MIAMIBEACH

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: Jimmy L. Morales, City Manager

DATE: September 21, 2016

SUBJECT: **LAND USE AND DEVELOPMENT COMMITTEE MEETING OF SEPTEMBER 21, 2016**

A meeting of the Land Use and Development Committee has been scheduled for September 21, 2016 at 3:00 p.m. in the City Commission Chambers.

ACTION ITEMS

1. **Discussion Regarding Amending Chapter 142 to Prohibit Package Stores in the CD-2 District Adjoining the MXE District, and Establishing a Minimum Distance Separation for Package Stores.**
   (Continued from the July 20, 2016 LUDC Meeting
   Sponsored by Commissioner Ricky Arriola
   July 13, 2016 City Commission Meeting, Item C4 I)

2. **Amendment To Sec. 118-394 Of The City Code To Expand And Better Define The Discontinuance Procedures For Legal Non-Conforming Uses.**
   (Sponsored by Commissioner Michael Grieco
   July 13, 2016 City Commission Meeting, Item R5 I)
   (UNDER SEPARATE COVER)

DISCUSSION ITEMS

3. **Discussion Regarding Incentivizing The Retention, Raising And/Or Relocation Of Historic/Architecturally Significant Single Family Homes (SFH).**
   (Continued from the June 15, 2016 LUDC Meeting
   Sponsored by Commissioner Michael Grieco
   April 13, 2016 City Commission Meeting, Item C4 E)

4. **Update On The Transit Hub On The 500 Block Of Alton Road.**
   (Continued from the July 20, 2016 LUDC Meeting
   Sponsored by Commissioner Ricky Arriola
   April 13, 2016 City Commission Meeting, Item C4 Q)

5. **Discussion Regarding Exploring Limiting Package Store Alcohol Sales To No Earlier Than 10:00 a.m., As Recommended By The Miami Beach Homeless Committee.**
(Continued from the July 20, 2016 LUDC Meeting
Sponsored by Commissioner Joy Malakoff
June 8, 2016 City Commission Meeting, Item C4 X)

6. **Discussion Regarding An Amendment To The West Avenue Overlay To Remove The Current Allowance For Bed And Breakfast And Suite Hotel Uses.**
(Continued from the July 20, 2016 LUDC Meeting
Sponsored by Commissioner Joy Malakoff
July 13, 2016 City Commission Meeting, Item C4 L)

VERBAL REPORTS

7. **CMB Preparations for Likely Passage of State Medical Marijuana Constitutional Amendment.**
(Continued from the June 15, 2016 LUDC Meeting
Sponsored by Commissioner Michael Grieco
February 10, 2016 City Commission Meeting, Item R9F)

8. **Discussion Pertaining to Development Regulations And Guidelines for New Construction In the Palm View Historic District To Address Resiliency, Sustainability and Adaptation.**
(Continued from the June 15, 2016 LUDC Meeting
Sponsored by Commissioner Joy Malakoff
March 9, 2016 City Commission Meeting, Item C4 K)

9. **Proposed Miami Beach Marina Redevelopment and Associated Legislative Changes.**
(Continued from the June 15, 2016 LUDC Meeting
Sponsored by Commissioner John Elizabeth Aleman
May 11, 2016 City Commission Meeting, Item R9 J)

10. **Discussion Regarding The Recommendation Of The Neighborhood/Community Affairs Committee To Establish More Aggressive Requirements For Employee Transportation Plans.**
(Continued from the July 20, 2016 LUDC Meeting
Sponsored by City Commission
June 8, 2016 City Commission Meeting, Item R7 X)

11. **Discussion Regarding Potential Ordinance Amendment Addressing Further Restrictions On Illegal STR's In Suite- And Condo-Hotels.**
(Continued from the July 20, 2016 LUDC Meeting
Sponsored by Commissioner Michael Grieco
July 13, 2016 City Commission Meeting, Item C4 K)

12. **Discussion Regarding Rescinding the Noise Ordinance Exemption for Ocean Facing Cafes in the MXE District.**
(Sponsored by Commissioner Joy Malakoff
July 20, 2016 City Commission Meeting, Item C4 A)

13. **Discussion Regarding A Prohibition On The Opening Of Any New Open Air Alcohol Entertainment Establishments And Package Stores In The MXE District Of Ocean Drive.**

    (Sponsored by Commissioner Joy Malakoff
    July 20, 2016 City Commission Meeting, Item C4 B)

14. **Discussion Regarding an Amendment To Chapter 6, Entitled "Alcoholic Beverages," To Preclude Any New Entertainment Establishment In The City From Operating Later Than 2:00 a.m.**

    (Sponsored by Commissioner Ricky Arriola
    July 20, 2016 City Commission Meeting, Item C4 D)

15. **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 118, "Administration And Review Procedures," Article III, "Amendment Procedure," To Require A 6/7 Ths Vote Of The City Commission To Increase The Maximum Zoned Building Height In Any Zoning District By More Than _____ Feet, Except For Height Regulation Exceptions Set Forth In City Code Section 142-1161, And To Require A 6/7ths Vote Of The City Commission To Amend Or Repeal This Ordinance; Providing For Repealer; Severability; Codification; And An Effective Date.**

    (Sponsored by Commissioner Kristen Rosen Gonzalez
    September 14, 2016 City Commissioner Meeting, Item C4 E)

16. **Discussion Regarding A Rezoning For The 6800 Block Of Indian Creek Drive From RM-1 To TC-3.**

    (Sponsored by Commissioner Ricky Arriola
    September 14, 2016 City Commission Meeting, Item C4 L)

17. **Discussion Regarding An Ordinance Amendment To Curb The Proliferation Of Formula Retail Establishments.**

    (Sponsored by Commissioner Ricky Arriola
    September 14, 2016 City Commission Meeting, Item C4 M)

18. **Discussion On An Amendment To The City Code To Address The Allowance Of 'Entertainment' In Non-Alcoholic Beverage Uses And Establishments.**

    (Sponsored by the City Commission
    September 14, 2016 City Commission Meeting, Item R5R)

19. **Discussion On Amendments To The City Code To Address The Following As It Relates To The Sale Of Alcoholic Beverages:**
    a. **The Appearance Of Package Stores, Including Glass Storefront Displays, When Viewed From The Sidewalk;**
    b. **An Increase In The Minimum Distance Separation For Package Stores City Wide;**
    c. **Establishing Regulations For An Allowable Percentage Of Beer & Wine Sales In Drug Stores, Retail Stores, Markets, Gas Stations, Convenience Stores, And Similar Venues.**

    (Sponsored by the City Commission
    September 14, 2016 City Commission Meeting, Item R5R)

2016 Meeting Schedule

Wednesday October 26, 2016 at 2 p.m.

Wednesday November 16, 2016

Monday December 12, 2016

ITEM ONE

MIAMIBEACH

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: September 21, 2016

SUBJECT: **A DISCUSSION REGARDING AMENDING CHAPTER 142 TO PROHIBIT PACKAGE STORES IN THE CD-2 DISTRICT ADJOINING THE MXE DISTRICT, AND ESTABLISHING A MINIMUM DISTANCE SEPARATION FOR PACKAGE STORES .**

BACKGROUND

On July 13, 2016, at the request of Commissioner Ricky Arriola , the City Commission referred this item to the Land Use and Development Committee (item C4I). The item was also referred to the Planning Board. On July 20, 2016, the Land Use and Development Committee discussed the item and continued it to a date certain of September 21, 2016.

On August 23, 2016, the Planning Board reviewed a proposed ordinance amendment prohibiting package stores within the MXE district and transmitted it to the City Commission with a favorable recommendation. The City Commission is scheduled to consider the proposed Ordinance at First Reading on September 14, 2016.

ANALYSIS

Package stores are retail uses that primarily sell alcoholic beverages and package sales are alcoholic beverages for take-out and off premises consumption. In general, the City Code allows for package stores and package sales in any area that allows retail sales. The hours and locations (distance separation) are regulated in Chapter 6 of the City Code.

The Mixed Use Entertainment ("MXE") district is characterized by a variety of uses, including hotel, bars, restaurants, entertainment establishments, apartment buildings, and retail stores which attract a large volume of pedestrians and vehicular traffic.
The consumption of open containers of alcoholic beverages in public places is a violation of Section 70-87 of the City Code.

The attached ordinance creates a definition for *package store* in Section 114.1, the definition section of the Land Use Development Regulations (LDR's). Additionally, both package stores and package sales of alcoholic beverages are listed as a prohibited use in Section 142-544, under the MXE district regulations. Additionally, because entertainment is allowed in retail stores city wide, the following ordinance clarifies that, in the MXE district, package stores are prohibited from having entertainment.

CONCLUSION

The Administration recommends that the Land Use and Development Committee:

1. Recommend in favor of the proposed ordinance prohibiting package stores in the MXE district; and

2. Discuss the remainder of the item further and provide appropriate policy direction.

JLM/SMT/TRM

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ITEM TWO

UNDER SEPARATE COVER

ITEM THREE

MIAMIBEACH

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: September 21, 2016

SUBJECT: **A DISCUSSION REGARDING INCENTIVIZING THE RETENTION, RAISING AND/OR RELOCATION OF HISTORIC / ARCHITECTURALLY SIGNIFICANT SINGLE-FAMILY HOMES (SFH).**

BACKGROUND

On April 13, 2016, at the request of Commissioner Michael Grieco, the City Commission referred this item to the Land Use and Development Committee (item C4E). April 20, 2016, the Land Use and Development Committee discussed the item and continued it to June 15, 2016. The Land Use Committee directed staff to research additional incentives that would encourage single-family homeowners to renovate and elevate existing homes.

On June 15, 2016, the Land Use Committee discussed draft incentives prepared by staff. The item was continued to a date certain of September 21, 2016.

ANALYSIS

On February 14, 2014, the City Commission adopted Ordinance No. 2014-3836, which amended 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. The ordinance created more substantial and tangible incentives for the substantial retention and renovation of architecturally significant single-family homes.

At the direction of the Land Use Committee, staff revisited the current single family retention incentives approved in 2014 and researched similar land use incentives adopted by other coastal communities. These included communities in Florida, Louisiana, Texas, Mississippi, Pennsylvania, Maryland and Alabama. Staff found that, for the most part, a number of coastal communities offer financial assistance, design guidelines, and greater heights as a way to incentivize the retention of historic single-family home, specifically as it would require the raising of the home to reduce risks associated with floods. Some of these communities were recently affected by a natural disaster and were able to offer additional assistance to home owners through FEMA grants and other federal grant programs. Most of the single-family neighborhoods with incentives were also historically designated single-family home neighborhoods that are also eligible for additional grants and financial assistance for renovation of designated structures. Unfortunately, the FEMA funding model is still for the most part post disaster

recovery; not pre-disaster planning.

The City's current single family incentive ordinance does not require the renovated homes to be raised to meet FEMA Mandated Minimum Flood Elevation Requirements unless the renovation exceeds the value as identified by the Florida Building Code. The recent development pattern within the City's single-family home districts and residential neighborhoods has consisted of a mix of appropriately scaled new homes and the restoration and retention of existing 'Architecturally Significant' homes. This blending of new and old allows for the history and character of the City's single neighborhoods to foster by maintaining the modest scale of buildings, while still allowing for new appropriate development.

From our experience in the Planning Department, the following are the most common issues that impact the decision, or desire, for owners of properties that contain older single family homes to retain, renovate and build additions to existing 'architecturally significant' homes rather than demolish the structure and build new:

- Sea Level Rise concerns
- FEMA Mandated Minimum Flood Elevation Requirements
- Flood Insurance
- The Structural Conditions of Some Older Homes

Many of the City's pre-1966 architecturally significant homes were built below what the FEMA flood maps would identify as the corresponding BFE. In 1968, Congress created the National Flood Insurance Program (NFIP) to help provide a means for property owners to financially protect themselves. If there are changes to this program in the future, the retention of a home built below flood elevation may affect the ability to obtain flood insurance.

At the direction of the Land Use Committee, staff put together a list of potential additional incentives for the retention and elevation of architecturally significant single family homes. The following is a summary of the current Code regulations and revised additional potential incentives for consideration:

Lot Coverage

Current Incentives:

2-Story Home

- Maximum 40% Lot Coverage at staff level review when an 'Architecturally Significant' home is proposed to be retained. Currently the maximum lot coverage is 30% if an 'Architecturally Significant' home is demolished; the DRB does not have the authority to increase the lot coverage beyond 30%.

1-Story Home

- No current incentives; maximum 50% of the lot area.

Potential Additional Incentives:

2-Story Home

- *Courtyards enclosed on three sides will **not** count towards lot coverage calculation.*

1-Story Home

- *Courtyards enclosed on three sides will **not** count towards lot coverage calculation, as currently required under Sec 142-105 of the City Code. This would allow for more enclosed floor area, when large, internal courtyards are proposed.*

Unit Size:
Current Incentives:

- Maximum unit size of 60% at Staff Level when an Architecturally Significant home is retained. Currently, the maximum unit size is 50% if an Architecturally Significant home is demolished; the DRB would not have the authority to increase the unit size beyond 50%.

Potential Additional Incentives:

- *Exterior terraces and balconies will **not** count towards unit size, as currently required under Sec 142-105 of the City Code. This would allow for more larger terraces and balconies*

Height
Current Incentives (2 Stories Maximum):

- When an architecturally significant home is retained, the following applies at Staff Level:
  - Ground level additions (not roof-top additions), zoned RS-4 with a minimum lot width of 60 feet, or zoned RS-3, may be increased up to 26 feet for a flat roof structure and 29 feet for a sloped roof structure for up to 10% of the property's lot coverage; currently the max height is 24 feet for flat roof structures and 27 feet for sloped roof structures in RS-3 & RS-4 at Staff Level.
  - Properties zoned RS-1 and RS-2 may be increased up to 30 feet for a flat roofed structure and 33 feet for a sloped roof structure for up to 10 % of the property's lot coverage; currently the max height is 28 feet for flat roof structures and 31 feet for sloped roof structures in RS-1 & RS-2 at Staff Level.

Potential Additional Incentives:

- *Partial 3-story addition not to exceed 1/2 of the property's lot coverage:*
  - *Max Height of 36'-0" for flat roof structures and 40'-0" for sloped roof structures (measured from BFE + Freeboard to the mid-point) in RS-1 & RS-2 zoning districts through staff level review.*
  - *Max Height of 34'-0" for flat roof structures and 38'-0" for sloped roof structures (measured from BFE + Freeboard to the mid-point) in RS-3 zoning district through staff level review.*
  - *Max Height of 32'-0" for flat roof structures and 36'-0" for sloped roof structures (measured from BFE + Freeboard to the mid-point) in RS-4 zoning district through staff level review.*

  These increases in height will afford more interior space and design flexibility for the home owner.

Accessory Structures
Current Code:
There are currently no incentives associated with accessory structures, regardless of

whether an architecturally significant home is retained; proposed accessory structures must comply with the Current Code as follows:

- Accessory structures are only permitted in the required rear yard and cannot occupy more than 25% of the rear yard.
- Height is limited to 12 feet for a one-story structure and 20 for a two-story structure measured from adjusted grade.
- The structure cannot exceed 10 percent of the main house or 1,500 sq.ft.
- Second floor is limited to 50% of the enclosed space below.
- Setbacks:
    - <u>One-Story structure</u>
      i. Interior side or rear yard: 7'-6"
      ii. Street side yard: 15'
      iii Rear yard (waterfront): Half the required yard—whichever is greater.
    - <u>Two-Story structure</u>
      i. Interior side yard: 10' or required side yard—whichever is greater.
      ii. Street side yard: 15'
      iii Rear yard: 15' or half the required yard—whichever is greater.

<u>Potential Additional Incentives:</u>
When an architecturally significant home is retained, the following will apply to existing and proposed accessory structures:

- *The 50% limitation of the second floor may be waived through staff level review.*

Fees

- *A separate 'Demolition Fee' for pre-1966 homes determined to be architecturally significant may be created. The funds generated would go toward a grant program for homeowners to elevate 'Architecturally Significant' homes.*

SUMMARY

These possible incentives are intended to address the neighborhood context issues noted. While expansive, staff wanted to provide as wide a range as possible for the Land Use Committee to discuss. In addition to these, and other potential incentives, the creation of additional Design Guidelines would also be necessary to address the transitional space and the massing of additions to existing homes.

CONCLUSION

The Administration recommends that the Land Use and Development Committee discuss the matter further and provide appropriate policy direction.

JLM/SMT/TRM

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ITEM FOUR

MIAMIBEACH

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: September 21, 2016

SUBJECT: **DISCUSSION: TRANSIT HUB ON THE 500 BLOCK OF ALTON ROAD**

BACKGROUND

On April 13, 2016, at the request of Commissioner Arriola, the City Commission referred the subject item to the Land Use and Development Committee (Item C4Q). On April 20, 2016, the Land Use Committee discussed the proposal, including a draft ordinance prepared by the 500 Alton Road property owner, and continued the item to May 18, 2016. On May 18, 2016, the matter was continued to July 20, 2016. On July 20, 2016 the item was continued to September 21, 2016.

ANALYSIS

The owner of the property at 500 Alton Road has filed a private application with the Planning Board for the proposed ordinance amendment, as well as required comprehensive plan amendments. The proposal would amend the CPS-2 development regulations for properties west of Alton Road that incorporate a City multi-modal transit hub.

These proposed modifications include amending setback and first floor activation requirements, as well as a proposal to increase the maximum allowable building height from the current 7 stories / 75 feet to 30 stories / 300 feet. Chapter 114 of the Land Development Regulations is also proposed to be modified by creating a definition for 'Developments that incorporate a City multi-modal transit hub'.

UPDATE

On August 23, 2016, the Planning Board, at the request of the applicant, continued the item to a date certain of September 27, 2016. The ordinance and comprehensive plan amendments were scheduled to be considered by the City Commission at First Reading on September 14, 2016. In light of the action of the Planning Board on August 23, 2016, the Administration has recommended that the items be continued from the September 14, 2016 City Commission meeting to the October 19, 2016 Commission meeting.

CONCLUSION

The Administration recommends that the Land Use and Development Committee discuss the matter further and provide appropriate policy direction.

JLM/SMT/TRM

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ITEM FIVE

MIAMIBEACH

COMMITTEE MEMORANDUM

TO: Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager

DATE: September 21, 2016

SUBJECT: **PROPOSED ORDINANCE LIMITING PACKAGE STORE ALCOHOL SALES TO NO EARLIER THAN 10AM IN THE CD-2 AREAS, AS RECOMMENDED BY THE CITY'S COMMITTEE ON THE HOMELESS**

HISTORY

The City Commission referred this item to the Land Use and Development Committee at its June 8, 2016 meeting upon a recommendation from the City's Committee on the Homeless. The Committee initially heard the item at its June 15, 2016 meeting and directed staff to draft an ordinance that limits package store alcohol sales to no earlier than 10am in areas zoned CD-2 abutting the MXE districts.

ANALYSIS

The Committee on the Homeless has recommended that package liquor sales be pushed back by two hours, from the current time of 8am to 10am. This recommendation was specifically limited to package sales and not restaurant/bar sales. As originally proposed, the specific revisions to Chapter 6 as recommended by the Committee on the Homeless were:

- For retail package sales only (off premises consumption), sales would only be permitted between the hours of 10am and midnight.
- For retail stores, including grocery, convenience stores, and gasoline service/filling stations, which primarily offer for sale products other than alcoholic beverages, the sale of beer and wine (off-premises consumption) would only be permitted between the hours of 10am and midnight.

Upon discussion on the matter, the Land Use Committee amended the recommended changes to the ordinance to specifically apply these changes to CD-2 areas abutting the entertainment districts only. These were identified as the areas most impacted by the panhandling and vagrancy that accompanied early alcohol sales, according to the Committee on the Homeless.

Conclusion

The Administration recommends that the Land Use and Development Committee discuss the item further and provide appropriate policy direction.

JML/KGB/SMTTRM//MLR

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ITEM SIX

MIAMI BEACH

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: September 21, 2016

SUBJECT: **A DISCUSSION REGARDING AN AMENDMENT TO THE WEST AVENUE OVERLAY TO REMOVE THE CURRENT ALLOWANCE FOR BED AND BREAKFAST AND SUITE HOTEL USES.**

BACKGROUND

On July 13, 2016, at the request of Commissioner Joy Malakoff, the City Commission referred this item to the Land Use and Development Committee (item C4L). On July 20, 2016, the Land Use and Development Committee discussed the item and continued it to a date certain of September 21, 2016.

In 2002 the West Avenue Overlay was created, and includes properties lying within the RM-1, RM-2 and RM-3 zoning districts; this overlay also includes the boundaries of the Gilbert Fein Neighborhood Conservation District (NCD). At the time the overlay was established, hotels were a permitted use in the RM-2 and RM-3 districts within the overlay, but were not permitted in the RM-1 district. In order to incentivize the retention and adaptive re-use of the lower scale structures in the RM-1 district, the overlay allows for Suite Hotels and Bed and Breakfast Inns for existing structures. Additionally, stand-alone offices were allowed within existing structures in the overlay.

In 2013, the City Code was amended to prohibit hotels in the RM-2 and RM-3 areas of West Avenue. However, Sec 142-845 of the City Code was not amended, and Suite Hotels remained as an allowable use in existing buildings in all districts within the West Avenue Overlay.

ANALYSIS

The following is the current ordinance text regarding Suite Hotels and Bed & Breakfast Inns within the West Avenue Overlay:

Sec. 142-845. - Suites Hotel and Bed and Breakfast Inn Overlay Area.

(a) The Suites Hotel and Bed and Breakfast Inn Overlay Area is designed to accommodate the adaptive reuse of existing single-family and multi-family residential structures as of (the effective date of this ordinance) to allow for lodging and guest amenities as main permitted uses.

(1) Suites hotels and bed breakfast inns in the Overlay Area shall not be permitted to have dance halls, entertainment establishments, neighborhood impact establishments, outdoor entertainment establishments or open air

entertainment establishments.

(2) The building identification sign for a suites hotel or bed and breakfast inn shall be the same as allowed for an apartment building in the underlying zoning district in which it is located.

(3) The building(s) shall have central air conditioning or flush-mounted wall units; however no air conditioning equipment may face a street or the Bay.

(4) The maximum amount of time that any person other than the owner may stay in a suites hotel or bed and breakfast inn during a one-year period shall not exceed six months.

(b) Suites hotels are permitted in existing multi-family structures and in single-family structures, including those that have been combined with adjacent multi-family or single-family structures through unity of title, subject to the following conditions:

(1) Suites hotels may have full cooking facilities in units with a minimum of 400 square feet.

(2) The building shall be maintained and operated as a hotel, with a registration desk and a lobby.

(3) Should the facility convert from a suites hotel to a multifamily/single-family residential building, the minimum average unit size and all other zoning requirements for the underlying district shall be met.

(4) Suites hotels located in the subject district may have accessory uses based upon the below criteria:

a. A dining room operated solely for registered hotel guests and their visitors, located inside the building, with no exterior signs, entrances or exits except as required by the South Florida Building Code.

b. Other accessory uses customarily associated with the operation of an apartment building, as referenced in subsection 142-902(2), for the use of registered hotel guests and their visitors only.

(c) Bed and breakfast inns are permitted only in existing single-family structures as of (the effective date of this section) and shall be subject to the following conditions:

(1) The owner/operator of the bed and breakfast inn shall permanently reside in the structure.

(2) The structure shall have originally been constructed as a single-family residence. The structure may have original auxiliary structures such as a detached garage or servant's residence that may or may not be used as part of the inn.

(3) The structure shall maintain main public rooms (living room/dining room) for use of the guests.

(4) Original auxiliary structures, such as detached garages and servants' residences, may be converted to guestrooms or other appropriate use. New bedrooms constructed shall have a minimum size of 200 square feet and shall have a private bathroom.

(5) There shall be no cooking facilities/equipment in guestrooms. One small refrigerator with maximum capacity of five cubic feet shall be permitted in each guestroom. All cooking equipment, which may exist, shall be removed from the structure with the exception of the single main kitchen of the house.

(6) The bed and breakfast inn may serve meals to registered guests and their visitors only. Permitted meals may be served in common rooms, guestrooms or on outside terraces (see subsection 142-1401(9)). The

meal service is not considered an accessory use and is not entitled to an outside sign.

(7) Permitted meals may be served in areas outside of the building under the following conditions:

a. The area shall be landscaped and reviewed under the design review process. Landscape design shall effectively buffer the outdoor area used for meals from adjacent properties and the street.

b. All meals served outdoors shall be prepared for service from inside facilities. Except for the use of a barbecue, all outdoor preparation, cooking as well as outdoor refrigeration and storage of food and beverages shall be prohibited.

Recently, residents within the West Avenue Overlay area expressed concerns with the conversions of existing apartments to Suite Hotels, particularly in light of the prohibition on hotels adopted in 2013. Residents within the overlay have requested that the City Commission consider modifying Sec 142-845 of the City Code to prohibit Suite Hotels and Bed & Breakfast Inns.

Concerns have also been expressed with regard to 'hostels' in the West Avenue area. Currently, the City Code does not have a definition for 'hostel' and they are treated as a hotel. However, since hotels do not have a maximum occupancy, a request was made to create a definition for 'hostel' so that they can be better regulated. The following is a draft definition for 'Hostel':

Hostel means a building occupied or intended to be occupied by transient residents, where ingress or egress may or may not be through a common lobby or office that is supervised by a person in charge at all times, and with a resident occupancy exceeding the following occupancy per individual unit:

(a) Studio Unit: occupancy of 2 people
(b) 1 Bedroom Unit: occupancy of 4 people (including a sofa bed in the living room)
(c) 2 Bedroom Unit: occupancy of 6 people (including a sofa bed in the living room)

CONCLUSION

The Administration recommends that the Land Use and Development Committee discuss the matter further and provide appropriate policy direction.

JLM/SMT/TRM

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ITEM SEVEN

VERBAL REPORT

Cardillo, Lilia

From: Granado, Rafael
Sent: Wednesday, January 20, 2016 8:25 PM
To: Cardillo, Lilia
Subject: Fwd: February agenda
Attachments: image001.jpg; ATT00001.htm; Dania Beach, FL Code of Ordinances.pdf; ATT00002.htm

Sent from my iPhone

Begin forwarded message:

> **From:** "Grieco, Michael" <MichaelGrieco@miamibeachfl.gov>
> **Date:** January 20, 2016 at 8:22:28 PM EST
> **To:** "Granado, Rafael" <RafaelGranado@miamibeachfl.gov>
> **Subject: February agenda**
>
> Please place on agenda:
>
> Discussion item and referral to Land Use Committee Regarding CMB Preparations for Likely Passage of State Medical Marijuana Constitutional Amendment
>
> Please include this email and the attached Dania Beach Ordinance with the item

Agenda Item R9F
Date 2-10-16

Sec. 19-1. - Definitions.

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

Applicant. An individual or business entity desiring to operate a medical marijuana retail center within the city limits.

Business operating name. The legal or fictitious name under which a medical marijuana retail center conducts its business with the public.

Employee. A person authorized to act on behalf of the medical marijuana retail center, whether that person is an employee or a contractor, and regardless of whether that person receives compensation.

Identification tag. A tamperproof card issued by the city to the persons involved with a medical marijuana retail center as evidence that they have passed the background checks and other requirements of this chapter and are authorized to be present on the premises.

Marijuana. Any strain of marijuana or cannabis, in any form, that is authorized by state law to be dispensed or sold in the State of Florida. Also referred to as "medical marijuana."

Medical marijuana permit. A permit issued by the city pursuant to this chapter authorizing a business to sell marijuana in the city. Also referred to as "permit."

Medical marijuana retail center. A retail establishment, licensed by the Florida Department of Health as a "medical marijuana treatment facility," "medical marijuana treatment center," "dispensing organization," "dispensing organization facility" or similar use, that sells and dispenses medical marijuana, but does not engage in any other activity related to preparation, wholesale storage, distribution, transfer, cultivation, or processing of any form of marijuana or marijuana product, and does not allow on-site consumption of marijuana. A medical marijuana treatment center shall not be construed to be a medical marijuana retail center.

Medical marijuana treatment center. Any facility licensed by the Florida Department of Health to acquire, cultivate, possess, process (including but not limited to development of related products such as food, tinctures, aerosols, oils, or ointments), transfer, transport, sell, distribute, dispense, store, or administer marijuana, products containing marijuana, related supplies, or educational materials, as authorized by state law. A medical marijuana treatment center may include retail sales or dispensing of marijuana. A facility which provides only retail sales or dispensing of marijuana shall not be classified as a medical marijuana treatment center under this chapter. Also may be referred to as a "medical marijuana treatment facility" or "dispensing organization" or other similar term recognized by state law.

Owner. Any person, including any individual or other legal entity, with a direct or indirect ownership interest of five (5) percent or more in the applicant, which interest includes the possession of stock, equity in capital, or any interest in the profits of the applicant.

Premises. The building, within which a medical marijuana retail center is permitted to operate by the city, including the property on which the building is located, all parking areas on the property or that are utilized by the medical marijuana retail center and sidewalks and alleys within one hundred (100) feet of the property on which the medical marijuana retail center is located.

Qualified registered patient/qualified patient. A resident of the State of Florida who has been added to the state's compassionate use registry by a physician licensed under F.S. Ch. 458 or Ch. 459, to receive medical marijuana from a dispensing organization or medical marijuana treatment center or similar use as defined in Florida Statutes.

(Ord. No. 2014-015, § 3, 10-28-14)

Sec. 19-2. - Medical marijuana permit and identification tag required.

(1) It shall be unlawful for any business or person to operate a medical marijuana retail center, or to otherwise offer for sale or in any way participate in the conduct of any activities upon the premises within the city without first obtaining a medical marijuana permit.

(2) Each person employed in the conduct of such activity shall be screened and approved pursuant to this chapter and required to obtain an identification tag before the medical marijuana retail center opens for business or, for persons who become involved with the center after it is open, before having any involvement in center's activities.

(3) No medical marijuana permit or identification tag shall be transferable; each person must obtain a medical marijuana permit or identification tag directly from the city.

(Ord. No. 2014-015, § 3, 10-28-14)

Sec. 19-3. - Applications for permit; investigation and issuance; term.

(1) Applications for a medical marijuana permit shall be made by the applicant in person to the city clerk during regular business hours upon such forms and with such accompanying information as may be established by the city. Such application shall be sworn to or affirmed. Every application shall contain at least the following:

   (a) The business operating name and all applicant and owner information. If the applicant or owner is:

      1. An individual, his or her legal name, aliases, home address and business address, date of birth, copy of driver's license or a state or federally issued identification card;

      2. A partnership, the full and complete name of the partners, dates of birth, copy of driver's license or state or federally issued identification card of all partners, and all aliases used by all of the partners, whether the partnership is general or limited, a statement as to whether or not the partnership is authorized to do business in the State of Florida and, if in existence, a copy of the partnership agreement (if the general partner is a corporation, then the applicant shall submit the required information for corporate applicant in addition to the information concerning the partnership);

      3. A corporation, the exact and complete corporate name, the date of its incorporation, evidence that the corporation is in good standing, the legal names and dates of birth, driver's license numbers or state or federally issued identification card numbers of all officers, and directors, and all aliases used, the capacity of all officers, and directors, and, if applicable, the name of the registered corporate agent, and the address of the registered office for service of process, and a statement as to whether or not each corporation is authorized to do business in the State of Florida;.

4. The addresses required by this section shall be physical locations, and not post office boxes. The name, home address, and business address of the applicant and the name and an address of all owner(s), if any, other than the applicant. The addresses required by this section shall be physical locations, and not post office boxes.

(b) A complete copy of the business' application to the State of Florida and all related exhibits, appendices, and back up materials for approval and licensure as a medical marijuana treatment center.

(c) A statement as to whether the applicant or any owner or employee has previously received a medical marijuana permit or identification tag from the city.

(d) A statement as to whether the applicant or any owner holds other permits or licenses under this Code and, if so, the names and locations of such other permitted or licensed establishments.

(e) A statement as to whether the applicant or any owner has been a partner in a partnership or an officer or director of a corporation whose permit or license issued under this Code has previously been suspended or revoked, including the name and location of the establishment for which the permit or license was suspended or revoked, as well as the date of the suspension or revocation.

(f) A statement as to whether or not the applicant or any owner has lost any privilege or had any permit or license to do business revoked by any local, state or federal government and, if so, the nature of such privilege, permit or license and the reason for such revocation.

(g) A statement as to whether or not the applicant or any owner has lost any privilege or had any permit or license to do business suspended by any local, state or federal government and, if so, the nature of such privilege, permit or license and the reason for such suspension.

(h) A statement as to whether or not the applicant or any owner or employee has been found guilty of or has pleaded guilty or nolo contendere to a felony relating to any business in this state or in any other state or federal court, regardless of whether a judgment of conviction has been entered by the court having jurisdiction of such cases.

(i) A statement as to whether or not the applicant or any owner or employee has been found guilty of, or have pleaded guilty or nolo contendere to, a felony relating to a battery or a physical violence on any person in this state or in any other state or federal court, regardless of whether a judgment of conviction has been entered by the court having jurisdiction of such cases.

(j) A statement as to whether or not the applicant or any owner has filed a petition to have their respective debts discharged by a bankruptcy court having jurisdiction of such cases.

(k) Written documentation that the applicant, every owner, and each employee has successfully completed level 2 background screening within the year.

(l) A passport photograph of the applicant, every owner, and each employee.

(m) A notarized, signed, and sworn statement that the information within the application is truthful, independently verifiable, and complete and that the photocopies of the attached driver's licenses or state or federally issued identification cards are true and correct copies of the originals.

(2) *Rejection of application.* In the event the city determines that the applicant has not satisfied the application requirements for a proposed medical marijuana retail center, the applicant shall be notified of such fact; and the application shall be denied.

(3) *Fees.* In addition to demonstrating compliance with this article, the applicant shall pay a nonrefundable application fee in an amount established by resolution of the city commission for each applicant, each owner, and each employee to cover its administrative costs and expenses incurred in reviewing and

administering the permit and identification tag program, irrespective of the issuance or denial of the application. Each applicant shall also pay an annual nonrefundable, nonproratable permit fee in an amount established by resolution of the city commission before receiving a medical marijuana permit.

(4) *Application review.*

(a) *Investigation.* The city shall refer the application to the chief of police, who shall review the application and documentation provided, and conduct a background screening of the applicant, each owner and employee. Upon receipt of the appropriate documentation, the chief of police shall forward the information and application to the city manager, together with any recommendations and other relevant information from the files regarding the applicant.

(b) *City manager determination.* Upon receipt of such material from the chief of police, the city manager shall, within thirty (30) days, either:

1. Notify the applicant that the permit has been denied and the reason for such denial; or
2. Issue a permit, with or without conditions.

(c) *Duration.* Permits shall be issued for a one-year period for a term commencing October 1 or the date of issuance, and ending the following September 30.

(d) *Denial.* The city shall deny an applicant's application for a medical marijuana permit if:

1. The applicable permit or licensing fees have not been paid in full;
2. The application violates or fails to meet the provisions of this Code, any building, fire or zoning code, statute, ordinance, or regulation;
3. The application contains material false information, or information material to the decision was omitted; failure to list an individual required to be listed, and whose listing would result in a denial, is presumed to be material false information for purposes of denial of the application; the certification that the applicant owns, possesses, operates and exercises control over the proposed or existing medical marijuana retail center is a material representation for purposes of this section;
4. The applicant or any owner has a permit or license under this Code, or has had a permit or license under this Code, which has been suspended or revoked;
5. The granting of the application would violate a statute or ordinance, or an order from a court of law that prohibits effectively the applicant from obtaining a medical marijuana permit;
6. The applicant, an employee, or any owner has been convicted of fraud or felony by any state or federal court within the past five (5) years or less than five (5) years has elapsed since the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a felony offense; or
7. The applicant, an employee, or any owner has obtained any governmental permit by fraud or deceit.

(e) *Background checks, photograph and identification tag.* In connection with the issuance of a medical marijuana permit by the city, the chief of police shall, upon verification of successful level 2 background screening, cause an identification tag to be issued to each approved applicant for a permit as well as for each owner and each employee. on the face of each identification tag, there shall be placed the following:

1. A photograph of the applicant/owner/employee;
2. The permit number;
3. The permit holder's name and address;

4. The name and address of the medical marijuana retail center that the applicant/owner/employee represents or is employed by; and
5. The expiration date of the permit.

(f) *Reapplication.* If a person applies for a medical marijuana permit at a particular location within a period of one (1) year from the date of denial of a previous application for a medical marijuana permit at the location, and there has not been an intervening change in the circumstances material to the decision regarding the former reason(s) for denial, the application shall not be accepted for consideration.

(g) *Renewal.* Medical marijuana permits shall be entitled to renewal annually subject to the provisions of this chapter. Before the October 1 expiration date, the annual medical marijuana permit may be renewed by presenting the permit for the previous year, and:

1. Paying the appropriate permit fee;
2. Updating the information supplied with the latest application or certifying that the information supplied previously remains unchanged; and
3. Providing proof of continued compliance with all state and city licenses, operational and zoning requirements.

(h) *Permit transferability.*

1. The medical marijuana permit is specific to the applicant and the location and shall not be transferred.
2. An attempted transfer of a medical marijuana permit either directly or indirectly in violation of this section is hereby declared void, and in that event the medical marijuana permit shall be deemed abandoned, and the medical marijuana permit shall be forfeited.

(i) *Violation of regulations.* In the event of a Code violation, violation of the conditions of the medical marijuana permit or special exception approval, or other violation of the laws applicable to the medical marijuana retail center, the city shall issue a warning notice and the applicant shall, no later than twenty (20) business days after receipt of the notice, provide a copy of a corrective action plan and timeframes and completion date to address the identified issues to the city.

(j) *Illegal transfer.* If a medical marijuana permit is transferred contrary to this chapter, the city shall suspend the medical marijuana permit and notify the permittee of the suspension. The suspension shall remain in effect until all of the requirements of this chapter have been satisfied and a new medical marijuana permit has been issued by the city.

(k) *Grounds for revocation.* Any medical marijuana permit issued under this article shall be revoked if any one or more of the following occurs:

1. The applicant provides false or misleading information to the city;
2. Anyone on the premises knowingly dispenses, delivers, or otherwise transfers any marijuana or marijuana product to an individual or entity not authorized by state law to receive such substance or product;
3. The applicant, an owner or a manager is convicted of a felony offense;
4. Any applicant, owner, manager or employee is convicted of any drug-related crime under Florida Statutes;
5. The applicant fails to correct any City Code violation or to otherwise provide an action plan to remedy the violation acceptable to the city manager within twenty (20) days of citation;
6.

The applicant fails to correct any state law violation or address any warning in accordance with any corrective action plan required by the state within the timeframes and completion date the applicant provided to the city;

7. The applicant's state license or approval authorizing the dispensing of medical marijuana expires or is revoked; or
8. Any special exception approval granted by the city for the use of a medical marijuana retail center at a particular location expires or is revoked.

(l) *Revocation.* In the event the city determines there are grounds for revocation as provided in this chapter, the city shall notify the permittee of the intent to revoke the medical marijuana permit and the grounds upon which such revocation is proposed. The permittee shall have ten business days in which to provide evidence of compliance with this chapter. If the permittee fails to show compliance with this chapter within ten (10) business days, the city shall schedule a hearing before the special magistrate. If the special magistrate determines that a permitted medical marijuana retail center is not in compliance with this chapter the city shall revoke the medical marijuana permit and shall notify the permittee of the revocation. nothing in this section shall take away other enforcement powers of the special magistrate or any other agency provided by the Code or statute.

(m) *Effect of revocation.*

1. If a medical marijuana permit is revoked, the permittee shall not be allowed to obtain another medical marijuana permit for a period of two (2) years, and no medical marijuana permit shall be issued during that time period to another applicant for the location and premises upon which the medical marijuana retail center was situated.
2. The revocation shall take effect fifteen (15) days, including Saturdays, Sundays, and holidays, after the date the city mails the notice of revocation to the permittee or on the date the permittee surrenders his or her medical marijuana permit to the city, whichever occurs first.

(Ord. No. 2014-015, § 3, 10-28-14)

Sec. 19-4. - General requirements.

Each medical marijuana retail center shall observe the following general requirements:

(1) Conform to all applicable building statutes, codes, ordinances, and regulations, whether federal, state, or local;

(2) Conform to all applicable fire statutes, codes, ordinances, and regulations, whether federal, state, or local;

(3) Conform to all applicable health statutes, codes, ordinances, and regulations, whether federal, state, or local;

(4) Conform to all applicable zoning regulations and land use laws, whether state or local, including but not limited to the City Land Development Code;

(5) Keep the original of the medical marijuana permit posted in a conspicuous place at the premises at all times, which medical marijuana permit shall be available for inspection upon request at all times by the public.

(Ord. No. 2014-015, § 3, 10-28-14)

Sec. 19-5. - Medical marijuana permit operation requirements.

Any business operating under a medical marijuana permit shall comply with the following operational guidelines.

(1) *Hours of operation.*

a. Operation is permitted only between the hours of [8:00 a.m. and 5:00 p.m. Monday through Saturday].

b. No operation is permitted on Sundays or state or federal holidays.

(2) *On-site consumption of marijuana.* No medical marijuana retail center shall allow any marijuana to be smoked, ingested or otherwise consumed on the premises. The medical marijuana retail center shall take all necessary and immediate steps to ensure compliance with this paragraph. No person shall smoke, ingest or otherwise consume marijuana on the premises.

(3) *Alcohol prohibited.* No medical marijuana retail center shall allow the sale, service, or consumption of any type of alcoholic beverages on the premises including in the surrounding rights-of-way. The medical marijuana retail center shall take all necessary and immediate steps to ensure compliance with this paragraph. No person shall consume an alcoholic beverage on the premises, including the surrounding rights-of-way.

(4) *Outdoor activity.* There shall be no outdoor displays, sales, promotions, or activities of any kind permitted on the premises, including the surrounding rights-of-way. All activities and business shall be conducted within the confines of the permanent building containing the medical marijuana retail center.

(5) *On-site storage.* There shall be no on-site storage of any form of marijuana or marijuana product, except as reasonably necessary for the conduct of the medical marijuana retail center's on-site business.

(6) *Live plant materials.* No living marijuana plants are permitted on the site of a medical marijuana retail center.

(7) *Maintenance of premises.* A medical marijuana retail center shall actively remove litter at least twice each day of operation on the premises, from the premises, the area in front of the premises, from any parking lot used by its patrons, and, if necessary, from public sidewalks or rights-of-way within one hundred (100) feet of the outer edge of the premises used by its patrons.

(8) *Garbage.* Refuse or waste products incident to the distribution of marijuana shall be destroyed on-site at least once every twenty-four (24) hours.

(9) *Delivery.* All deliveries to the medical marijuana retail center shall be made during regular operating hours while on-site security personnel are present.

(10) *Security.* With the application, the applicant shall submit a security plan demonstrating compliance with F.S. § 381.986, and all other applicable statutes and State administrative rules.

a. In addition to proving compliance with all state requirements, the security plan shall, at a minimum, provide the following:

1. Fully operational lighting and alarms reasonably designed to ensure the safety of persons and to protect the premises from theft, both in the premises and in the surrounding rights-of-way, including:

a. A silent security alarm that notifies the police department or a private security agency that a crime is taking place;

b. A vault, drop safe or cash management device that provides minimum access to the cash receipts; and

c. A security camera system capable of recording and retrieving an image which shall be operational at all times during and after business hours. The security cameras shall be located:

(i) At every ingress and egress to the dispensary, including doors and windows;

(ii) On the interior where any monetary transaction shall occur; and

(iii) At the ingress and egress to any area where medical marijuana is stored;

2. Traffic management and loitering controls;

3. Cash and inventory controls for all stages of operation on the premises, and during transitions and delivery.

4. On-site armed security personnel during business hours.

b. The chief of police shall review the applicant's operational and security plan using Crime Prevention Through Environmental Design (CPTED) principles. The chief may impose site and operational revisions as are deemed reasonably necessary for the health, safety and general welfare of the applicant, owner(s), employees, customers, adjacent property owners and residents, which may include items such as methods and security of display and storage of marijuana and cash, limitations on window and glass door signage, illumination standards, revisions to landscaping, and any other requirement designed to enhance the safety and security of the premises.

(c) Any instance of breaking and entering at a medical marijuana retail center, regardless of whether marijuana or marijuana-based products are stolen, shall constitute a violation of this chapter if the security alarm fails to activate simultaneous with the breaking and entering.

(11) *Odor and air quality.* A complete air filtration and odor elimination filter and scrubber system shall be provided ensuring the use will not cause or result in dissemination of dust, smoke, or odors beyond the confines of the building, or in the case of a tenant in a multi-tenant building, beyond the confines of the occupied space. A double door system shall be provided at all entrances to mitigate odor intrusion into the air outside the medical marijuana retail center.

(12) *Delivery vehicle identification.* For security purposes, no vehicle used in the operation of or for the business purposes of a medical marijuana retail center shall be marked in such a manner as to permit identification with the medical marijuana retail center.

(13) *Signage.* Notwithstanding other provisions of the Code, signage for a medical marijuana retail center shall be limited as follows:

a. Graphics, logos and symbols shall be prohibited;

b. Neon shall be prohibited;

c. Signs shall not be internally illuminated;

d. Signs may be externally illuminated consistent with the requirements of section 505-30, only during hours of operation;

e. A medical marijuana retail center shall post, at each entrance to the medical marijuana retail center the following language:

ONLY INDIVIDUALS WITH LEGALLY RECOGNIZED MARIJUANA OR CANNABIS QUALIFYING PATIENT OR CAREGIVER IDENTIFICATION CARDS OR A QUALIFYING PATIENT'S LEGAL GUARDIAN MAY OBTAIN MARIJUANA FROM A MEDICAL MARIJUANA RETAIL CENTER.

The required text shall be in letters one-half inch in height.

(14) *On-site community relations contact.* The medical marijuana retail center shall provide the city manager, and all property owners and tenants located within one hundred (100) feet of the entrance to its premises, with the name, phone number, and e-mail or facsimile number of an on-site community relations staff person to whom they can provide notice during business hours and after business hours to report operating problems. The medical marijuana retail center shall make every good faith effort to encourage neighbors to call this person to try to solve operating problems, if any, before any calls or complaints are made to the police department or other city officials.

(15) *Employment restrictions.* It shall be unlawful for any medical marijuana retail center to employ any person who:

a. Is not at least twenty-one (21) years of age; and

b. Has not passed a level 2 background screening.

(16) *Persons allowed to enter the premises.*

a. *Underage entry.* It shall be unlawful for any medical marijuana retail center to allow any person who is not at least eighteen (18) years of age on the premises during hours of operation, unless that person is authorized by state law to purchase medical marijuana, whether as a qualified patient with a valid identification card or primary caregiver or legal guardian of a qualified patient with a valid identification card.

b. *Entry by persons authorized by state law.* It shall be unlawful for any medical marijuana retail center to allow any person on the premises during the hours of operation if that person is not authorized by state law to be there. Authorized persons, such as owners, managers, employees and qualified registered patients, their legal guardians, qualified registered caregivers must wear an identification tag, and authorized inspectors and authorized visitors must wear a visitor identifying badge and be escorted and monitored at all times by a person who wears his or her identification tag.

(17) *Product visibility.* No marijuana or product of any kind may be visible from any window or exterior glass door.

(18) *Sole business.* No business other than the dispensing of medical marijuana shall be permitted to be conducted from the premises.

(19) *Loitering.*

a. A medical marijuana retail centers shall provide adequate indoor seating for its customers, clients, patients and business invitees.

b. Customers, clients, patients or business invitees shall not be directed, encouraged or allowed to stand, sit (including in a parked car for any period of time longer than reasonably required for a person's passenger to conduct their official business and depart), or gather or loiter outside of the building where the center is operating, including in any parking areas, sidewalks, rights-of-way, or neighboring properties.

c. Pedestrian queuing or loitering at any time, including prior to business hours, outside of the center's building is prohibited.

(20) *Compliance with state regulations and licensure requirements.* A medical marijuana retail center must comply with all federal and state laws, licensing and regulatory requirements.

a. A medical marijuana retail center shall notify the city within five (5) business days of receipt of any notice of violation or warning from the state or of any changes to its state licensing approvals.

b.

If a medical marijuana retail center receives a notice of violation or warning from the state, it shall, no later than twenty (20) business days after receipt of the notice, provide a copy of the corrective action plan and timeframes and completion date to address the identified issues to the city.

(21) *Prohibited activities.* A medical marijuana retail center shall not engage in any activity other than those activities specifically defined herein as an authorized part of the use. The preparation, wholesale storage, cultivation, or processing of any form of marijuana or marijuana product, and on-site consumption of any marijuana or marijuana product is specifically prohibited at a medical marijuana retail center. On-site storage of any form of marijuana or marijuana product is prohibited, except to the extent reasonably necessary for the conduct of the on-site retail business.

(Ord. No. 2014-015, § 3, 10-28-14)

ITEM EIGHT

VERBAL REPORT

MIAMIBEACH

OFFICE OF THE MAYOR AND COMMISSION

MEMORANDUM

TO: Jimmy L. Morales, City Manager
FROM: Joy V. W. Malakoff, Commissioner
DATE: March 7, 2016
SUBJECT: Referral to the April 20, 2016 Land Use and Development Committee – Discussion pertaining to Development Regulations and Guidelines for New Construction in the Palm View Historic District to address Resiliency, Sustainability and Adaptation.

Please place the above item on the Consent Agenda for the Commission Meeting of March 9, 2016.

If you have any questions, please contact me at extension 6622.

Thank you.

JVWM

LUDC # 31

ITEM NINE

VERBAL REPORT

adopting the P25 hardware, and it is possible to have a regional system in South Florida if multiple Cities use the same equipment.

Commissioner Alemán explained that the P25 hardware is what the City should get, and suggested having the vendors compete through a procurement process.

Vice-Mayor Steinberg asked if the County had a P25 system and added that if they are piggybacking they will save the City money. Both Coral Gables and the County use it, and there could be opportunities to piggyback and save the City money.

Alexander Heckler, Esq., on behalf of the Harris Corporation, stated that they have the contract with the County regarding their radio equipment, and look forward to the procurement process.

9:24:34 a.m.

R9J Discussion and Referral To The Land Use And Development Committee And The Planning Board - Regarding Proposed Miami Beach Marina Redevelopment And Associated Legislative Changes.

(Sponsored by Commissioner John Elizabeth Alemán)

ACTION: Discussion held. Item referred. See comments on related Item C4D. Motion made by Vice-Mayor Steinberg; seconded by Commissioner Arriola to refer the item to the Land Use & Development Committee and the Finance Committee. Voice-vote: 7-0. **Thomas Mooney to place on the committee agenda. Max Sklar to handle.**

REFERRALS:
Land Use & Development Committee

Commissioner Alemán stated that she spoke to developers who are interested in redeveloping the Marina property in exchange for air rights. She is not in favor or against the project, as it is too soon, but she did mention it is a strategic concept. The Marina lease is very much undervalued, and there are still 37 more years until the lease expires.

Commissioner Malakoff agreed to refer the item to the Land Use & Development Committee, but believes it is too premature to refer it to the Planning Board because so little is known about the project.

Commissioner Grieco stated that he would like to refer the item to the Land Use & Development Committee and Planning Board so that they both come to independent conclusions.

Discussion held.

Vice-Mayor Steinberg agreed to refer the item to Committee; however, she is unclear on what would be referred to Planning Board, because the project has not been fully presented. In the spirit of transparency, she cannot refer the item to the Planning Board.

Raul J. Aguila, City Attorney, explained that the proposed LDR amendments would involve an amendment to the 2025 Comprehensive Land Use Plan, and amendment to LDR for height increase, subject to a waiver, and so there is an increase in proposed FAR, subject to referendum; with regard to the Marina transaction, there is also a proposed amendment to the lease, subject to referendum, and it may involve the sale of air rights; this would also require a referendum. They are looking at three referendums.

ITEM TEN

VERBAL REPORT

LUDC # 34

Jose Gonzalez, Transportation Director, introduced the item. Many ideas were generated out of the Transportation Workshop. Last month some of those initiatives and ideas were discussed at Neighborhood/Community Affairs Committee (NCAC) and one of those initiatives was establishing transportation plans for special events, with the goal of reducing the number of cars traveling into the City during special events from the causeway. One of the proposals is to provide parking in remote locations outside the City limits and then provide public transportation to and from those parking locations to the event. They are recommending identifying a suitable event as a model and transmitting the results via LTC.

Vice-Mayor Steinberg stated that this was a no brainer and she moved the item.

3:30:34 p.m.

R7X A Resolution Accepting The Recommendation Of The Neighborhood/Community Affairs Committee To Establish More Aggressive Requirements For Developers To Provide Employee Transportation Plans And To Refer This Matter To The Land Use And Development Committee For Further Discussion And Input.

(Transportation)

ACTION: Resolution 2016-29459 adopted. Item referred to LUDC. Motion made by Commissioner Malakoff; seconded by Commissioner Steinberg. Voice-vote: 7-0. **Thomas Mooney to place on the Committee Agenda. Jose Gonzalez to handle.**

REFERRAL:
Land Use and Development Committee for further discussion and input.

Commissioner Grieco stated that this is the next progression from the parking plans already required of the developers. When there is a new project that exceeds over $250,000, before building plans are approved, a builder or developer needs to submit a parking plan for the workers, and this is the next step, which is developing an actual transportation plan. They should have a high threshold as to the requirements that they need to meet.

Jose Gonzalez, Transportation Director, clarified that this item pertains more to development, and not necessarily to construction workers (See Item R7Y), but more so for employees to take transit, to commute and carpool, etc. It is geared more to those types of initiatives that they would like to establish by Ordinance.

3:33:23 p.m.

R7Y A Resolution Accepting The Recommendation Of The Neighborhood/Community Affairs Committee To Expand The City's Current Construction Parking Plan Requirements To Include Construction Transportation Plan Requirements.

(Transportation)

ACTION: Resolution 2016-29460 adopted. Motion made by Commissioner Grieco; seconded by Commissioner Alemán. Voice-vote: 7-0. **Jose Gonzalez to handle.**

Commissioner Malakoff stated that this is for construction projects over $250,000. She asked if this is for single-family homes as well.

Jose Gonzalez, Transportation Director, recommended establishing requirements by Ordinance and answered that all single family homes will also have a construction parking plan.

ITEM ELEVEN

VERBAL REPORT

LUDC # 36

Granado, Rafael

From: Michael Grieco <michael@griecolaw.com>
Sent: Tuesday, July 05, 2016 5:39 PM
To: Granado, Rafael
Subject: Consent agenda referral
Attachments: pastedGraphic.pdf

Referral to land use committee:

Potential ordinance amendment addressing further restrictions on illegal STRs in Suite- and Condo-Hotels

Michael C. Grieco
Michael@GriecoLaw.com

(305) 857-0034
(305) 856-7771 (fax)

175 sw 7th Street
Suite 2410
Miami, FL 33130

www.MiamiCriminalDefense.com

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Agenda Item C4K
Date 7-13-16

ITEM TWELVE

VERBAL REPORT

LUDC # 38

MIAMIBEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Commissioner Joy Malakoff
DATE: July 20, 2016

SUBJECT: REFERRAL TO THE LAND USE AND DEVELOPMENT COMMITTEE REGARDING RESCINDING THE NOISE ORDINANCE EXEMPTION FOR OCEAN FACING CAFES IN THE MXE DISTRICT.

RECOMMENDATION

Please place the above referral on the Consent Agenda for the Commission Meeting of July 20, 2016.

If you have any questions, please contact me at extension 6622.

Legislative Tracking

Commissioner Joy Malakoff

Sponsor

Commissioner Joy Malakoff & Co-Sponsored by Commissioner Ricky Arriola

ITEM THIRTEEN

VERBAL REPORT

MIAMIBEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Commissioner Joy Malakoff
DATE: July 20, 2016

SUBJECT: REFERRAL TO THE LAND USE AND DEVELOPMENT COMMITTEE A PROHIBITION ON THE OPENING OF ANY NEW OPEN AIR ALCOHOL ENTERTAINMENT ESTABLISHMENTS AND PACKAGE STORES IN THE MXE DISTRICT OF OCEAN DRIVE.

RECOMMENDATION

Please place the above referral on the Consent Agenda for the Commission Meeting of July 20, 2016.

If you have any questions, please contact me at extension 6622.

Legislative Tracking

Commissioner Joy Malakoff and co-sponsored by Commissioners Michael Grieco & Ricky Arriola

ITEM FOURTEEN

VERBAL REPORT

MIAMIBEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Commissioner Ricky Arriola
DATE: July 20, 2016

SUBJECT: REFERRAL TO LAND USE AND DEVELOPMENT COMMITTEE - DISCUSSION REGARDING AMENDMENT TO CHAPTER 6, ENTITLED "ALCOHOLIC BEVERAGES," TO PRECLUDE ANY NEW ENTERTAINMENT ESTABLISHMENT IN THE CITY FROM OPERATING LATER THAN 2:00 A.M.

ANALYSIS

Please place on the July 20, 2016 City Commission meeting agenda an item referring the above-titled Ordinance to the Land Use and Development Committee.

Legislative Tracking
Planning Department

Sponsor
Commissioner Ricky Arriola

ITEM FIFTEEN

VERBAL REPORT

LUDC # 44

6/7^{ths} Voting Requirement to Increase Building Height

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 118, "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE III, "AMENDMENT PROCEDURE," TO REQUIRE A 6/7^{THS} VOTE OF THE CITY COMMISSION TO INCREASE THE MAXIMUM ZONED BUILDING HEIGHT IN ANY ZONING DISTRICT BY MORE THAN _____ FEET, EXCEPT FOR HEIGHT REGULATION EXCEPTIONS SET FORTH IN CITY CODE SECTION 142-1161, AND TO REQUIRE A 6/7^{THS} VOTE OF THE CITY COMMISSION TO AMEND OR REPEAL THIS ORDINANCE; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

WHEREAS, pursuant to the Related Special Acts of the City Charter, at Section 2, height variances in excess of three (3) feet are not allowed in the City; and

WHEREAS, the maximum building height in any zoning district may only be increased by adoption of an Ordinance, which requires analysis by the Planning Department, review and a public hearing conducted by the Planning Board, and two readings and a public hearing conducted by the City Commission; and

WHEREAS, the City Commission desires to amend the land development regulations to require a six-sevenths (6/7^{ths}) affirmative vote of the City Commission to increase the maximum zoned building height in any zoning district by more than _____ feet, except for height regulation exceptions set forth in City Code Section 142-1161; and

WHEREAS, the City Commission also desires to require a six-sevenths (6/7ths) affirmative vote of the City Commission to amend or repeal this Ordinance; and

WHEREAS, the amendment set forth below is 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. Chapter 118, "Administration and Review Procedures," Article III, "Amendment Procedure," is hereby amended as follows:

CHAPTER 118
ADMINISTRATION AND REVIEW PROCEDURES

* * *

ARTICLE III. - AMENDMENT PROCEDURE

Sec. 118-161. - Changes and amendments generally; voting requirements of the City Commission.

(a) *Changes and amendments generally.* The city commission may, from time to time, amend these land development regulations or change the zoning district boundaries. All amendments shall be consistent and compatible with the comprehensive plan and shall be enacted in accordance with the provisions of this article.

(b) *Voting requirements of the city commission.* An affirmative vote of five-sevenths (5/7^{ths}) of the members of the city commission shall be necessary to enact any amendment to these land development regulations; provided, however, that any increase greater than ____ feet to the maximum building height in any zoning district, except for height regulation exceptions set forth in section 142-1161, shall require an affirmative vote of six-sevenths (6/7^{ths}) of the members of the city commission. This subsection (b) may only be amended or repealed by an affirmative vote of six-sevenths (6/7^{ths}) of the members of the city commission.

* * *

Sec. 118-164. - Action by city commission.

Within 60 days of transmission of the recommendation of the planning board to the city commission, the commission shall consider the proposed amendment as provided herein. All the land development regulation amendments shall be enacted pursuant to the following procedure:

* * *

(4) ~~An affirmative vote of five-sevenths of all members of the city commission shall be necessary in order to enact any amendment to these land development regulations.~~ The voting requirements of the city commission to amend these land development regulations are set forth in section 118-161(b).

(5) Any application for amendment to the actual list of permitted, conditional or prohibited uses in zoning categories or to the actual zoning map designation of land or to any other regulation in these land development regulations, or to the future land use map of the city's comprehensive plan may be withdrawn by a request in writing by the applicant at any time before a decision of the city commission, but if withdrawn after advertisement for a public hearing or after posting of the property, the same amendment shall not be resubmitted, except by an official of the city or the city commission, sooner than one year after the date established for the prior hearing. Filing fees shall not be refunded upon any withdrawal.

* * *

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 re-lettered 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 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 _____, 2016.

ATTEST:

_____
Philip Levine
Mayor

_____
Rafael E. Granado
City Clerk

Verified by: _____
Thomas R. Mooney, AICP
Planning Director

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ITEM SIXTEEN

VERBAL REPORT

LUDC # 48

MIAMIBEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Commissioner Ricky Arriola
DATE: September 14, 2016

SUBJECT: REFERRAL TO LAND USE & DEVELOPMENT COMMITTEE AND THE PLANNING BOARD TO DISCUSS A REZONING FOR THE 6800 BLOCK OF INDIAN CREEK DRIVE FROM RM-1 TO TC-3.

ANALYSIS

Please place on the September 14, 2016 Commission agenda a referral to the Land Use and Development Committee and the Planning Board to discuss a rezoning for the 6800 block of Indian Creek Drive from RM-1 to TC-3.

Legislative Tracking

Commissioner Ricky Arriola

ITEM SEVENTEEN

VERBAL REPORT

MIAMIBEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Ricky Arriola, Commissioner
DATE: September 14, 2016

SUBJECT: REFERRAL TO THE LAND USE AND DEVELOPMENT COMMITTEE TO WORK WITH STAFF TO DRAFT AN ORDINANCE AMENDMENT TO CURB THE PROLIFERATION OF FORMULA RETAIL ESTABLISHMENTS

ANALYSIS

Please place on the September 14, 2016 Commission meeting agenda a referral to the Land Use and Development Committee to work with the administration to prepare an ordinance amendment to the Land Development Regulations incorporating best practices (including design guidelines, distance separation requirements, establishment caps, or prohibitions) to limit the proliferation of formula commercial establishments, souvenir and t-shirt shops, tattoo parlors, marijuana dispensaries, or similar uses which may diminish the historic character of the areas east of Washington Avenue between 5th Street and 16th Street. Please then have staff refer the ordinance to the Land Use and Development Committee for review and recommendation.

Legislative Tracking
Ricky Arriola, Commissioner

ITEM EIGHTEEN

VERBAL REPORT

LUDC # 52

ITEM NINETEEN

VERBAL REPORT