



# MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

## COMMISSION MEMORANDUM

TO: Mayor Matti Herrera Bower and Members of the City Commission

FROM: Jorge M. Gonzalez, City Manager

DATE: April 11, 2012

SUBJECT: **REPORT OF THE MARCH 28, 2012 LAND USE AND DEVELOPMENT COMMITTEE MEETING**

A Land Use and Development Committee meeting was held on March 28, 2012. Members in attendance were Commissioners Góngora, Libbin and Wolfson. Mayor Bower and Commissioner Exposito were also in attendance. Members from the Administration and the public were also in attendance. Please see the attached sign-in sheet. The meeting was called to order at 4:20 pm.

**1. DISCUSSION ON THE PARKING REQUIREMENT AND HOW WE CAN INCENTIVIZE FOR GOOD HOTEL DEVELOPMENT.**

**(RETURNING FROM THE FEBRUARY 15, 2012 LUDC MEETING  
ORIGINALLY REQUESTED BY COMMISSIONER JONAH WOLFSON  
FEBRUARY 9, 2011 CITY COMMISSION MEETING, ITEM C4C)**

**AFTER-ACTION: DEFERRED**

**2. DISCUSSION OF JURISDICTION OF LAND USE BOARDS OVER APPEALS.**

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY CODE BY AMENDING CHAPTER 118, "ADMINISTRATIVE AND REVIEW PROCEDURES," ARTICLE II, "BOARDS," DIVISION 2, "PLANNING BOARD," SECTION 118-51, "POWERS AND DUTIES," DIVISION 3, "DESIGN REVIEW BOARD," SECTION 118-71, "POWERS AND DUTIES," DIVISION 4, "HISTORIC PRESERVATION BOARD," SECTION 118-102, "POWERS AND DUTIES," DIVISION 5, "BOARD OF ADJUSTMENT," SECTION 118-136, "POWERS AND DUTIES," TO CLARIFY AND AMEND THE POWERS AND JURISDICTIONS OF THESE LAND USE BOARDS WHEN APPEALS ARE FILED FROM ANY ORDER, REQUIREMENT, DECISION, OR DETERMINATION MADE BY THE PLANNING DIRECTOR OR HIS DESIGNEE, INCLUDING ADMINISTRATIVE DETERMINATIONS, PROVIDING FOR REPEALER; CODIFICATION; SEVERABILITY AND AN EFFECTIVE DATE.**

**(RETURNING FROM THE FEBRUARY 15, 2012 LUDC MEETING  
ORIGINALLY REQUESTED BY CITY COMMISSION  
APRIL 13, 2011 ITEM R9G MOTION #2)**

**AFTER-ACTION: DEFERRED**

Agenda Item C6C  
Date 4-11-12

**3. DISCUSSION OF PROCEDURES FOR OBTAINING INFORMAL OPINIONS AND FORMAL ADMINISTRATIVE DETERMINATIONS FROM THE PLANNING DIRECTOR.**

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY CODE BY AMENDING CHAPTER 118, "ADMINISTRATIVE AND REVIEW PROCEDURES," BY CREATING A NEW ARTICLE XII, "ADMINISTRATIVE DETERMINATIONS," SECTIONS 118-801, "INFORMAL OPINIONS," 118-802, "FORMAL ADMINISTRATIVE DETERMINATIONS," AND 118-803, "EFFECT OF OPINIONS AND DETERMINATIONS," TO CLARIFY AND AMEND THE PROCEDURES FOR OBTAINING INFORMAL OPINIONS AND FORMAL ADMINISTRATIVE DETERMINATIONS FROM THE PLANNING DIRECTOR, PROVIDING FOR REPEALER; CODIFICATION; SEVERABILITY AND AN EFFECTIVE DATE.**

**(RETURNING FROM THE FEBRUARY 15, 2012 LUDC MEETING REQUESTED BY CITY COMMISSION APRIL 13, 2011, ITEM C4E & R9G MOTION #3)**

**AFTER-ACTION: DEFERRED**

**4. a) DISCUSSION ON A POSSIBLE AMENDMENT TO THE ACCESSORY USE REGULATIONS FOR THE RM-2 ZONING DISTRICT TO PERMIT A LIMITED NUMBER OF COMMERCIAL ACCESSORY USES IN AN APARTMENT BUILDING ADJACENT TO A PUBLIC BAYWALK TO BE OPEN TO THE PUBLIC.**

**(RETURNING FROM THE NOVEMBER 21, 2011 LUDC MEETING ORIGINALLY REQUESTED BY COMMISSIONER EDWARD L. TOBIN APRIL 13, 2011 ITEM C4H)**

**4. b) DISCUSSION REGARDING THE BAYWALK CONSERVATION DISTRICT PROPOSAL PUT FORTH BY MEMBERS OF THE LINCOLN WEST NEIGHBORHOOD ASSOCIATION.**

**(RETURNING FROM THE NOVEMBER 21, 2011 LUDC MEETING ORIGINALLY REFERRED BY MAYOR MATTI HERRERA BOWER & VICE MAYOR JONAH WOLFSON MAY 11, 2011 CITY COMMISSION MEETING ITEM C4G)**

**AFTER-ACTION:** Steve Polisar introduced himself and the history of this issue. Commissioner Góngora acknowledged Mr. Polisar and the history of discussing this item. Mr. Polisar indicated his clients desire to have a low-intensity office use in the ground floor of the Mae Capri building. Commissioner Libbin asked what kind of office he had in mind. Frank DelVecchio spoke against the proposal and indicated he thought this proposal had been withdrawn. Arthur Marcus indicated that the Lincoln West neighborhood association did not agree with the proposal. Jorge Gomez indicated that perhaps the Home Based Business ordinance could guide any proposed change. Mr. McConaghan the proponent argued that his unit could not be used as residential because it was built at below minimum required flood level. Mr. DelVecchio stated that

Mr. Marcus and himself would be willing to continue to explore this process. Commissioner Góngora expressed that he would be more comfortable if the parties were to sit together one more time and try to reach consensus before the next meeting, and that staff should be involved at the meeting.

**MOTION:** Libbin/Wolfson: (3-0). The parties are to meet and try to reach consensus, with City staff in attendance, and come back to the Committee next month.

5. a)

**1. HISTORIC PRESERVATION REGULATIONS**

**CHARTER AMENDMENT REQUIRING VOTER APPROVAL BEFORE ENACTING LESS STRINGENT STANDARDS FOR HISTORIC PRESERVATION.**

**SHALL THE CHARTER BE AMENDED TO REQUIRE THAT, AFTER NOVEMBER 7, 2012, AND BEFORE BECOMING EFFECTIVE, ANY CHANGE TO CHAPTER 118, ARTICLE II, DIVISION 4 OF THE CITY CODE (ENTITLED, "HISTORIC PRESERVATION BOARD"), OR TO CHAPTER 118, ARTICLE X, OF THE CODE ("HISTORIC PRESERVATION"), WHICH EITHER REDUCES THE POWERS AND DUTIES OF THE BOARD, OR CREATES LESS STRINGENT HISTORIC PRESERVATION STANDARDS OR REGULATIONS, FIRST BE APPROVED BY A MAJORITY OF VOTERS IN A CITYWIDE ELECTION?**

**2. HEIGHT RESTRICTIONS**

**CHARTER AMENDMENT REQUIRING VOTER APPROVAL BEFORE ALLOWING INCREASED BUILDING HEIGHTS, EXCEPT FOR CITY PROPERTY.**

**SHALL THE CHARTER BE AMENDED SO THAT, AFTER NOVEMBER 7, 2012, AND BEFORE BECOMING EFFECTIVE, ANY CHANGE TO THE LAND DEVELOPMENT REGULATIONS IN THE CITY CODE, EXCEPT FOR CITY-OWNED PROPERTY IN THE GOVERNMENT USE AND CIVIC AND CONVENTION CENTER ZONING DISTRICTS, WHICH ALLOWS INCREASED BUILDING HEIGHTS SHALL FIRST BE APPROVED BY A MAJORITY OF VOTERS IN A CITYWIDE ELECTION?**

**(REQUESTED BY MAYOR MATTI HERRERA BOWER  
JULY 13, 2011 CITY COMMISSION MEETING, ITEM R7G; AND  
DECEMBER 14, 2011 CITY COMMISSION MEETING, ITEM C4C)**

5. b) **DISCUSSION ON A PROPOSAL TO PUT THE HISTORIC PRESERVATION BOARD ENABLING LANGUAGE IN CHARTER SO AS TO PROTECT THE COMPOSITION AND EXISTENCE OF OUR CITY'S PRESERVATION MECHANISM.**

**(ORIGINALLY REQUESTED BY COMMISSIONER JONAH WOLFSON  
DECEMBER 14, 2011 CITY COMMISSION MEETING, ITEM C4D)**

**AFTER-ACTION:** The Committee members were joined by Mayor Bower and Commissioner Exposito in discussing the merits of the two Charter Proposals, as well as an unofficial draft by Frank DeVecchio. The discussion focused on how it would be determined whether a proposal was deemed more or less stringent with regards to Historic Preservation standards or regulations. Nancy Leibman spoke that if the proposal is limited to historic districts, she believed it should also include public buildings.

**MOTION:** (3-0) moved to recommend charter amendment 1 to the full City Commission and return to committee to discuss charter amendment 2 above to the Land Use and Development Committee in April (same motion as Neighborhoods Committee).

6. **DISCUSSION ON ARTIFICIAL GRASS AT HOTELS AND HOMES AND THE PLANNING DEPARTMENT PROCEDURE FOR APPROVING SAME.  
(RETURNING FROM THE JANUARY 14, 2012 PLANNING BOARD MEETING  
ORIGINALLY REQUESTED BY COMMISSIONER JONAH WOLFSON  
SEPTEMBER 14, 2011 CITY COMMISSION MEETING, ITEM C4C)**

**AFTER-ACTION:** DEFERRED

7. **DISCUSSION REGARDING A RESOLUTION BY THE HISTORIC PRESERVATION BOARD TO MODIFY THE CODE GOVERNING THE VOLUNTARY DESIGNATION OF SINGLE FAMILY HOMES.**

**(REQUESTED BY MAYOR MATTI HERRERA BOWER  
SEPTEMBER 14, 2011 CITY COMMISSION MEETING, ITEM C4M)**

**AFTER-ACTION:** DEFERRED

8. **DISCUSSION OF THE RM-3 REGULATIONS CONCERNING ATTACHED AND DETACHED ADDITIONS TO BUILDINGS IN THE ARCHITECTURAL DISTRICT.**

**(REQUESTED BY COMMISSIONER ED TOBIN,  
OCTOBER 19, 2011 CITY COMMISSION MEETING, ITEM C4I)**

**AFTER-ACTION:** Richard Lorber introduced the item. Michael Larkin began the presentation and introduced Allen Shulman, who showed graphics of the South Seas hotel, and how the historic hotel was originally built and how it was added on to later.

**MOTION:** Wolfson/Libbin (3-0). Move the proposal to the Planning Board.

9. **DISCUSSION OF THE MIAMI BEACH CURRENT CITY CODE CHAPTER 6-4 (3) RELATING TO ALCOHOLIC BEVERAGE SALES THAT REQUIRES A 300 FOOT DISTANCE BETWEEN LIQUOR STORES AND ASK THAT THE CITY LOOK INTO ADOPTING THE COUNTY REQUIREMENT OF 1500 FEET.  
(DEFERRED FROM THE FEBRUARY 15, 2012 LUDC MEETING  
ORIGINALLY REQUESTED BY COMMISSIONER JORGE R. EXPOSITO  
OCTOBER 19, 2011 CITY COMMISSION MEETING ITEM C4L)**

**AFTER-ACTION:** Richard Lorber introduced the item and explained the maps contained in the staff report, showing the existing liquor stores in Miami Beach, a 300

foot radius around each of them, and a 1,500 foot radius around each one. The effect of extending the distance from 300 feet to 1,500 feet would be to require a variance for just about any newly proposed liquor store. He explained how the Board of Adjustment has been able to approve variance requests with voluntary proffers from the applicant to limit sales of single cans of beer or similar sized containers which have proved problematic. The discussion centered upon not prohibiting new liquor stores, but subjecting them to Board of Adjustment scrutiny in order to limit concentration of uses, and provide the opportunity for proffers of additional community safeguards.

**MOTION:** Wolfson/Góngora (2-1; Libbin opposed) Send to Planning Board and bring back to LUDC before Commission.

**10. USE OF LEGAL NONCONFORMING COMMERCIAL BUILDING IN SINGLE-FAMILY DISTRICTS.**

**A RESOLUTION SETTING A FIRST READING PUBLIC HEARING TO CONSIDER AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY CODE BY AMENDING CHAPTER 118, "ADMINISTRATIVE AND REVIEW PROCEDURES," ARTICLE IX, "NONCONFORMANCES," SECTION 118-393 NONCONFORMING USE OF BUILDINGS;" AND CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS," DIVISION 2, "RS-1, RS-2, RS-3, RS-4 SINGLE FAMILY RESIDENTIAL DISTRICTS," TO PERMIT AN EXISTING LEGAL NONCONFORMING COMMERCIAL BUILDING TO BE USED AS A CHILD CARE CENTER OR SCHOOL AS A CONDITIONAL USE.**

**(DEFERRED FROM THE FEBRUARY 15, 2012 LUDC MEETING  
ORIGINALLY REQUESTED BY CITY COMMISSION  
OCTOBER 19, 2011 CITY COMMISSION MEETING ITEM C7M)**

**MOTION:** Libbin/Wolfson (3-0) Withdraw the referral and go no further with this request.

**11. DISCUSSION CONCERNING THE TERMINAL ISLAND TRAFFIC STUDY AND CIRCULATION STUDY.**

**(REQUESTED BY COMMISSIONER MICHAEL GONGORA  
MARCH 21, 2012 CITY COMMISSION MEETING, ITEM C4K)  
VERBAL REPORT**

**AFTER-ACTION:** Richard Lorber introduced the issue, noting the draft traffic study prepared by Atkins to analyze a proposed relocation of towing storage facilities to Terminal Island. The study makes some recommendations how the traffic on Terminal Island and the Macarthur Causeway could be improved. A discussion was had on moving towing to Terminal Island. The Committee requested that staff disseminate the draft traffic study report, and bring back discussion of general improvements to Terminal Island traffic congestion to the Committee next month.

**MOTION:** Wolfson/Góngora (2-1; Libbin opposed). Table discussion of moving towing to Terminal Island and send an expression of same to the City Commission.

**12. DISCUSSION ON WAYS TO ENHANCE THE LAND USE BOARDS OF MIAMI BEACH IN ORDER TO IMPROVE THE CITY OF MIAMI BEACH BUILDING AND PLANNING DEPARTMENT AND PROCESSES.**

**(REQUESTED BY COMMISSIONER MICHAEL GONGORA  
MARCH 21, 2012 CITY COMMISSION MEETING, ITEM C4M)**

**AFTER-ACTION: DEFERRED**

Attachment

  
JMG/JGG/RGL

M:\\$CMB\CCUPDATES\Land Use and Development Committee\2012\March\LUDC Meeting of March 28, 2012  
afteraction.docx

LAND USE AND DEVELOPMENT COMMITTEE MEETING

March 28, 2012 @ 4:00 pm

City Manager's Large Conference Room

Attendance Sheet

NAME	CONTACT NUMBER	I WISH TO RECEIVE THE AGENDA ELECTRONICALLY	E-MAIL ADDRESS
1. <i>J. Meyers</i>	<i>x7550</i>		<i>jmeyers @miamibeachfl.gov</i>
2. <i>Jorge Meyers</i>	<i>7550</i>		<i>@</i>
3. <i>Jose Jimenez Marcos</i>	<i>832-483-7580</i>	<i>Yes</i>	<i>jorge @jimenezcompany.com</i>
4. <i>IRINA KONSTANTINOV</i>	<i>973-2209000</i>		<i>MENZERA @AOL.COM</i>
5. <i>Madeleine Romanello</i>	<i>305 282 2133</i>	<i>YES</i>	<i>madeleine.ROMANELLO @sothebysrealty.com</i>
6. <i>PAOLA RENGITO</i>	<i>305213 3840</i>	<i>YES</i>	<i>paola @karramjr.com</i>
7. <i>Ralph Andre</i>	<i>305 216-2028</i>		<i>@</i>
8. <i>David R. Custin</i>	<i>305-607-8576</i>	<i>Yes</i>	<i>CustinDR @AOL.COM</i>
9. <i>Paul Weiner</i>	<i>305-529-6339</i>	<i>Yes</i>	<i>pweiner @thecharrengroup.com</i>
10. <i>James Rauh</i>	<i>(305)510-4077</i>	<i>YES</i>	<i>jrauh @terminello.com</i>
11. <i>TATIANA GORT</i>	<i>3-073-2585</i>	<i>Yes</i>	<i>tgort @lsipartners.com</i>
12. <i>GEORGE GUNDES</i>	<i>202 390 4070</i>	<i>YES</i>	<i>ggundes @gmail.com</i>
13. <i>Henry Tchi</i>	<i>305-766-7769</i>	<i>No</i>	<i>stevepaig@ gmail.com</i>
14. <i>STEVE POLISAR</i>	<i>305-672-7772</i>	<i>YES</i>	<i>@</i>
15. <i>Mason</i>	<i>205 594 7577</i>		<i>@</i>
16. <i>Muluma</i>	<i>608 225-0517</i>	<i>N</i>	<i>@</i>
17. <i>Paul Janas</i>		<i>Y</i>	<i>pauljanas @hotmail.com</i>
18. <i>SOPHIA SIECZKOWSKI</i>	<i>312 315 6638</i>	<i>Yes</i>	<i>SOPHIASIEC2 @yahoo.com</i>
19. <i>Rafiq Abasem</i>	<i>305 514 3415</i>	<i>yes</i>	<i>rafiq.abasem @atkinsglobal.com</i>
20. <i>GABRIELLE REDFEN</i>	<i>305 790 5461</i>	<i>Yes</i>	<i>gredfen @Crescent Heights.Gov.</i>

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LAND USE AND DEVELOPMENT COMMITTEE MEETING

March 28, 2012 @ 4:00 pm

City Manager's Large Conference Room

Attendance Sheet

NAME	CONTACT NUMBER	I WISH TO RECEIVE THE LINK TO THE ELECTRONIC AGENDA	E-MAIL ADDRESS
21. Michael Kinerk	305 532 9000	yes	mkinerk@gmail.com
22. FRANK DELVECCIO	305-672-2486	yes	fdelveccio@atlanticbb.net
23. ARTHUR MARCUS	305-674-8948	yes	marcus_A@bellsouth.net
24. Nancy Deelman	305-609 4288	yes	Nandeeb@AOL.com
25. Gene Pierce Hanson	305, 924, 0262	yes	JPLOSSON@yahoo.com
26. Herb FRANK	305 674 9296	yes	HERBFRANK@GMAIL.com
27. SAUL FRANCIS	305 673-7000 x6483	N/A	SAULFRANCIS@MIAMI.BEACH.FL.GOV
28. Wm Cary	305 673 7550	N/A	wcary@ " " "
29. Debbie Tackett	" " "	"	d.tackett@ " " "
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