reduction of any LOS below LOS standards; or the facilities necessary to accommodate the impacts of the proposed development at or above the applicable standards as established in the CDMP are:

a. Programmed in the five-year schedule of improvements in the Capital Improvement Element or Transportation Improvement Program;

b. In the anticipated projects list in the Capital Improvement Element; or

c. In the adopted five-year program or long-range facility plan of the applicable other service provider; or

d. Consistent with respect to the CDMP.

2. Notice is given to the applicant in the initial development order that the order does not constitute a final development order and that one (1) or more concurrency determinations will subsequently be required. The notice may include a provisional listing of facilities for which commitments may be required prior to the issuance of an intermediate or final development order. Provisional determinations or listing of needed facilities made in association with decisions to approve or deny initial development orders shall not be binding with regard to decisions to approve or deny intermediate or final development orders in accordance with the requirements set forth in Section 33G-5(6)(b) and 33G-5(6)(c).

(b) *Intermediate development orders:*

1. Unless otherwise provided by this chapter, intermediate development orders may be approved only if all services and facilities (roads, transit, water, sewer, parks, solid waste, and flood protection) meet or exceed LOS standards and the development authorized by issuance of the intermediate development order must not result in a reduction of any LOS below LOS standards; or the facilities necessary to accommodate the impacts of the proposed development at or above the applicable standards as established in the CDMP are:

a. Programmed in the five-year schedule of improvements in the Capital Improvement Element or Transportation Improvement Program; or

b. Consistent with the CDMP and contained in the adopted five-year capital improvements program of the applicable other service provider; or

c. Consistent with the CDMP and the applicant agrees in a recordable written instrument that no final development order will be requested unless the necessary facilities are programmed or contracted within the time frames specified in Section 33G-5(6)(c).

2. The intermediate development orders, except for commercial quarry permits and permits for rock plowing or wetland permitting for agricultural uses not involving structures, shall include a notice to the applicant that the subject approval does not constitute a final development order and that one (1) or more subsequent concurrency determinations will be required. Such notice shall include conditions that ensure the availability of adequate infrastructure to serve the proposed development as required in Section 33G-5(6)(c). Such conditions shall be binding, and no final development order

shall be approved until these conditions have been met or modified by the County board, agency, or department which established same so long as said modification does not result in lowering the LOS below the LOS standard. Intermediate development orders shall also include a listing of any service impact mitigation measures which the applicant agree to provide or utilize and which shall also become a condition of the final development orders.

3. A concurrency statement issued in association with the intermediate development order and based upon conditions enumerated in the development order pursuant to Section 33G-5(6)(b)2., requires reservation of that portion of the available capacity necessary to accommodate the impact of the development until the final plat is approved or for twelve (12) months from the date of the earliest tentative plat approval, whichever occurs first, provided that the tentative plat remains valid. Where any tentative plat approved after December 31, 1998, includes one or more lakes required to be excavated in conformity with the requirements of either the North Trail Basin Fill Encroachment and Water Management Criteria or the Bird Drive Everglades Basin Fill Encroachment and Water Management Criteria the reservation of that portion of the available capacity necessary to accommodate the impact of the development may be extended for an additional six (6) months from the date of the earliest tentative plat approval, provided that application for such extension is made prior to the expiration of the first twelve months and provided further that the tentative plat remains valid thereafter. Notwithstanding any other provision of this section, the actual period of lake excavation shall not exceed twelve (12) months. Such statement may also serve as the concurrency statement required for issuance of final development orders for the subject development provided that: (a) all the conditions for ensuring the availability of adequate infrastructure to serve the proposed development as required in Section 33G-5(6)(c) and as specified in the intermediate development order are satisfied at the time the intermediate development order is issued; (b) the tentative plat has remained valid; (c) the development proposal for which the final development order is requested remains substantially unchanged; and (d) the application for the final development order is approved within twelve (12) months of the date of the original tentative plat approval orwithin eighteen (18) months of the date of the original tentative plat approval of any tentative plat approved after December 31, 1998, which includes one or more lakes to be excavated in conformity with the requirements of either the North Trail Basin Fill Encroachment and Water Management Criteria or the Bird Drive Everglades Basin Fill Encroachment and Water Management Basin Criteria. Notwithstanding other provisions of this chapter, if the foregoing provisions of this paragraph have been met, a final development order will be issued, without any further concurrency review. Upon such issuance, the two-year period specified in Section 33G-5(6)(c)4. shall commence as of the date of the approval of the final plat by the Board of County Commissioners.

4. An application to modify a valid tentative plat that has been approved pursuant to Section 33G-5(6)(b)1. or an application to replat a final plat that has been approved pursuant to Section 33G-5(6)(b)3. shall be approved for concurrency where one or more services are operating below the LOS standards provided that the application is made within the respective one- or two-year reservation period as established in Section 33G-5(6)(b)3. and 33G-5(6)(c)4. and that the applicable concurrency review agency statesin writing that the proposed impact on the substandard service will be no greater than that of

the impact of the existing valid development order. The respective capacity reservation period will not be changed by approval of such modification and will continue to be determined by the approval date of the original development order.

(c) *Final development orders:*

1. Unless otherwise provided by this chapter, final development orders may be approved only if all services and facilities (roads, transit, water, sewer, parks, solid waste, and flood protection) meet or exceed LOS standards and the development authorized by issuance of the final development order must not result in a reduction of any LOS below LOS standards; or if the subject development is located inside the Urban Development Boundary and:

a. For water, sewer, solid waste and flood protection, the facilities necessary to accommodate the impact of the proposed development at or above the applicable standards as established in the CDMP are:

(1) Under construction at the time of issuance of the final development order; or

(2) The subject of a binding executed contract for the construction of facilities or the provision of services at the time of issuance of the final development order; or

(3) The subject of an enforceable development agreement with the applicant to construct the necessary facilities or provide the necessary services; or

(4) Guaranteed by some other means with assurance of the timely provision of the necessary services or facilities.

b. For roads and transit, the facilities necessary to accommodate the impacts of the proposed development at or above the applicable standards as established in the CDMP are:

(1) Under construction at the time of issuance of the final development order; or

(2) The subject of a binding executed contract to construct facilities or the provision of services at the time of issuance of the final development order; or

(3) Funded and programmed no later than Year 3 of the County Capital Budget for the construction of roadway and transit facilities or to acquire transit vehicles within the Urban Development Boundary, and no later than the date of issuance of a certificate of use and occupancy if the development is located outside the Urban Development Boundary; or

(4) Located inside the Urban Infill Area and programmed in the Capital Improvement Element or Transportation Improvement Program for construction in or before year 3; or

(5) Programmed for the construction or provision of service in or before year 3 of the Five-year Capital Facility Plan or work program of the State agency having operational responsibility for transit or transportation; or

(6) The subject of an enforceable development agreement with the applicant for the provision of facilities or services; or

(7) Guaranteed by some other means with assurance of the timely provision of the necessary services or facilities; or

(8) Must be contracted for construction no later than thirty-six (36) months after issuance of a certificate of use and occupancy if the development is located within the Urban Development Boundary, and no later than the date of issuance of a certificate of use and occupancy if the development is located outside the Urban Development Boundary.

c. For parks, the facilities necessary to accommodate the impacts of the proposed development at or above the applicable standards as established in the CDMP are:
(1) Under construction at the time of issuance of the final development order; or
(2) The subject of a binding executed contract for facilities or the provision of services at the time of issuance of the final development order; or
(3) Funded and programmed in Year-1 of the County Capital Budget for the acquisition of parkland and the subject development is located within the UDB; or
(4) The subject of an enforceable development agreement with the applicant for the provision of facilities or services; or
(5) Guaranteed by some other means with assurance of the timely provision of the necessary services or facilities.
(6) The necessary parkland must be acquired no later than twelve (12) months after issuance of a certificate of use and occupancy if the development is located within the Urban Development Boundary.
2. Assurance that the facility or facilities will be constructed or acquired and available within the timeframes established by Section 33G-5(6)(c)1.(a., b., and c.) shall be provided by the following:
a. The necessary facilities are funded and programmed in one (1) of the County's adopted capital budget or are programmed in the Capital Improvement Element for construction or acquisition. The necessary facilities shall not be deferred or deleted from the Capital Improvement Element work program or adopted one-year capital budget unless the dependent building permit expires or is rescinded prior to the issuance of a certificate of use and occupancy. The County will diligently strive to enter into construction contracts for necessary facilities within said time but shall retain the right to reject unsatisfactory bids. Contracts shall provide that construction of the necessary facilities must proceed to completion with no unreasonable delay or interruption.
b. In all instances where required park land is not dedicated or acquired prior to issuance of a certificate of use and occupancy, funds in the amount of the developer's fair share shall be committed to the acquisition of the required park land prior to the issuance of a certificate of use and occupancy unless the developer has entered into a binding agreement to dedicate an improved park site within the time frame as established in Section 33G-5(6)(c)1.c.6.. Where solid waste disposal facilities to be available for years three (3) through five (5), pursuant to the adopted level of service standard, are not in place and available prior to the issuance of a certificate of use and occupancy, a commitment for that capacity to be in place and available to accommodate projected demand in those future years shall be made through the means provided in Section 33G-5(6)(c)1.a.(1., 2., 3., or 4.) prior to issuance of a certificate of use and occupancy.
3. A proposed development that is located within the Urban Development Boundary may receive an extension of the thirty-six (36) month limitation established in Section 33G-5(6)(c)1.b.(8), and receive transportation concurrency approval on this basis, when all the following factors are shown to exist:
a. The Comprehensive Development Master Plan is in compliance with State law;
b. The proposed development would be consistent with the future land use designation for the specific property and with pertinent portions of the Comprehensive Development Master Plan, as determined by the County;

c. The Capital Improvement Element provides for transportation facilities adequate to serve the proposed development and the project;
d. The landowner shall be assessed a fair share of the cost of providing the transportation facilities necessary to serve the proposed development; and
e. The landowner has made a binding commitment to the County to pay the fair share of the cost of providing the transportation facilities to serve the proposed development.
4. All final development orders shall include, if applicable, a schedule of construction phasing, a listing and schedule of any services or facilities to be provided or contracted for construction by the applicant prior to the issuance of certificates of use and occupancy and certificates of completion or within specified time periods after the issuance of certificates of use and occupancy or certificates of completion as may be required by Section 33G-5(6)(c), and any service impact mitigation measures to which the applicant has committed; and shall require that the applicant or his successor shall comply with the requirements of the final development order.
5. A final plat, waiver of plat, or site plan approved in accordance with Section 33G-5(6)(c)1. shall require reservation of adequate capacity for two (2) years from the date of such final development order approval, during which time any related application for building permit shall be approved.
6. A site plan recommendation by the Executive Council of the Developmental Impact Committee for a new or expansion of a public educational facility shall require reservation of adequate capacity for three (3) years from the date of such site plan recommendation (Final Development Order).
7. A building permit approved in accordance with Section 33G-5(6)(b)3., orSection 33G-5(6)(c)1. shall require reservation of capacity adequate to accommodate the impact of such development for as long as the building permit remains valid.
8. Services or facilities to be provided or contracted for by the applicant and/or service impact mitigation measures to which the applicant has committed as a condition of receiving a final development order shall be recorded in the public record of Miami-Dade County at the expense of the applicant by declaration of restrictions executed by all parties having an interest in, or lien on the land, and running with the land.
9. Applications requesting modification, alteration, demolition or repair of a lawfully existing structure shall not be subject to paragraph 33G-5(6)(c)1., where one or more services are operating below LOS standards, provided that the applicable concurrency review agency states in writing that the impact on the substandard service imposed by the use to be accommodated by the requested modification or alteration will be no greater than the impact posed by (a) the lawful existing use accommodated by said structure on July 21, 1989, or (b) if the use on the property has changed since that date, by the lawful use accommodated by the structure existing upon the date of application and therefore will not result in a reduction in the level of service. The requirements of paragraph 33G-5(6)(c)1. shall apply to a change of use of an existing lawful structure, parcel or portion thereof, where the applicable concurrency review agency states in writing that the new requested use poses a greater impact on the service and facility. The review shall be conducted to determine the additional capacity required to accommodate said use.
10. Issuance of new certificates of use and occupancy for uses of parcels or structures, or portions thereof, which were not previously reviewed under provisions of this chapter are defined as final development orders and must be evaluated pursuant to the provisions

of Section 33G-5(6)(c). It is provided, however, that the requirements of paragraph 33G-5(6)(c)1. shall not apply to a change of use of an existing lawful structure or parcel or portion thereof if the applicable concurrency review agency states in writing that the impact on the substandard service imposed by the new requested use will be no greater than the impact posed by the most recent previous lawful use of the subject parcel or structure or pertinent portion thereof and, therefore, will not result in a reduction in the level of service. The requirements of paragraph 33G-5(6)(c)1. shall apply to a change of use of an existing lawful structure, parcel or portion thereof, where the applicable concurrency review agency states in writing that the new requested use poses a greater impact on the service and facility. The review shall be conducted to determine the additional capacity required to accommodate said use.

11. Prior to the issuance of any final development order, the applicant shall furnish adequate bond of one hundred ten (110) percent of cost of services or facilities which he is required to construct, contract for construction, or otherwise provide. Said bond shall be retained by the County until the pertinent facilities or services are accepted by the County or otherwise certified by the County to have been completed in accordance with this chapter and any other applicable County requirements.

(d) *Certificates of use and occupancy and certificates of completion.*

1. Certificates of use and occupancy, and certificates of completion may be issued without requirement for additional concurrency statements by concurrency review agencies where the applicant for the certificates of use and occupancy or certificates of completion holds a valid final development order for the identical use of the subject structure or site or pertinent portion thereof, which final development order contains no conditions requiring the applicant to provide or contract for the construction of necessary services or facilities, and the final development order contains no obligation for the applicant to provide or commit to utilize service impact mitigation measures.

2. Where the final development order contains requirements for the applicant to provide or to contract for the provision of services or facilities, or to provide or commit to utilize service impact mitigation measures, no certificate of use and occupancy or certificate of completion shall be issued until it is certified by the concurrency review agency responsible for the affected service or facility that the required facility, service, or service impact mitigation measure has been provided or contracted for provision. No additional concurrency statements are required prior to issuance of certificates of use and occupancy or certificates of completion in these instances.

(Ord. No. 89-66, § 1, 7-11-89; Ord. No. 91-24, § 1, 2-19-91; Ord. No. 91-60, § 1, 5-21-91; Ord. No. 92-47, § 1, 6-2-92; Ord. No. 94-80, § 1, 5-5-94; Ord. No. 95-90, § 1, 5-18-95; Ord. No. 00-48, § 1, 4-11-00)

Sec. 33G-6. Extension of capacity reservation and application for equitable tolling of traffic concurrency reservation period.

(A) *Extension of capacity reservation.*

(1) Where a final plat, waiver of plat, or site plan has been approved in accordance with Sections 33G-5(6)(c), which provides for a reservation of adequate capacity for two (2) years from the date of such a final development order, an extension of the two-year reservation period may be granted when the applicant demonstrates that development has commenced on a timely basis and is continuing in good faith. However, no such extended

period shall exceed five (5) years from the date of the final plat, waiver of plat, or site plan approval. In determining whether a development has commenced on a timely basis, the Executive Council's consideration shall include but not be limited to: (1) the density, intensity, and size of the development, (2) staging, phasing, or timing of development, and (3) economic conditions prevailing during the two-year period immediately following final plat approval.

For the purposes of this subsection "continuing in good faith" is defined pursuant to Section 2-114.2 of the Code of Metropolitan Miami-Dade County.

(2) Any application for an extension of capacity reservation period pursuant to this section shall be filed with the Director of the Department of Planning and Zoning no later than one hundred twenty (120) days prior to the expiration of the capacity reservation period or within sixty (60) days after the effective date of this ordinance for those applications whose expiration date has expired or will expire within one hundred eighty (180) days after such effective date.

(3) All applications for an extension of capacity reservation shall be filed with the Director of the Department of Planning and Zoning on a form prescribed by the Director to accomplish the purpose of this section. The form shall require information relevant and material to the extension of time requested including but not limited to:

(a) A letter of intent explaining the basis for the requested extension together with a detailed description of the particular approved development in question including location, and quantity of development or intensity of development.

(b) A complete itemization of all development permits issued including but not limited to building permits and certificates of use and occupancy.

(c) A complete itemization of all development permits needed to complete development. The itemization shall include but are not limited to building permits and certificates of occupancy as well as a schedule including the period of time for which the applicant claims is needed to complete development.

(4) Any application for an extension of capacity reservation filed pursuant to this section shall be reviewed by the Developmental Impact Committee (DIC) Executive Council at a meeting of the Council.

(5) Within fifteen (15) days after receipt of an application for an extension of the capacity reservation, the Department of Planning and Zoning Director shall determine and notify the applicant whether the application information is sufficient to enable the DIC Executive Council to issue a determination, and the Department of Planning and Zoning Director shall request any additional information needed. If the Department of Planning and Zoning Director determines that the information in the application is not sufficient, the applicant shall either provide additional information as requested, or shall notify the DIC Coordinator in writing that the information will not be supplied and the reasons therefore. If the applicant declines to provide the requested information, the DIC Executive Council shall act on the application as filed. If the applicant does not respond to the request for additional information within ninety (90) days, then the application shall be deemed to be withdrawn. If the applicant provides requested additional information, the Department of Planning and Zoning Director shall, within fifteen (15) days from receipt of the additional information, determine whether the additional information furnished is sufficient to comply with this request. If the additional information is not sufficient, the Department of Planning and Zoning Director shall notify

the applicant of the respects in which the information does not comply with the original request. When all requested information is received, the application will be considered sufficient and the applicant will be so notified.
(6) The DIC Executive Council shall review the completed application and any additional information provided. It shall consider all written documents, written statements, and information submitted by the applicant or gathered and made part of the record by the Department of Planning and Zoning Director during the investigation and evaluation of the application. The Department of Planning and Zoning Director may solicit and shall accept submission of relevant information from any other appropriate departments or agencies of Miami-Dade County. The Department of Planning and Zoning Director may solicit and shall accept information from any third persons who may possess factual information relevant to the investigation of an application. Copies of such information obtained by the Department of Planning and Zoning Director shall be furnished to the applicant, and the applicant shall be given an opportunity to respond to the information. The applicant shall be given an opportunity to address the DIC Executive Council and present evidence and argument in favor of its application, and respond to any questions or concerns raised by members of the DIC Executive Council.
(7) Within sixty (60) days after acknowledging receipt of a sufficient application, or receiving notification that additional information requested pursuant to subsection (4) will not be supplied, the DIC Executive Council shall review the application in accordance with the procedures contained herein and shall issue its determination. The time for issuance of the determination by the DIC Executive Council may be extended by agreement between the applicant and the DIC Executive Council. A determination shall contain findings of fact and conclusions supporting the said extension of capacity reservation determination.
(B) *Equitable tolling of traffic capacity reservation.*
(1) The Executive Council of the Developmental Impact Committee ("DIC") shall have the authority and duty, after application and hearing, to approve applications for equitable tolling of the traffic capacity reservation period for property adversely affected by an administrative zoning decision issued under Chapter 33, Code of Miami-Dade County, that is subsequently reversed on appeal, and the appellate decision has become final. Executive Council decisions acting on an equitable tolling application may be appealed to the Board of County Commissioners pursuant to section 33-314(C), Code of Miami-Dade County.
(2) An application for equitable tolling of the traffic capacity reservation period shall be filed with the Director of the Department of Planning and Zoning or successor agency, with notice to the Director of the Public Works Department, no later than ten (10) business days after the later of (1) the date upon which the reversal of the adverse administrative zoning decision by an appellate decision becomes final, or, (2) if applicable, transmittal of the zoning resolution to the Clerk. It is provided, however, that an application for equitable tolling of the traffic capacity reservation period relating to a zoning decision rendered prior to the effective date of this ordinance may be filed within sixty (60) days after the effective date of this ordinance.
(3) Standards.
(a) For the purposes of this section:

(i) *Equitable tolling of the traffic capacity reservation period* shall mean extension of traffic capacity reservation beyond the maximum time permitted under section 33G-6(A) for an amount of time no longer than the period starting from the time the applicant for equitable tolling first exercises the right to appeal the prior adverse administrative zoning decision until the conclusion of the appellate process, as provided under the Code of Miami-Dade County. The Executive Council shall have the discretion to approve an for equitable tolling of the traffic capacity reservation period for an amount of time less than or equal to the time consumed in procuring the final appellate determination reversing the adverse administrative decision. An applicant for equitable tolling of traffic capacity reservation must exhaust all administrative remedies, including the maximum extension of capacity reservation permitted under section 33G-6(A), prior to filing an application of equitable tolling of the traffic capacity reservation period under this subsection:
(ii) *Administrative zoning decision* shall mean any order, requirement, decision or determination made by an administrative official in the interpretation of any portion of the zoning regulations, or of any final decision adopted by resolution that is subject to review pursuant to section 33-311(A)(2) of the Code of Miami-Dade Country;
(iii) *Appellate decision* shall mean any subsequent review of an administrative zoning decision, whether by a community zoning appeals board, the Board of County Commissioners or an appellate court with jurisdiction of the matter.
(b) An application for equitable tolling traffic capacity reservation period may be granted upon a finding that:
(i) The applicant has been aggrieved by an adverse administrative zoning decision and that decision has been reversed by an appellate decision that has become final;
(ii) There was no intent to mislead the public or the zoning authority on the part of the applicant for equitable tolling of the traffic capacity reservation period at any time;
(iii) Failure to approve the application for equitable tolling of the traffic capacity reservation period would lead to an unjust result and would be contrary to the principles and considerations of fundamental fairness; and
(iv) Either:
(a) The prior adverse administrative zoning decision prevented the applicant from obtaining a building permit; or
(b) The Executive Council determines that because of the prior adverse administrative decision, development of the subject property would have been impracticable. The applicant may demonstrate impracticability by producing evidence, included, but not limited to, showing that in the absence of approval of the equitable tolling application, the property can not be developed or is otherwise unmarketable.
(4) All applications for equitable tolling of traffic capacity reservation period shall be filed with the Director of the Department of Planning and Zoning on a form prescribed by the Director to accomplish the purpose of this section, and shall comply with the requirements of section 33G-6 of this Article. In addition to the information sought through section 33G-6, the form shall require information relevant and material to the request for equitable tolling including but not limited to:
(a) A copy of the underlying original adverse administrative zoning decision, and
(b) A copy of the resolution or order reversing the underlying adverse administrative zoning decision.

(5) Within fifteen (15) days after receipt of an application for equitable tolling, the Department of Planning and Zoning Director shall determine and notify the applicant whether the application information is sufficient to enable the DIC Executive Council to issue a determination, and the Department of Planning and Zoning Director shall request any additional information needed. If the Department of Planning and Zoning Director determines that the information in the application is not sufficient, the applicant shall either provide additional information as requested, or shall notify the DIC Coordinator in writing that the information will not be supplied and the reasons therefore. If the applicant declines to provide the requested information, the DIC Executive Council shall act on the application as filed. If the applicant does not respond to the request for additional information within ninety (90) days, then the application shall be deemed to have been withdrawn. If the applicant provides requested additional information, the Department of Planning and Zoning Director shall, within fifteen (15) days from receipt of the additional information, determine whether the additional information furnished is sufficient to comply with this request. If the additional information is not sufficient, the Department of Planning and Zoning Director shall notify the applicant of the respects in which the information does not comply with the original request. When all requested information is received, the application will be considered sufficient and the applicant will be so notified.

(6) The DIC Executive Council shall review the completed application and any additional information provided. It shall consider all written administrative decisions and judicial rulings made part of the record by the Department of Planning and Zoning Director during the investigation and evaluation of the application. The Department of Planning and Zoning Director may solicit and shall accept submission of relevant information from any other appropriate departments or agencies of Miami-Dade County. The applicant shall be given an opportunity to address the DIC Executive Council and present argument in favor of its application, and respond to any questions or concerns raised by members of the DIC Executive Council. Review shall be limited to the issue of equitable tolling and the appropriate appellate determinations.

(7) Within sixty (60) days after acknowledging receipt of a sufficient application, or receiving notification that additional information requested pursuant to subsection (5) will not be supplied, the DIC Executive Council shall review the application in accordance with the procedures contained herein and shall issue its determination. The time for issuance of the determination by the DIC Executive Council may be extended by agreement between the applicant and the DIC Executive Council. A determination to grantan application for equitable tolling of the traffic capacity reservation period shall contain findings of fact and conclusions supporting the determination.

(Ord. No. 92-84, § 1, 7-21-92; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 98-125, § 27, 9-3-98; Ord. No. 00-78, § 1, 6-6-00)

Sec. 33G-7. Concurrency information center.

(1) A concurrency information center shall be established by Miami-Dade County. The concurrency information center shall be the Miami-Dade County agency officially responsible for issuing concurrency information. This information may include concurrency analyses conducted as required by the concurrency review agencies as specified in Section 33G-4. The concurrency information center shall provide the public,

upon request, information on existing and anticipated capacities and levels of services of all services addressed by this chapter. This information will reflect existing facility and service capacities, planned and committed facility and service capacity increases or extensions, and existing and committed service demands. The center shall compile and analyze information on service and facility capacities and improvement plans and commitments provided by all concurrency review agencies, and information on active initial, intermediate, and final development orders as provided by County permitting agencies, the Department of Property Appraisal, and municipal permitting agencies as necessary.

(2) The concurrency information center shall, to the maximum extent feasible, develop and maintain computations of development authorized by active intermediate and final development orders. This information will be categorized and formatted in a form useful for CDMP updates, formulation of concurrency statements, projection of facility capacities, and private sector needs. County boards, departments and agencies which issue development orders and certificates of use and occupancy shall periodically furnish the concurrency information center with records of such approved orders and certificates in electronic or written form suitable for the purposes of the concurrency information center.

(3) The concurrency information center shall assist the concurrency review agencies by (a) establishing procedures that equitably and uniformly implement the provisions of this chapter; (b) formulating updated methods and criteria for analyzing applications for development orders and level of service impacts; and (c) updating concurrency analysis fees. Said methods shall be adopted by administrative order of the County Manager and shall become effective upon approval by the Board of County Commissioners. Reasonable fees for conducting concurrency analyses, providing written information, and for providing services to support the concurrency management program may be charged and collected upon establishment of a schedule of reasonable fees by administrative order of the County Manager which shall become effective upon approval by the Board of County Commissioners.

(Ord. No. 89-66, § 1, 7-11-89; Ord. No. 91-24, § 1, 2-19-91)

Sec. 33G-8. Section 163 Development Agreements.

(1) Pursuant to the Florida Local Government Development Agreement Act (Sections 163.3220--163.3243, Florida Statutes) the Board of County Commissioners has the authority by resolution to enter into a development agreement with any person having a legal or equitable interest in real property located within its jurisdiction for the sole purpose of providing and reserving public facility capacity. Said development agreements shall authorize issuance of building permits for a period not to exceed ten (10) years after issuance of affirmative concurrency findings pursuant to Section 33G-5(6)(c) if:

(a) The proposed development meets or exceeds the Developmental Impact Committee (DIC) thresholds established in Section 33-303.1(D)(6)(a)1. through 8., Code of Metropolitan Miami-Dade County as said thresholds may be amended from time to time; and

(b) The Board of County Commissioners finds, after recommendation of the Developmental Impact Committee Executive Council, that: (1) the time periods specified in Section 33G-5(6)(b)3. and (c)4. for obtaining development orders and progressing with

construction would result in an unreasonable hardship due to the size or complexity of the proposed development; or (2) the development will provide necessary public facilities in an amount which, in addition to satisfying the needs of the development, also remedy an existing deficiency; or (3) the proposed improvements provide significant enhancement to the quality or utility of the affected public facilities; and

(c) The proposed development and development agreement shall conform with all applicable requirements of the CDMP and Section 33G-5 except as provided for in subsection (b)(1) above; and

(d) The development agreement is limited to the specific land uses and institutes of use for which affirmative concurrency findings have been issued pursuant to Sections 33G-5(6)(b) and (c); and

(e) The development agreement shall provide for the application of all subsequent laws and policies governing land development except that said laws and policies shall not preclude the development of the land uses, intensities, or densities as provided for in the development agreement; and

(f) The development agreement shall include a schedule of required construction progress, the violation of which shall result in the invalidation of the development agreement.

(2) The Department of Planning and Zoning shall review and make recommendations on all proposed development agreements and shall place the same before the Board of County Commissioners for consideration.

(3) Procedures to administrate this section and a review fee shall be established by administrative order.

(Ord. No. 91-24, § 1, 2-19-91; Ord. No. 91-60, § 1, 5-21-91; Ord. No. 92-47, § 1, 6-2-92; Ord. No. 94-80, § 1, 5-5-94; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 98-125, § 27, 9-3-98)

Sec. 33G-9. Exhaustion of administrative remedies.

(1) No person aggrieved by any resolution, order, requirement, decision or determination of any County board, department, or agency in applying the provisions of this chapter to any application or request for the issuance of a development order may apply to the court for relief unless he has first exhausted all applicable administrative remedies provided in the Code of Metropolitan Miami-Dade County, Florida.

(2) Nothing in this chapter shall be construed or applied to constitute a temporary or permanent taking of private property without just compensation or the abrogation of vested rights. Any property owner alleging that this chapter, as applied, constitutes or would constitute a temporary or permanent taking of private property of an abrogation of vested rights must affirmatively demonstrate the legal requisites of the claim by exhausting the administrative remedies provided in Sections 2-114.1 or 2-114.2, and,if applicable 2-114.3, and 2-114.4 of the Code. The procedures set forth in Sections 2-114.1, 2-114.2, 2-114.3 and 2-114.4 for the review of claims pertaining to the application of the Comprehensive Development Master Plan shall constitute the procedures for the review of claims regarding the application of this chapter. Notwithstanding any contrary provisions of the Code of Metropolitan Miami-Dade County, no property owner claiming that this chapter as applied constitutes or would constitute a temporary or permanent taking of private property or an abrogation vested rights may pursue such claim in court

or before a quasi-judicial body unless he has first exhausted the administrative remedies as provided herein.
(Ord. No. 89-66, § 1, 7-11-89; Ord. No. 90-76, § 5, 7-24-90; Ord. No. 91-24, § 1, 2-19-91)