

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

# COMMITTEE MEMORANDUM

TO: Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager

DATE: January 22, 2014

SUBJECT: ORDINANCE AMENDMENT - BOAT DOCKS AND MARINE STRUCTURES

## **BACKGROUND**

On December 18, 2012, the Planning Board voted to move forward, as the applicant, with an Ordinance Amendment proposing to remove boat dock/marine structures applications from the purview of the Planning Board. The proposed Ordinance was referred to the Planning Board by the Land Use and Development Committee on December 19, 2012.

On April 3, 2013 the Planning Board discussed the Ordinance and continued the matter to May 28, 2013, in order for the Ordinance to be revised to include boiler plate conditions imposed in previous applications. On May 28<sup>th</sup>, 2013, the Planning Board transmitted the attached Ordinance to the City Commission with a favorable recommendation.

On July 17<sup>th</sup>, 2013, the City Commission referred the subject Ordinance to the Land Use and Development Committee for further discussion and consideration.

## **ANALYSIS**

Originally, the subject Ordinance proposed to transfer the regulatory authority of boat and dock projections from the Planning Board to the Marine Authority. After a discussion with the Marine Authority, however, it was concluded that a more appropriate avenue would be to remove the requirement for Board review of most projections altogether. The reason for this is that the authority of the County (DERM), as well as the State (DEP) entails a very high degree of regulatory review and analysis.

At the April 3, 2013 meeting, the majority of the Planning Board directed staff to revise the Ordinance, removing the transfer of authority to the Marine Authority, and to include boilerplate conditions from previous approvals within the Ordinance. The revised Ordinance contains these revisions.

Currently, the City Code limits such projections to more than ten (10%) percent of the width of a canal or waterway, up to a maximum of 40', and fifteen (15%) percent for those canals or waterways exceeding 100 feet in width, up to a maximum of 40'. Pursuant to Section 66-113 and Section 142-1132 (I) of the Code, the Planning Board reviews applications for docks, mooring piles, piers and related marine structures, which exceed the following thresholds:

- Any projection greater than 40' into a waterway or canal;
- An extension from a lot zoned for residential use into any part of Biscayne Bay or other waterway in excess of 1,000 feet in width, a distance no greater than 125 feet;
- An extension from a lot zoned for business use into Biscayne Bay or other waterways a distance not greater than 250 feet.

Staff believes that with the codification of certain design standards, the above noted additional projections could be approved administratively, subject to the review of all applicable County and State regulatory authorities. Staff would also suggest that the mooring of any type of vessel or watercraft be prohibited along either side of a walkway leading from the seawall to a boat dock.

Additionally, given the very successful impact that Conditional Use review has had on the portion of the Boat Show along Indian Creek, staff would further suggest that the Planning Board retain jurisdiction for marine structure projections adjacent to the WD-1 and WD-2 Waterway Districts. The City's Special Events Department is also in favor of continued Planning Board oversight of events such as this.

## CONCLUSION

The Administration recommends that the Land Use Committee provide appropriate policy direction and refer the attached Ordinance to the City Commission, with a favorable recommendation.

JLM/JMJ/TRM Attachment

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### **BOAT DOCKS & MARINE STRUCTURES**

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AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 66, "MARINE STRUCTURES, FACILITIES AND VEHICLES," ARTICLE IV, "VESSELS," SECTION 66-113, "LIMITATION ON PROJECTION OF STRUCTURES; PUBLIC HEARING," AND CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," SECTION 142-1132, "ALLOWABLE ENCROACHMENTS WITHIN REQUIRED YARDS," MODIFYING THE PROCEDURES FOR APPROVAL OF DOCKS THAT EXTEND BEYOND THE PERMITTED DISTANCE INTO A WATERBODY; PROVIDING FOR REPEALER; CODIFICATION; SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City Code provides for the regulation of docks, including limitations on the location and size of docks within the City, as permitted by State law; and

WHEREAS, the Planning Board, at its meeting dated December 18, 2012, by a vote of 7-0, has requested that the jurisdiction over approval of the distance that such docks may extend beyond that permitted in the City Code, which is provided for in section 661-113 generally at 40 feet, subject to other applicable provisions, be transferred from that Board to another Board; and

**WHEREAS**, the amendments 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**. That Chapter 66, "Marine Structures, Facilities and Vehicles," Article IV, "Vessels," Section 66-113. - Limitation on projection of structures; public hearing" is hereby amended as follows:

Sec. 66-113. - Limitation on projection of structures; public hearing.

(a) Boat slips, docks, wharves, dolphin poles, mooring piles or structures of any kind shall not be constructed or erected that extend into any canal or waterway in the city more than ten percent of the width of such canal or waterway at a specific location measured from the seawall or property as shown by recorded plat line if no seawall exists; but if a canal or waterway is more than 100 feet in width, the structure may extend into such canal or waterway a distance not greater than 15 percent of the width of such canal or waterway at that specific location, but not to exceed a distance greater than 40 feet.; hHowever, as provided in section 66-114 subsequent to conditional use process as provided in section 142-1132(l), subject to the review and approval of the applicable state and county authorities, a dock, wharf, dolphin pole, mooring pile or other structure may extend from a lot zoned for residential use into any part of Biscayne Bay or other waterway in excess of 1,000 feet in width, a distance no greater than 125 feet and may extend from a lot zoned for business use into Biscayne Bay or other waterways a distance not greater than 250 feet. It is further provided that any boat, ship or vessel of any kind shall not be docked or moored so that its projection into the waterway would be

beyond the permissible projections for such docks, wharves, dolphin poles, mooring piles or other structures, and the mooring of any type of vessel or watercraft shall be prohibited along either side of the walkway leading from the seawall to a boat dock. subsequent to conditional use process as provided in section 142-1132(l). Notwithstanding the foregoing, in the event any a dock, wharf, dolphin pole, mooring pile or other structure is proposed to extend greater than 40 feet from a seawall adjacent to, or abutting the WD-1 or WD-2 district, conditional use approval from the planning board, in accordance with chapter 118, article IV of the City Code, shall also be required.

(b) Permits for erection of any of the above facilities must be obtained from the building division, the state internal improvement fund, if necessary, and if abutting navigable streams, the approval of the U.S. Corps of Engineers must be secured.

**SECTION 2**. that Chapter 142, "Zoning Districts And Regulations," Section 142-1132, "Allowable Encroachments Within Required Yards," is hereby amended as follows:

Sec. 142-1132. - Allowable encroachments within required yards.

\* \* \*

(/) Marine structures. In all districts, seaward side yard setbacks for boat slips, decks, wharves, dolphin poles, mooring piles, davits, or structures of any kind shall not be less than seven and one-half feet. This requirement pertains to the enlargement of existing structures as well as to the construction of new structures. It is further provided that any boat, ship, or vessel of any kind shall not be docked or moored so that its projection extends into the required seaward side yard setback, and the mooring of any type of vessel or watercraft shall be prohibited along either side of the walkway leading from the seawall to a boat dock. Land side decks may extend to the deck associated with the marine structure. Lighting associated with, but not limited to, the deck, or marine structure shall be installed in such a manner to minimize glare and reflection on adjacent properties and not to impede navigation. The maximum projection of a marine structure shall be determined by the county department of environmental resource management. If a dock or any kind of marine structure/equipment whether it is or is not attached to a dock projects more than 40 feet into the waterway or it extends beyond the maximum projection permitted under section 66-113, it shall be a conditional use and reviewed by the planning board pursuant to chapter 118, article IV. the review and approval of the applicable state and county authorities shall be required. In the event any dock, boat slips, decks, wharves, dolphin poles, mooring piles, davits, or structures of any kind are proposed to extend greater than 40 feet from a seawall adjacent to, or abutting the WD-1 or WD-2 district, conditional use approval from the planning board, in accordance with chapter 118, article IV of the City Code, shall also be required.

## SECTION 3. 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 4. 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"	OI
other appropriate word.						

<u>SECTION 5.</u> Severability.

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

<u>SECTION 6.</u> Effective Date. This Ordinance shall take effect ten days follows:	owing adoption.	
PASSED and ADOPTED thisda	ay of	, 2013.
ATTEST:	MAYOR	
CITY CLERK		
	FORM A	PROVED AS TO ND LANGUAGE OR EXECUTION
	City Attorney	Date
First Reading:, 2014 Second Reading: 2014		
Verified by: Thomas R. Mooney, AICP Acting Planning Director		
<u>Underscore</u> denotes new language. <del>Strikethrough denotes deleted language</del> .		
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# COMMITTEE MEMORANDUM

TO: Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager

DATE: January 22, 2014

SUBJECT: DISCUSSION REGARDING DECKS, DOCKS & SEAWALL OVER CITY LAND AND THE

NEED TO ISSUE A REVOCABLE PERMIT

## **BACKGROUND**

The City Attorney's Office has informed Public Works Engineering that decks, docks and seawall construction over City owned property could be interpreted to require a Revocable Permit, as defined by Code ARTICLE III USE OF PUBLIC PROPERTY, <u>DIVISION 2 REVOCABLE PERMIT</u>:

Sec. 82-91. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Property, city property means any land, water or air rights owned or maintained by the city.

Revocable permit means permission granted in writing for any use of real property owned or maintained by the city or in which the city holds an interest, by a person or entity, establishing conditions for such use, providing for revocation by the city and establishing requirements for return of the property upon termination/revocation.

A revocable permit requires that an application and all pertinent documentation be submitted to the Public Works' Right-of-Way Manager for processing. Once the application process is complete, the request is presented to the City Commission: Setting a public hearing on First Reading, then approval on Second Reading, Public Hearing. In all, the process may take up-to four months to complete.

The City Attorney's office has suggested that this item be brought up to the City Commission to consider revising the definition of a revocable permit and the exclusion of docks, decks and seawalls over City-owned waters (submerged lands).

Whenever an existing seawall requires repairs or replacement, the standard procedure is to install a new 18" seawall in front of it, and the space in between them filled with dirt and compacted. In addition, a concrete cap is framed and poured over the new seawall. The newly combined 18"

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seawall becomes a City Submerged land, and as such would require a revocable permit. If a deck or dock is built over the City submerged lands, either on pilings or cantilevered, it would also require a revocable permit.

A solution therefore is needed to allow the homeowner or business developer to obtain a dock, deck or seawall permit in a shorter period of time, as the permitting of these structures had not followed the revocable permit procedure in the past.

## **ACTION**

The Public Works Engineering Division requests that the Land Use Committee review the issue and provide a recommendation that may be presented to the Commission for action.

- Consider the following, revise the definition of the revocable permit not to include docks, decks or seawalls over City submerged lands
- 2) For seawall expansion past the property line and onto City submerged lands, the applicant will have to pay for additional square footage acquired, based on a value set by the Commission every five years, and based on the market value of waterfront land.

For docks and decks over City Submerged lands direct the PW ROW to establish a permit similar for bus benches in City ROW.

## **CONCLUSION**

The Administration recommends discussion at the Land Use and Development Committee for direction and forwarding to Commission for approval and implementation.

## MT/ETC/JJF/BAM

M:\\$CMB\CCUPDATES\Land Use and Development Committee\2014\January 22, 2014\LUDC Discussion regarding decks, docs & seawall.doc

## 11:33:23 a.m.

C2G Request For Approval To Award A Contract, Pursuant To Invitation To Bid No. 405-2013LR, For The Purchase Of Dogipot Junior Bag Dispensers And Biodegradable Dogipot Litter Pickup Bags.

(Parks & Recreation/Procurement)

**ACTION:** Item separated by Commissioner Exposito. Motion made by Commissioner Weithorn to withdraw the item; seconded by Vice-Mayor Tobin. Voice-vote: 5-0; Absent: Commissioners Góngora and Wolfson. Item to come back to Commission in December. Lilia Cardillo to place on the Commission Agenda if received. **John Rebar and Alex Denis to handle.** 

#### Handouts or Reference Materials:

- Letter to Alexandra Munera, Furniture Leisure, Inc., from Jimmy L. Morales, City Manager, dated October 15, 2013, RE: Protest Filed Pursuant to Award Recommendation in ITB 2013-405-LR/Dog Litter Bags and Dispensers.
- 2. Letter to Anthony Gilas, General Manager, Zero Waste USA, dated October 11, 2013, from Jimmy L. Morales. City Manager, RE: ITB 2013-405-LR.
- C2H Request For Approval To Award A Contract, Pursuant To Invitation To Bid (ITB) No. 269-2013ME, For Citywide Janitorial Services.

(Public Works/Procurement)

(Memorandum to be Submitted in Supplemental)

**ACTION:** Item withdrawn.

## **C4 - Commission Committee Assignments**

C4A Referral To The Land Use And Development Committee - Discussion Regarding Decks, Docks & Seawall Over City Land, And The Need To Issue A Revocable Permit.

(Public Works)

**ACTION:** Referred. Richard Lorber to place on the committee agenda. **Eric Carpenter to** handle.

C4B Referral To The Planning Board - Proposed Amendment To The Land Development Regulations And Comprehensive Plan To Accommodate The Redevelopment Of The Talmudic University Property Located At 4000 Alton Road.

(Planning)

ACTION: Referred. Richard Lorber to place on the board agenda and to handle.

C4C Referral To The Neighborhood/Community Affairs Committee - Discussion Regarding The Modification Of South Beach Local Circulator Service To Belle Isle And Improvement Of On-Time Performance On The Bi-Directional Route.

(Public Works)

**ACTION:** Referred. Barbara Hawayek to place on the committee agenda. **Eric Carpenter to handle.** 

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