



MEMORANDUM

AGENDA ITEM # 5d

DATE: OCTOBER 1, 2007
 TO: COUNCIL MEMBERS
 FROM: STAFF
 SUBJECT: DRI LEGISLATION 2007

Council staff have reviewed amendments to Chapters 380 and 163 Florida Statutes, pursuant to HB 7203 and SB 1375, that specifically affect the review of Developments of Regional Impact. These issues are summarized in the Attachment 1.

Chapter 380 establishes numerical thresholds for projects that are required to undergo Development of Regional Impact Review. These thresholds apply to all developments in the region, including those located within the Coastal High Hazard Area. In general, the thresholds that apply in the South Florida region are shown below. The statute also provides for increased thresholds in a defined regional activity center ("380 RAC") and for projects that provide workforce housing.

| Land Use | Broward and Miami-Dade Counties | Monroe County |
|-------------------|--|---|
| Residential | 3,000 units | 750 units |
| Hotel/motel | 750 units | 350 units |
| Office | 300,000 sq ft | 300,000 sq ft |
| Industrial | 320 acres, or 2,500 parking spaces | 320 acres, or 2,500 parking spaces |
| Retail/Commercial | 400,000 sq ft or 2,500 parking spaces | 400,000 sq ft, or 2,500 parking spaces |

The 2007 legislation changed the DRI threshold for hotel/motel projects. No changes were made to the residential threshold which allows for projects up to 2,999 dwelling units to be developed without DRI review even in the Coastal High Hazard Area. SB 1375 amended Section 380.0651(3)(f) to strike out the language shown in Attachment 2.

ATTACHMENT 1

The following Development of Regional Impact (DRI) Statute Changes were effective July 1, 2007.

- 1. The DRI threshold for hotel developments in Broward and Miami-Dade counties is now 750 units. Stand alone hotels with up to 749 rooms are not subject to review as a DRI.**

Chapter 380.0651(3)(f)(2) Florida Statutes (as amended by H.B. 1375) increases the threshold at which a hotel or motel development is subject to review as a DRI, from 350 units to 750 units, in counties with a population greater than 500,000.

Council Staff review indicates that this affects two proposed projects in Broward County (Beach One Resort, Hollywood, which has been withdrawn, and proposed hotel in Pompano Beach), which no longer meet the criteria for DRI review.

- 2. The DRI threshold for hotel development within a designated 380 RAC in Broward and Miami-Dade Counties is 1,125 units for stand alone hotel or 1,500 units for hotel in a multi-use DRI.**

HB 1375 has the effect of increasing the threshold at which a hotel or motel development located within a geographic area specifically designated as highly suitable for increased threshold intensity in an approved local comprehensive plan is subject to review as a DRI, from 525 units to 1,125 units, pursuant to Chapter 380.06(2)(e) Florida Statutes; and

HB 1375 has the effect of increasing the threshold at which a hotel or motel development within a multi-use project in a geographic area specifically designated as highly suitable for increased threshold intensity in an approved local comprehensive plan is subject to review as a DRI, from 700 units to 1,500 units, pursuant to Chapter 380.06(2)(e) Florida Statutes.

Council Staff review indicates that this change does not impact any DRIs under current review. However, it may affect future projects located in 380 RACs in Downtown Fort Lauderdale, Miami, North Miami and Dadeland, and proposed 380 RACs in Pembroke Pines, Pinecrest (Kendall), Davie and Coconut Creek.

- 3. Build out and expiration dates for approved DRIs under active construction on July 1, 2007 are extended by three years.**

HB 1375 extended all phase, build out, and expiration dates for DRI projects under active construction on July 1, 2007 regardless of any prior extensions. Also this three year period may not be counted when determining whether a future extension is a substantial deviation.

DCA has determined how "active construction" will be interpreted (see Attachment 3) and Council staff is working with DCA to develop a process to administer these extensions.

Council Staff review indicates that, using a liberal interpretation, the extension applies to approximately 75 existing DRI projects in the South Florida region.

- 4. The ability to pay a proportionate share contribution for traffic impacts is available to all DRIs and does not require developers to pay to reduce existing backlogs.**

Chapter 163.3180 (12) as amended by HB 7203 provides that any DRI (not just those that are mixed-use projects with residential units) that meets the requirements of this section may satisfy transportation concurrency requirements by payment of proportionate share contribution for local and regionally significant traffic impacts. In addition, the statute no longer requires "integrated mix of land uses" but allows for "location" or "mix of land uses" to be used as criteria to determine whether proportional share mitigation may be applied.

Proportionate-share is limited to mitigation of the direct impacts of the DRI on the transportation system. As amended, the statute provides that developers are not responsible for the additional cost of reducing or eliminating backlogs in the transportation system.

Council Staff review indicates that this change will only impact future Development Orders.

- 5. Affordable housing - amendments to existing Development Orders that have specific conditions relating to the sale units to persons in specific income brackets.**

HB 1375 provided for the sale of affordable units to persons in a higher income class than was originally designated in the Development Order (provided the sales price is unchanged and the buyer's household income is less than 120% of median).

Council Staff review has not identified any existing Development Orders in the South Florida to which this amendment would apply.

- 6. Concurrent land use plan amendments for DRIs (in Broward County municipalities, City of Miami and City of Hialeah) are subject to expedited review under the new pilot program.**

DCA will not issue ORC report amendments under the expedited review process (Chapter 163.32465 as amended by H.B. 7203)

Council Staff review indicates that three proposed DRIs have concurrent Land Use Plan Amendments that are being processed with the DRI. However, two of these were in process before July 1, 2007. Therefore Council Staff have determined that the pilot project will be applicable to the Harrison Park DRI (City of Sunrise) and to future DRIs within Broward County, Miami and Hialeah.

- 7. Development Agreements may be for up to 20 years.**

The maximum time limits for Development Agreements, pursuant to Chapter 163.3229 as amended by H.B. 7203, has been increased from 10 years to 20 years. This does not impact the term of DRI Preliminary Development Agreements under Chapter 380.06(8).

Council Staff review indicates that this change will only impact future Development Agreements.

ATTACHMENT 2

Section 9. Paragraph (f) of subsection (3) of section 380.0651, Florida Statutes, is amended to read:

380.0651 Statewide guidelines and standards.--

(3) The following statewide guidelines and standards shall be applied in the manner described in s. 380.06(2) to determine whether the following developments shall be required to undergo development-of-regional-impact review:

(f) Hotel or motel development.--

1. Any proposed hotel or motel development that is planned to create or accommodate 350 or more units; or

2. Any proposed hotel or motel development that is planned to create or accommodate 750 or more units, in a county with a population greater than 500,000, ~~and only in a geographic area specifically designated as highly suitable for increased threshold intensity in the approved local comprehensive plan and in the strategic regional policy plan.~~

Source: SB 1375 Enrolled, 2007 Legislature. Effective date July 1, 2007.

ATTACHMENT 3

2007 Growth Management Legislation

The 2007 Legislature made several important changes to Chapter 163, Florida Statutes. HB 7203, with a July 1, 2007 effective date, is of particular interest. As the Department of Community Affairs prepares implementation guidance it will be posted on this website.

An amendment that has drawn attention provides a 3-year extension to all phase, buildout, and expiration dates for developments-of-regional impact that are under active construction. Specifically, Section 380.06(19)(c), Florida Statutes, has been amended to include:

In recognition of the 2007 real estate market conditions, all phase, buildout, and expiration dates for projects that are developments of regional impact and under active construction on July 1, 2007, are extended for 3 years regardless of any prior extension. The 3-year extension is not a substantial deviation, is not subject to further development-of-regional impact review, and may not be considered when determining whether a subsequent extension is a substantial deviation under this subsection.

The legislation is intended to provide additional time for developments-of-regional impact and it is in that context that the Department views its requirements. It is the Department's conclusion that projects that satisfy the following parameters would meet the requirements.

1. The development-of-regional impact does not exceed any deadlines in its development order in regard to phasing, buildout, and termination.
2. In regard to "active construction", there must be a valid local government development permit that authorizes physical development consistent with the development order and physical construction pursuant to that local government development permit must have occurred.

The legislation does not require local government approval of the 3-year extensions. However, the developer should provide notification of the extension and some form of documentation as to the status of construction to the local government, regional planning council, and the Department immediately after July 1, 2007. Although it is not required, the prudent developer should submit a notice of proposed change to formally revise the development-of-regional impact development order to reflect the extension. Irrespective of the method by which the time extension is documented, it will not constitute a substantial deviation.

Source: Florida Department of Community Affairs (DCA), June 29, 2007.