



# MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, [www.miamibeachfl.gov](http://www.miamibeachfl.gov)

## COMMITTEE MEMORANDUM

TO: Members of the Land Use and Development Committee

FROM: Kathie G. Brooks, Interim City Manager *[Signature]* for KGB

DATE: December 19, 2012

SUBJECT: **DISCUSSION REGARDING MIAMI BEACH UNITED RESOLUTIONS TO ADDRESS THE ISSUE OF COMPATIBILITY OF CERTAIN USES IN PROXIMITY TO RESIDENTIAL USES, TO CREATE SAFEGUARDS WHILE STILL ALLOWING FOR FLEXIBILITY OF DEVELOPMENT**

On July 18, 2012, at the request of Commissioner Góngora, the Mayor and City Commission approved a referral to the Land Use and Development Committee (LUDC) for a discussion regarding Miami Beach United resolutions (see attachments) to address the issue of compatibility of certain uses in proximity to residential uses, to create safeguards while still allowing for flexibility of development. On November 5, 2012, the Committee reviewed these proposals and requested that staff further analyze them and bring back options and recommendations.

### **Sidewalk Cafes**

The first resolution deals with sidewalk cafes in close proximity to residential neighborhoods. This can be a problem if the café use generates late night noise and disruption. The MBU resolution calls for the following regulations on proposed sidewalk cafes located within 200 feet of residential zoning districts:

- Out Door Speakers And Music Will Be Banned
- Alcohol Shall Not Be Served Unless Accompanied By Food
- A 5ft Pedestrian Path Shall Be Observed At All Times
- Closing Hours Shall Be 9pm On Weekdays And 11pm On Weekends
- Residents Within The Special Cafe Zone Shall Be Notified Of The Pending Permit Within The Zone And Have The Ability To Offer Comments On The Proposed Application

Planning Department staff has continued to examine the issue through the use of existing licensing data for sidewalk cafes and maps of residential areas. Map analysis shows that a buffer of 200 feet from residential districts would subject almost all sidewalk cafés to the proposed restrictions; staff believes this is too broad. Staff would suggest that additional regulation be applied to proposed new sidewalk cafes which are 100 feet or less from nearby residential zones, as this would not include the vast majority of cafes on Lincoln Road, but would capture those proposed cafes on the side streets adjacent to Lincoln Road, and other areas located close to residential uses.

Rather than imposing the requested set of mandatory conditions on operations, staff suggests an ordinance requiring Conditional Use approval from the Planning Board for any newly proposed sidewalk café located within 100 feet of a residential neighborhood. In this way, applications can be reviewed on a case-by-case basis, with some areas perhaps exempted where such prohibition is not needed, and other areas controlled very strictly as conditions warrant. A similar ordinance currently requires the same review and approval for parking lots within 100 feet of a residential district or use, so the concept could be applied in the same way to sidewalk cafés.

### **Compatibility with Nearby Single-Family Residential Zones**

The second resolution attempts to address proposed developments within close proximity to single family residential neighborhoods. The recent public hearings for the proposed Palau development in Sunset Harbour brought much criticism from nearby single family residents of Sunset Islands 3 and 4. Although the development was finally approved by the Planning Board and then the Design Review Board, with significant modification to the originally proposed plans in order to mitigate the impact upon the neighboring single family residential areas to the north and east, residents remain dissatisfied with the proposal and feel that the scale of the building will overpower nearby residences.

This was also a similar concern several years ago with the approval of the Cabi project on 42<sup>nd</sup> Street, also in close proximity to a single family residential neighborhood. While the City's zoning map and future land use map are drawn in such a way as to try to separate uses and buffer lower scale neighborhoods from potentially higher intensity development, in a few cases, such a buffer may not be present. In these cases, there does appear to be a need to modify proposed developments in order to most effectively buffer and protect nearby residents, while also allowing reasonable development to proceed.

The MBU proposal would limit all properties within 350 feet of single family zoning districts to a maximum building height of 33 feet, and properties within 500 feet of single family districts would be limited to 41 feet, 3 inches. Analysis shows a large number of properties would be affected by such a regulation, including many areas of the City currently zoned for medium and high intensity, and permitting significantly greater heights than proposed. This could be a problem from the standpoint of legal property rights and the Bert J. Harris Act, the Florida statute affecting downzoning. Staff finds that as an alternative at a 100 foot buffer, the most sensitive areas of interface between higher zoning and single family residential would still be included, but the large majority of properties not directly adjacent or across a street or waterway from single family residential would be unaffected.

Staff also believes that the main issue would be addressed by a lowering of the maximum building height for the portion of the property closest to the residential area, where these portions could be limited to the lower height, permitting the building to step up further away from the residential areas. A recommendation of permitting 35 feet, 3 stories, along frontages directly adjacent or across the street or waterway to single family areas, with a line of sight requirement from across the street or waterway for the remainder of the property, could be supported. Further research could refine this concept further, but the basic concept makes sense.

### **Hotels In Residential Neighborhoods And Parking Requirements**

On October 24, 2012, at the request of Commissioner Góngora, the Mayor and City Commission approved a referral to the Land Use and Development Committee (LUDC) for a discussion regarding hotels in residential neighborhoods and parking requirements. This issue has been brought to the forefront by a proposal for an extended stay hotel development on the Housing Authority property at 17<sup>th</sup> Street and West Avenue. Surrounding neighborhood groups from West Avenue, Lincoln West, and Belle Isle have expressed concern about the impact that hotel development in general, and this proposed hotel project in particular, would have upon traffic and quality of life in their residential neighborhoods.

Historically, there had been hotels along the Biscayne Bay on West Avenue. However, the development of the Bayfront since the 1960's has been exclusively residential, characterized by high-density highrise apartment buildings. The bayfront between 6<sup>th</sup> Street and 15<sup>th</sup> Terrace is zoned RM-3 multifamily high-density residential. The permitted uses include both apartments and hotels. The 1998 citywide downzoning which conformed development regulations to the existing neighborhood characteristics reduced the heights and FARs permitted to the present 150 feet/5 stories and FAR of 2.25 to 2.75 depending on lot size. The focus at that time reduced building morphologies, but did not consider that potential hotel uses might be problematic in the one-hundred percent residential subject area.

The development of the Mondrian hotel at 1100 West Avenue was the first hotel to be located in the RM-3 bayfront corridor. As a proposed Neighborhood Impact Establishment (over 199 persons occupancy content, with entertainment) the hotel was reviewed by the Planning Board for Conditional Use approval. The Planning Board approved the Conditional Use permit with restrictions on various aspects of their operations. Those restrictions include limitations on hours of operation, sound systems, outdoor speakers, deliveries and loading zones.

The subsequent history of relations between the hotel and the residents of the surrounding neighborhood has been problematic, and the compliance with the conditional use permit has been at issue. The Planning Board has reviewed the case through progress reports. Discussions at these hearings have included resident testimony of problems of noise, bus parking, deliveries and loading, and at least one adjacent resident has been able to photograph delivery trucks stopped and blocking traffic lanes. The Planning Board may act to modify or revoke a conditional use if repeated noncompliance is an issue, but this is based primarily on actual code enforcement violations. The compliance record of the Mondrian indicates few violations over the past two or three years, and has not warranted further Planning Board action.

Purely from the standpoint of economic development and the extremely important hospitality industry, The Mondrian Hotel is a significant investment and an asset to the City. However, there is concern from residents regarding the potential for proliferation of hotel uses in what is predominantly a residential corridor. Although Planning Department staff does not recommend a total ban on hotel uses in the residential zoning districts in the West Avenue corridor, as this would raise significant legal concerns regarding investment backed expectations, property rights and the Bert J. Harris act, staff is very supportive of requiring Conditional Use approval from the Planning Board for new hotels in both the RM-2 and RM-3 zoning districts in the West Avenue

corridor. Residents of the Palm View neighborhood have raised similar concerns, and staff would also recommend this Conditional Use requirement for hotels proposed in the RM-2 district along Meridian Avenue across from the Convention Center.

**ADMINISTRATION RECOMMENDATION**

The Administration seeks guidance from the Committee on the desired policy direction. If there is interest in pursuing these proposals, staff recommends that the matters be forwarded to the Planning Board for further review and recommendation.

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KGB/JGG/RGL

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Properties within 500 ft. of S.F. Residential



Properties within 100 ft. of S.F. Residential



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The City of Miami Beach Sidewalk Cafe Ordinance for purposes of permitting shall be amended to include a special zone created for SideWalk Cafes to be located within 200 ft of a residential zone - measuring the distance from the residential property line to the property line of the proposed Sidewalk Cafe.

The Sidewalk Cafe conditions proposed shall be the following:

OUT DOOR SPEAKERS AND MUSIC WILL BE BANNED

ALCOHOL SHALL NOT BE SERVED UNLESS ACCOMPANIED BY FOOD

A 5FT PEDESTRIAN PATH SHALL BE OBSERVED AT ALL TIMES

CLOSING HOURS SHALL BE 9PM ON WEEKDAYS AND 11PM ON WEEKENDS

RESIDENTS WITHIN THE SPECIAL CAFE ZONE SHALL BE NOTIFIED OF THE PENDING PERMIT WITHIN THE ZONE AND HAVE THE ABILITY TO OFFER COMMENTS ON THE PROPOSED APPLICATION

Sophia Sieczkowski

Corresponding Secretary

**MIAMIBEACHUNITED**

**[www.miamibeachunited.org](http://www.miamibeachunited.org)**



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MIAMI BEACH UNITED proposes the following amendment to the zoning code be placed on the Miami Beach City Commission's July agenda to transmit to the Land Use Committee:

**TRANSITIONAL NEIGHBORHOODS**

All applications for development approvals proposed, of which any part of is located within 350 feet of any single family-zoned or used property shall comply with the following:

1. Such proposed development shall not exceed the allowable height for single family homes (as set forth in section 142-105(b)) within 350 feet of any single family-zoned or used property and 125% of that height within the area between 350 feet and 500 feet of any single family-zoned or used property.
2. City staff and all appropriate city boards shall deny the requested development approval within 350 feet of single family-zoned or used property if the proposed development:
  - a) Would be out of scale with the adjacent residential neighborhood or
  - b) Would promote excessive, noise, traffic, light, dust, smell, overcrowding or concentration of people or population, or
  - c) Would not be compatible with the adjacent residential neighborhood and its development.

City staff and all appropriate city boards may impose conditions on any requested development approval within 350 feet of single family-zoned or used property including but not limited to reduction of the mass, scale and height of any structure, location of access points, and establishment of hours of operation.

3. Notice regarding transitional neighborhood applications shall be mailed (First Class US Mail) to all property owners and homeowners associations within a 500-foot radius of the application property as follows:
  - a) Upon filing of a development approval application, and
  - b) No sooner than ten days before the first decision-making action by staff or by the appropriate decision-making board or other city entity.
4. In any review of a development approval application, city staff, boards and other decision-making entities shall allow all parties (including any objectors) a reasonable time to present their full case, to present evidence, and to examine and cross-examine witnesses whether they have retained counsel or not.