

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

COMMITTEE MEMORANDUM

TO:

Members of the Land Use and Development Committee

FROM:

Jorge M. Gonzalez, City Manager

DATE:

June 13, 2012

SUBJECT: LAND USE AND DEVELOPMENT COMMITTEE MEETING OF JUNE 13,

2012

A meeting of the Land Use and Development Committee has been scheduled for June 13, 2012 at 4:00 pm in the City Manager's Large Conference Room.

1. BOARD MEMBER QUALIFICATIONS AND CATEGORIES

(DEFERRED FROM THE MAY 16, 2012 LUDC MEETING
REQUESTED BY CITY COMMISSION, <u>APRIL 11, 2012</u> ITEM R5I,
ORIGINALLY REQUESTED BY CITY COMMISSION
JANUARY 28, 2009, ITEM C4H)

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

(DEFERRED FROM THE MAY 16, 2012 LUDC MEETING ORIGINALLY REQUESTED BY MAYOR MATTI HERRERA BOWER SEPTEMBER 14, 2011 CITY COMMISSION MEETING, ITEM C4M)

3. REDUCED PARKING RATES FOR HOTEL EMPLOYEES.

(DEFERRED FROM THE MAY 16, 2012 LUDC MEETING ORIGINALLY REQUESTED BY COMMISSIONER JONAH WOLFSON, OCTOBER 19, 2011 CITY COMMISSION MEETING, ITEM C4K)

4. DISCUSSION REGARDING NOT CHARGING DOUBLE PERMIT FEES FOR PEOPLE WHO COME FORWARD AND REQUEST PERMITS FOR WORK DONE WITHOUT A PERMIT.

(DEFERRED FROM THE MAY 16, 2012 LUDC MEETING ORIGINALLY REQUESTED BY COMMISSIONER JONAH WOLFSON DECEMBER 14, 2011 CITY COMMISSION MEETING, ITEM C4A)

- 5. DISCUSSION REGARDING A POSSIBLE CHARTER AMENDMENT RESTRICTING THE MANNER IN WHICH CHANGES TO CURRENT LAND USE REGULATIONS CAN BE MADE
 - 1. 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 ("HISTORIC PRESERVATION BOARD"), OR TO CHAPTER 118, ARTICLE X, DIVISION 1-4 ("HISTORIC PRESERVATION"), THAT 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. SHALL SECTION 1.03 OF THE CHARTER BE AMENDED TO REQUIRE THAT, AFTER NOVEMBER 7, 2012, AND BEFORE BECOMING EFFECTIVE, ANY CHANGE TO THE CITY'S LAND DEVELOPMENT REGULATIONS THAT ALLOWS INCREASED MAXIMUM BUILDING HEIGHTS IN LOCAL HISTORIC DISTRICTS SHALL FIRST BE APPROVED BY A MAJORITY OF VOTERS IN A CITYWIDE ELECTION?

 (REQUESTED BY CITY COMMISSION.

MAY 9, 2012 CITY COMMISSION MEETING, ITEM R7F
ORIGINALLY REQUESTED BY MAYOR MATTI HERRERA BOWER
JULY 13, 2011 CITY COMMISSION MEETING, ITEM R7G; AND
DECEMBER 14, 2011 CITY COMMISSION MEETING, ITEM C4C)

6. 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.

(RETURNING FROM THE MAY 16, 2012 LUDC MEETING ORIGINALLY REQUESTED BY COMMISSIONER MICHAEL GONGORA MARCH 21, 2012 CITY COMMISSION MEETING, ITEM C4M)

7. DISCUSSION ON POLICY CONSIDERATION REGARDING THE GRANTING OF SUBTERRANEAN OR AERIAL RIGHTS OVER PUBLIC PROPERTY.

(REQUESTED BY CITY COMMISSION

JUNE 6, 2012 CITY COMMISSION MEETING ITEM C4D AND ITEM R7B)

(TO BE DISTRIBUTED UNDER SEPARATE COVER)

2012 MEETING SCHEDULE

Wednesday, July 25, 2012
AUGUST – RECESS *
Wednesday, September 19, 2012
Wednesday, October 31, 2012
Wednesday, November 21, 2012
Monday, December 17, 2012
PENDING ITEMS: REFER TO ATTACHMENT 1

I T E M O N E



MEMORANDUM

TO:

Land Use and Development Committee

FROM:

Jorge M. Gonzalez, City Manager A For Jule

DATE:

June 13, 2012

SUBJECT:

BOARD MEMBER QUALIFICATIONS AND CATEGORIES

AN ORDINANCE 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 118-53, "COMPOSITION;" DIVISION 3, "DESIGN REVIEW BOARD," SECTION 118-72, "MEMBERSHIP;" DIVISION 4, "HISTORIC PRESERVATION BOARD," SECTION 118-103, "MEMBERSHIP;" AND 118-104, "APPOINTMENT;" DIVISION 5, "BOARD OF ADJUSTMENT," SECTION 118-131, "MEMBERSHIP," TO CLARIFY THE QUALIFICATIONS AND CATEGORIES OF MEMBERS TO BE APPOINTED TO THE CITY'S LAND USE BOARDS; PROVIDING FOR REPEALER; CODIFICATION;

SEVERABILITY AND AN EFFECTIVE DATE.

BACKGROUND

At the April 11, 2012 meeting, the City Commission approved on first reading an ordinance proposing to clarify the qualifications and categories of members to be appointed to the City's Land Use Boards. The Ordinance was approved on first reading and referred to the Land Use and Development Committee between first and second reading. The motion was made by Commissioner Góngora to approve the ordinance, seconded by Vice-Mayor Libbin and approved by a 7-0 vote. Second Reading and Public Hearing scheduled for June 6, 2012 Commission Meeting. Commissioner Weithorn stated that the referral to the Land Use and Development Committee between first and second reading is to be able to review the categories to make sure the category requirements are clear.

Below is a timeline of the review of this ordinance:

- January 28, 2009: The City Commission referred two items to LUDC
 - Voting procedures for Land Use Board.
 - Clarification of categories for membership on the Land Use Boards.
- April 6, 2009: The Committee discussed the voting procedures for the City Commission appointments to the Land Use Boards. The Administration and the Legal Department were instructed to prepare an ordinance amending Chapter 2 of the Code, requiring that when the City Commission votes to fill a position by category, they may only vote on one category at a time.
 - Ordinance No. 2009-3642, adopted 7-15-09, amended Chapter 2, Administration, Article III, Agencies Boards and Committees, Division 1.

The Committee did not reach the item dealing with the clarification of the Land Use Board categories and continued this issue to the May meeting.

- May 4, 2009: The Committee referred to the Planning Board an ordinance that clarifies some of the membership categories of the Land Development Review Boards. The Committee reviewed the membership requirements of the Planning Board, Design Review Board, Historic Preservation Board and the Board of Adjustment. The motion included, among other changes, the creation of two citizen-at-large categories for the Planning Board, clarification of the registered architect and several other refinements to the various categories.
- June 6, 2011: The Committee discussed this ordinance again and gave the Administration direction on several refinements to the ordinance. Specifically, the Committee wanted to explore more flexibility on the licensing requirements for some of the categories. Ultimately, this item was deferred to the next meeting to make changes to the licensing requirements.
- <u>July 20, 2011</u>: The Committee expressed the desire to open up the categories to provide more flexibility, broadening the architect position to permit licensure in any state.
- <u>September 14, 2011:</u> (Item C4G), the City Commission referred this proposed ordinance to the Planning Board for its review and recommendation.
- October 24, 2011: The Planning Board made a motion not to recommend approval; however the vote was 3-2, thus motion did not pass; two members were absent and two member voted against the motion (4 votes are required for approval of a recommendation).
- <u>February 15, 2012</u>: The Land Use and Development Committee discussed the Planning Board proceedings and by a 3-0 vote decided to move the item to the full City Commission.

ANALYSIS

The land use boards are tasked with the regulation of land development, thus the composition requirements are very specific to include individuals who maintain specialized positions, knowledge, experience and/or expertise and a number of these members are required to be registered professionals. In addition, Chapter 118 of the City Code specifically describes rights to serve on these boards, which require members to be either residents of the City, or have their principal business interest within the City. The City Commission may waive the residency requirements by a 5/7ths vote in the event a person not meeting these requirements is available to serve on the board and is exceptionally qualified by training and experience.

The proposed ordinance clarifies the membership categories in Land Use Boards. For instance, for the Planning Board, the category of registered architect would be defined as an architect registered in the state of Florida; the professional architectural designer or professional urban planner would be described as a professional practicing in the fields of architectural or urban design or professional urban planning; the developer category is described as a person who has experience in developing real property; and the attorney position is clarified as licensed to practice law in the state of Florida. In addition, the Planning Board membership would categorize three persons as citizens at large or engaged in general business. The membership categories for the Design Review and the Historic Preservation Boards follow similar descriptions. In the case of the Planning Board, the ordinance also clarifies that three of the seven members may be citizens at large or engaged in general business in the City.

The LUDC expressed a desire to open up the categories to provide more flexibility, broadening the architect position to permit licensure in any state. Where a land use board has only one architect requirement, staff believes that it is important that an architect registered in the State of Florida be required in order for that person be knowledgeable in local current code requirements and architectural and design trends. However, where a board has a requirement for several architect positions, such as the Design Review Board and the Historic Preservation Board, one of the architects that is registered in the United States may qualify. In fact, such a person may be able to offer perspectives that are different from the local views and trends.

At the request of the Committee, the ordinance also introduces a secondary category for attorneys that are licensed in other states. This would still keep in place the requirement that any Board that has a requirement to have an attorney, that attorney should be licensed in the State of Florida, but creates a second attorney position with broader licensing requirements. Staff has introduced this concept in two of the Development Boards.

Staff explored clarifying the membership for the Board of Adjustment. In particular the financial consultation category, however, the Board of Adjustment and membership categories reside in the City Code, Part 1 – Charter and Related Special Acts. Therefore, licensing requirement cannot be clarified without a referendum vote that would change the Charter language. At the direction of LUDC (see below) only the clarification that members representing the professional categories must be licensed in the State of Florida has been included in the proposed ordinance.

PLANNING BOARD ACTION

At the Planning Board meeting of October 24, 2011, a motion was made to not recommend adoption of the ordinance as proposed. Members of the Board discussed the categories and proposed certain changes, such as eliminating certain membership categories that are recommended by non-profit organizations, with staff expressing displeasure and total opposition to such a proposal. Finally a motion was made for a recommendation of the ordinance as amended. However, with a vote of 3-2, the motion did not pass. At the time, there were two members absent and two members voted against the motion. Because of the outcome of the vote, the ordinance was taken back to the Land Use and Development Committee for guidance.

LAND USE AND DEVELOPMENT COMMITTEE

At the February 15, 2012 meeting, Richard Lorber introduced the item and explained that it clarified and broadened the categories and qualifications of the members of the four Land Use Boards. Henry Stolar spoke. Gary Appel, Charlie Urstadt and Nancy Liebman spoke regarding the Miami Design Preservation League role on the Historic Preservation Board.

The Committee went through each of the four Boards and discussed minor changes, as follows: Historic Preservation Board: broaden Attorney licensed in Florida to licensed in the U.S.; Planning Board: no change; Design Review Board: add to category IV "or resident with interest or background in design issues; and Board of Adjustment: delete proposed change defining Financial Consultant, keep attorney licensed in the State of Florida to conform with the City Charter.

MOTION: Wolfson/Libbin (3-0). Move ordinance to Commission with changes referenced above.

FISCAL IMPACT

In accordance with Charter section 5.02, which requires that the "City of Miami Beach shall consider the long-term economic impact (at least 5 years) of proposed legislative actions," this

shall confirm that the City Administration evaluated the long-term economic impact (at least 5 years) of this proposed legislative action, and determined that there may not be a measurable impact on the City's budget by enacting the proposed ordinance.

CONCLUSION

The Administration recommends that the City Commission approve the proposed Ordinance on first reading and set a second reading public hearing for the May 9, 2012 meeting.

RECOMMENDATION

It is recommended that the proposed ordinance be approved after second reading and public hearing at the June 6, 2012 City Commission Meeting.

Attachment

JMG/JGG/RGL/ML

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May 16, 2012

To: Land Use Committee, City of Miami Beach

From: Sheryl Gold, GTAG Greenspace Tree Advocacy Group

GTAG has proposed the additional, separate category of Landscape Architect, for the Planning Board, HPB and Board of Adjustment. (The DRB already has such a separate category).

This has become necessary for several reasons:

- The boards continue to approve plans that include landscaping, without the benefit of professional members.
- As a result of the increase in designations of historic districts, the HPB is now responsible for approvals in a much larger geographic area; resulting in many more projects.
- Green space and our urban forest must be a high priority, especially with the challenges
 of rising temperatures and increased storm water runoff as a result of more development.
- 4. To take advantage of every opportunity to increase our seriously deficient tree canopy. The most recent assessment, taken two years ago, is 13% when it should be 30%.

Until CMB centralizes all green space infrastructure planning decisions within one department, I urge this committee, staff and the land use boards to look at the big picture. There is a cumulative effect to each approval granted. Green space infrastructure is not just about aesthetics and beautification. There are many benefits to a much improved balance between green and gray infrastructure: quality of life

financial strength of a community

the presence of larger trees in yards and on streets add 3-15% to home values

A study found 7% higher rental rates for commercial offices having high quality landscapes.¹⁴

- Shoppers claim that they will spend 9% to 12% more for goods and services in central business districts having high quality large tree canopy.³⁴
- This should debunk retailers objections to shade trees.
- Shoppers indicate that they will travel greater distance and a longer time to visit a district having high quality trees, and spend more time there
- increased rental values with ROW and yard trees
- * 5-20% increase in residential real estate values where there is a close proximity to open space

environmental - clean water, clean air, reduce carbon emissions, lower temperatures

by offsetting urban heat islands, help mitigate climate change conserve energy by decreasing the use of air conditioning good health

GTAG was motivated to make this proposal after witnessing a series of approvals of projects where green space was either non existent, underrepresented or the wrong kind. To name just two....The Collins Canal project and the 16th street Drexel Garage; plus there's concern about the still be decided Palau development and 801 South Point Drive.

The city has several commercial districts, namely 41st st., Normandy isle and Washington Avenue, where palm trees are pre dominant. Right now, there is zero %age of greenspace mandated in commercial developments; shade shade trees are also not mandated.

I attended the county Tree Summit last week. Highlighted were a a series of scientific studies showing that providing for trees in the streetscape is an important investment for the business community. The most positive consumer response is associated with streets having mature, well managed urban forests where overarching tree canopy helps to create a "sense of place."

The problem in MB is there is no overarching policy and too many different departments and boards are involved in planning our greenspace.

Until there is a concerted, coordinated effort to increase shade canopy on every project -private, public and commercial -- there is no effective way to increase the city's overall shade canopy coverage.

We as a community have to do much better, if MB is to be a sustainable city. Developers also should be expected to do their part to contribute to the city's urban forest.

We ask you to support our proposal to add Landscape Architects, licensed in the State of Florida and residing and practicing in South Florida, as an additional position to all land use boards. We recommend South Florida because knowledge of native species to our area is critical.

Sheryl Gold

GTAG Greenspace/Tree Advocacy Group

"BOARD MEMBER QUALIFICATIONS AND CATEGORIES"

ORDINANCE NO		
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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 118-53, "COMPOSITION;" DIVISION 3, "DESIGN REVIEW BOARD," SECTION 118-72, "MEMBERSHIP;" DIVISION 4, "HISTORIC PRESERVATION BOARD," SECTION 118-103, "MEMBERSHIP;" AND 118-104, "APPOINTMENT;' DIVISION 5, "BOARD OF ADJUSTMENT," SECTION 118-131, "MEMBERSHIP," TO CLARIFY THE QUALIFICATIONS AND CATEGORIES OF MEMBERS TO BE APPOINTED TO THE CITY'S LAND USE BOARDS; PROVIDING FOR REPEALER; CODIFICATION; SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Land Development Regulations of the City Code provide for the appointment by the City Commission of members of the four land use boards namely, the Planning Board, the Design Review Board, the Historic Preservation Board, and the Board of Adjustment; and

WHEREAS, certain questions have arisen as to the qualifications and categories of membership of persons appointed to these boards; and

WHEREAS, it is desirable to resolve these questions to provide certainty to the appointment process and to instill confidence by the public in these boards; and

WHEREAS, the amendments set forth below are necessary to accomplish all of the above objectives.

NOW, THEREFORE, BE IT DULY ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AS FOLLOWS:

<u>Section 1</u>. Chapter 118, "Administration and Review Procedures," Division 2, "Planning Board," Section 118-53, "Composition," is hereby amended as follows:

Sec. 118-53. Composition.

- (a) The planning board shall be composed of seven regular voting members. Each regular member shall be appointed with the concurrence of at least four members of the city commission. Each regular voting member shall serve for a term of two years. The planning director or designee, and city attorney or designee, shall serve in an advisory capacity.
- (b) All regular voting members of the board shall have considerable experience in general business, land development, land development practices or land use issues; however, the board shall at a minimum be comprised of
 - i. one registered architect registered in the state of Florida; or a member of the faculty facility of a school of architecture in the state, with practical or academic expertise in the field of design, planning, historic preservation or the history of

- architecture; or a professional <u>practicing in the fields of architectural or urban</u> designer or professional urban plannering;
- ii. one developer who has experience in developing real property; and or an attorney in good standing licensed to practice law within the United States.
- iii. one attorney <u>licensed to practice law in the state of Florida</u> who has considerable experience in land use and zoning issues; and
- iv. one person who has education and/or experience in historic preservation issues. For purposes of this section, the term "education and/or experience in historic preservation issues" shall be a person who meets one or more of the following criteria:
 - Has earned a college degree in historic preservation;
 - (2) Is responsible for the preservation, revitalization or adaptive reuse of historic buildings; or
 - (3) Is recognized by the city commission for contributions to historic preservation, education or planning.
- (v) three persons who are citizens at large or engaged in general business in the city
- (c) No person except a resident of the city, who has resided in the city for at least one year, shall be eligible for appointment to the planning board.
- (d) The city commission may waive the residency requirements by a 5/7ths vote in the event a person not meeting these requirements is available to serve on the board and is exceptionally qualified by training and/or experience.
- <u>Section 2</u>. Chapter 118, "Administration and Review Procedures," Division 3, "Design Review Board," Section 118-72, "Membership," is hereby amended as follows:

Sec. 118-72. Membership.

- (a) Composition. The design review board shall be composed of seven regular members. The seven regular members shall consist of
 - i. two registered architects registered in the state of Florida United States; 7
 - ii. an registered architect registered in the state of Florida or a member of the faculty of a school of architecture, urban planning or urban design in the state, with practical or academic expertise in the field of design, planning, historic preservation or the history of architecture, or a professional practicing in the fields of architectural designer or professional urban plannering.
 - iii. one registered landscape architect registered in the state of Florida.
 - iv. one registered architect registered in the state of Florida United States, or a professional practicing in the fields of architectural or urban designer; or professional urban plannering; or resident with interest or background in design issues; or an attorney in good standing licensed to practice law within the United States; and
 - v. two citizens at large.

One person appointed by the city manager from an eligibility list provided by the mayor's barrier free environment committee shall serve in an advisory capacity with no voting authority. The planning director, or designee and the city attorney or designee shall serve in an advisory capacity.

- (b) Appointment. Design review board members shall be appointed with the concurrence of at least four members of the city commission. An eligibility list for these professional membership categories may include, but shall not be limited to, suggestions from the following professional and civic associations as listed below:
 - (1) American Institute of Architects, local chapter.
 - (2) American Society of Landscape Architects, local chapter.
 - (3) The Miami Design Alliance.
 - (4) American Planning Association, local chapter.
 - (5) The Miami Design Preservation League and Dade Heritage Trust.
 - (6) Other city civic, neighborhood and property owner associations.
- (c) Residency and place of business. All regular members shall reside in or have their primary place of business in the county. The two citizens-at-large members and one of the registered landscape architects, registered architects, or professionals practicing in the fields of architectural or urban designers or professional urban plannersing shall be residents of the city.
- <u>Section 3</u>. Chapter 118, "Administration and Review Procedures," Division 4, "Historic Preservation Board," Section 118-103, "Membership," is hereby amended as follows:

Sec. 118-103. Membership.

- (a) The historic preservation board shall be composed of seven members. There shall be a member from each of the following categories:
 - (1) A representative from the Miami Design Preservation League (MDPL), selected from three names nominated by such organization.
 - (2) A representative from Dade Heritage Trust (DHT), selected from three names nominated by such organization.
 - (3) Two at-large members who have resided in one of the City's historic districts for at least one year, and who have demonstrated interest and knowledge in architectural or urban design and the preservation of historic buildings.
 - (4) An architect registered in the state <u>of Florida</u> with practical experience in the rehabilitation of historic structures.
 - (5) An registered architect registered in the state of Florida United States, a registered landscape architect registered in the state of Florida, a professional practicing in the field of architectural or urban designer or professional urban plannering, each of the foregoing with practical experience in the rehabilitation of historic structures; or an attorney at law licensed to practice in the state of Florida, or an licensed engineer licensed in the state of Florida, each of the foregoing with who has professional experience and demonstrated interest in historic preservation.
 - (6) A member of the faculty of a school of architecture in the state of Florida, with academic expertise in the field of design and historic preservation or the history of architecture, with a preference for an individual with practical experience in architecture and the preservation of historic structures.
- (b) All members of the board except the architect, engineer, landscape architect, professional <u>practicing in the field of architectural or urban</u> designer or <u>professional urban</u> plannering and university faculty member of the board shall be residents of, the city; provided, however, that the city commission may waive this requirement by a 5/7ths vote in the event a person not meeting these residency requirements is available to serve on the board and is exceptionally qualified by training and/or experience in historic preservation matters. All

appointments shall be made on the basis of civic pride, integrity, experience and interest in the field of historic preservation.

Sec. 118-104. Appointment.

- (a) Historic preservation board members shall be appointed with the concurrence of at least four members of the city commission. An eligibility list solicited from, but not limited to, the organizations listed in this section may be considered by the city commission in selecting board members:
 - (1) American Institute of Architects, local chapter.
 - (2) Miami Design Preservation League.
 - (3) Miami Beach Chamber of Commerce.
 - (4) Miami Beach Development Corporation.
 - (5) Dade Heritage Trust
 - (6) Florida Engineer Society, local chapter.
 - (7) Any other organization deemed appropriate by the city commission.
- (b) Except as provided in section 118-105, every member appointed shall serve a term of two years.

<u>Section 4</u>. Chapter 118, "Administration and Review Procedures," Division 5, "Board of Adjustment," Section 118-131, "Membership," is hereby amended as follows:

Sec. 118-131. Membership.

The board of adjustment shall be composed of seven voting members. Two members shall be appointed as citizens at-large and five members shall be appointed from each of the following categories (no more than one per category), namely: Law, architecture, engineering, real estate development, certified public accounting, financial consultation and general business. The members representing the professions of law, architecture, engineering and public accounting shall be duly licensed by the State of Florida; the member representing general business shall be of responsible standing in the community The member representing the field of financial consultation shall be a Certified Public Accountant, Chartered Financial Analyst, Certified Financial Planner, a Chartered Financial Consultant or investment advisor registered with the Securities and Exchange Commission, or someone recognized as having similar credentials by five-sevenths vote of the City Commission. Members shall be appointed for a term of two years by a five-sevenths vote of the city commission. Members of the board must be either residents of or have their principal place of business in the city.

Section 5. Repealer.

All ordinances or parts of ordinances and all sections and parts of sections in conflict herewith be and the same are hereby repealed.

Section 6. Codification.

It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention, and that the word "ordinance" may be changed to "section" or other appropriate word.

Section 7.	Severability.
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If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

Section 8. Effective Date.

This Ordinance shall take effect ten days following adoption.

APPROVED AS TO FORM AND LANGUAGE

& FOR EXECUTION

3/29/12

First Reading: Second Reading:

Verified by: ___

Richard Lorber, AICP Acting Planning Director

<u>Underscore</u> denotes new language. Strikethrough denotes deleted language.

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ITEM TWO



MEMORANDUM

TO:

Land Use and Development Committee

FROM:

Jorge M. Gonzalez, City Manager

DATE:

June 13, 2012

SUBJECT: DISCUSSION REGARDING A RESOLUTION BY THE HISTORIC PRESERVATION BOARD TO MODIFY THE CODE GOVERNING THE VOLUNTARY DESIGNATION

OF SINGLE FAMILY HOMES.

BACKGROUND

Non-Historically Designated Single Family Homes

In recognition of Miami Beach's extraordinary inventory of architecturally significant single family homes, the City Commission adopted amendments to the City Code on April 10, 2002, intended to provide incentives for property owners to retain and rehabilitate rather that demolish architectural significant single family homes constructed prior to 1942. Such ordinance established criteria for the Planning Director or designee to make a determination whether a single-family home constructed before 1942 is architecturally significant, and provided a clearly defined process for the review of any demolition requests for architecturally significant singlefamily homes. A Single Family Residential Review Panel (SFRRP) was created in 2002 to review requests for demolition and alterations of architecturally significant pre-1942 homes. This panel's authority was later replaced by the Design Review Board (DRB). In part, these amendments to the City Code were designed to reduce a growing trend of architecturally significant homes being demolished and replaced by large 'McMansion' type structures highly incompatible with the unique character of Miami Beach's single family residential neighborhoods.

On December 8, 2004, the City Commission adopted revisions to the single family development regulations in the City Code, pertaining to demolition procedures for architecturally significant single-family homes constructed prior to 1942 and located outside of local historic districts and This Ordinance included specific criteria for applications involving total and partial demolition. Specifically, any requests for total demolition to an architecturally significant pre-1942 home would require Design Review Board approval for the proposed new construction. In addition, the extent of administrative level approval was modified to be consistent with the criteria in the Design Review and Historic Preservation sections of the City Code. As a result of these amendments the City has seen a remarkable improvement in the quality, character and design of new replacement construction as well as additions to existing architecturally significant pre-1942 single family homes.

Voluntary Historic Designation of Single Family Homes

On June 11, 2003, the City Commission adopted revisions to the Land Development regulations of the City Code, amending Chapter 118, Article X, "Historic Preservation," Division 4, "Designation," to establish requirements and procedures specific to the individual designation of Single Family Homes. Specifically, to reduce the burden and expense on an individual property owner who would like to historically designate a qualifying single family home.

June 13, 2012 Land Use and Development Committee Meeting Discussion regarding Single Family Homes Designation Page 2 of 4

simplification has enabled the Historic Preservation Board (HPB) to designate single family homes historic in one public hearing with no application fee for the home owner. This simplification of the designation process was found necessary to effect designation. This forward thinking amendment to the City Code has resulted in 23 unique structures being voluntarily historically designated by their owners since 2003. Such designations range from the most modest of historically significant homes to the most grandiose waterfront estates.

To further incentivize the preservation and appropriate renovation of historically significant single family homes, the City of Miami Beach enacted legislation authorizing an exemption for its portion of ad valorem taxes for improvements to historically designated single-family homes on December 8, 2004 (Sections 118-600 to 118-612 of the Miami Beach City Code). This legislation allows for the City's portion of property taxes to be "frozen" at the rate they were assessed before qualifying improvements, including the construction of new additions, are made to an historic single-family home for a period of ten (10) years.

Historic Preservation Board Resolution

On May 10, 2011, the Historic Preservation Board approved a Resolution urging the City Commission to initiate an amendment to the applicable sections of the City Code pertaining to the voluntary designation of single family homes, in order to include the following modifications:

- 1. Create a uniform standard for eligible homes that would allow for structures between 20 and 30 years of age to request designation;
- 2. Create a mechanism for a 'sliding scale' that would apply to homes as each calendar year passes, thus allowing the age of a structure to dictate its eligibility for designation (by the Historic Preservation Board) on a continual basis;
- 3. Replace the 'Pre-1942' standard in section 142-108 (Design Review Board) of the City Code with a sliding scale that would pertain to all structures 30 years of age and older.

In drafting this Resolution, the Historic Preservation Board expressed two serious concerns, one being that non-historically designated, architecturally significant homes built after 1942, which includes the City's unique collection of Post War Modern, or MiMo, period houses, are being lost to demolition. Secondly, when a post 1942 single family home is demolished the new replacement construction does not receive the benefit of Design Review Board review and approval. It has been clearly demonstrated that the review of new construction by the Design Review Board has resulted in a significant improvement in the quality and character of the City's single family home neighborhoods. As Post-War Modern buildings become widely recognized across the country for their architectural significance, a strong need arises to incentivize the retention and appropriate renovation of Miami Beach's Post-War Modern style homes, now celebrated as the MiMo style of architecture.

Since the ordinance was adopted, approximately 160 architecturally significant pre-1942 homes have been reviewed by either the SFRRP or DRB. On average, applications for major alterations or new construction are approved by the Board in one public hearing.

ANALYSIS

Historic Designation review by the Historic Preservation Board and City Commission

When the Historic Preservation Board considered the designation of the Ocean Beach Historic District in 1996, they considered buildings of 30 years of age or older for potential eligibility as contributing (historic) structures within the proposed district. Since the Ocean Beach Historic

June 13, 2012 Land Use and Development Committee Meeting Discussion regarding Single Family Homes Designation Page 3 of 4

District designation, the Historic Preservation Board, Planning Board and City Commission have applied this standard of 30 years of age uniformly to evaluate historic and architectural significance for all potential historic districts and potential historic sites. In their May 10, 2011 Resolution, the Historic Preservation Board has recommended that a standard of between 20 and 30 years of age be clarified and incorporated into the City Code. This 30 year standard has proven to be an invaluable tool in determining historic significance throughout the City's local historic districts, individual sites and individual single family homes. The Administration believes that the adoption of this standard into the City Code would clarify the eligibility requirements for historic properties and provide a benefit for future potential historic designations.

Design Review of Architecturally Significant Pre-1942 Homes

The Historic Preservation Board has also suggested that the City Commission consider amending the Single Family Home regulations as specified in section 142-108 of the City Code. Specifically, that the pre-1942 Single Family Home regulations (Design Review Board) as specified in section 142-108 of the City Code, be amended to include all single family homes that are of at least 30 years of age for evaluation of architectural significance.

If this 30 year standard, as recommended by the HPB, is adopted it would result in the potential review of 95% of the City's existing single family homes by the Design Review Board. While not all 30 year old homes would be determined to be architecturally significant, this additional review would insure that when an architecturally significant home that is 30 years or older is demolished that any new replacement construction would be reviewed by the Design Review Board.

Should the Land Use and Development Committee determine that the 30 year sliding rule is too encompassing for the determination of architecturally significant homes, the Administration strongly recommends that a minimum standard for all homes constructed prior to 1966 be considered. This would ensure that the majority of single family homes constructed in the MiMo style of architecture, which has been widely recognized and celebrated, are reviewed for their architectural significance. This would provide an incentive to homeowners to retain and protect the City's inventory of MiMo houses.

Since 2005, after the pre-1942 Single Family Home regulations were adopted, the DRB has reviewed major work proposed as well as new construction where architecturally significant pre-1942 homes were demolished. This has been an invaluable tool in maintaining the character and scale of single family residential neighborhoods. As this process has been managed highly effectively and efficiently by the DRB, the Administration believes that the recommendation to increase the number of properties that could be reviewed by the DRB will afford considerable benefit to the residential neighborhoods of Miami Beach by preserving as well as enhancing the character, quality and value of the City's single family residential neighborhoods.

CONCLUSION

The Administration is confident that further discussion by the City Commission will address the issues and concerns identified by the Historic Preservation Board, and result in higher quality design within the City's single family residential neighborhoods.

RECOMMENDATION

The Administration requests, based upon the foregoing analysis, that the Land Use and Development Committee provide further policy direction. Upon direction from the LUDC, the

June 13, 2012 Land Use and Development Committee Meeting Discussion regarding Single Family Homes Designation Page 4 of 4

Administration will meet with and discuss any potential policy changes with any effected Single Family Neighborhood Associations.

JMG/JGG/RGL/WHC/DJT f:\plan\\$all\landusecommittee\2012 ludc\single family - memo.docx

ITEM THREE



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

COMMITTEE MEMORANDUM

TO:

Members of the Land Use and Development Committee

FROM: Jorge M. Gonzalez, City Manager

DATE: June 13, 2012

SUBJECT:

REDUCED PARKING RATES FOR HOTEL EMPLOYEES

On October 19, 2011, at the request of Commissioner Wolfson, the Mayor and City Commission approved a referral to the Land Use and Development Committee (LUDC) for a discussion regarding parking rates for hotel workers and the possibility of a program whereby a hotel can participate and get reduced parking rates for its workers. The Parking Department currently offers programs for employees at a deeply discounted rate off of the parking meter hourly rate and transient daily rate at surface lots and garages. The following options are currently available:

1. **Monthly Municipal Parking Permit Program:**

Monthly parking permits at metered surface lots or access cards at garages are available at a rate of \$70.00* (plus sales tax). This equates to an average daily rate of \$2.33, a discounted rate of 84% off of the South Beach meter rate of \$1.75 per hour (or \$14.00 daily) and 71% off of the Middle/North Beach meter rate of \$1.00 per hour (or \$8.00 daily). The daily rate is calculated at eight (8) hours per day.

Note: * Select garages are slightly higher.

ILEV (Inherently Low Emissions Vehicles) or Hybrid Parking 2. Incentives:

Vehicles with an EPA rating of Six "6" or higher or a "Smartway" designation receive a 50% discount off of the monthly municipal parking rate for permits and access cards.

Employee Value Coupon (EVC): 3.

The EVC program is currently available at the 17th Street Garage; however, it may be implemented at any of the other municipal garages. The program allows bona fide businesses (proof of the number of employees through a UTC Form is

LUDC Memo - Reduced Parking Rates for Hotel Employees June 13,, 2012 Page 2 of 2

required) to purchase validation coupons. The coupon serves as a validation to allow a maximum daily rate of \$8.00. The minimum daily rate retails at \$16.00, with the exception of the 42nd Street Garage which is \$8.00 daily. This equates to a 50% discount off of the lowest daily rate, with the exception of the 42nd Street Garage.

4. iPark:

iPark users who are Miami Beach residents receive a 43% discount off of the hourly meter rate in South Beach. No discount is offered in Middle/North Beach.

The Administration is seeking further direction regarding this item.

JMG/JGG/SF

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ITEM FOUR



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

COMMITTEE MEMORANDUM

TO:

Land Use and Development Committee

FROM:

Jorge M. Gonzalez, City Manager

DATE:

June 13, 2012

SUBJECT:

Discussion Regarding Not Charging Double Permit Fees For

People Who Come Forward And Request Permits For Work

Done Without a Permit.

BACKGROUND

This item was referred to the Land Use and Development Committee by the City Commission on December 14, 2011 at the request of Commissioner Jonah Wolfson.

ANALYSIS

The Building Department, as required by the Florida Building Code, charges double fees for work performed without a permit, which in most cases is discovered during routine inspections or in response to complaints from citizens.

Section 109.4 of the Florida Building Code states in relevant part (emphasis added): "Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the building official's approval or the necessary permits **shall** be subject to a penalty of 100% of the usual permit fee in addition to the required permit fees."

In the rare instance that someone comes forward to report their own unpermitted work, the Department tries to be as flexible as possible in addressing those situations. Because the double fees are mandated by state law, the City Attorney's Office has advised that an official amnesty provision would not be feasible.

CONCLUSION

The Administration recommends that the Building Department be encouraged to continue to exercise flexibility when an owner initiates attempts to correct work done without permits.

SS/JGG/JMG

ITEM FIVE



MEMORANDUM

TO:

Land Use and Development Committee

FROM: Jorge M. Gonzalez, City Manager A DIJUG

DATE:

June 13, 2012

SUBJECT: DISCUSSION REGARDING A POSSIBLE CHARTER AMENDMENT RESTRICTING THE MANNER IN WHICH CHANGES TO CURRENT LAND **USE REGULATIONS CAN BE MADE**

- 1. 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 ("HISTORIC PRESERVATION BOARD"), OR TO CHAPTER 118, ARTICLE X, DIVISION 1-4 ("HISTORIC PRESERVATION"), THAT EITHER REDUCES THE POWERS AND DUTIES OF THE **STRINGENT CREATES LESS** HISTORIC BOARD. OR PRESERVATION STANDARDS OR REGULATIONS, FIRST BE APPROVED BY A MAJORITY OF VOTERS IN A CITYWIDE **ELECTION?**
- 2. SHALL SECTION 1.03 OF THE CHARTER BE AMENDED TO REQUIRE THAT, AFTER NOVEMBER 7, 2012, AND BEFORE BECOMING EFFECTIVE, ANY CHANGE TO THE CITY'S LAND DEVELOPMENT REGULATIONS THAT ALLOWS INCREASED MAXIMUM BUILDING HEIGHTS IN LOCAL HISTORIC DISTRICTS SHALL FIRST BE APPROVED BY A MAJORITY OF VOTERS IN A CITYWIDE ELECTION?

BACKGROUND

At the May 9, 2012 City Commission meeting, a discussion regarding a possible charter amendment restricting the manner in which changes to current Land Use Regulations can be made was referred to the Land Use and Development Committee.

The proposed amendment was originally referred to a joint meeting of the Neighborhoods/Community Affairs and Land Use Committees by the City Commission on June 1, 2011, at the request of Mayor Bower. The Joint Committee met on July 7, 2011 and considered two specific charter amendments requiring voter approval before allowing increased building heights or enacting less stringent standards for historic preservation. After discussing the issues, the Joint Committee passed a motion, by acclimation, moving the item to the full Commission without a recommendation.

On July 13, 2011, the City Commission discussed the ballot questions relating to the two charter amendments and voted to defer the matter to the June 2012 Commission Meeting. Furthermore, Mayor Bower requested that the Land Use and Development Committee and the Neighborhood/Community Affairs Committee discuss the proposed charter amendments no later than May 2012 in order for the item to be ready for presentation at the June 2012 Commission meeting.

At the December 14, 2011 City Commission meeting, Mayor Bower referred to the Land Use and Development Committee and Neighborhoods/Community Affairs Committee the two proposed charter amendments that would strengthen the existing protections for Historic Preservation In Miami Beach. At the same meeting, Commissioner Wolfson also referred to the Land Use and Development Committee a proposal to put the Historic Preservation Board enabling language in the charter to protect the composition and existence of our city's preservation mechanism.

At the March 27, 2012 Neighborhood/Community Affairs Committee (NCAC) meeting, the Committee moved to recommend the charter amendment dealing with the City's Historic Preservation process to the full City Commission for its consideration and vote on whether to place it on the August ballot. The motion also included that the charter amendment dealing with heights return to Committee for further discussion in April. The Committee also requested that an ordinance amendment be prepared that would deal with the Board member categories stipulating which ones the Commission would determine would be required to formally constitute the Board and changes thereto would trigger the Charter provision of referendum.

At the March 28, 2012 Land Use and Development Committee (LUDC) meeting, the Committee also moved to recommend the charter amendment dealing with Historic Preservation to the full City Commission and return to Committee in April; with further discussion on the charter amendment dealing with heights.

Both Committees requested that the charter amendment dealing with heights be presented as a series of alternatives for consideration by the LUDC and NCAC and if possible, conduct it as a joint meeting of both Committees.

At a joint meeting of the Neighorhood/Community Affairs and Land Use and Development Committees on April 24, 2012, the Committees recommended the subject ballot question dealing with heights for consideration by the City Commission.

ANALYSIS

The first proposed charter amendment; drafted in consultation with the City Attorney's Office addresses both the requests made by Mayor Bower and Commissioner Wolfson to protect the City's Historic Preservation processes.

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, BEFORE BECOMING EFFECTIVE, ANY CHANGE TO CHAPTER 118, ARTICLE II, DIVISION 4 OF THE CITY CODE ("HISTORIC

LUDC Memorandum on Height and HP Ballot Questions June 13, 2012 Page 3 of 4

PRESERVATION BOARD"), OR TO CHAPTER 118, ARTICLE X, DIVISIONS 1-4, OF THE CODE ("HISTORIC PRESERVATION"), WHICH 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?

As discussed in Committee, this Charter amendment, not unlike the Charter provision that deals with the ethics ordinance, will require that any future amendment to the Land Development regulations that diminishes the powers and duties of the Historic Preservation Board or creates a less stringent historic preservation standard or regulation must be approved by referendum before it can become effective.

These standards and regulations are contained in Chapter 118, Article X, Divisions I through 4 and include the intent and purpose of the Board, the Board's review of projects, the regulations pertaining to the issuance of Certificate of Appropriateness for demolition and the Boards' process for designation among others. This Charter amendment does not include Division 5 of Article X that deals with the Single Family Ad Valorem Tax Exemption provision of the Code. This Charter provision also applies to Chapter 118, Article II, Division 4 which include the HPB's authority, powers and duties, membership, etc. With respect to the Board membership, both the NCAC and LUDC discussed the composition of the Board and if changing the membership of the Board would be considered a less stringent modification. After much discussion, Mayor Bower requested that an ordinance amendment be prepared that would define which of the 6 membership categories, if amended, would trigger the referendum. The draft Ordinance is attached and the Administration is seeking policy direction on which of the categories should be designated as "charter" members.

The second proposed charter amendment, prepared after the original referral on June 1, was refined by the Mayor's Office in consultation with the City Attorney's Office to focus on the issue of increases to the height regulations.

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 CITY'S LAND DEVELOPMENT REGULATIONS THAT ALLOWS INCREASED MAXIMUM BUILDING HEIGHTS IN LOCAL HISTORIC DISTRICTS SHALL FIRST BE APPROVED BY A MAJORITY OF VOTERS IN A CITYWIDE ELECTION?

After discussion by both the LUDC and NCAC, this proposed Charter amendment was modified to deal with increases in height regulations within the City's local historic districts. This amendment would require a referendum for any proposed ordinance that would increase the maximum building height regulations for those districts within a local historic district. As discussed in Committee this would not apply to amendments that deal with the various height exemptions for those structures that may exceed the maximum building heights like chimneys, wind turbines, rooftop mechanical rooms, etc.

LUDC Memorandum on Height and HP Ballot Questions June 13, 2012 Page 4 of 4

CONCLUSION

The Administration requests that the Land Use and Development Committee refer the draft ordinance amendment dealing with the Historic Preservation Board member categories and amendments thereto that trigger the referendum, to the Planning board for their required review. The Administration would also recommend that such proposed ordinance be also reviewed by the Historic Preservation Board for their comments.

The deadline for placing ballot questions on the November 6, 2012, general election is July 24, 2012.

JMG/JGG/GMH

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ORD	INAN	ICE	NO.	

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 "BOARDS," DIVISION 4. PROCEDURES." ARTICLE II. "HISTORIC PRESERVATION BOARD," SECTION 118-103, "MEMBERSHIP," TO SPECIFY THAT MODIFICATION OF THE **MEMBERSHIP** COMPOSITION OF THE HISTORIC PRESERVATION BOARD THAT WOULD ELIMINATE CERTAIN MEMBERSHIP CATEGORIES OF THE BOARD SHALL BE CONSIDERED TO BE CREATING LESS STRINGENT HISTORIC PRESERVATION STANDARDS, AND SHALL FIRST BE APPROVED BY A MAJORITY OF VOTERS IN A CITYWIDE **ELECTION, AS PER THE PROVISIONS OF THE CHARTER AND** RELATED SPECIAL ACTS, PROVIDING FOR REPEALER; CODIFICATION: SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Charter and Related Special Acts have been amended to require a referendum of the voters to enact less stringent standards for historic preservation.; and

WHEREAS, it has been determined that this concept is intended to apply to the composition of the membership of the Historic Preservation Board; and

WHEREAS, it is the intent of this amendment to clarify this and specify that any modification of the composition of the membership of the board that would eliminate certain membership categories would constitute such an enactment of less stringent standards and would be subject to such a referendum of the voters; and

WHEREAS, the amendment set forth below are necessary to accomplish the above objectives;

NOW, THEREFORE, BE IT DULY ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. Chapter 118, "Administrative And Review Procedures," Article II, "Boards," Division 4, "Historic Preservation Board," Section 118-103, "Membership," is hereby amended as follows:

Sec. 118-103. - Membership.

- (a) The historic preservation board shall be composed of seven members. There shall be a member from each of the following categories:
 - (1) A representative from the Miami Design Preservation League (MDPL), selected from three names nominated by such organization.

- (2) A representative from Dade Heritage Trust (DHT), selected from three names nominated by such organization.
- (3) Two at-large members who have resided in one of the City's historic districts for at least one year, and who have demonstrated interest and knowledge in urban design and the preservation of historic buildings.
- (4) An architect registered in the state with practical experience in the rehabilitation of historic structures.
- (5) A registered architect, registered landscape architect, professional designer or professional urban planner with practical experience in the rehabilitation of historic structures; or an attorney at law or a licensed engineer who has professional experience and demonstrated interest in historic preservation.
- (6) A member of the faculty of a school of architecture in the state, with academic expertise in the field of design and historic preservation or the history of architecture, with a preference for an individual with practical experience in architecture and the preservation of historic structures.
- (b) All members of the board except the architect, engineer, landscape architect, professional designer or professional urban planner and university faculty member of the board shall be residents of, the city; provided, however, that the city commission may waive this requirement by a 5/7ths vote in the event a person not meeting these residency requirements is available to serve on the board and is exceptionally qualified by training and/or experience in historic preservation matters. All appointments shall be made on the basis of civic pride, integrity, experience and interest in the field of historic preservation.
- (c) Members of the Board designated under Subsections above shall be considered Charter members; modification of the membership composition that would eliminate said Charter members shall be considered to be creating less stringent historic preservation standards, and shall first be approved by a majority of voters in a citywide election, as per the provisions of the Charter and Related Special Acts.

SECTION 2. Repealer.

All ordinances or parts of ordinances and all sections and parts of sections in conflict herewith be and the same are hereby repealed.

SECTION 3. Codification.

It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention, and that the word "ordinance" may be changed to "section" or other appropriate word.

JECTION T. Jeverability	SECTION 4. Se	verability
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If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 5. Effective Date.
This Ordinance shall take offset ton days follow

This Ordinance shall take effect ten days foll	owing adoption.	
PASSED and ADOPTED thisday of	, 20)12.
ATTEST:	MAYOR	
CITY CLERK	FORM AN	ROVED AS TO D LANGUAGE R EXECUTION
	City Attorney	Date
First Reading: Second Reading:		
Verified by: Richard G. Lorber, AICP Acting Planning Director		
<u>Underscore</u> denotes new language. Strikethrough denotes deleted language .		

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I T E M S I X



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

COMMITTEE MEMORANDUM

TO:

Land Use and Development Committee

FROM:

Jorge M. Gonzalez, City Manager

DATE:

June 13, 2012

SUBJECT: 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.

BACKGROUND

The item was originally referred to the Land Use and Development Committee by the City Commission on March 21, 2012, at the request of Commissioner Góngora. At the May 16, 2012 meeting, the Committee discussed the proposals, including residency requirements, appeals of board decisions, and the other points, as detailed below. Although the Committee expressed the sentiment that some of the suggestions might not be feasible, they requested that the item be brought back to the Committee along with any additional suggestions from the Planning Department.

Since that meeting, staff has begun to look at aspects of the development review process that might be areas for improving efficiency and reducing the costs and timeframes associated with the Board review process. A preliminary examination has produced the following three points:

- When multiple Board review is required (i.e. Design Review/HPB, in addition to Planning Board and/or Board of Adjustment) staff endeavors to process the applications simultaneously, in order to streamline the amount of time required. However, one section of the Code prevents this in cases of projects being reviewed by the Planning Board because they are over 50,000 s.f. which specifies that the Planning Board review must come first, prior to any other board Perhaps this restriction could be eliminated to help streamline the process.
- 2 The Consultant Review Ordinances that have been passed in the past few years are well intentioned. However, staff has identified that in practice, they are difficult to implement in every case, and some of these requirements have caused significant delays to the development review process. While the intention of the ordinances was to inform the Boards regarding such technical issues as noise and traffic impacts, in practice, several of the reports generated by the existing process have been somewhat less than useful. Staff has been struggling to work through these issues; it may be beneficial to examine these policies again, in light of the past several years experience.
- There have been past discussions about identifying minor variances that could be eligible for more streamlined processing, such as reducing the amount of time prior to public hearings that these would have to be noticed. This could be in the

realm of single family home variances, which might affect a fewer number of surrounding neighbors. An expedited review process requiring shorter notice (of course still notifying nearby neighbors by mail in advance) could be created for a subset of variances which are felt to be more minimal in nature.

4 The Planning Board's experience with approving docks greater than 40 feet in length has proven unsatisfactory. Since the County environmental permitting process mandates that docks clear the seagrass beds found near to the seawall, many residential docks are required to extend past the City's 40 foot threshold. The Board has found that since the dock length requirement is mandatory on the part of the County, there is really no discretion on their part. The Board has approved all such dock applications, even in cases where an adjacent neighbor is in objection, on the basis of fairness and uniformity. One idea to streamline this would be to eliminate the Planning Board review of such docks, and replace it with the standard set of conditions that are usually applied by the Board to these application approvals.

These may be ideas that merit further examination. This does not imply that the Planning Department has fully examined all aspects of these issues, and certainly some of the above ideas may be somewhat controversial. Staff is looking for additional direction on these matters, as well as the points already discussed at the previous meeting.

Previously Discussed Items:

Below are the five recommendations that were put forward by at the Miami Beach Chamber of Commerce Chamber breakfast entitled "for the love of Miami Beach", related to the Planning Department and the planning and development process of the City:

- Everyone who is a member of a power board should be required to live or work on Miami Beach
- 2. Every decision of a power board should be appealable to the commission that is elected by the citizens!
- 3. Any member of a power board that misses two meetings in any year should automatically be disqualified and an alternate be placed in his stead.
- 4. All boards should meet in same week of month and all matters should be heard co-terminously that relate to multiple boards.
- 5. The department and administration should be empowered to make many more decisions than they currently are thus allowing appeals to the power boards if agreement with staff cannot be accomplished. This would allow many minor projects to move forward expeditiously and without the costs of overburdensome government.

ANALYSIS

Below is a brief overview of those Code provisions and policies which relate to the above recommendation, along with comments from the Planning Department staff, where appropriate.

1. Everyone who is a member of a power board should be required to live or work on Miami Beach

Below are the relevant code sections for each land use board. The Planning Board requires residency in the City, but permits the Commission to waive this requirement with a 5/7 vote. Board of Adjustment members must either live or work in the City. Some members of the Historic Preservation Board and Design Review Board must reside in the City, but other professional categories do not have that requirement.

Planning Board

Sec. 118-53 (c)(d)

Residency in the city for at least one year; City Commission may waive the residency requirements by a 5/7ths vote in the event a person not meeting these requirements is available to serve on the board and is exceptionally qualified by training and/or experience.

Design Review Board

Sec. 118-72 (c)

Residency in or have their primary place of business in the county. The two citizens at large members and one of the registered landscape architects, registered architects, professional designers or professional urban planners shall be residents of the city.

Historic Preservation Board

Sec. 118-103 (b)

All members of the board except the architect, engineer, landscape architect, professional designer or professional urban planner and university faculty member shall be residents of, the City; City Commission may waive this requirement by a 5/7ths vote in the event a person not meeting these residency requirements is available to serve on the board and is exceptionally qualified by training and/or experience in historic preservation matters.

Board of Adjustment

Sec. 118-131

Members of the board must be either residents of or have their principal place of business in the city.

Staff notes that the vast majority of all current and former board members have been residents of the City. However, with respect to the detailed professional categories required for the Design boards (DRB and HPB), there have been difficulties in the past finding appropriate persons to fill those categories, and sometimes those spots have been filled with non-resident design professionals. Staff would caution against changes that result in additional difficulties in filling Board positions, as vacant positions and lack of quorums would result in less efficiency and longer timeframes for the development process.

2. Every decision of a power board should be appealable to the commission that is elected by the citizens.

Below are the relevant code sections for each land use board. Appeals of the Planning Board and Board of Adjustment go to Circuit Court. Appeals of Historic Preservation Board decisions go to a Special Master, and appeals of the Special Master go to Circuit Court as well. Only appeals of the Design Review Board currently go to the City Commission, and appeals of those decisions go then to Circuit Court.

Planning Board - Conditional Use

Sec. 118-197 (c) Review of a conditional use decision of the planning board shall be to a court of competent jurisdiction by petition for writ of certiorari.

Design Review Board

Sec. 118-262 An applicant may seek review of any order of the design review board by the City Commission. In order to reverse, or remand for amendment, modification or rehearing, a decision of the design review board, the city commission shall find that the design review board did not do one of the following: (1) Provide procedural due process; (2) Observe essential requirements of law; or (3) Base its decision upon substantial competent evidence. In order to reverse, or remand a five-sevenths vote of the city commission is required. Appeal from a decision of the City Commission shall be to a court of competent jurisdiction by petition for writ of certiorari in accordance with the Florida Rules of Appellate Procedure.

Board of Adjustment

Sec. 118-138

The decision of the board of adjustment shall be final and there shall be no further review thereof except by resort to a court of competent jurisdiction by petition for writ of certiorari.

Historic Preservation Board

Sec. 118-537 (b)

An applicant or interested party may appeal the board's decision to a special master appointed by the city commission. In order to reverse, amend, or modify any decision of the board, the special master shall find that the board did not a. provide procedural due process; b. observe essential requirements of law; or c. base its decision upon substantial competent evidence. Appeal the special master's decision is to a court of competent jurisdiction by petition for writ of certiorari.

Planning staff notes that at one time in the past appeals of the land use board decisions did go to the City Commission. That process was changed to eliminate Commission review of these cases, and instead send appeals to court or special master. The reasoning behind this was to remove these case-by-case quasi-judicial land use decisions from the political arena. The Commission would set the overall land use and zoning policies, and then these would be implemented independently by the land use boards. If appeals were returned to the City Commission, the likelihood is that there would be an increase in appeals, and a corresponding increase in both staff's and the Commission's workload.

3. Any member of a power board that misses two meetings in any year should automatically be disqualified and an alternate be placed in his stead.

Below is the Code section governing absences from land use board meetings.

Sec. 2-22 (9)

If any member of an agency, board or committee fails to attend 33 percent of the regularly scheduled meetings per calendar year, such member shall be automatically removed. To calculate the number of absences under the 33 percent formula, .4 or less rounds down to the next whole number and .5 or more rounds up to the next whole number.

Staff notes that this provision was adopted within the last year or two, and appears to be functioning well. While it is important to ensure that appointed board members attend meetings, the two absences may be too restrictive given the realities of professional life. As land use board terms are two years in length, perhaps the Commission could take into account attendance when reappointing board members.

4. All boards should meet in same week of month and all matters should be heard co-terminously that relate to multiple boards.

There is no code provision governing this proposal. Staff would note that scheduling of meetings is not a simple task, and that many factors are balanced in trying to schedule a year's worth of meetings in advance. The availability of the Commission Chambers is required, and it would be a rare week that several other activities are scheduled in the chambers. Currently, the City holds roughly one land use board meeting a week. This pattern seems to be workable for Department staff, who share many important functions relating to administering the land use boards. To have all four boards meet during the same week would seem to present logistical difficulties for planning and clerical staff.

Note also that if the concern that prompted this request is the experience with projects that require more than one board approval, staff would point out that in general there is no prohibition that prevents going to multiple boards at the same approximate time. As an example, the Saxony West / Faena project at the west side of Collins Avenue between 32nd and 34th Streets received approval from the Board of Adjustment on January 6, 2012, and then received approval from the Historic Preservation Board on February 14th, and from the Planning Board on February 28th. By running all the applications simultaneously, significant time was able to be reduced in the overall approval process.

Only in one specific instance is this not the case, the Planning Board review of projects over 50,000 s.f., which by code is required to be approved prior to Design Review or Historic Preservation Board review. The Commission may wish to revisit that provision.

5. The Department and Administration should be empowered to make many more decisions than they currently are thus allowing appeals to the power boards if agreement with staff cannot be accomplished. This would allow many minor projects to move forward expeditiously and without the costs of overburdensome government.

Below are the two code sections which authorize staff level review of projects, which otherwise would require Design Review Board or Historic Preservation Board review and approval.

Design Review Board - Staff Level Review

Sec. 118-260

The planning director or designated representative, shall have the authority to approve, approve with conditions or deny an application on behalf of the board, for the following:

- (1)Ground level additions to existing structures, not to exceed two stories in height, which are not substantially visible from the public right-of-way, any waterfront or public park. For those lots which are greater than 10,000 square feet, the floor area of the proposed addition may not exceed ten percent of the floor area of the existing structure or primary lot, whichever is less, with a maximum total floor area not to exceed 5,000 square feet.
- (2)Replacement of windows, doors, storefront frames and windows, or the approval of awnings, canopies, exterior surface colors, storm shutters and signs.
- (3) Facade and building alterations, renovations and restorations which are minor in nature.
- (4)Minor demolition and alterations to address accessibility, life safety, mechanical and other applicable code requirements.
- (5)Minor demolition and alterations to rear and secondary facades to accommodate utilities, refuse disposal and storage.
- (6)Minor work associated with the public interiors of buildings and those interior portions of commercial structures which front a street or sidewalk.
- (7)Minor work involving public improvements upon public rights-of-way and easements.
- (8)Minor work which is associated with rehabilitations and additions to existing buildings, or the construction, repair, or rehabilitation of new or existing walls, atgrade parking lots, fences.

The director's decision shall be based upon the criteria listed in this article. The applicant may appeal a decision of the planning director to the design review board, pursuant to all application and notice requirements. The applicant shall be responsible for providing and effectuating all noticing requirements, according to planning department procedures, as well as the duplication of all pertinent plans and exhibits for distribution to the board.

Historic Preservation Board - Staff Level Review

Sec. 118-563(d)

Applications for certificates of appropriateness involving minor repairs, demolition, alterations and improvements shall be reviewed by the staff of the board. The staff shall approve, approve with conditions, or deny a certificate of appropriateness or a certificate

to dig after the date of receipt of a completed application. Such minor repairs, alterations and improvements include the following:

- (1) Ground level additions to existing structures, not to exceed two stories in height, which are not substantially visible from the public right-of-way (excluding rear alleys), any waterfront or public parks, provided such ground level additions do not require the demolition or alteration of architecturally significant portions of a building or structure. For those lots under 5,000 square feet, the floor area of the proposed addition may not exceed 30 percent of the floor area of the existing structure or primary lot, whichever is less, with a maximum total floor area not to exceed 1,500 square feet. For those lots between 5,000 square feet and 10,000 square feet, the floor area of the proposed addition may not exceed 20 percent of the floor area of the existing structure or primary lot, whichever is less, with a maximum total floor area of the existing structure or primary lot, whichever is less, with a percent of the floor area of the existing structure or primary lot, whichever is less, with a maximum total floor area of the existing structure or primary lot, whichever is less, with a maximum total floor area of the existing structure or primary lot, whichever is less, with a maximum total floor area not to exceed 5,000 square feet.
- (2) Replacement of windows, doors, storefront frames and windows, or the approval of awnings, canopies, exterior surface colors, storm shutters and signs.
- (3) Facade and building restorations, recommended by staff, which are consistent with historic documentation, provided the degree of demolition proposed is not substantial or significant and does not require the demolition or alteration of architecturally significant portions of a building or structure.
- (4) Minor demolition and alterations to address accessibility, life safety, mechanical and other applicable code requirements, provided the degree of demolition proposed is not substantial or significant and does not require the demolition or alteration of architecturally significant portions of a building or structure.
- (5) Minor demolition and alterations to rear and secondary facades to accommodate utilities, refuse disposal and storage, provided the degree of demolition proposed is not substantial or significant and does not require the demolition or alteration of architecturally significant portions of a building or structure.

Staff would also note that this process of staff level design review is currently working extremely well, and the vast majority of building permits are reviewed under this provision without the requirement to go to a board.

It should be noted that the Code does not allow staff level review of Conditional Uses or provide for administrative variances as these are under the jurisdiction of the Planning Board and Board of Adjustment respectively.

CONCLUSION

The Administration seeks the Committee's guidance on the matter.

JMG/JGG/RGL/

ITEM SEVEN

TO BE DISTRIBUTED UNDER SEPARATE COVER

LAND USE AND DEVELOPMENT COMMITTEE PENDING ITEMS FOR INFORMATIONAL PURPOSES ONLY

ATTACHMENT 1

LAND USE AND DEVELOPMENT COMMITTEE PENDING ITEMS FOR INFORMATIONAL PURPOSES ONLY

Item #	Commission Referral Date	Title	Referred By	Date Last Heard at LUDC	Comments
1.	01-13-10 Item C4A	Ordinance - Entertainment In Sidewalk Café Permit Areas On Ocean Drive. An Ordinance Providing Minimum Standards, Criteria, And Conditions For Entertainment In Sidewalk Café Permit Areas On Ocean Drive Between 9 th And 13 th Streets.	Commissioner Michael Góngora	09-27-10	Motion To Table The Matter Until July 2011. On June 6, 2011 The LUDC Instructed Staff To Leave This Item On The Pending List.
2.	09-15-10 Item C4E	Discussion On The Development Of A Citywide Transportation Action Plan To Implement The Transportation Strategies Of The Comprehensive Plan.	Commissioner Edward L. Tobin	05-18-11	Item Deferred
3.	11-17-10 Item R5A	Proposed Parking District #5 For The Alton Road Corridor	City Commission	05-18-11	Item Deferred
4.	01-19-11 Item R5D	Proposed Alton Road Historic District Buffer Overlay	City Commission		Item Deferred
5.	03-09-11 Item C4G	Discussion On Variances That Are De Minimis In Nature And May Be Considered For Shorter Notice Requirements.	Commissioner Edward L. Tobin	04-21-11	
6.	04-13-11 Item C4F	Discussion Regarding The Rezoning Of The Property At 1729 Lenox Avenue.	Mayor Matti Herrera Bower		Hold Until Proponents Achieve Consensus with Neighborhood.
7.	04-13-11 Item C4G	Discussion Regarding Changing The Permitted Uses In A Cd-2 District To Allow For Self Storage.	Commissioner Jerry Libbin	05-16-12	Referred to Planning Board item to return to LUDC prior to full Commission.
8.	10-19-11 Item C4I	Discussion Of The RM-3 Regulations Concerning Attached And Detached Additions To Buildings In The Architectural District.	Commissioner Ed Tobin		
9.	10-19-11 Item C4L	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.	Commissioner Jorge R. Exposito	03-28-12	Referred to Planning Board and to be brought back to LUDC prior to City Commission.
10.	12-14-11 Item C4J	Discussion To Encourage Development Of Buildings With Substantial Code Fines By Adopting A Conditional Mitigation Practice For New Purchasers To Incentivize Re-Development.	Commissioner Michael Gongora		
11.	12-14-11 Item R9L	Discussion Regarding The West Avenue Bike Lanes As An Alternative To The Alton Road Bike Lanes.	City Commission		
12.	12-14-11 Item R9N	Discussion Regarding The Comprehensive Bike Master Plan.	Commissioner Edward L. Tobin		

13.	03-21-12 Item C4D	Discussion Regarding The Enforcement of Short Term Rentals.	Commissioner Deede Weithorn		
14.	03-21-12 Item C4K	Discussion Concerning The Terminal Island Traffic Study And Circulation Study.	Commissioner Michael Gongora	05-16-12	Returning to LUDC pending meeting with FPL, unable to schedule for June.
15.	03-21-12 Item C4N	Discussion Regarding The Possibility Of Restricting Destination Restaurants In The South Of Fifth Neighborhood.	Mayor Matti Herrera Bower		
16.	04-11-12 Item C4H	Discussion Of Parking Issues Relating To 816 West 40 th Street.	Commissioner Jonah Wolfson		2000 day
17.	04-11-12 Item C4I	Discussion Of The Legalization Of The Current Use Of 3767 Chase Avenue.	Commissioner Jonah Wolfson		
18.	05-09-12 Item R7F	Call For A Special Election – HPB and Building Heights.	Mayor Matti Herrera Bower	04-24-12 Joint LUDC/ NCAC Meeting	
19.	06-06-12 Item C4E	Discussion Regarding An Agreement With Marriott Seville, For Improvements To And The Maintenance Of The 29th Street End And Traffic Circle And For The Construction Of A Portion Of The Beachwalk.	City Commission		
20.	06-06-12 Item C4H	Discussion Of RFP For Tennis Maintenance And Bifurcating Maintenance And Operations.	Commissioner Jonah Wolfson		

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