



COMMITTEE MEMORANDUM

TO: Land Use and Development Committee

FROM: Kathie G. Brooks, Interim City Manager *KGB*

DATE: March 20, 2013

SUBJECT: **DISCUSSION REGARDING AN AMENDMENT TO THE LAND DEVELOPMENT REGULATIONS THAT WILL CREATE PROTECTION FROM TOTAL DEMOLITION OF ARCHITECTURALLY SIGNIFICANT SINGLE FAMILY HOMES BUILT PRIOR TO 1942.**

BACKGROUND

On November 5, 2012 the Land Use and Development Committee discussed and referred a proposed Ordinance pertaining to the year of review for architecturally significant single family homes to the Planning Board for consideration. Such Ordinance, which would move the date for the review of architecturally significant homes from the current 1942 to 1966, was recommended for approval by the Planning Board on January 22, 2013. However, in order to address a deficiency in the Ordinance Title, it has been re-noticed for the April 3, 2013 Planning Board.

On December 12, 2012, the City Commission referred a discussion item to the Land Use and Development Committee, pertaining to amendments that would create additional protections from total demolition of architecturally significant single family homes. On February 13, 2013, the Land Use Committee discussed this matter and concluded that an incentive based approach for retaining architecturally significant single family homes would be the best approach, and directed staff to come back to the committee with an Ordinance.

ANALYSIS

The DRB review of new construction where architecturally significant homes are proposed to be demolished has been highly successful in ensuring the successful integration of new construction within the established scale, character and context of existing single family residential neighborhoods. However, over the past few years, staff has seen a very significant increase in the number of total demolition requests for architecturally significant single family homes. Specifically, in 2012 there were 20 requests for total demolition and new construction, while only 21 such requests were submitted over the 7 year period from 2005 thru 2011, as shown below:

Year:	<u>2012</u>	<u>2011</u>	<u>2010</u>	<u>2009</u>	<u>2008</u>	<u>2007</u>	<u>2006</u>	<u>2005</u>
Homes Proposed for Total Demolition:	20	3	4	0	5	1	4	4

As more and more of the homes that define very large and significant portions of the City are lost, the character, identity and brand that makes Miami Beach a very special place will, unfortunately, begin to erode.

As indicated previously, there are different methods to address this policy issue. One is to evaluate and consider the historic designation of single family districts. This particular option, though, is highly time consuming and would require months, if not years, of study, discussion and resources, simply given the quantity of single family homes that would likely be eligible for designation.

Another alternative to address the increase in demolition requests for architecturally significant homes is through the design and development process. Currently, section 142-108 of the City Code, which governs the review procedures for new construction on properties containing architecturally significant homes, provides some limited incentives for retaining such homes. Through 2011, these incentives seemed to be adequate; however, as has been evidenced by the spike in demolition requests for architecturally significant homes in 2012, more is needed in order to encourage the retention of these homes.

In this regard, staff has drafted revisions to Section 142-108(g) of the code, in order to create more substantial and tangible incentives for the retention of architecturally significant single family homes. The following is a summary of the proposed additions and modifications in the Ordinance:

- **DRB Review of New Construction:** The DRB would be required to not only consider the established building context within the immediate area of a home proposed for demolition, but would now require that the scale, massing, building orientation and siting of the original structure on the subject site be substantially reintroduced into the proposed new construction.
- **Lot Coverage:** Currently, the Code allows up to 35% lot coverage for new construction and additions associated with the retention of architecturally significant homes, and sets limits on the overall lot coverage of proposed new buildings or structures in those instances where an architecturally significant home is substantially demolished. The proposed Ordinance would increase the allowable lot coverage to 40% on those sites where an Architecturally Significant home is substantially retained, and slightly reduce the current allowable lot coverage in those instances where the home is substantially demolished to 25% for lots 10,000 square feet or less and 20% for lots between 10,000 and 25,000 square feet. Additionally, the ability of the DRB to forgo the lot coverage restrictions has been deleted.
- **Unit Size:** The total unit size may be increased to 70% at the administrative level when an Architecturally Significant home is retained. The unit size would be limited to 50% if the home were to be demolished and the DRB would not have the authority to increase the unit size beyond 50%.
- **Height:** For lots greater than 60' in width, the overall height of any addition, including allowable roof-top additions, may be increased up to 33' above grade, and for lots less than 60' in width, the overall height of any addition, including allowable roof-top additions, may be increased up to 30' above grade, both at the administrative level, when an Architecturally Significant home is retained. The current overall height limitation would remain, and could not be exceeded by the DRB, if the Architecturally Significant home were to be demolished.

- **Setbacks:** When an Architecturally Significant home is retained, two-story structures, or the second floor, may encroach forward to the 20-foot front setback line, subject to staff approval, and the construction of a ground floor addition of more than one story shall be allowed to follow the existing interior building lines, provided a minimum side setback of 5' is met, subject to staff approval. Additionally, habitable additions to, as well as the relocation of, architecturally significant homes, may project into a required rear or side yard for a distance not to exceed 25 percent of the required yard, up to defined maximum projections. In those instances where an Architecturally Significant home is demolished, new two-story structures, or the second floor, must be setback ten additional feet from both the required front and rear yard setback lines. Only 50 percent of the developable width of the second floor may encroach forward to the minimum front and/or rear setback lines, at the discretion of the DRB.
- **Interior Side Courtyards:** The minimum courtyard requirements specified in Section 142-106(2).c may be waived at the administrative level when an Architecturally Significant home is retained. These minimum courtyard requirements could not be waived, even by the DRB, if the home were to be demolished.
- **Permit Fees:** It has been determined that the City does not have the legal authority to waive or reduce building permit fees. Therefore, the Administration is recommending that this provision be modified to only be applicable to planning and public works department fees associated with the retention of an architecturally significant home.

In addition to the aforementioned incentives, staff has also included clean-up text changes to section 142-108, pertaining to how the date of construction is determined, and exemptions for non-architecturally significant accessory structures.

While the proposed Ordinance would not prohibit an application for total demolition, it does create tangible incentives for the retention of existing Architecturally Significant single family homes. Additionally, should a demolition request for an Architecturally Significant home move forward, the proposed Ordinance would foster replacement construction that is substantially more compatible in terms of scale, massing and overall size, thus better addressing the original, lower scale context of single family architecture on Miami Beach.

RECOMMENDATION

The Administration recommends that the Land Use and Development Committee refer the proposed Ordinance to the full Commission for referral to the Planning Board for formal consideration.

KGB/JGG/RGL/TRM

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ARCHITECTURALLY SIGNIFICANT SINGLE FAMILY HOME RETENTION INCENTIVES

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS," DIVISION 2, "SINGLE-FAMILY RESIDENTIAL DISTRICTS," BY REVISING THE STANDARDS AND REVIEW REQUIREMENTS FOR NEW CONSTRUCTION, ADDITIONS AND MODIFICATIONS TO PROPERTIES THAT CONTAIN AN ARCHITECTURALLY SIGNIFICANT SINGLE FAMILY HOME NOT LOCATED WITHIN A DESIGNATED HISTORIC DISTRICT; PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach (City) places a strong emphasis on the retention and preservation of existing, architecturally significant single family homes; and

WHEREAS, the Mayor and City Commission have deemed it in the best interest and welfare of the City to adopt revised requirements, standards and procedures for the review of new construction, additions and modifications to Architecturally Significant single family homes located outside of a designated historic district; and

WHEREAS, the Mayor and City Commission deem it appropriate to incentivize the retention of Architecturally Significant single family homes, in order to acknowledge, protect and preserve the significant architectural history, existing building scale, and unique character of the single family residential neighborhoods in Miami Beach; and

WHEREAS, the City of Miami Beach Historic Preservation, Design Review and Planning Boards strongly endorse the proposed amendments to the Single Family Residential Districts Section of the Code; and

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

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA.

SECTION 1. That Chapter 142, "Zoning Districts and Regulations," Article II, "District Regulations," Division 2, "Single Family Residential Districts," of the Land Development Regulations of the Code of the City of Miami Beach, Florida is hereby amended as follows:

DIVISION 2. RS-1, RS-2, RS-3, RS-4 SINGLE-FAMILY RESIDENTIAL DISTRICTS

* * *

Sec. 142-108. - Provisions for the demolition of single-family homes located outside of historic districts.

- (a) *Criteria.* Pursuant to a request for a permit for partial or total demolition of a home constructed prior to 1942, the planning director, or designee, shall, or independently may,

make a determination whether the home is architecturally significant according to the following criteria:

- (1) The subject structure is characteristic of a specific architectural style constructed in the city prior to 1942 including, but not limited to Vernacular, Mediterranean Revival, Art Deco, Streamline Moderne, or variations thereof;
- (2) The exterior of the structure is recognizable as an example of its style and/or period, and its architectural design integrity has not been modified in a manner that cannot be reversed without unreasonable expense.
- (3) Significant exterior architectural characteristics, features, or details of the subject structure remain intact.
- (4) The subject structure embodies the scale, character and massing of the built context of its immediate area.

The date of construction shall be the date on which the original building permit was issued, according to the City of Miami Beach Building Permit Records. If no City Building Permit Record exists, the date of construction shall be determined by the date of construction as determined by the Miami-Dade County Property Appraiser.

* * *

(e) *Partial demolition.*

* * *

- (4) Review of applications for partial demolition shall be limited to the actual portion of the structure that is proposed to be modified, demolished or altered. Repairs, demolition, alterations and improvements defined below shall be subject to the review and approval of the staff of the design review board. Such repairs, alterations and improvements include the following:
 - a. Ground level additions to existing structures, not to exceed two stories in height, which do not substantially impact the architectural scale, character and design of the existing structure, when viewed from the public right-of-way, any waterfront or public parks, and provided such ground level additions
 1. Do not require the demolition or alteration of architecturally significant portions of a building or structure;
 2. Are designed, sited and massed in a manner that is sensitive to and compatible with the existing structure; and
 3. Are compatible with the as-built scale and character of the surrounding single-family residential neighborhood.
 - b. Roof-top additions to existing structures, as applicable under the maximum height requirements specified in Chapter 142 of these Land Development Regulations, which do not substantially impact the architectural scale, character and design of the existing structure, when viewed from the public right-of-way, any waterfront or public parks, and provided such roof-top additions:

1. Do not require the demolition or alteration of architecturally significant portions of a building or structure;
 2. Are designed, sited and massed in a manner that is sensitive to and compatible with the existing structure; and
 3. Are compatible with the as-built scale and character of the surrounding single-family residential neighborhood.
- c. Replacement of windows, doors, roof tiles, and similar exterior features or the approval of awnings, canopies, exterior surface colors, storm shutters and exterior surface finishes, provided the general design, scale, massing, arrangement, texture, material and color of such alterations and/or improvements are compatible with the as-built scale and character of the subject home and the surrounding single-family residential neighborhood. Demolition associated with facade and building restorations shall be permitted, consistent with historic documentation.
 - d. Facade and building restorations, 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.
 - e. 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.
 - f. The demolition and alteration of rear and secondary facades to accommodate utilities, refuse disposal and storage, provided the degree of demolition proposed does not require the demolition or alteration of architecturally significant portions of a building or structure.
 - g. The demolition of non-architecturally significant accessory buildings.

* * *

(g) *New construction requirements for properties containing a single-family home constructed prior to 1942.*

(1) In addition to the development regulations and area requirements of section 142-105, as well as section 118-252, of the land development regulations of the City Code, the following regulations shall apply in the event the owner proposes to fully or substantially demolish an architecturally significant single-family home constructed prior to 1942, inclusive of those portions of a structure fronting a street or waterway. In the event of a conflict between the provisions of section 142-105 and section 118-252, and the regulations below, the provisions herein shall control:

- a. The design review board (DRB) shall review and approve all new construction on the subject site, in accordance with the applicable criteria and requirements of chapter 118, article VI, section 251(a)1-12 of the land development regulations of the City Code.
- b. The DRB ~~shall review of any new structure,~~ in accordance with the requirements of chapter 118, article VI, and shall take into account the established building context within the immediate area. The DRB ~~shall include consideration of~~ require that the scale, massing, building orientation and siting of the original structure on the subject site be substantially reintroduced into the proposed new construction, as well as the established building context within the immediate area.

- c. 4. The overall lot coverage of proposed new buildings or structures shall not exceed the building footprint of the original structure on site, or shall be limited to the following, whichever is greater, based upon the overall size of the subject lot:
 - i. For lots 10,000 square feet or less, the lot coverage shall not exceed 25 ~~30~~ percent;
 - ii. For lots greater than 10,000 square feet, but less than 25,000 square feet, the lot coverage shall not exceed 20 ~~25~~ percent;
 - iii. For lots 25,000 square feet or greater, the lot coverage shall not exceed 15 percent.

2. ~~The DRB may forgo the above noted lot coverage restrictions if it concludes that the retention of the architecturally significant single-family home is not practical or feasible, in which case the DRB review of any request for demolition shall consider the criteria in subsection (a) herein, as well as the following criteria:~~

- ~~i. Whether good cause for the demolition of the structure has been shown.~~
- ~~ii. Whether pertinent economic and financial considerations that affect the ability of the owner to renovate, restore and add on to the structure.~~
- ~~iii. Whether the structural condition of the single-family home or other factors affect the feasibility of renovating, repairing or restoring the structure.~~

- d. The total unit size for the new home shall not exceed 50% and shall not be increased by the DRB.
- e. For lots less than 60' in width, the height of any new construction shall not exceed 25' above grade and shall not be increased by the DRB. For lots greater than 60' in width, the height of any new construction shall not exceed 30' above grade and shall not be increased by the DRB.
- f. The minimum courtyard requirements specified in Section 142-106 (2).c shall not be waived by the DRB.
- g. Two-story structures, or the second floor, shall be set back a minimum of ten additional feet from the required front and rear yard setback lines. Up to, but not exceeding, 50 percent of the developable width of the second floor may encroach forward to the minimum front and/or rear setback lines, at the discretion of the DRB.
- h. In the event a new home does not exceed one-story in height, the lot coverage shall not exceed 35 percent of the lot area; for purposes of this section, a one-story structure shall not exceed 12 feet in height as measured from minimum flood elevation. A restrictive covenant, in a form acceptable to the City Attorney, shall be required, ensuring, in perpetuity, that a 2nd story is not added.
- i. The above regulations shall also be a limitation on development in all lots within a single site that may be split into multiple lots or multiple lots that are aggregated into a single site, at a future date. When lots are aggregated, the greater of the footprint permitted by the lot coverage regulations, or the footprint of the larger home, shall apply.
- j. Notwithstanding the foregoing, and only in the event the Building Official has issued an Emergency Demolition Order for the subject home, the limitations set forth in subsections c-h above may be waived or modified, in accordance with the applicable limitations in Section 142-105, and at the discretion of the DRB.

(2) In addition to the development regulations and area requirements of section 142-105, of the land development regulations of the City Code, the following shall apply in the event an architecturally significant single-family home constructed prior to 1942 is substantially retained and preserved. In the event of a conflict between the provisions of section 142-105 and section 118-252, and the regulations below, the provisions herein shall control:

- a. The proposed addition and modifications to the existing structure may be reviewed at the administrative level, provided that the design criteria in Section 142-105 has been satisfied, subject to the approval of the Planning Director or designee. The design of any addition to the existing structure shall take into consideration the scale, massing, building orientation and siting of the original structure on the subject site, and shall be subject to the review and approval of the planning department, in accordance with the

~~design review criteria in chapter 118, article VI, of the land development regulations of the City Code.~~

- b. The total lot coverage may be increased to, but shall not exceed 35 40 percent, and may be approved at the administrative level. In the event the lot coverage of the existing structure exceeds 35 percent, no variance shall be required to retain and preserve the existing lot coverage, and a second level addition shall be permitted, provided it does not exceed 60 percent of the footprint of the existing structure; no lot coverage variance shall be required for such addition.
- c. The total unit size may be increased to, but shall not exceed, 70 percent, and may be approved at the administrative level.
- d. For lots less than 60' in width, the overall height of any addition, including allowable roof-top additions, may be increased up to 30' above grade, and may be approved at the administrative level.
- e. For lots greater than 60' in width, the overall height of any addition, including allowable roof-top additions, may be increased up to 33' above grade, and may be approved at the administrative level.
- f. The minimum courtyard requirements specified in Section 142-106 (2).c may be waived at the administrative level, provided that the design criteria in Section 142-105 has been satisfied, subject to the approval of the Planning Director or designee.
- g. Two-story structures or the second floor may encroach forward to the 20-foot front setback line, subject to staff approval.
- h. The construction of a ground floor addition of more than one story shall be allowed to follow the existing interior building lines, provided a minimum side setback of 5' is met, subject to staff approval.
- i. Habitable additions to, as well as the relocation of, architecturally significant structures, may project into a required rear or side yard for a distance not to exceed 25 percent of the required yard, up to the following maximum projections:
 - i. Interior side yard: 5'
 - ii. Street side yard: 7'-6"
 - iii. Rear yard: 15'
- j. The property owner shall not be required to pay any city planning or public works department building permit fees associated with the renovation and restoration of the existing single-family home; any and all non-city impact fees and other fees shall still be required.
- k. The above regulations shall also be applicable to:
 - i. any single-family home designated as an historic structure by the historic preservation board.
 - ii. any single family home constructed prior to 1966, whereby the owner voluntarily seeks a determination of Architectural Significance and where such home has been determined to be Architecturally Significant in accordance with Section 142-108(a).

SECTION 2. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, 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, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or other appropriate word.

SECTION 3. REPEALER.

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

SECTION 4. SEVERABILITY.

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 effect ten days following adoption.

PASSED AND ADOPTED this _____ day of _____, 2013.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM &
LANGUAGE & FOR EXECUTION

City Attorney

Date

First Reading: _____, 2013
Second Reading: _____, 2013

Verified by: _____
Richard G. Lorber, AICP, LEED AP
Acting Planning Director

Underscore denotes new language
03/14/2013

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MIAMI BEACH

OFFICE OF THE MAYOR AND COMMISSION

MEMORANDUM

TO: Kathie Brooks, Interim City Manager
Rafael E. Granado, City Clerk

FROM: Mayor Matti Herrera Bower

DATE: December 5, 2012

SUBJECT: **Agenda Item for December 12, 2012 Commission Meeting -
Referral To The Planning Board**

Please place on the December 12th City Commission Agenda a referral to the Planning Board for consideration of an amendment to the Land Development Regulations that will create protection from total demolition of architecturally significant single family homes built prior to 1942.

7:05:56 p.m.

C4P Referral To The Planning Board - An Amendment To The Land Development Regulations That Will Create Protection From Total Demolition Of Architecturally Significant Single Family Homes Built Prior To 1942.

(Requested by Mayor Matti Herrera Bower)

ACTION: Item separated for discussion by Commissioners Weithorn and Wolfson. Referred to the Land Use and Development Committee. Motion made by Vice-Mayor Góngora; seconded by Commissioner Wolfson; Voice vote: 5-2: Opposed: Mayor Bower and Commissioner Libbin. **Richard Lorber to place on the committee agenda and to handle.**

REFERRAL

Item referred to the Land Use and Development Committee

Mayor Bower explained that she placed this referral on the agenda because she received a call from Bunny Patchen requested her to do something to stop the demolition of these historic homes constructed prior to the 1942. In researching this issue, she learned that during this year alone there have been twenty-four requests for demolition of pre-1942 homes in the City. She added that there is an ordinance in place for preservation of these historic homes, and asked Jorge Gomez to explain.

Jorge Gomez, Assistant City Manager, explained the current process is that if a home was built prior to 1942 and is deemed to be architecturally significant, the replacement home has to go in front of the Design Review Board (DRB). A lot of this has to do with the new constructions being so out of scale from the character of the single family homes neighborhood, but there is no protection from demolition, although it requires DRB process.

Discussion held regarding a petition.

Daniel Soraldo stated that he has a signed petition by 349 individuals asking the City to find something to stop demolition of historic houses and is in support of referring to the Planning Board.

Nancy Liebman urged the City Commission to refer the item to Planning.

Mayor Bower requested an analysis of what other municipalities on preservation of historic homes. **Richard Lorber to handle.**

Discussion continued.

Jeff Donnelly spoke in support of the referral to the Planning Board.

Michael Larkin, Esq., representing Lisa and Leonard Holstein, homeowners at 42 Star Island Drive, suggested adding an applicability clause that would exempt all pending Design Review Board applications now.

Discussion held.

Vice-Mayor Góngora made a motion to refer to the Land Use and Development Committee and invited Mr. Soraldo to attend the meeting; seconded by Commissioner Wolfson; Voice-vote: 5-2; Opposed: Mayor Bower and Commissioner Libbin.

Jack Johnson suggested taking a look at some of the approved designs by DRB that are being built in place of the houses that are being demolished; as they are inconsistent with the nature of the surrounding neighborhood. They are the party houses that neighbors complain about. If this Commission does not want continued complaints, he would urge them to reconsider the action taken and address this issue as soon as possible.

ADDENDUM MATERIAL

C4Q Referral To The Neighborhood/Community Affairs Committee – Discussion Regarding The Placement Of A Fence Along The Perimeter Of The Scott Rakow Youth Center Fields.
(Requested by Commissioner Deede Weithorn)

ACTION: Referred. Barbara Hawayek to place on the committee agenda. **Kevin Smith to handle.**

ADDENDUM MATERIAL

C4R Referral To The Neighborhood/Community Affairs Committee - Discussion Of Bringing V-Day To Miami Beach.
(Requested by Commissioner Jorge Exposito)

ACTION: Referred. Barbara Hawayek to place on the committee agenda. **Max Sklar to handle.**

City Clerk's Note: V-Day, February 14th, is a global activist movement to end violence against women and girls. The movement was started in 1998 by author, playwright and activist Eve Ensler. Ensler has been quoted as saying that it was women's reactions to her play that launched V-Day.

ADDENDUM MATERIAL

C4S Referral To Neighborhood/Community Affairs Committee - Discuss Coordination Of FDOT Projects In The City.
(Requested by Commissioner Jerry Libbin)

ACTION: Referred. Barbara Hawayek to place on the committee agenda. **Fred Beckmann to handle.**

ADDENDUM 2

C4T Referral To The Finance And Citywide Projects Committee - Discussion Regarding The Possible World OutGames Miami Beach 2017 Funding.
(Requested by Vice-Mayor Michael Góngora)

ACTION: Referred. Patricia Walker to place on the committee agenda. **Max Sklar to handle.**