



CITY OF NORTH MIAMI BEACH

City Council Meeting
Council Chambers, 2nd Floor
City Hall, 17011 NE 19 Avenue
North Miami Beach, FL 33162
Tuesday, July 3, 2012
7:30 PM

Mayor George Vallejo
Vice Mayor Frantz Pierre
Councilman Philippe Derose
Councilwoman Barbara Kramer
Councilwoman Marlen Martell
Councilwoman Phyllis S. Smith
Councilwoman Beth E. Spiegel

City Manager Lyndon L. Bonner
City Attorney Darcee S. Siegel
City Clerk Pamela L. Latimore, CMC

Notice to All Lobbyists

Any person who receives compensation, remuneration or expenses for conducting lobbying activities is required to register as a Lobbyist with the City Clerk prior to engaging in lobbying activities before City Boards, Committees, or the City Council.

AGENDA

1. **ROLL CALL OF CITY OFFICIALS**
2. **INVOCATION** - Rabbi David Lehrfield, Young Israel of Greater Miami
3. **PLEDGE OF ALLEGIANCE**
4. **REQUESTS FOR WITHDRAWALS, DEFERMENTS AND ADDITIONS TO AGENDA**
5. **PRESENTATIONS /DISCUSSIONS** - *None*
6. **PUBLIC COMMENT**

To All Citizens Appearing Under Public Comment

The Council has a rule which does not allow discussion on any matter which is brought up under Public Comment. We are, however, very happy to listen to you. The reason for this is that the Council must have Staff input and prior knowledge as to the facts and figures, so that they can intelligently discuss a matter. The Council may wish to ask questions regarding this matter, but will not be required to do so. At the next or subsequent Council meeting you may have one of the Councilpersons introduce your matter as his or her recommendation. We wish to thank you for taking the time to bring this matter to our attention. Under no circumstances will personal attacks, either from the public or from the dais, be tolerated.

Speaking Before the City Council

There is a three (3) minute time limit for each speaker during public comment and a three (3) minute time limit for each speaker during all public hearings. Your cooperation is appreciated in observing the three (3) minute time limit policy. If you have a matter you would like to discuss which requires more than three (3) minutes, please feel free to arrange a meeting with the appropriate administrative or elected official. In the Council Chambers, citizen participants are asked to come forward to the podium, give your name and address, and the name and address of the organization you are representing, if any. If you are speaking on a public hearing item, please speak only on the subject for discussion. Thank you

very much, in advance, for your cooperation.

Pledge of Civility

A resolution was adopted by the Mayor and City Council of the City of North Miami Beach recognizing the importance of civility, decency, and respectful behavior in promoting citizen participation in a democratic government. The City of North Miami Beach calls upon all residents, employees, and elected officials to exercise civility toward each other. (Resolution Nos. R2007-57, 11/06/07 and R2011-22, 4/26/11)

7. **APPOINTMENTS** - *None*

8. **CONSENT AGENDA** - *None*

9. **CITY MANAGER'S REPORT**

10. **CITY ATTORNEY'S REPORT**

10.1 **Charter officers contract review continued to August 7, 2012 to allow for full council participation**

10.2 **Litigation List**

As of July 3, 2012.

11. **MAYOR'S DISCUSSION**

12. **MISCELLANEOUS ITEMS** - *None*

13. **WAIVER OF FEE** - *None*

14. **BUSINESS TAX RECEIPTS** - *None*

15. **DISCUSSION ITEMS** - *None*

16. **LEGISLATION**

16.1 **Resolution No. R2012-52 (City Manager Lyndon L. Bonner)**

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA APPROVING A BUDGET AMENDMENT TO TRANSFER AN AMOUNT OF \$150,000.00 FROM THE UNEMPLOYMENT INSURANCE ACCOUNT IN THE HUMAN RESOURCES DEPARTMENT INTO THE PROFESSIONAL SERVICES ACCOUNT IN THE LEGISLATIVE NON-DEPARTMENTAL DIVISION FOR THE FISCAL YEAR COMMENCING OCTOBER 1, 2011.

16.2 **Resolution No. R2012-53 (Councilwoman Marlen Martell)**

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA RECOGNIZING THE SITE PLAN APPROVED UNDER RESOLUTION 2006-24 AND PUD ZONING APPROVED UNDER ORDINANCE 2006-8 ARE VALID AND IN FULL FORCE AND EFFECT; RECOGNIZING THE DETERMINATIONS OF THE CITY MANAGER AND CHIEF BUILDING OFFICIAL THAT BUILDING MASTER PERMITS BM05-627 AND BM05-628 ISSUED PURSUANT TO RESOLUTION 2006-24 ARE VALID AND ACTIVE.

16.3 **Ordinance 2012-11 - First Reading by Title Only (City Planner Christopher Heid)**

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA AMENDING CHAPTER 24, ARTICLE 15 OF THE CITY'S CODE OF ORDINANCES, ENTITLED

"OTHER DEVELOPMENT REVIEW PROCEDURES" BY EXTENDING THE EXPIRATION DATE FOR SITE PLAN REVIEW; ADDING AN EXPIRATION DATE FOR CONDITIONAL USE APPROVALS; EXTENDING THE EXPIRATION TIME FOR VARIANCES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

16.4 Ordinance 2012-12 - First Reading by Title Only (City Planner Christopher Heid)

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING CHAPTER 24, ARTICLE V, SECTION 24-52, ENTITLED "B-2 GENERAL BUSINESS DISTRICT" BY MODIFYING THE LIST OF PERMITTED AND CONDITIONALLY PERMITTED USES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

16.5 Ordinance 2012-13 - First Reading by Title Only (City Planner Christopher Heid)

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA AMENDING CHAPTER 24, SECTION 24-41 (D)(9)(m), ENTITLED "RS-1 RESIDENTIAL SINGLE-FAMILY DISTRICT" BY DECREASING THE HEIGHT OF WALLS AND FENCES IN THE FRONT YARD AND INCREASING THE HEIGHT OF WALLS AND FENCES IN THE REAR, CORNER SIDE, AND INTERIOR SIDE YARD; AMENDING CHAPTER 24, SECTION 24-47 (D) (9) (e), ENTITLED "RM-19 RESIDENTIAL LOW-RISE MULTI-FAMILY (MEDIUM DENSITY) DISTRICT" BY INCREASING THE HEIGHT OF WALLS AND FENCES IN THE FRONT, REAR, CORNER SIDE, AND INTERIOR SIDE YARD; AMENDING CHAPTER 24, SECTION 24-80 (C) (3) OF THE CITY'S CODE OF ORDINANCES, ENTITLED "FENCES, WALLS AND HEDGES" BY INCREASING THE ALLOWABLE HEIGHT OF WALLS AND FENCES IN THE FRONT AND CORNER SIDE YARD OF MULTI-FAMILY ZONED PROPERTIES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

17. CITY COUNCIL REPORTS

18. NEXT REGULAR CITY COUNCIL MEETING - Tuesday, July 17, 2012 (Subject to change)

19. ADJOURNMENT



City of North Miami Beach
17011 NE 19 Avenue
North Miami Beach, FL 33162
305-947-7581
www.citynmb.com

MEMORANDUM

 Print

TO: Mayor and City Council
FROM: Darcee S. Siegel, City Attorney
DATE: Tuesday, July 3, 2012

RE: Litigation List

BACKGROUND: None.
RECOMMENDATION: N/A
FISCAL IMPACT: None.
CONTACT PERSON(S): Darcee S. Siegel, City Attorney

ATTACHMENTS:

▣ [Litigation List](#)

TO: Mayor and City Council
FROM: Darcee S. Siegel, City Attorney
DATE: July 3, 2012

LITIGATION LIST

I. Civil Rights: (6)

Charles, Islande v. CNMB, Nelson Reyes
Wrongful Death

Grizzle, R. and Wilson, D. v. CNMB, Mayor George Vallejo,
Jason Williams (Aventura) and Christian Lystad (NMB)
Civil Rights Violation/False Arrest

**MAYOR HAS BEEN REMOVED
FROM THE CASE.**

Joseph, Johnny v. CNMB and City of Aventura
Civil Rights Violation/False Arrest

Madura, Maryla v. CNMB, Antonio Marciante and Tony Sanchez, individually
Civil Rights Violation/False Arrest

**PARTIAL SUMMARY JUDGMENT/
PARTIAL DISMISSAL/
JURY VERDICT/
JUDGMENT GRANTED IN FAVOR OF
CITY AND POLICE OFFICERS
DEFENDANTS.
PLAINTIFF HAS FILED A NOTICE
OF APPEAL.**

Smith, T. v. CNMB, Nelson Reyes (NMB), Luis Soto (NMB),
Nelson Camacho (NMB), and Castronovo Cosimo (Aventura)
Civil Rights Violation

Young, Chondria v. CNMB
Employment and Racial Discrimination

II. Personal Injury: (6)

Garcia, Ramona v. CNMB
Personal Injury

**CITY INDEMNIFIED AND
HELD HARMLESS**

Kassie v. CNMB
Vehicle Accident

Ordonez Rotavista v. CNMB
Vehicle Accident

Rathjens, Margaret v. CNMB
Slip & Fall/Personal Injury

Ruiz, Adriel v. CNMB
Personal Injury

Thomas v. CNMB
Personal Injury

III. Other Litigation: (16)

American Pinnacle v. Susan Owens
Writ of Mandamus/Public Records

American Pinnacle v. City of North Miami Beach
Water Fees

Asset Acceptance LLC v. Pierre and CNMB
Writ of Garnishment

CACV of Colorado v. Lubin and CNMB
Writ of Garnishment

Citifinancial Services, Inc. v. Gordo and CNMB
Writ of Garnishment

Equable Ascent Financial v. Darden and CNMB
Writ of Garnishment

Fernandez v. CNMB
Employment Discrimination

Hellinger v. CNMB
Bid Dispute/Breach of Contract

**CITY INDEMNIFIED AND
HELD HARMLESS**

Perry v. CNMB
Class Action

Leme v. CNMB and American Traffic Solutions, LLC
Ordinance No. 2007-13 "Dangerous Intersection Safety Act"
Class Action for Civil Damages

Progressive American Insurance/Weinblatt v. CNMB
Property Damage

Richard/Green v. CNMB
Property Damage

Rosner/Zabel v. CNMB
Appeal of Code Enforcement Board Order

* SMG Entertainment Inc. v. CNMB
Constitutional Violation

Thomas v. CNMB
Writ of Garnishment

Weinberg, Bill v. CNMB
Water Fees

IV. Forfeitures: (21)

CNMB v. Alvarado/Paul
Forfeiture

CNMB v. Brutus/Hilarie
Forfeiture

SETTLED

CNMB v. Bullard/Taylor/Paez
Forfeiture

PARTIALLY SETTLED

CNMB v. Central Auto Service/Fourreau/Guthrie
Forfeiture

CNMB v. Espinal
Forfeiture

CNMB v. Fast Lane Auto/Rene/Rene/Walker
Forfeiture

CNMB v. Garcia, J/Figueroa/King/Sirmons/Garcia, H
Forfeiture

CNMB v. Garcia-Flores/Nieves
Forfeiture

CNMB v. Georges
Forfeiture

CNMB v. Gomez
Forfeiture

CNMB v. Hawkins/Caldwell
Forfeiture

CNMB v. Hunter/Hunter
Forfeiture

CNMB v. Jean/Joseph/Guthrie/Central Auto Sales
Forfeiture

CNMB v. McCray/Sims/Nealy
Forfeiture

PARTIALLY SETTLED

CNMB v. Osmann/Osmann
Forfeiture

**JUDGE FOUND PROBABLE
CAUSE TO EXIST**

CNMB v. Perez/Sosa
Forfeiture

CNMB v. Philidor, A.
Forfeiture

CNMB v. Rodriguez/Harris/Dunston
Forfeiture

CNMB v. Silva
Forfeiture

CNMB v. Unknown Individual (\$587,310.00 in US Currency)
Forfeiture

CNMB v. Vargas/Sevilla
Forfeiture

V. Mortgage Foreclosures: (201)

Ajami Carpet Company v. (McCullough, et al.)
Mortgage Foreclosure

American Airlines Federal Credit Union v. CNMB (Henriquez)
Mortgage Foreclosure

Aurora Loan Services, LLC v. CNMB (Garcia, et al.)
Mortgage Foreclosure

Aurora Loan Services, LLC v. CNMB (George)
Mortgage Foreclosure

Aurora Loan Services, LLC v. CNMB (Gomez, et al)
Mortgage Foreclosure

Aurora Loan Services, LLC v. CNMB (Hernandez)
Mortgage Foreclosure

Aurora Loan Services, LLC v. CNMB (Martinez, et al)
Mortgage Foreclosure

Aurora Loan Services, LLC v. CNMB (Perez, et al.)
Mortgage Foreclosure

Aurora Loan Services, LLC v. CNMB (Rodriguez, M., et al.)
Mortgage Foreclosure

BAC Home Loans v. CNMB (Alberto, et al.)
Mortgage Foreclosure

BAC Home Loans v. CNMB (Bonet, et al.)
Mortgage Foreclosure

BAC Home Loans v. CNMB (Berger, et al)
Mortgage Foreclosure

BAC Home Loans v. CNMB (Jacobi et al)
Mortgage Foreclosure

BAC Home Loans v. CNMB (Martinez, G. et al)
Mortgage Foreclosure

DISMISSED

BAC Home Loans v. CNMB (Morales, et al)
Mortgage Foreclosure

BAC Home Loans. CNMB (Piedrahita, L. et al)
Mortgage Foreclosure

BAC Home Loans v. CNMB (Prado, et al)
Mortgage Foreclosure

BAC Home Loans v. CNMB (Sigler)
Mortgage Foreclosure

BAC Home Loans v. CNMB (Temirao, et al)
Mortgage Foreclosure

BAC Home Loans v. CNMB (Torain, et al)
Mortgage Foreclosure

BAC Home Loans v. CNMB (Torres, et al)
Mortgage Foreclosure

BAC Home Loans v. CNMB (Zephir, et al.)
Mortgage Foreclosure

Bank of America v. CNMB (Alvarez, et al)
Mortgage Foreclosure

Bank of America v. CNMB (Betancourt, et al)
Mortgage Foreclosure

Bank of America v. CNMB (Failer, et al)
Mortgage Foreclosure

Bank of America v. CNMB (Failer, et al)
Mortgage Foreclosure

Bank of America v. CNMB (Feliu)
Mortgage Foreclosure

Bank of America v. CNMB (Fortun, et al.)
Mortgage Foreclosure

DISMISSED

Bank of America v. CNMB (Gonzalez, et al.)
Mortgage Foreclosure

Bank of America v. CNMB (Hernandez, et al.)
Mortgage Foreclosure

Bank of America v. CNMB (Jean-Pierre, et al.)
Mortgage Foreclosure

Bank of America v. CNMB (Miller, et al.)
Mortgage Foreclosure

Bank of America v. CNMB (Pasmanter, et al)
Mortgage Foreclosure

Bank of America v. CNMB (Peck, et al)
Mortgage Foreclosure

Bank of New York v. CNMB (Blaustein, et al)
Mortgage Foreclosure

Bank of New York v. CNMB (Clancy, et al)
Mortgage Foreclosure

Bank of New York v. CNMB (Fiallo, et al)
Mortgage Foreclosure

Bank of New York v. CNMB (Jean, et al)
Mortgage Foreclosure

PROPERTY SOLD

Bank of New York v. CNMB (Lauriston et al)
Mortgage Foreclosure

Bank of New York v. CNMB (Le)
Mortgage Foreclosure

Bank of New York v. CNMB (Mellian, et al)
Mortgage Foreclosure

Bank of New York v. CNMB (Pierre/Calixte, et al)
Mortgage Foreclosure

Bank of New York v. CNMB (Valdes et al)
Mortgage Foreclosure

Baron, Marylin S., et al v. CNMB (Campbell, et al)
Mortgage Foreclosure

Beach Club Villas Condominium v. CNMB (Letizia)
Mortgage Foreclosure

Beachwalk Properties, LLC v. CNMB (Oceanic Development, et al)
Mortgage Foreclosure

Bayview Loan v. CNMB (Thomas)
Mortgage Foreclosure

Beal Bank v. CNMB (Ramos, et al.)
Mortgage Foreclosure

Bejarano, Antonio v. CNMB (Lightsey, et al.)
Quiet Title

Chase Home Finance LLC v. CNMB (Cohen, et al)
Mortgage Foreclosure

Chase Home Finance LLC v. CNMB (Marc, et al)
Mortgage Foreclosure

Chase Home Finance, LLC v. CNMB (Panunzio, et al)
Mortgage Foreclosure

Chase Home Finance, LLC. V. CNMB (Rene et al)
Mortgage Foreclosure

Chase Home Finance LLC v. CNMB (Santiago et al)
Mortgage Foreclosure

Citibank, N.A. v. CNMB (Anglade, et al)
Mortgage Foreclosure

Citibank,N.A. v. CNMB (Austin)
Mortgage Foreclosure

Citibank, N.A. v. CNMB (Boakye, et al)
Mortgage Foreclosure

Citifinancial Equity Services, Inc. v. CNMB (Morales)
Mortgage Foreclosure

Citimortgage v. CNMB (Bilgoray)
Mortgage Foreclosure

Citimortgage v. CNMB (La Fond, et al.)
Mortgage Foreclosure

Citimortgage v. CNMB (Garces), et al.)
Mortgage Foreclosure

Citimortgage v. CNMB (Hernandez, et al.)
Mortgage Foreclosure

Citimortgage v. CNMB (Pena et al)
Mortgage Foreclosure

Citimortgage v. CNMB (Rudnick et al)
Mortgage Foreclosure

Citimortgage v. CNMB (Rivaroli, et al)
Mortgage Foreclosure

City of Miami Gardens v. CNMB (Beckford, et al)
Action to Quiet Title

Cong Vo v. CNMB (Perroti, Miranda)
Action to Quiet Title

Consumers Alliance Corp. v. CNMB (Haronda Realty)
Action to Quiet Title

Credit Based Asset Servicing v. CNMB (Rojas, et al)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Bennette, et al)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Castaneda)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Daniels)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Evans, et al.)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (James, et al.)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Jimenez, L., et al)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Jonace, et al.)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Lobo, et al.)
Mortgage Foreclosure

Deutsche Bank Trust v. CNMB (Marks-Williams)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Martinez, et al.)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (McCullough)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Nascimento)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Phillips)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Rodriguez)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Sanchez)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Saint-Jean, et al)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Voltaire, et al)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Zaso, et al.)
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Bennette, et al)
Mortgage Foreclosure

Doured, LLC v. CNMB (Steele, et al)
Quiet Title

DYC, LLC v. CNMB (Macala, LLC, et al)
Mortgage Foreclosure

Eastern Shores White House Association v. CNMB (Donoso)
Mortgage Foreclosure

Eastern Shores White House Association v. CNMB (Grimany)
Mortgage Foreclosure

Emmer, Bradford, Trustee v. CNMB (Weston, et al.)
Mortgage Foreclosure

Fanny Mae v. CNMB (Van Wyk, et al.)
Mortgage Foreclosure

Federal National v. CNMB (Fernandez, et al.)
Mortgage Foreclosure

Federal National v. CNMB (Ledesma, et al.)
Mortgage Foreclosure

FirstBank Puerto Rico v. CNMB (Perez, et al.)
Mortgage Foreclosure

Flagstar Bank v. CNMB (Celiny, et al.)
Mortgage Foreclosure

Flagstar Bank v. CNMB (Cox, et al)
Mortgage Foreclosure

Flagstar Bank v. CNMB (Pena)
Mortgage Foreclosure

Flagstar Bank v. CNMB (Starlight Investments)
Mortgage Foreclosure

Flagstar Bank v. CNMB (Haronda Realty)
Mortgage Foreclosure

Floridian Arms, Inc. v CNMB (Merino)
Mortgage Foreclosure

Fiserv ISS & Co., vs. CNMB (Estime)
Mortgage Foreclosure

FNBN I, LLC v. CNMB (Gomez, et al)
Mortgage Foreclosure

GGH48, LLC v. CNMB (Louis, et al)
Mortgage Foreclosure

GGH48, LLC v. CNMB (Levy, et al)
Mortgage Foreclosure

Global Trust v. CNMB (Roth)
Mortgage Foreclosure

Golden Beach (Town of) v. CNMB (Goodman, et al)
Mortgage Foreclosure

Great Florida Bank v. CNMB (Miranda, et al)
Mortgage Foreclosure

Great Florida Bank v. CNMB (Miranda, et al)
Mortgage Foreclosure

Green Tree Servicing, LLC v. CNMB (Jesurum, et al)
Mortgage Foreclosure

HSBC Bank v. CNMB (Miller, et al.)
Mortgage Foreclosure

HSBC Bank, N.A. v. CNMB (Seepersad)
Mortgage Foreclosure

HSBC Bank v. CNMB (Vidal, et al)
Mortgage Foreclosure

HSBC Bank v. CNMB (Ward, et al)
Mortgage Foreclosure

HSBC Bank v. CNMB (Williams, et al)
Mortgage Foreclosure

Indymac Federal Bank v. CNMB (Hernandez, et al)
Mortgage Foreclosure

James B. Nutter & Co v. CNMB (Drayton Davis, et al)
Mortgage Foreclosure

JP Morgan v. CNMB (Caceres, et al)
Mortgage Foreclosure

JP Morgan v. CNMB (Carlos)
Mortgage Foreclosure

JP Morgan v. CNMB (Garcia, Ramon et al)
Mortgage Foreclosure

JP Morgan v. CNMB (Garcia)
Mortgage Foreclosure

JP Morgan v. CNMB (Lopez, et al)
Mortgage Foreclosure

JP Morgan v. CNMB (Monsalve, et al.)
Mortgage Foreclosure

JP Morgan v. CNMB (Perez, et al)
Mortgage Foreclosure

JP Morgan v. CNMB (Rodriguez, et al)
Mortgage Foreclosure

JP Morgan v. CNMB (Villanustre)
Mortgage Foreclosure

Juelle, Perla v. CNMB (Rodriguez, et al.)
Mortgage Foreclosure

Kondaaur Capital Corp v. CNMB (Rodarte, et al)
Mortgage Foreclosure

Lago Mar Ventures v. CNMB (Oliver)
Mortgage Foreclosure

Metro Bank v. CNMB (Macala, LLC)
Mortgage Foreclosure

Miami-Dade County v. CNMB (Morrobel)
Mortgage Foreclosure

Mortgage Investment Group v. CNMB (Deliford, et al)
Mortgage Foreclosure

Nationstar Mortgage, LLC v. CNMB (Gonzalez et al)
Mortgage Foreclosure

Navy Federal Credit Union v. CNMB (D'Onofrio)
Mortgage Foreclosure

New York Community Bank v CNMB (Lazerson)
Mortgage Foreclosure

One West Bank v. CNMB (Allen, Deceased, et al.)
Mortgage Foreclosure

OneWest Bank v. CNMB (Gutierrez)
Mortgage Foreclosure

OneWest Bank v. CNMB (Howard, et al.)
Mortgage Foreclosure

OneWest Bank v. CNMB (Lopez)
Mortgage Foreclosure

OneWest Bank v. CNMB (McCullough)
Mortgage Foreclosure

OneWest Bank v. CNMB (Rodriguez, et al)
Mortgage Foreclosure

OneWest Bank v. CNMB (Rodriguez, A. et al)
Mortgage Foreclosure

OneWest Bank v. CNMB (Ward, et al.)
Mortgage Foreclosure

OneWest Bank v. CNMB (Wright, et al)
Mortgage Foreclosure

Owen Federal Bank v. CNMB (Bain)
Mortgage Foreclosure

Pennymac Corp v. CNMB (Iglesias)
Mortgage Foreclosure

PHH Mortgage v. CNMB (Martinez, et al)
Mortgage Foreclosure

PNC Mortgage v. CNMB (Ordonez/Child, et al.)
Mortgage Foreclosure

RMS Residential v. CNMB (Heredia)
Mortgage Foreclosure

Shoreland Estates Condominium v. CNMB (Zaleznew, et al.)
Condominium Association Lien foreclosure

SunTrust Mortgage v. CNMB (Del Pilar, et al.)
Mortgage Foreclosure

SunTrust Mortgage v. CNMB (Garcia, et al.)
Mortgage Foreclosure

SunTrust Mortgage v. CNMB (Solomon, et al.)
Mortgage Foreclosure

TBOM Mortgage Holding, LLC v. CNMB (Robiou, et al.)
Mortgage Foreclosure

The Bank of New York Mellon v. CNMB (Jones, et al.)
Mortgage Foreclosure

The Bank of New York Mellon v. CNMB (Riderelli, et al)
Mortgage Foreclosure

Three Seasons Association v. CNMB (Cleary, et al.)
Mortgage Foreclosure

Transatlantic Bank v. CNMB (and/or Expressway Corp., et al.)
Mortgage Foreclosure

Transouth Mortgage Corp v. CNMB (Mozell)
Mortgage Foreclosure

U.S. Bank N.A. v. CNMB (Gonzalez, et al)
Mortgage Foreclosure

U.S. Bank N.A. v. CNMB (Gonzalez, J., et al.)
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Jean-Louis)
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Joseph, et al.)
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Marin)
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Martinez)
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Mathieu, et al)
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Mendez)
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Miller, et al)
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Otero)
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Morcillo)
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Robinson, et al)
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Rodriguez, et al)
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Rodriguez, Maria A., et al).
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Rosenberg)
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Serrano, et al)
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Suarez, et al.)
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Torres, et al.)
Mortgage Foreclosure

U.S. Century Bank v. CNMB (Martinez, et al.)
Mortgage Foreclosure

Vericrest Financial, Inc. v. CNMB (Palmer/ Webb Estate)
Mortgage Foreclosure

Wachovia Bank v. CNMB (Martinez)
Mortgage Foreclosure

Wachovia Bank v. CNMB (Rodriguez, D)
Mortgage Foreclosure

Washington Mutual Bank, F.A. v. CNMB, Sandra T. Porter, et al
Mortgage Foreclosure

Wells Fargo Bank N.A. v. CNMB (Amador)
Mortgage Foreclosure

Wells Fargo Bank, N.A. v. CNMB (Campos, et al.)
Mortgage Foreclosure

Wells Fargo Bank N.A. v. CNMB (Clozeille)
Mortgage Foreclosure

Wells Fargo Bank, N.A. v. CNMB (Fil-Aimee)
Mortgage Foreclosure

Wells Fargo Bank, N.A. v. CNMB (Frye)
Mortgage Foreclosure

Wells Fargo Bank, N.A. v. CNMB (Garcia)
Mortgage Foreclosure

Wells Fargo Bank, N.A. v. CNMB (Gonzalez)
Mortgage Foreclosure

Wells Fargo Bank, N.A. v. CNMB (Hernandez, et al)
Mortgage Foreclosure

Wells Fargo Bank v. CNMB (Lopez, et al)
Mortgage Foreclosure

Wells Fargo Bank v. CNMB (Marcaisse, et al)
Mortgage Foreclosure

Wells Fargo Bank v. CNMB (Mendez, et al)
Mortgage Foreclosure

Wells Fargo Bank v. CNMB (Parish, et al.)
Mortgage Foreclosure

Wells Fargo v. CNMB (Roberts)
Mortgage Foreclosure

Wells Fargo v. CNMB (Robinson, et al.)
Mortgage Foreclosure

Wells Fargo Bank, N.A. v. CNMB (16700-01, LLC)
Mortgage Foreclosure

DISMISSED

Wells Fargo Bank, N.A. v. CNMB (Zamora, et al.)
Mortgage Foreclosure

Woodside Apartments Assoc. v. CNMB (Mizrahi)
Mortgage Foreclosure

VI. Bankruptcies:

17315 Collins Avenue, LLC, dba Sole on the Ocean, dba Alba Mare

Adeleke, Mary M.

American LaFrance LLC

American Home Mortgage Holdings

Barros, Carlos D (Fogovivo North Miami)

Blockbuster

Cadet, Jean & Marie

Carcamo, Ana Maritza

Carl's Furniture, Inc.
Casa Bonita Garden, LLC
Contract Research Solutions, Inc. (dba Allied Research)
Cimax USA, LLC
Curbelo, Federico
Drummond, Errol
Filene's Basement, Inc.
Greater Miami Neighborhoods, Inc.
Henaio, Luz Stella
Idowu, Linda Eneas
Innovida Group
Jennifer Convertibles
Kazi Foods of Florida, Inc.
K&S Foods LLC
Lauriston, Charles
Phelan, Michael
Ravazzani, Robert
* Residential Capital, LLC
Rife, Joseph Alan
Russel Harold
Sandy Segall
Siahaya, Jermias
South Pointe Family and Children Center
* Saint-Fart, Lucner & Bernice
United Retail Group, Inc.
Vartec Telecom, Inc.
Vitro America

***New Cases**



City of North Miami Beach
17011 NE 19 Avenue
North Miami Beach, FL 33162
305-947-7581
www.citynmb.com

MEMORANDUM

 **Print**

TO: Mayor and City Council
FROM: Lyndon L. Bonner, City Manager
DATE: Tuesday, July 3, 2012

RE: Resolution No. R2012-52 (City Manager Lyndon L. Bonner)

BACKGROUND: Ordinance 2011-24, the Budget Ordinance provides that the City Council may transfer money from one fund, account or department to another, as necessary without being required to further amend the terms and provisions of the Budget Ordinance.

This request is to increase the professional services expenditure account in the Legislative Non-Departmental Division by \$150,000 and to decrease the unemployment insurance account in the Human Resources Department by the same amount. This request is necessary to cover the cost of additional labor attorney fees expected to be incurred in association with union negotiations.

RECOMMENDATION: Staff recommends approval of the authorization to transfer \$150,000 from the unemployment insurance account of the Human Resources Department to the professional services account of the Legislative Non-Departmental Division.

FISCAL IMPACT: None

CONTACT PERSON(S): Lyndon L. Bonner, City Manager
Janette Smith, Finance Director

ATTACHMENTS:

- ▣ [Resolution No. R2012-52](#)

RESOLUTION NO. R2012-52

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA APPROVING A BUDGET AMENDMENT TO TRANSFER AN AMOUNT OF \$150,000.00 FROM THE UNEMPLOYMENT INSURANCE ACCOUNT IN THE HUMAN RESOURCES DEPARTMENT INTO THE PROFESSIONAL SERVICES ACCOUNT IN THE LEGISLATIVE NON-DEPARTMENTAL DIVISION FOR THE FISCAL YEAR COMMENCING OCTOBER 1, 2011.

WHEREAS, the City Council of the City of North Miami Beach approved and adopted the annual budget of the City of North Miami Beach for the fiscal year 2011-2012 by Ordinance No. 2011-14 (“Budget Ordinance”); and

WHEREAS, during the normal conduct of the City’s operations, situations arise which require the amendment or modification of the City’s annual adopted budget; and

WHEREAS, the Budget Ordinance provides that from time to time, the City Council may transfer money from one fund, account or department to another, as necessary, without being required to further amend the terms and provisions of the Budget Ordinance; and

WHEREAS, the transfer of \$150,000.00 from the City's Human Resources Department Unemployment Insurance Account to the City's Legislative Non-Departmental Professional Services Account is necessary to pay additional labor attorney fees expected to be incurred in association with current union negotiations.

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of North Miami Beach, Florida that:

Section 1. The City Manager is hereby authorized to transfer funds in the amount of One Hundred Fifty Thousand Dollars (\$150,000.00) from the Unemployment Insurance Account No. 010310-513250, to the Professional Services Account No. 010105-511310.

APPROVED AND ADOPTED by the City of North Miami Beach City Council at the regular meeting assembled this ____ **day of July, 2012.**

ATTEST:

PAMELA L. LATIMORE
CITY CLERK

(CITY SEAL)

GEORGE VALLEJO
MAYOR

APPROVED AS TO FORM:

DARCEE S. SIEGEL
CITY ATTORNEY

SPONSORED BY: Mayor and City Council



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17011 NE 19 Avenue
North Miami Beach, FL 33162
305-947-7581
www.citynmb.com

MEMORANDUM

 **Print**

TO: Mayor and City Council
FROM: Councilwoman Marlen Martell
DATE: Tuesday, July 3, 2012

RE: Resolution No. R2012-53 (Councilwoman Marlen Martell)

BACKGROUND:

RECOMMENDATION: Approval.
FISCAL IMPACT: N/A
CONTACT PERSON(S): Councilwoman Marlen Martell

ATTACHMENTS:

☐ [Resolution No. R2012-53](#)

RESOLUTION NO. R2012- 53

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA RECOGNIZING THE SITE PLAN APPROVED UNDER RESOLUTION 2006-24 AND PUD ZONING APPROVED UNDER ORDINANCE 2006-8 ARE VALID AND IN FULL FORCE AND EFFECT; RECOGNIZING THE DETERMINATIONS OF THE CITY MANAGER AND CHIEF BUILDING OFFICIAL THAT BUILDING MASTER PERMITS BM05-627 AND BM05-628 ISSUED PURSUANT TO RESOLUTION 2006-24 ARE VALID AND ACTIVE.

WHEREAS, 17093 Biscayne Boulevard – North Miami Beach, LLC (the "Owner") is the owner and developer of the property located at 17201 Biscayne Boulevard, North Miami Beach, Florida, and legally described as: South 800 Feet of Tract "A" of Maule Federal Highway Industrial Sites, as recorded in Plat Book 46, Page 55 of the Public Records of Miami-Dade County, Florida (the "Property");

WHEREAS, on July 11, 2006, the City Council of the City of North Miami Beach (the "City Council") adopted Ordinance 2006-8, rezoning the Property from the B-3 Intensive Business Zoning District to PUD - Planned Unit Development;

WHEREAS, on July 11, 2006, the City Council concurrently adopted Resolution 2006-24, approving a site plan (the "Site Plan") to construct a 468-unit residential condominium project with two 24-story buildings, a marina, and related facilities (the "Project");

WHEREAS, on August 9, 2006, the City of North Miami Beach issued Building Master Permits BM05-627 to authorize construction of a foundation for the Project's north tower, and BM05-628 to authorize construction of a foundation for the Project's north tower parking garage;

WHEREAS, on September 28, 2006, Miami-Dade County issued a Class 1 Coastal Construction Permit CC04-438 to construct a seawall and dock facilities;

WHEREAS, construction under permits issued pursuant to the Site Plan was initiated within eighteen (18) months of July 11, 2006;

WHEREAS, on June 25, 2008, the City of North Miami Beach issued Building Master Permits BM05-627 to construct the Project's north tower, and BM05-628 to construct the Project's north tower parking garage;

WHEREAS, Building Master Permits BM05-627 and BM05-628 would have initially expired on March 11, 2012 (the "Expiration Date"); however, the Owner extended the Expiration Date(s) to January 15, 2015 by submitting timely notice to extend all building permits and development orders under House Bill 7207 of the 2011 Florida Legislative Session (Section 79 of Chapter 2011-139, Laws of Florida), and Senate Bill 2156 of the 2011 Florida Legislative Session (Section 494 of Chapter 2011-142, Laws of Florida);

WHEREAS, the City Manager and Building Official of the City of North Miami Beach each reviewed the Project's full development history, and independently determined Building Master Permits BM05-627 and BM05-628 were active and valid building permits as of May 31, 2012.

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of North Miami Beach, Florida:

Section 1. The recitals and findings contained in the Preamble to this Resolution are adopted by reference and incorporated as if fully set forth in this Section.

Section 2. The City Council recognizes and supports the determinations made by the City Manager and Chief Building Official that Building Master Permits BM05-627 and BM05-628 are currently valid and active.

Section 3. The City Council recognizes the Site Plan adopted by Resolution 2006-24 and PUD - Planned Unit Development zoning adopted by Ordinance 2006-8 are valid and in full force and effect.

Section 4. If any clause, section, paragraph or other part of this Resolution or its application is held by a court of competent jurisdiction to be ineffective or invalid for any reason, the remainder of this Resolution shall continue in full force and effect.

Section 5. This Resolution shall become effective immediately upon its adoption and signature of the Mayor.

APPROVED AND ADOPTED by the City of North Miami Beach City Council at the regular meeting assembled this ____ **day of July, 2012.**

ATTEST:

PAMELA L. LATIMORE
CITY CLERK

(CITY SEAL)

GEORGE VALLEJO
MAYOR

APPROVED AS TO FORM:

DARCEE S. SIEGEL
CITY ATTORNEY

SPONSORED BY: Councilwoman Marlen Martell



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MEMORANDUM

 Print

TO: Mayor and City Council

FROM: Lyndon L. Bonner, City Manager

DATE: Tuesday, July 3, 2012

RE: Ordinance 2012-11 - First Reading by Title Only (City Planner Christopher Heid)

BACKGROUND: Amendments to the Land Development Regulations pertaining to the expiration of development orders, variances, and conditional uses.

RECOMMENDATION: Approval.

FISCAL IMPACT: None.

CONTACT PERSON(S): Shari Kamali, Director of Public Services
Christopher Heid, City Planner

ATTACHMENTS:

- ❑ [Staff Report](#)
- ❑ [P&Z Minutes - October 17, 2011](#)
- ❑ [Ordinance No. 2012-11](#)



CITY OF NORTH MIAMI BEACH INTEROFFICE MEMORANDUM

TO: Mayor and City Council

FROM: Lyndon L. Bonner, City Manager

DATE: Tuesday, July 3, 2012

**RE: ORDINANCE 2012-11 (PREVIOUSLY ORDINANCE NO. 2011-18):
DEVELOPMENT REVIEW PROCEDURES**

Staff is recommending several changes to Article 15, "Other Development Review Procedures", of the Land Development Regulations in an effort to make the public hearing process more business friendly.

Currently, ordinance changes that occur after an applicant has been granted approval for a development order and prior to permitting would nullify said approval. Staff feels that once an applicant has received the approval of the City Council their projects should not be impacted by subsequent legislation. It is recommended that this language be removed from the code.

Development orders for site plan review and variances presently expire six (6) months after approval by City Council if a master building permit is not obtained. This is very difficult, if not impossible for even a slightly complex project, as it may take more than six (6) months to complete the working drawings required for permitting, including electrical, plumbing, mechanical, and structural plans. In addition, multiple outside agencies must review and approve the working drawings once they are complete, including Miami-Dade County Department of Permitting, Environment, and Regulatory Affairs (DERM), Miami-Dade County Fire Rescue, Florida Department of Transportation, and the Florida Department of Health. Staff is recommending that development orders expire within one (1) year of approval if a master building permit is not applied for.

The code is silent on the expiration of conditional use approvals. Staff feels that conditional use approvals should have an expiration like any other development order. It is recommended that conditional use approvals expire within one (1) year of approval or one (1) year of the issuance of a certificate of occupancy.

◆-----◆

HISTORY

- Planning & Zoning Board - This item was heard by the Planning & Zoning Board at the meeting of Monday, October 17, 2011 and received a favorable recommendation with a vote of 6-0.
- City Council – This item (Ordinance 2011-18) was deferred on first reading at the City Council Meeting of November 1, 2011.



City of North Miami Beach, Florida
COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING & ZONING BOARD MEETING
MONDAY, OCTOBER 17, 2011

Attendees:

Members -	Chairman Evan Piper	Staff -	Shari Kamali, Director of Public Services
	Jaime Eisen		Christopher Heid, City Planner
	Joseph Litowich		Darcee Siegel, City Attorney
	Julian Kreisberg		Steven Williams, Board Recorder
	Norman Edwards		
	Hector Marrero		

Call to Order:

The meeting was called to order at 6:04 PM by Chairman Piper. The pledge of allegiance was recited and the roll call was taken.

Minutes:

Chairman Piper asked the Board if there was any discussion on the minutes for the meeting of August 22, 2011. There was no discussion.

A motion to approve the minutes of September 12, 2011 was made by Julian Kreisberg and seconded by Hector Marrero. The motion passed by a vote of 6-0.

Chairman Piper administered the oath for the members of the public that wished to speak during the meeting, he also instructed them to sign in.

OLD BUSINESS:

City Planners Report

Mr. Heid explained that office complex (15801 Biscayne Boulevard), the warehouse (15501 NE 21 Avenue), the Single-Family House (3281 NE 170 Street) and the FPL utility easement have been approved by the City Council. The retail store (14200 Biscayne Boulevard) has yet to re-file for the City Council, and the ordinance amending the Land Development fee schedule was approved on first reading and will be going for second reading on November 1, 2011.

NEW BUSINESS:

Item # 11-510: Single-Family House; 3301 NE 170 Street – Site Plan Approval and Variances

Mr. Heid stated that the applicant, Ismael Gonzalez, is requesting site plan approval and variances for the construction of a two-story 5,397 square foot single-family house on a 9,350 square foot parcel of land located in the RS-1, Residential Single-Family Zoning District.

Chairman Piper requested the applicant to come forward and speak on behalf of the application. The project was represented by Ismael V. Gonzalez, property owner and Neal Aronson, architect.

Mr. Gonzalez stated that the home will be his permanent residence for him and his family and his current residence in Miami Lakes is for sale.

Mr. Heid stated that the request has a large amount of variances but they are minor. He pointed out that the height variance could be taken care of by lowering the pitch of the roof, but the steepness of the roof gives the house a lot class, and bringing the pool closer to the rear lot line does not really impact anyone. He also said that to do anything other than a two car back-out driveway is almost impossible with the pervious area requirements for the front yard. Almost every house we see is going to have that variance because people want a semi-circular driveway plus at least a two car back-out portion, or in this case, three cars. This is something that staff will be looking to modify in the future. He stated the house is slightly larger than allowed, as a result the overall pervious area is also down a bit, but not to any degree that staff finds uncomfortable. He said that all the requests are reasonable and it is beautifully done house that will be a great addition to the neighborhood. He said that staff recommends favorably with the 9 conditions as noted.

Mr. Kreisberg asked Mr. Heid if the footprint is a variance. Mr. Heid said that is correct. Mr. Kreisberg asked where the extra square footage is or is it de minimis. Mr. Heid stated that there are no setback variances; the house just fills the footprint more than is typically allowed. Mr. Kreisberg asked if there was a requirement that the lot to only have 40% coverage. Mr. Heid said yes, but the house does not violate the required setbacks. When you add the required setbacks to the property you are left with a buildable envelope. That envelope cannot be filled, because it is more than 40% of the lot, without a variance. This house is filling more of the buildable envelope than the code contemplates. Mr. Kreisberg asked what the size of the buildable envelope is. Mr. Heid said the on this lot the buildable envelope would be 4,140 square feet.

Mr. Kreisberg also asked if the gazebo was part of the variances. Mr. Heid said no, they are now allowed without variance. Mr. Kreisberg also asked if the project have pavers to and a drainage system to help with the drainage. Mr. Heid said yes, the pavers are not counted but they are included in the project. Mr. Heid also said that the project will include a complete fully engineered drainage system.

Mr. Edwards asked if there is any effort to change the requirement to retain the water runoff on the property. Mr. Heid said no, if anything they would want to be insistent that the water stay on the property because people use chemicals on their lawns and that run off can damage the canal system, it is typically polluted water.

Mr. Litowich asked if the height variance was only for the roof because it is 5 in 12 pitch. Mr. Aronson said that is correct. Mr. Litowich asked Mr. Heid if this was a similar variance to the previous house that the board reviewed. Mr. Heid said yes, it is a little steeper but it is supported by staff. Mr. Litowich asked how the house fits in with the neighborhood. Mr. Heid said that the previous house that was approved is right next to it, but it will be completely different than the older one-story ranches. It is compatible with the new wave of house that the board has been seeing for the past 10 years.

Mr. Litowich asked if there is any additional drainage to offset the lack of pervious area. Mr. Heid said that the project must retain all water runoff on the property. At the time of permit the drainage plans will be reviewed to make sure that the project respects that requirement.

Mr. Marrero stated that the survey does not coincide with the plans. Mr. Heid pointed out that there are two surveys in the packages, one of the old house that has since been demolished, and a current survey showing a vacant lot with the remnants of a driveway.

Mr. Kreisberg stated that he believes the property has the highest elevation in Eastern Shores. He asked if that was due to fill. Mr. Gonzalez stated that the previous house was at that height prior to him demolishing it.

Chairman Piper opened the floor for public comment. There was no one present that wished to speak on this item.

Public comment was closed.

Mr. Heid stated the house was attractive and will be a good addition to the neighborhood, staff recommends favorably with the 9 conditions noted.

Chairman Piper asked the applicant if they could accept the all the conditions. Mr. Gonzalez replied yes.

A motion to approve Item 11-510 was made by Julian Kreisberg. The motion was seconded by Jaime Eisen. The motion to approve item 11-510 passed with a vote of 6-0.

Chairman Even Piper	YES
Hector Marrero	YES
Joseph Litowich	YES
Julian Kreisberg	YES
Norman Edwards	YES
Jaime Eisen	YES

Chairman Piper acknowledged that Councilwoman Beth Spiegel was in the audience.

Item # 11-509: Land Use Amendments; 17400 West Dixie Highway – Future Land Use Map (FLUM) Amendment & Rezoning

Mr. Heid stated that this application is a request from Braha Dixie, LLC, for FLUM amendment and rezoning for an 188,179 square foot parcel of land at 17400 West Dixie Highway. The applicant is requesting a FLUM change from Residential High Density to Business, as well as a rezoning from both CF, Community Facility and RM-23, Residential Mid-Rise Multifamily (High Density) to B-2, General Business District.

Chairman Piper requested the applicant to come forward and speak on behalf of the application. The project was represented by Jodie Siegel, attorney, who gave a brief explanation of the request for FLUM amendment and rezoning.

Mr. Edwards stated that he pulled a copy of the Glatting Jackson report dated May 2007. He asked Attorney Jodie Siegel if she had a chance to look at the report prior to submitting her application. She replied she was not aware of the report. Mr. Heid pointed out that there is no project before the board tonight. Any project would have to come before the board to be approved. Attorney Jodie Siegel stated once it is determined what the project will be; it will come before the board at a separate hearing.

Mr. Edwards stated that the application includes a letter from Land Plan Engineering Group that proposes a mix-use development, Park View Business Center, which a 12 story business hotel, a 12 story extended stay hotel, a 6 story office building. Attorney Jodie Siegel stated that those are only preliminary ideas at this point, nothing is set in stone. The only request tonight is to change the FLUM and rezone the property. Mr. Heid added that the Board may not like the project once it is proposed, but the question tonight is do you think that it is appropriate to rezone the property to B-2.

Mr. Edwards asked where the nearest B-2 designation is. Mr. Heid said that the nearest designation is directly across the railroad tracks, east of the project on the west side of Biscayne Boulevard. Mr. Edwards asked Attorney Jodie Siegel if she has had a chance to look at the report that he passed out. Attorney Jodie Siegel stated that she can't just look at one page, she would need to read the entire report. She said that there is B-1 and B-3 around the property, which is compatible with B-2.

Mr. Edwards stated that he noticed that there no plans for traffic changes. Attorney Jodie Siegel stated that they will be studying traffic as they go through the process to determine what changes if any are needed. Mr. Edwards asked what impact the project would have on the neighboring property to the west, the Arbors apartment complex, as well as Grenyolds Park. Attorney Jodi Siegel stated that in the High Density Residential you can have building much higher, and she understands that the City's goal is to turn the area into a beatification corridor. They will have to find a nice way to mesh with the park and the surrounding area. Mr. Edwards stated to the north of the park is a residential building; he asked what the height of the building is. Attorney Jodie Siegel shat that she did not know. Mr. Edwards asked about the traffic, if it

would have difficulty at 172 and Biscayne. Attorney Jodie Siegel said that it is too early to try to predict as she does not know what the project will be. She said that the developer will be responsible to mitigate traffic caused by the development. Mr. Edwards asked how they envisioned traffic to get the site. Attorney Jodie Siegel stated that she believed that it would be an attraction the City and would have great views to the park and that would attract people to make it a destination for the City.

Mr. Edwards stated that he believed that this is in the nature of spot zoning and does not follow the Glatting Jackson Plan; the project is too high and abuts a park.

Chairman Piper asked how the Glatting Jackson Plan falls into our code. Mr. Heid stated that the B-2 Zoning on this type of corridor is in line with the Glatting Jackson Plan. When we have a project to review we can see if it follows the Plan and consider the impact on the park. Because we do not have a project in front of us we can't consider things like traffic, that's completely jumping the gun. What needs to be considered is the zoning appropriate. Half of the property is zoned CF, you could put uses such as a police station or hospital. These types of things would be permitted with CF zoning.

Mr. Kreisberg asked which portion of the property was zoned. Mr. Heid said the north portion, abutting the park is CF, and the south portion of the site is zoned multifamily. He added that he does not see a market for multifamily on West Dixie Highway across from railroad tracks. Mr. Kreisberg asked what the maximum height for the multifamily zoning is. Mr. Heid said right now under the RM-23 3 stories is allowed with a conditional use of an additional 3 stories, totaling 6 stories with conditional use. He added that when there are 2 vacant parcels together under joint ownership it behooves the city to create a single zoned tract of land. Mr. Kreisberg asked if all the lots were owned by the same owner. Attorney Jodie Siegel said yes.

Chairman Piper asked what types of uses are allowed under the B-2 Zoning. Mr. Heid said general office uses, retail and service establishments, typical retail stores. There are also uses that are conditional, but are controllable, such as animal hospitals. Chairman Piper asked if the potential hotel would be a conditional use. Mr. Heid said yes, a hotel is a conditional use in the B-2 Zoning District.

Chairman Piper said that by changing the zoning they would not need a variance to construct a strip shopping center, assuming that the uses are permitted. Mr. Heid said yes, but even if they were variance free the project would still come before this Board for site plan approval.

Mr. Edwards said that the Glatting Jackson report shows a transition to the highest parts, which are supposed to be in the area of the Lorenzo's, the Post Office, and the old Wine Dixie. We should try to follow the plan. We should plan according to the plan that was done for the City. Attorney Jodie Siegel stated that the Glatting Jackson Plan was done in 2007 and the economy as well as planning has changed.

Mr. Kreisberg stated that it is now 2011 and back in 2007 the City paid for the report to be done, but he does not think that we have to be tied to report that was done in the past. At this present time we have to decide if rezoning this parcel on West Dixie Highway is appropriate as business. He said that he does not think that the Board should be cross examining a project that has not been presented. He asked if there is a contemplation of what would happen if the property does not get rezoned. Attorney Jodie Siegel said that they would not be able to move forward with a project and the site would sit vacant.

Mr. Marrero said that he believes B-2 Zoning is appropriate for the site and he does not see it as being intrusive.

Mr. Litowich said that he is concerned with the letter that was submitted with the application. He said that the idea of have the site changed to B-2 would fit. But he thinks that if they come back with a project that is 12 stories they will run into some negative thoughts.

The City Attorney stated for the record that they can have up to 15 stories in the B-2 Zoning District. Mr. Litowich asked if a 12 story building would fit in. The City Attorney responded yes. Mr. Litowich said that it will fit the zoning, but will it fit in with the neighborhood. The City Attorney said that is a different story, if it is something that is permitted they would be entitled to have it.

Mr. Kreisberg asked if the hotel is a conditional use. Attorney Jodie Siegel said yes. Mr. Kreisberg said that they would be able to build a 15 story office building. The City Attorney said yes. She went on to say that it is the use not the size (of the building) that is conditional. She also stated that at this time the request for a rezoning, if this is changed to B-2 the developer would have the opportunity to build something up to 15 stories.

Chairman Piper asked if there is any use in the B-2 that would not be allowed to be 15 stories. Mr. Heid said no, only the use is conditional not the height of the building. Chairman Piper also asked what the maximum height is in the CF. Mr. Heid said the maximum height of 3 stories with a conditional use for additional stories.

Mr. Litowich asked if there was a height limitation for the B-1 Zoning District. Ms. Kamali said B-1 is 2 stories, B-2 is 15 stories, and B-3 is 15 stories. Mr. Litowich said that he is in favor of changing the property into a Business classification, he is not sure that it should be changed to a B-2 or B-3. Mr. Heid said that he would not recommend B-3 Zoning because it would bring uses that they would not want there.

Chairman Piper asked for clarification on the PUD (Planned Unit Development) that is located close to the site. The City Attorney stated that the PUD is the Marina Grande site. She said that the site may qualify for a PUD, a PUD zoning is site specific. Mr. Heid added that there are different categories of PUD, and the least restrictive has a maximum height of 18 stories. He also reminded the Board that the entire site currently has an underlying Future Land Use Map Category of Residential High Density, which the Comprehensive Plan allows to be 15 stories.

Chairman Piper asked if there was a project that was previously approved. Mr. Heid said that a project was previously approved, an office complex. Chairman Piper asked what the height of that project was. Mr. Heid said he believed it was 15 stories. Chairman Piper said that they did the rezoning and site plan approval at the same time. Mr. Heid said that is correct. He added that it is not being done that way because as a Planning and Zoning Board the quest needs to be, "is the zoning change being requested appropriate?" If so than you look at the project and the traffic and other project specific issues. Chairman Piper asked if that project was approved. Mr. Heid said yes, it received a favorable recommendation by this Board and was approved by the City Council.

Mr. Edwards asked if there was a lawsuit with that project, he asked the City Attorney what the nature of the lawsuit was. The City Attorney said that she did not have the particulars of the lawsuit, but she did know that it was dismissed. Mr. Edwards asked if the fees for the prior project were paid in full. The City Attorney said that she knows they were settled for a lesser amount, but a substantial portion of the fees were paid to the City.

Chairman Piper opened the floor for public comment. There was one person that wished to speak on this item; Robert Taylor.

Mr. Taylor stated that any changes made tonight are forever and the value of the property will skyrocket, the developer will get all the benefits. He said that there is B-2 on Biscayne Boulevard, but it is an 8 lane highway. He said that the park, Grynolds Park, is one of the most beautiful parks in the county which is used tremendously; you're going to put a 15 story building. He said that the Glatting Jackson plan was approved in 2007 but they had the foresight to look into the future. He said the project is not going to provide jobs. He said that the developer should bring a project before the Board and request variance.

Public comment was closed.

Attorney Jodie Siegel stated that the request tonight is for FLUM amendment and rezoning and a project will be brought before the Board at a later date for the consideration.

Chairman Piper asked for clarification as to why the rezoning is being done separately from the project. Mr. Heid said that it is not about the project it is about the zoning. If the zoning makes sense it should be rezoned, it should be looked at irrespective of a project, if it is not an appropriate zoning district than it should not be rezoned. Mr. Piper asked if the applicant could comeback with the rezoning and project as a package. Mr. Heid said yes, but the approval would have to be done very carefully; the site plan approval would have to be contingent on the rezoning, which would have to be contingent on the approval of the Comprehensive Plan amendment.

Chairman Piper asked if the applicant had any issues bringing the project back as one package. Attorney Jodie Siegel said that she does see an issue. It is very expensive to go through and entire site plan application and process, which would bring the project back at square one.

Ms. Kamali explained that the zoning the applicant wants for their project is B-2, which is not compatible with the existing Future Land Use category (Residential High Density). They must amend the Future Land Map and then do the rezoning.

Mr. Marrero said that there are members of the community and the Board that have a problem with giving you carte blanche; we need to come up with something right now to restrict it.

Chairman Piper asked if there is a way of it happening if they present it all together as opposed to the way it was presented today. Mr. Heid said that he believes the City Attorney has opined that it can be done; it would have to be worded carefully. The City Attorney said that she believes the problem with the previous project was that it was rezoned and the zoning was not compatible with the Comprehensive Plan; the Comprehensive Plan was never amended.

Mr. Kreisberg asked if the project can come before the Board and ask for a variance. Ms. Kamali said that is not possible, a B-2 use cannot be allowed on the parcel with a variance. Mr. Kreisberg said that the risk is that if it is rezoned the developer can do a lot of things or sale the property to someone else can do a lot of things.

Chairman Piper said that what he is hearing from Ms. Kamali is that if they brought the project through as a package it would not work. Ms. Kamali said that the Board cannot review a project that is not compatible with the zoning, must do the rezoning and the comp. plan amendment. Chairman Piper asked if it is doable (the project, rezoning, and Comprehensive Plan amendment as a package). The City Attorney said yes it can be done; it has been done in the past.

Attorney Jodie Siegel said that she can shed some light on the project; Hyatt has committed to do the hotels and this point they are not looking to go no higher than 7 stories. She said that she cannot make a commitment to exactly what they want, they would have to go through the plans with Hyatt, and it is their full intention to come back with a project. She said that tonight they are asking for the board to vote on the request for FLUM amendment and rezoning.

Chairman Piper asked if there is any way to put a ceiling on the request. Attorney Jodie Siegel said that the Board could look at the project when they come back and deny it. The City Attorney said that the Board could deny the project for the use (a hotel), but if the Board's concern is the height and possibly the density that would not be a correct statement. She said they would be entitled to build what's allowed under that classification.

Mr. Kreisberg asked how many things allowed in the B-2 would be reasonable for them to build at 12 or 15 stories, outside of an office building. The City Attorney went over the list of

permitted uses under the B-2 Zoning classification. Mr. Kreisberg said that of all the uses the only thing that could logically be high rise is an office.

Chairman Piper asked for staff's recommendation. Mr. Heid said that staff supports the amendments to the zoning and Future Land Use map. The future land use amendment would make the property consistent with the properties to the south and east and would not increase the allowable height or density for the property. The request for rezoning would not be in conflict with any surrounding zoning districts.

Chairman Piper asked how easy it would be to put a 15 story residential project on the site. Mr. Heid said that it would have to be rezoned but not a Future Land Use amendment.

Mr. Taylor (from the audience) said that there is no B-2 zoning on West Dixie Highway, it is all B-1. Mr. Heid said that there is B-2 and B-3 on West Dixie Highway. Then Mr. Taylor said that in this neighborhood there is no B-2, only on Biscayne Boulevard, and that this is spot zoning.

The City Attorney said that what is being presented to night is not spot zoning. Chairman Piper asked if spot zoning could be defined. The City Attorney said that it is when the zoning of a piece of property rezoned and it is not compatible with the neighboring or surrounding zoning districts. Mr. Heid added that it is like an island that has no relation to the surrounding properties.

Mr. Edwards said that the property is zoned residential mid-rise and Community Facility, and the B-2 zoning would allow buildings that are too high for that area.

Chairman Piper said that he is uncomfortable with the carte blanche request for rezoning. He feels that it would be more responsible for the Board to review these types of request with the project.

Chairman Piper asked the applicant if a B-1 would do anything for them. Attorney Jodie Siegel said no, because it only permits 2 stories. The City Attorney said that a request for B-1 zoning is not being requested and has not been advertised.

Chairman Piper asked if the Comprehensive Plan could be changed without a rezoning. Ms. Kamali said if the Comprehensive Plan is changed with a rezoning the applicant, or property owner, would have to request a rezoning for a compatible zoning designation at a future date.

Mr. Kreisberg acknowledged that City Manager Lyndon Bonner was in the audience.

Mr. Kreisberg asked if the Manager had any incite on the project. Mr. Bonner said that this project, a lot like what's happening on West Dixie Highway, is changing. He said that he did

meet with the applicants and talked about the project, he said that the intersection on 173 Street will have improvements that will be done with the Community Redevelopment Agency. He said that this project in combination with the Marina Grande and Wine Dixie projects will change the corridor.

Mr. Kreisberg asked the manager how he felt about the property becoming B-2. Mr. Bonner said that his perspective is further in the future and likes to think about what is going to happen in the next 50 years.

A motion to approve the request for rezoning, contingent upon the approval of the Future Land Use Map amendment was made by Julian Kreisberg. The motion was seconded by Hector Marrero. The motion failed by a vote of 5-1.

Chairman Even Piper	NO
Hector Marrero	NO
Joseph Litowich	NO
Julian Kreisberg	YES
Norman Edwards	NO
Jaime Eisen	NO

The applicant was asked if she would like to withdraw her request for the Future Land Use amendment, Attorney Jodie said that she would like to move forward with request. The City Attorney said that in order for the request for Future Land Use amendment to be heard before the City Council the Board would have to take action on the request, if there is no vote by the Planning and Zoning Board the request could be heard by the City Council.

A motion to deny the request for Future Land Use Map amendment was made by Julian Kreisberg. The motion was seconded by Hector Marrero. The motion to deny the request for a Future Land Use Map amendment passed by a vote of 6-0.

Chairman Even Piper	YES
Hector Marrero	YES
Joseph Litowich	YES
Julian Kreisberg	YES
Norman Edwards	YES
Jaime Eisen	YES

Item # 11-511: LDR Text Amendments – Development Review Procedures

Mr. Heid stated that language has been added to the code that makes getting development order difficult. Staff is recommending that the requirement of a super majority (5 votes) vote of the City Council for comprehensive plan amendments and development orders and a majority plus two votes (6 votes) for residential building heights above 15 stories be eliminated. Current requirements may deter applicants who wish to bring development projects forward as they may be reluctant to invest the time and money knowing that they need 5 or even 6 at City

Council. But more importantly, it is in direct conflict with the City Charter, which requires a majority vote of the City Council on items for their consideration, including development projects. Staff is recommending that these items require a simple majority of the vote of the Council.

Ordinance changes that occur after a project has been approved but before the project receives a permit nullifies the approval. It is recommended that that language be removed. Mr. Heid said that an applicant can spend hundreds of thousands of dollars on a project, have it approved, and within the year it takes to get a permit an ordinance change could nullify that approval.

There is a requirement that development orders for site plan review and variances presently expire six (6) months after approval by City Council if a master building permit is not obtained. Mr. Heid said that it is very difficult for complex projects to obtain permits within 6 months. Most projects don't start working on their structural drawing until they obtain their approvals. It is suggested that this be changed to allow up to one year to apply for a master building permit.

The code is silent on the expiration of conditional use; it is recommended that conditional use approvals expire within one (1) year of approval or one (1) year of the issuance of a certificate of occupancy.

Mr. Heid said staff is recommending the elimination of superfluous notice requirements for Comprehensive Plan amendments. Currently the code requires that Comprehensive Plan amendments that increase the height or density of property or a Future Land Use category be noticed and advertised according to regulations that are far more stringent than the Florida Statutes, requiring a nine month period between the date an applicant applies and final hearing before City Council. The process is unduly lengthy, burdensome to developers and unreasonably delays any development or redevelopment in the City. Mr. Heid said that the current State Statutes, which apply to all other cities in the state, are sufficient.

Mr. Kreisberg asked why this would pass the City Council when that voted on the changes. Mr. Heid said that there is different Council and Mayor and we are in different economic times.

Mr. Edwards asked if there was a settlement of a lawsuit with Bill Borkin required a super majority vote of the City Council for change to the Comprehensive Plan. The City Attorney said that the Charter cannot be amended by an ordinance. She said that staff is asking to clean up the code to be consistent with the charter. Mr. Edwards said that there is no requirement that it be removed from the code, it will not be enforceable. The City Attorney said that she would not recommend that language be in the code that is not enforceable and not consistent with the Charter.

Mr. Edwards asked how often a project has been impacted by a change in the City code. Mr. Heid said that he is not sure that it ever has, but would like to make sure that it doesn't. Mr.

Edwards said that if it never accrued it should not be a problem. Mr. Heid said if someone reviews our code and see this type of language they may decide to develop elsewhere. Mr. Edwards asked the City Attorney if the approval gave the applicant some type of right to continue with that approval. The City Attorney said that they would have a property right once they are issued a permit.

Mr. Edwards asked if sub-permits are part of a master permit. Mr. Heid said yes, the master permit is the entire package. He added that the Master permit must also be signed by outside agencies. Mr. Edwards asked if a master permit could be pulled without the sub-permits. Ms. Kamali said no, only the demolition permit. The City Attorney advised the Board that applicants can obtain a 6 month extension, and a subsequent extension by the City Council. Mr. Edwards asked why it is being changed to a year if they can come and get extensions. Mr. Litowich said that by changing the expiration time will cause a lot less confusion. Mr. Edwards said that the first 6 month extension is administered administratively. Mr. Heid said that sometimes the applicants let it fall through the cracks, and we are trying to protect their interest.

Mr. Edwards asked what the history of the notice requirements. Mr. Heid said that the language was adopted by an ordinance in 2008. Mr. Edwards said that there was a lot of building issues between 2005 and 2008 which put in place a process that was agreed upon to limit the ability of the Comprehensive Plan at any time. He said that he residents require a time for reflection. Mr. Heid said that staff is comfortable that State Statutes give reasonable time for reflection and would like the same level of coverage from the State Statute.

Chairman Piper opened the floor for public comment. There was no one present that wished to speak on this item.

Public comment was closed.

A motion to approve Item 11-511 was made by Jaime Eisen. The motion was seconded by Julian Kreisberg. The motion passed with a vote of 6-0.

Chairman Even Piper	YES
Hector Marrero	YES
Joseph Litowich	YES
Julian Kreisberg	YES
Norman Edwards	YES
Jaime Eisen	YES

Item # 11-512: Comprehensive Plan Text Amendment; Future Land Use Element – Policy 1.8.3

Mr. Heid said that this item is related to the 9 month period that was just recommended to be taken out of the Land Development Regulations. In order for the State Statutes to apply it must also be taken out of the Comprehensive Plan. This policy requires that notice of proposed text amendments be sent to individuals registered with the City Clerk, of which there is no record of, applicants wait at least 90 days from time of application before the item can be heard

before the Planning and Zoning Board, as well as 9 months from time of application before second reading at City Council.

Mr. Heid said these requirements are far more stringent than the notice and advertisement requirements contained in Florida State Statutes. Staff feels that the requirements in this policy are superfluous and make Comprehensive Plan amendments unduly lengthy, burdensome to developers, and unreasonably delay development and redevelopment in the City. It is recommended this policy be deleted and that the process and notice procedures for Comprehensive Plan amendments be done in accordance to Florida State Statutes. Mr. Heid added that this would be the companion to Item 11-511.

Mr. Kreisberg said that does not think that we should be guided by what happened in 2007 and he is in favor of the amendment.

Chairman Piper opened the floor for public comment. There was no one present that wished to speak on this item.

Public comment was closed.

A motion to approve Item 11-512 was made by Joseph Litowich. The motion was seconded by Julian Kreisberg. The motion passed with a vote of 5-1.

Chairman Even Piper	YES
Hector Marrero	YES
Joseph Litowich	YES
Julian Kreisberg	YES
Norman Edwards	NO
Jaime Eisen	YES

Mr. Heid advised the Board that there will most likely not be a Planning and Zoning Board meeting for the month of November.

The City Attorney advised the public that there is still a vacancy on the Planning and Zoning Board.

Adjournment - A motion to adjourn was made by Hector Marrero and seconded by Julian Kreisberg. The meeting was adjourned at 8:33 pm.

ORDINANCE NO. 2012-11

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA AMENDING CHAPTER 24, ARTICLE 15 OF THE CITY'S CODE OF ORDINANCES, ENTITLED "OTHER DEVELOPMENT REVIEW PROCEDURES" BY EXTENDING THE EXPIRATION DATE FOR SITE PLAN REVIEW; ADDING AN EXPIRATION DATE FOR CONDITIONAL USE APPROVALS; EXTENDING THE EXPIRATION TIME FOR VARIANCES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, even though an applicant receives approval from the City Council for a development project, current City Code renders said approval void if it conflicts with any ordinance passed after the approval but prior to the issuance of a building permit for the project; and

WHEREAS, while applicants often expend many dollars in professional services and public hearing fees, the current City Code adversely affects those applicants who have already received City Council approval, but prior to obtaining a building permit, the Code is changed; and

WHEREAS, the Mayor and City Council believe that applicants have a right to rely on Council's approval and continue to do so even though a building permit has yet to be obtained; and

WHEREAS, while some applicants are able to obtain a building permit within six months as required by current City Code, others are experiencing delays in obtaining permits within that time period due to the backlog at various County departments; and

ORDINANCE NO. 2012-11

WHEREAS, while the current City Code provides for no expiration time-frame for projects granted conditional use approval, the City Council believes that such is warranted in order to put applicants on notice; and

WHEREAS, once applicants receive conditional use approval on a project, under current City Code that approval has no expiration time-frame; and

WHEREAS, the Mayor and City Council is desirous to establish a time-frame for a conditional use to be uniform and consistent with the time-frame for site plan review and approval of variances; and

WHEREAS, on October 17, 2011, the Planning and Zoning Board heard this item at a publicly advertised meeting where it was favorably approved by a vote of 6-0; and

WHEREAS, in order to assist, promote, and entice more development in North Miami Beach, the Mayor and City Council believe that the current Code giving applicants only six (6) months to obtain a building permit for development projects needs to be amended and should be extended to a one-year period.

NOW, THEREFORE,

BE IT ORDAINED by the City Council of the City of North Miami Beach, Florida.

Section 1. The foregoing recitals are true and correct.

Section 2. Sec. 24-172 Site Plan Review of the Code of Ordinances of the City of North Miami Beach is hereby amended as follows:

Sec. 24-172 Site Plan Review

(H) *Final Site Plan Approval.* All applications for final site plan approval shall be submitted and reviewed in the following manner:

~~(5) *Ordinance change:* Any change of ordinance or regulatory control occurring after any site plan approval has been granted, but prior to the issuance of a building permit, shall render such approval void to the extent of conflict with such change of ordinance or regulatory control.~~

(Ord. No. 2008-22 § 3, 12/16/08)

(I) *Expiration.* The master building permit from the City must be ~~obtained~~ applied for within ~~six (6) months~~ one (1) year of site plan approval. All extension requests may be extended administratively for good cause for one six (6) month period by the City Manager or designee upon the payment of the appropriate fee, otherwise reapplication is necessary. Such extension must be administratively documented and filed with the appropriate department. This period may be extended by the Mayor and City Council for good cause. (Ord. No. 2008-22 § 3, 12/16/08)

Section 3. Sec. 24-175 Conditional Uses of the Code of Ordinances of the City of North Miami Beach is hereby amended as follows:

Sec. 24-175 Conditional Uses

(C) *Expiration.* A Business Tax Receipt must be obtained within one (1) year of the issuance of a certificate of occupancy or within one (1) year of conditional use approval, whichever is longer. This may be extended administratively for good cause for one six (6) month period by the City Manager or designee. This period may be extended by the Mayor and City Council for good cause.

Section 4. Sec. 24-176 Variances of the Code of Ordinances of the City of North Miami Beach is hereby amended as follows:

Sec. 24-176 Variance

(C) *Variance Review Standards.*

(4) A variance granted under the provisions of this Code shall automatically expire under the following conditions:

(a) If a permit has not been ~~issued~~ applied for within ~~six (6) months~~ one (1) year from the date of granting of a variance (or date of any final court order granting or modifying the variance), in accordance with the specific plans for which that variance was granted, or

(b) If a permit issued within the required time period shall expire or be revoked pursuant to the Florida Building Code, and if the time period for originally obtaining a permit has expired, the variance shall automatically expire. (Ord. No. 94-14, § 2, 6-21-94)

Section 5. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 6. If any section, subsection, clause or provision of this ordinance is held invalid the remainder shall not be affected by such invalidity.

Section 7. It is the intention of the City Council of the City of North Miami Beach and it is hereby ordained that the provisions of this Ordinance shall become and be made a part

of the Code of Ordinances of the City of North Miami Beach, Florida. The Sections of this Ordinance may be renumbered or relettered to accomplish this intention and the word "Ordinance" may be changed to "Section", "Article" or other appropriate word as the codifier may deem fit.

APPROVED BY TITLE ONLY on first reading this ___ day of July, 2012.

APPROVED AND ADOPTED on second reading this __ day of _____, 2012.

ATTEST:

PAMELA L. LATIMORE
CITY CLERK

GEORGE VALLEJO
MAYOR

APPROVED AS TO FORM

DARCEE S. SIEGEL
CITY ATTORNEY

Sponsored by: Mayor & City Council



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MEMORANDUM

 **Print**

TO: Mayor and City Council

FROM: Lyndon L. Bonner, City Manager

DATE: Tuesday, July 3, 2012

RE: Ordinance 2012-12 - First Reading by Title Only (City Planner Christopher Heid)

BACKGROUND: Amendments to the list of permitted uses in the B-2, General Business Zoning District.

RECOMMENDATION: Approval.

FISCAL IMPACT: None.

CONTACT PERSON(S): Shari Kamali, Director of Public Services
Christopher Heid, City Planner

ATTACHMENTS:

- ❑ [Staff Report](#)
- ❑ [P&Z Minutes - April 9, 2012](#)
- ❑ [P&Z Minutes - June 11, 2012](#)
- ❑ [Ordinance No. 2012-12](#)



CITY OF NORTH MIAMI BEACH INTEROFFICE MEMORANDUM

TO: Mayor and City Council

FROM: Lyndon L. Bonner, City Manager

DATE: Tuesday, July 3, 2012

**RE: ORDINANCE NO. 2012-12: PROPOSED LAND DEVELOPMENT
REGULATIONS AMENDMENTS REGARDING THE B-2, GENERAL BUSINESS
ZONING DISTRICT**

Staff is recommending amendments to the Land Development Regulations (LDR) pertaining to the permitted and conditionally permitted uses in the B-2, General Business Zoning District. The LDR changes are as follows:

I. Deletions - Repetition

It is recommended that the following uses be deleted from the list of permitted uses in the B-2 Zoning District because they have recently been added as permitted uses in the B-1, Limited Business Zoning District, and are therefore automatically permitted in the B-2.

- 1) Health and Exercise Studios, Martial Arts Studios
- 2) Laundries/Self Service Coin Operated
- 3) Convenience Stores
- 4) Delicatessens

II. Deletions – Antiquated

It is recommended that the following uses be deleted, as they are antiquated and it is no longer necessary for them to be listed individually.

- 1) Dry Good Stores
- 2) Telegram Office
- 3) Trading Stamp Redemption Centers
- 4) Catalog Services

III. Conditional Uses Added As Permitted Uses

It is recommended that the following Conditional Uses be added to the list of Permitted Uses because they are no longer considered problematic and public hearing should not be a requirement for their operation.

- 1) Modeling Agencies
- 2) Pet Groomers
- 3) Recording Studios
- 4) Fast Food Restaurants (excluding drive thru)

IV. New Uses

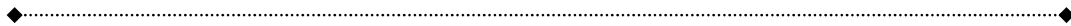
It is recommended that the following uses be added to the list of permitted uses. Staff feels that these uses are appropriate in the general Business Districts.

- 1) Museums
- 2) Vintage and Collectable Goods

V. Existing Uses – Modifications

Currently check cashing is a permitted use in the B-2 Zoning District, but they are not allowed to be located on Biscayne Boulevard, State Road 826, NE 164 Street or within 200 feet of any residential use or zone. This requirement makes it virtually impossible for a check cashing business to find suitable locations to open in this district.

Fast food restaurants are currently conditional in the B-2. It is proposed that fast food restaurants, excluding drive thru be permitted in the B-2 (see section III). It is recommended that fast food restaurants with drive remain a conditional in the B-2.



HISTORY

- This Item was heard by the Planning & Zoning Board at the meeting of Monday, April 9, 2012 and was tabled by a unanimous vote of 7-0.
- This Item was heard by the Planning & Zoning Board at the meeting of Monday, June 11, 2012 and received a favorable recommendation with a vote of 6-0.



City of North Miami Beach, Florida

COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING & ZONING BOARD MEETING

MONDAY, APRIL 9, 2012

Attendees:

Members -	Chairman Evan Piper	Staff -	Shari Kamali, Director of Public Services
	Jaime Eisen		Christopher Heid, City Planner
	Saul Smukler		Darcee Siegel, City Attorney
	Julian Kreisberg		Steven Williams, Board Recorder
	Norman Edwards		
	Hector Marrero		
	Joseph Litowich		

Call to Order:

The meeting was called to order at 6:05 PM by Chairman Piper. The pledge of allegiance was recited and the roll call was taken.

Minutes:

Chairman Piper asked the Board if there was any discussion on the minutes for the meeting of Monday, February 13, 2012. There was no discussion.

A motion to approve the minutes of Monday, February 13, 2012 was made by Julian Kreisberg and seconded by Hector Marrero. The motion passed by a vote of 7-0.

Chairman Piper administered the oath for the members of the public that wished to speak during the meeting, he also instructed them to sign in.

OLD BUSINESS:

City Planners Report

Mr. Heid explained that Item 11-516 (After-the-Fact Dock: 2091 NE 191 Drive) and Item 11-513 (Townhouses: 16605 NE 35 Avenue) were approved by the City Council, Item 12-517 (LDR Text Amendments: Commercial Window Signs) has been approved on first reading and scheduled for second and final reading on April 17, 2012, and Items 11-511 (Development Review Procedures) and 11-512 (Comprehensive Plan Amendment: Policy 1.8.3) were deferred on first reading at City Council.

NEW BUSINESS:

Item # 12-518: Addition (Single-Family House); 1687 NE 174 Street – After-the-Fact Variance

Mr. Heid stated that the applicants, , Aurora A. Martins, Alvaro Azevedo, & Teresa Pacheco, request an after-the-fact variance for an existing addition to a single-family house at 1687 NE 174 Street, in the RS-

4, Residential Single-Family Zoning District. The request variance is from Section 24-44 (D) (3) to waive 2' the minimum required interior side yard setback of 5'. (Interior side yard setback of 3' existing.)

Chairman Piper requested the applicant to come forward and speak on behalf of the application. The project was represented by Carlos Azevedo.

Mr. Azevedo stated that his father (Alvaro Azevedo) was cited by Code Enforcement to have the addition removed. He said that the addition was there when they moved into the house and they enclosed the addition and added windows. He added the property owners are retired and have lived in the house for 22 years with the addition and it would be a financial burden for them to have the addition removed.

Mr. Litowich asked if the addition was being used as a family room. Mr. Heid stated that currently it is a family room. Mr. Heid went on to say that originally the room was a screen porch and the property owner has enclosed it with windows. He added that there is no evidence of permits for the original screen porch or the enclosure. Mr. Litowich also asked if the variance was for the side yard setback encroachment or increased lot coverage. Mr. Heid stated that the request is to waive 2 feet of the interior side yard setback.

Mr. Litowich asked the applicant if the room is currently being used as a family room and not an extra bedroom. Mr. Azevedo stated that the addition is the family room. Mr. Litowich asked how long the addition has been in existence. Mr. Azevedo said that his family purchased the house in 1988 and the addition was already there, and they added the windows. Mr. Litowich asked if any of the neighbors are present. Mr. Heid stated the neighbor that is adjacent to the addition has written a letter of support.

Chairman Piper asked if the Building Official has reviewed the addition. Mr. Heid said that the addition has been reviewed by the Building Department. He added that at first there was a concern that the setback did not meet the Florida Building Code, but it turns out that the Code only requires 6 feet between structures, which this addition does meet. Chairman Piper asked if there were other portions of the house that had the same setback issue. Mr. Heid advised the board that the rest of the house meets the setback requirements.

Mr. Litowich asked if the house would require a Class A fire rating because it is so close to the neighbor. Mr. Heid said that he did not know and it would be up to the Building Division.

Mr. Kreisberg asked how the addition was cited. Mr. Heid stated that the neighbor to the west pulled a permit and when the inspectors performed the inspection they noticed an issue with the shed on the subject property. The applicants corrected the violation with the shed. When the building inspectors inspected the property to verify that the violation with the shed had been corrected they noticed the addition. Mr. Kreisberg stated that he drove around the block and noticed other issues in the area. Mr. Heid stated that the block is not atypical. Mr. Kreisberg stated that the biggest issue is the addition and not the canopy or the sheds. Mr. Heid said that that is correct but the property should be looked at in its totality, like any other project that comes before the board. Mr. Heid pointed out the fact that there is a paver walkway between the addition and the fence that staff is requesting be moved as part of the approval.

Mr. Kreisberg asked what the property was cited for. Mr. Heid stated that the property was originally sited for an extension of the shed roof. Mr. Kreisberg asked if there were any fines. Mr. Azevedo stated

that there were no fines and they corrected the violation. Mr. Kreisberg asked if they have been cited for the setback encroachment. Mr. Heid stated that the code violation was for the shed and the building violation was for the construction of the addition without a permit. Mr. Kreisberg also asked who proposed who suggested that they get a variance. Mr. Heid stated that he did because they came to him with the issue of the structure and they only had two options; demolish the addition or get a variance to keep it.

Mr. Litowich asked which of the two sheds will be removed. Mr. Heid stated that the shed which is adjacent to the house. He added that it does not meet Florida Building Code. Mr. Litowich stated that the other shed only has a setback of 4 feet. He then asked if the requirement was 5 feet. Mr. Heid stated that the requirement is 5 feet, but the shed does have a permit and it was constructed in accordance with the permit plans.

Mr. Smukler stated that the plans are dated 2010, he asked if the plans are current and why they were done in 2010. Mr. Azevedo stated that they applied for a permit for the carport in 2010 and the plans are from that permit. He also stated that some modifications have been done as part of this application. Mr. Heid stated that the staff was able to determine that the survey was accurate with a site visit. Mr. Kreisberg asked what will be required for the permit. Mr. Heid stated that the survey that has been submitted will be sufficient.

Chairman Piper opened the floor for public comment. There no one present that wished to speak on this item.

Public comment was closed.

Chairman Piper asked for the City's recommendation. Mr. Heid stated that staff recommends favorably with the 5 conditions as listed in the staff report.

Chairman Piper asked the applicant if they could accept the all the conditions. Mr. Azevedo replied yes.

A motion to approve Item 12-518 was made by Joseph Litowich. The motion was seconded by Julian Kreisberg. The motion to approve item 12-518 passed with a vote of 7-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	YES
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

Item # 12-522: Yeshiva Tores Chaim; 1055 Miami Gardens Drive – Site Plan Modification

Mr. Heid stated that the project was originally recommended favorably by the Planning & Zoning Board on March 14, 2011 and approved by the City Council on April 26, 2011. The applicant is requesting a minor modification to the originally approved plans. The modifications are to the site plan, floor plan, and elevations, but no new variances have been created and the modifications are under the 500 square foot limitation.

Chairman Piper requested the applicant to come forward and speak on behalf of the application. The project was represented by Michael Hanlon, architect.

Mr. Hanlon stated that he modified the site plan because the program changed after the project was originally approved.

Chairman Piper asked for a simple explanation as to why the modification is needed. Mr. Hanlon stated that the programming for the project changed. Mr. Kreisberg asked what he meant by programming. Mr. Hanlon explained that the number of dorm rooms changed and a game room was added. Mr. Heid informed the Board that their packages included the originally approved plans and the proposed modifications.

Mr. Heid stated that he wanted the Board to be aware of the increase in student population; from 20 students originally approved to 28 students and a dorm counselor now being proposed. He added that other modifications include the addition of a game room and laundry facility and upgraded bathrooms. The dorm rooms have been reduced from 240 square feet to 84 square feet; from approximately 60 square foot per student to 21 square foot per person. He stated that the rooms are small but ultimately as long as it meets the Florida Building Code, the parents and students will have to decide if they are comfortable with the size of the rooms.

Chairman Piper asked if the footprint of the building has changed. Mr. Heid said that it has changed, but the proposed building does remain within the previously approved setbacks. Mr. Marrero asked if permits have been pulled for the changes. Mr. Heid stated that this is conceptual and nothing has been built. Chairman Piper asked if the square footage of the dorm rooms meets the applicable codes. Mr. Heid stated that the plans have been given to the building division and there were no comments.

Mr. Litowich asked why a 18 foot high parapet wall was needed. Mr. Hanlon stated that the parapet wall is needed to screen the rooftop equipment. Mr. Litowich stated that he believed that the previously approved plans showed the dorm attached to the existing building. Rabbi Askotzky stated that both proposals proposed the buildings to be separated. Mr. Hanlon added that the buildings will be connected by a covered walkway but not enclosed space. Mr. Heid stated that if the parapet was not proposed it would have been required as a condition of approval.

Mr. Kreisberg asked if a market study has been done to determine if students will be willing to live in 80 square foot space. Rabbi Askotzky stated that the students have class from 7:30 in the morning to 9 or 10:30 at night. The rooms are only used for sleeping and the game room will be used for other activities.

Mr. Edwards asked for the size of the main area of the room where the beds will be. Mr. Hanlon stated that it is about 14 feet by 7 feet. Mr. Edwards stated that the space is pretty small.

Mr. Smuckler stated that in his opinion the rooms are much too small. He also asked if egress requirements have been addressed. Mr. Heid stated that egress is reviewed by Miami-Dade Fire.

Mr. Heid stated that the rooms are small, but at some point that will be up to the students and parents. He added that the Rabbi makes a good point; the rooms are not designed for congregation. Mr. Heid

said that if the project was rental apartment or condominium it would be looked at differently because of the market.

Chairman Piper opened the floor for public comment. There was one person that wished to speak on this item; Robert Klein, President of the Royal Bahamian Condominium.

Mr. Klein stated that he was not opposed to the modification; although he believed that the original proposal looked better. He stated that his problem was that landscaping along the perimeter, buffering his community, had never been installed. He requested that the board require that the landscaping be installed prior to the construction of the building. He also recommended that a no u-turn sign be placed on Miami Gardens Drive because of the traffic from the school.

Public comment was closed.

Rabbi Askotzky stated that he has taken the comments into consideration and the landscaping has been designed by a Landscape Architect to address the issues. Chairman Piper asked if the landscaping from the original building was done and does it still exist. Rabbi Askotzky stated that he was not around at that time. Mr. Heid stated that originally the proposed property provided significant landscaping, but virtually none of the conditions that were attached to the approval were done. He added that almost all of the people involved with the original addition are no longer involved. Chairman Piper asked if it would be fair to say that all of the conditions will be completed prior to the issuance of a C.O. (certificate of occupancy) for the new addition. Mr. Heid stated yes, but the same was true 10 years ago.

Chairman Piper asked who makes the final decision of the C.O. Mr. Heid stated that the Building Department issues the certificates of occupancy. He added that back then when the first addition was built the certificates of occupancy were not signed by the Zoning Department, but now the Zoning Department must sign prior to its issuance. The certificate of occupancy will not be signed by Zoning until all the conditions of approval are completed. Chairman Piper asked Mr. Heid if it was fair to say that he will not sign off if the landscaping is not in place. Mr. Heid said yes. He then asked Mr. Heid if it was fair to say that if he does not sign a C.O. will not be issued. Mr. Heid stated yes. Mr. Heid added that he does not recommend the landscaping be installed at the beginning because it will be damaged during construction.

Mr. Kreisberg asked if the landscaping is only addressing the addition. Mr. Heid stated that the landscape plan is property wide. Mr. Kreisberg asked if landscaping could be done on other parts of the property that will not be affected by the construction. Mr. Heid said that it is possible, but it is cheaper and cleaner to do all the landscaping at one time. He advised the Board that they do have the ability to require that part of the landscaping be completed now through a condition. Rabbi Askotzky stated that they are also redoing the building on the east side and the parking lot; there is little space to play with that will not be affected by the construction.

Mr. Heid advised the Board that he would like to add language to condition number 6 for the revised landscape plan in pay special attention to the buffer between the two properties. He added that the new plan is much better than that previously approved but he would still like it to be looked at again.

Chairman Piper asked for the City's recommendation. Mr. Heid stated that staff recommends approval with the 11 conditions, including the modification to condition 6.

Chairman Piper asked the applicant if they could accept all the conditions. Mr. Hanlon replied yes.

A motion to approve Item 12-522 with the 11 conditions (as modified) listed in the staff report was made by Julian Kreisberg. The motion was seconded by Hector Marrero. The motion to approve item 12-522 passed with a vote of 7-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	YES
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

Item # 12-519: LDR Text Amendments – Fence Height

Mr. Heid gave a brief explanation of the proposed changes to the Land Development Regulations regarding fences, walls, and hedges. He stated that in the RS-1 current regulations limit fences, walls and hedges to 5 feet; however the rest of the city allows 6 foot in the rear yard and 4 in the front yard. He stated that people want 6 feet in the rear yard. The proposal is to increase the height of fences to 6 feet in the rear and reduce them to 4 feet in the front.

Mr. Smuckler asked about the height of fences and hedges around tennis courts. Mr. Heid stated that currently fences around tennis courts are permitted to a height of 10 feet with the permission of the abutting neighbor. He stated that staff is suggesting that the requirement of permission of the neighbor be removed from the code.

Mr. Heid stated that staff is recommending that vehicular and pedestrian gates be allowed to have an additional foot for decorative elements. He added that it is proposed that hedges be dropped from the fence section. He stated that it is not the height of the hedges, but the maintenance that is the problem. He said that they can be an attractive element to a house. Chairman Piper stated that it could be a safety issue because of the driveways. Mr. Heid stated that the hedges should stop at the property line.

Mr. Marrero stated that he believes that there should be a limit on hedges, and that the height should not be unlimited. Mr. Heid stated that it could be reverted back to the height of the fence. He suggested that the ordinance could be brought back.

Mr. Kreisberg asked about measuring from the crown of road. Mr. Heid stated that that is existing language. Mr. Kreisberg stated that measuring from the crown of road could be an issue because the new houses are built at a higher elevation. Mr. Heid said that staff will look at the issue.

Mr. Heid stated that staff is recommending that the fence height be increased to 6 foot in the front, side and rear yard of the multifamily zoning districts. He also added that an additional 1 foot would be allowed for decorative elements on vehicular and pedestrian gates. Mr. Edwards asked if staff considered allowing the decorative elements on the corners and not just limiting them to gates. Mr. Heid stated that staff would look into it.

A motion to table Item 12-519 was made by Hector Marrero. The motion was seconded by Julian Kreisberg. The motion passed with a vote of 7-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	YES
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

Item # 12-520: LDR Text Amendments – B-2 Zoning District

Mr. Heid explained that previously the FCC and B-1 zoning districts have been modified to make the districts more modern. He stated that the Land Development Regulations are a cumulative code. Uses that are allowed in the B-1 are automatically allowed in the B-2. Several uses are recommended for deletion because they are antiquated. There are some conditional uses that staff feels should not require special approval. He noted that pet shops and recording studio are required to be in sound proofed buildings.

Mr. Kreisberg asked if the pet shops would be allowed to sell dogs. Mr. Heid stated yes. Mr. Kreisberg stated that Hallandale beach recently passed an ordinance that banned the sale of dogs from puppy mills.

Chairman Piper asked about fast food restaurants. Mr. Heid stated that currently fast food restaurants are conditional and staff is recommending that they be permitted, but to keep fast food with drive-thru as conditional. He advised the board that a fast food restaurant is a restaurant that has an overhead menu, does not have waiter service, or uses disposable plates and utensils.

Mr. Heid stated that if the Board had any concerns with pet shops, pet shops could be conditional and groomers and supplies could be permitted. Chairman Piper asked why is there a concern with the sale of animals if they are in a air conditioned sound proofed building. Mr. Kreisberg that the issue is that the dogs and cats may come from puppy mills. Mr. Heid said that it is hard to regulate where a store gets there supplies.

A motion to table Item 12-520 was made by Julian Kreisberg. The motion was seconded by Jaime Eisen. The motion passed with a vote of 7-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	YES
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

Item # 12-521: LDR Text Amendments – Setback Exceptions

Mr. Heid explained that there is a provision in the Land Development Regulations that applies to properties in the RS-1, RS-2, and RS-3 which reduces the setbacks by 5 feet for all lots plotted before 1980 and are larger than 5,000 square feet in size. He stated that the exception is the rule, so it would potentially apply to all properties. He noted that in the RS-3 zoning district the interior side yard setback is 7.5 feet and a reduction of 5 feet would leave a 2.5 foot setback, which would violate the Florida Building Code.

Chairman Piper opened the floor for Board Discussion. There was no Board comment.

A motion to approve Item 12-521 was made by Julian Kreisberg. The motion was seconded by Hector Marrero. The motion passed with a vote of 7-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	YES
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

DISCUSSION:

Proposed changes to Section 2-67 Planning and Zoning Board

Ms. Siegel explained to the Board that the Mayor and Council want to update the City’s main boards. He stated that the new ordinance will add criteria for the board members such as requiring a professional degree that is relevant to the Board. She read a list of possible degrees that would be qualified for the Planning and Zoning Board. She stated that currently the board members are chosen on a rotation basis and the Council feels that individuals should be appointed by each council member due to the term limits. Each Council Member will have the authority over one seat. She stated that the appointments will be on a staggered basis. The new appointments will take place on November 15 as opposed to June 1. She stated that the section pertaining to failure to attend meetings was already amended and is simply being added to the section.

Mr. Heid asked if the Ordinance would come back to the Board. Ms. Siegel stated that it would not come back to the Board.

Chairman Piper asked if a legal degree would be appropriate to add to the list of professional degrees. Ms. Siegel stated that it could be added; she also noted that it does say professional degree.

Mr. Kreisberg asked why there are criteria when there are no criteria for the City Council. Ms. Siegel stated that her understanding is that these are technical boards and there is some expertise that is needed.

Chairman Piper stated that historically there have been members of the board that had the type of experience professionally or technically and their contribution has not been the same as people that

have a technical background. He asked if each of the Council already appoints one member. Ms. Siegel stated that they do, but if you were appointed by an individual that no longer sits in that position the Council felt that their hands were tied and they would have to wait for the 3 year term to make a new appointment.

Mr. Kreisberg asked if the language about the chairman attending the City Council meetings has always been in the code. Ms. Siegel stated that it has, she asked to board if they would like it to be changed. She advised the Board of their options to change the language. After the discussion the Board decided to have the language removed.

Chairman Piper asked about term limits for the Board. Ms. Siegel stated that she was not aware of any term limits. Chairman Piper asked how is it determined which Council Member gets which seats. Ms. Siegel stated that come November 15 seats 1, 3, 5, and 7 will make their appointments. She stated that she will have to amend the section that talks about the first board to clean the language up.

Mr. Kreisberg asked for a update on the project located at 17400 West Dixie Highway. Mr. Heid stated that it was approved at first reading by the City Council. He advised the Board that he will add it to the old business list to keep the Board updated.

Mr. Edwards stated that felt that it is important to have a broader mix other than construction professionals. He stated that the list of professional would limit the board to members with a bias towards development and construction. Ms. Spiegel stated that the board members are residents so they would hopefully use both hats. Chairman Piper pointed out that all the current board members meet the new requirements.

Mr. Kreisberg asked who will make the determination that an appointment is qualified. Ms. Spiegel stated that anyone wishing to be on the board would have to fill out a application that would go through that City Clerk and the Council.

Adjournment - A motion to adjourn was made by Julian Kreisberg and seconded by Jaime Eisen. The meeting was adjourned at 8:16 pm.



City of North Miami Beach, Florida

COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING & ZONING BOARD MEETING

MONDAY, JUNE 11, 2012

Attendees:

Members - Chairman Evan Piper

Jaime Eisen

Saul Smukler

Julian Kreisberg

Norman Edwards

Joseph Litowich

Hector Marrero – ABSENT

Staff - Shari Kamali, Director of Public Services

Christopher Heid, City Planner

Maria Santovenia, Asst. City Attorney

Steven Williams, Board Recorder

Call to Order and Pledge of Allegiance:

Chair Piper called the meeting to order at 6:06 p.m. The Pledge of Allegiance was recited and roll was called. Mr. Hector Marrero was absent.

Minutes:

A motion made by Jaime Eisen, seconded by Joseph Litowich, to approve the minutes of the April 9, 2012 meeting. In a voice vote, the motion passed unanimously.

Chair Piper administered the oath for any members of the public wishing to speak during the meeting. He instructed them to sign in as well.

OLD BUSINESS

Mr. Heid advised that Item 12-517 (LDR Text Amendment: Commercial Window Signs) was favorably recommended by the Board and approved by City Council. Item 11-511 (LDR Text Amendment: Development Review Procedures) was also favorably recommended by the Board and will be presented to the City Council in July. Item 12-518 (After-the-Fact Variance: 1687 NE 174 Street) and Item 12-522 (Minor Site Plan Modification: 1055 Miami Gardens Drive) were favorably recommended by the Board and approved by City Council. Item 11-509 (FLUM and Rezoning: 17400 West Dixie Highway) was unfavorably recommended by the Board; however, City Council approved the Future Land Use Amendment change to Business, and the Rezoning was tabled until the June 19th meeting.

NEW BUSINESS

Item #12-527: Addition (Single-Family House): 2100 NE 180 Street – Site Plan Review and Variance

Mr. Heid stated that the existing zoning for this site is RS-4, Residential Single-Family Zoning District, with an existing land use of Single-Family House and future land use designation of Residential/Low-Density. The Applicant requests approval for the construction of a 208 sq. ft. addition to an existing house. The request is for variance from Section 24-44 (D) (3), for a 3 ft. 6 in. variance from the corner side yard setback of 15 ft. The change would result in a corner side yard setback of 11 ft. 6 in. Mr. Heid noted that approximately 10% of the addition would extend into the setback; the corner lot of the house is skewed, which means the addition could not be accommodated without a variance.

Larry Simon, representing the Applicants, explained that the house was constructed in the 1950s. Because the house was skewed when constructed, the addition of a family room would extend off one side and into the setback. He pointed out that while one corner extends into the setback, another corner is much farther away. The extension is not visible from the street and does not infringe upon any neighbors.

Mr. Heid added that the greater portion of the home is set back equal to or further than the required minimum setback. The section extending into the setback is approximately 8 ft. by 3 ft.

Mr. Kreisberg asked if the family room has been constructed at this time. Mr. Simon assured the Board that it has not.

Chair Piper asked if the City routinely approves scenarios such as this one, or if it is an isolated case. Mr. Heid replied that not many such requests have come before the Board; however, in the case of a house that is skewed on a lot, he noted that the corner yard setback is at least 100 ft. away from the nearest property. The yard is heavily landscaped so the extension would not be visible. Mr. Simon confirmed that the house and lot are unique.

Mr. Kreisberg commented that in many parts of the City, the side setback is 10 ft. Mr. Heid clarified that a corner side setback is always 15 ft.

Chair Piper opened the floor for public comment. There were no members of the public present who wished to speak on the Item. Public comment was closed.

Chair Piper asked for the City's recommendation. Mr. Heid stated that only a small portion of the room would extend into the setback, and making the room smaller would be awkward and less usable, the City recommends favorably, with the two conditions as listed in the Staff Report.

Chair Piper asked if the Applicant would accept the two conditions. Mr. Simon said they could.

A motion to approve Item 12-527 was made by Julian Kreisberg and seconded by Joseph Litowich. The motion to approve Item 12-527 passed with a vote of 6-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

◆-----◆

Item #12-528: Gazebo (Single-Family House): 3323 NE 171 Street – Site Plan Review and Variance

Mr. Heid advised that the property is within an RS-1 Residential Single-Family Zoning District, with an existing land use of Single-Family House and future land use of Residential Low Density. The Applicant requests site plan approval and variance for the construction of a 193 sq. ft. gazebo. The request is for variance from Section 24-81 (A) (8), which allows a maximum of 15 x 49 sq. ft. for a gazebo of 144 sq. ft. He reminded the Board that gazebos were previously not permitted in a required yard setback, but have recently been made an allowable exception if they are 144 sq. ft. or less. The request would exceed this by 49 sq. ft.

Luis Larosa, representing the Applicant, stated he is the architect for the project. He explained that the gazebo meets the side and rear setback requirements for accessory use; however, it lies in front of a large family room, and has been slightly elongated so its glazing matches the width of the glazing in this room. If it were shortened, it would block the view from the room. He concluded that it is a light, attractive structure that does not affect waterway visibility. The neighbor to the east of the project has submitted a letter of no objection to the structure.

Mr. Heid referred the Board to the project’s plans, noting that the columns of the gazebo do not block the view from the family room when extended. He confirmed that the water view is maintained and the structure meets side and rear setback requirements, as well as building height. The materials and roof type are similar to those of the main residence. He concluded that the only concern was with regard to the affected property owner to the east, who is supportive of the gazebo.

Mr. Smukler asked how the 144 sq. ft. gazebo was adopted as an allowable exception. Mr. Heid said the Applicant has a good reason to want a slightly larger structure, as it is proportionate to the house.

Mr. Edwards noted that the Applicant’s neighbor to the south has also been shown the plans for the gazebo and did not object to the project. He asked if there was a letter from this

neighbor. Mr. Larosa said this was an error and referred to the neighbor to the east, who would be most affected by the project.

Mr. Kriesberg observed that the letter written on May 3, 2012 also states the gazebo is located in the southeast corner of the property. It was clarified that its actual location is the northeast corner, overlooking a canal.

Mr. Kriesberg asked if construction has begun and stopped on the addition. Mr. Larosa confirmed this, explaining that construction was halted so the Applicant could go through the appropriate channels for approval of the gazebo.

Mr. Litowich asked if the gazebo's proportions are calculated from outside column to outside column, not including the overhang. Mr. La Rosa confirmed this. Mr. Heid said the overhang is not typically included in size measurements of a structure.

Chair Piper asked if there were limitations on the size of an overhang. Mr. Heid said while there was no size limit, there is a limit on how far an overhang may encroach into a setback: this is limited to one-third of the required setback, or 3 ft., whichever is less. The gazebo in question has a 1 ft. overhang.

Chair Piper opened the floor for public comment. There were no members of the public present who wished to speak on the Item. Public comment was closed.

Chair Piper asked for the City's recommendation. Mr. Heid said the City recommends favorably, with the two conditions as listed in the Staff Report.

Chair Piper asked if the Applicant accepted the two conditions. Mr. LaRosa said they could.

A motion to approve Item 12-528 was made by Julian Kreisberg and seconded by Joseph Litowich. The motion to approve Item 12-528 passed with a vote of 6-0.

Mr. Heid advised that the Board's approval is only a recommendation: if members of the public would like to speak on any Items presented at tonight's meeting, they should do so at the appropriate City Council meeting, which will be advertised in the newspaper. Signage will also be posted on the properties and within 500 ft. of the properties' boundaries.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

◆-----◆
Item #12-525: IHOP: 1101 North Miami Beach Boulevard – Site Plan Review and Variance

Mr. Heid stated that this property is located in a B-2 General Business Zoning District, with an existing land use of Restaurant and a future land use designation of Business. The Applicant requests site plan approval and variances for construction of a 575 sq. ft. canopy over an existing wooden deck. The variances would be from Section 24-81 (2), which would waive 4 ft. of the minimum required corner side yard setback of 15 ft. for a canopy; a second variance would be from Section 24-81 (2), which would waive 11 ft. of the minimum required rear yard setback of 15 ft. for canopies.

Andreas Poschl, representing the Applicant, explained that he is Director of Construction and Development for Sunshine Restaurant Partners. The IHOP restaurant in question was built 52 years ago. The intent is to construct a canopy over an existing deck, which was built 42 years ago, in order to create outside dining for the restaurant. The canopy would match the restaurant's blue roof.

Mr. Litowich asked if the canopy overhang would extend farther than the existing deck. Mr. Poschl said it would overhang the perimeter of the deck by 1 ft. on three sides. It will abut the gable end of the structure.

Mr. Kreisberg asked if diners typically eat outside at the restaurant. Mr. Poschl said this occurs at times during the winter months; however, during the summer this is very difficult. The addition of a canopy would be an attempt to accommodate outside dining on a year-round basis. The deck itself will be redone, landscaping will be added, and repairs will be made to the parking lot in order to update the building.

Mr. Edwards asked if all restaurants may establish outside dining, or if special approval is required. Mr. Heid replied that a building permit is necessary, and some restaurants are difficult to retrofit for this purpose; in this case, however, there would be no impact on the landscaping or parking.

Mr. Smukler asked if the 11 ft. setback already existed with the deck. Mr. Heid confirmed this, explaining that the variance request is for the canopy, not the deck. There is no required setback for a deck. Mr. Smukler asked if electricity will be required for the outdoor dining area. Mr. Poschl said permits will be pulled to include fans and lighting, both of which are allowed beneath a canopy.

Mr. Litowich asked if the canopy will be made of canvas. Mr. Poschl said it will be a fireproof canvas-like material, which is recommended over plastic or vinyl. There will be plastic side curtains to exclude rain as well.

Chair Piper opened the floor for public comment. There were no members of the public present who wished to speak on the Item. Public comment was closed.

Chair Piper asked for the City’s recommendation. Mr. Heid said the City recommends favorably, with the seven conditions as listed in the Staff Report.

Mr. Edwards asked if there could be a condition requiring the canopy to remain open on the sides except in the event of rain. Mr. Heid said this condition could be added, bringing the number of conditions to eight.

A motion to approve Item 12-525 was made by Julian Kreisberg and seconded by Joseph Litowich. The motion to approve Item 12-525 passed with a vote of 6-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

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Item #12-526: Addition (Fire Station): 17050 NE 19 Avenue – Site Plan and Variance Re-approval

Mr. Heid stated that this is a City-owned property located in a CF Community Facility Zoning District, with an existing land use of Fire Rescue Station and Offices and a future land use of Public. The request is for approval to construct a 2324 sq. ft. one-storey addition to an existing two-storey Fire and Rescue Station. An existing 1002 sq. ft. one-storey portion of the building will be demolished to accommodate the proposed addition.

The variances requested are as follows: variance from Section 24-55 (B) (3), which would waive 4 ft. of the minimum required front yard setback of 30 ft., reducing it to 26 ft.; and variance from Section 24-55 (B) (3), to waive 11 ft. of the minimum required corner side yard setback of 25 ft., reducing this setback to 14 ft.

Mr. Heid pointed out that the Staff Report states this project was previously approved and favorably recommended by the Board and the City Council; however, the permit for the project has expired, which requires the Applicant to come back to the Board and regain approval. He concluded that Staff continues to support this project.

Mr. Heid explained that because the City is the property owner, the Applicant is Miami-Dade County Fire and Rescue. Angel Lamera, Facilities Division Manager for the project, was sworn in at this time. Mr. Lamera stated again that the project had been previously approved by the Board, but the permit had expired.

Mr. Smukler noted that p.5, Item 9 of the Staff Report discusses revising plans related to the curbing of the easternmost median. He requested clarification of this. Mr. Heid said this island is not currently curbed, and advised that these improvements are reflected in the building plans.

Mr. Kreisberg requested a brief description of the improvements to be made. Mr. Lamera said the north side of the building would be demolished and replaced with a new rescue side of the station. In addition, the entire station will be remodeled and repainted. Utilities will be segregated from the administration building, and will no longer be included under a single meter. This is expected to result in a slight decrease in the utility bill.

Mr. Heid stated that once the demolition is complete and the new addition has replaced it, there will be a new area of roughly 39 sq. ft.

Mr. Smukler noted that the corner side setback is 25 ft., on which the proposed addition will encroach by 11 ft. Mr. Heid confirmed this, advising that this will leave sufficient room for landscaping. It was also clarified that the building will always be owned by the City.

Mr. Edwards asked if the project would raise a legal question regarding unjust enrichment. Ms. Santovenia said she was not certain of the structure of the situation, so she could not answer this question. Mr. Lamera said once the funds have been spent to make the improvements, it would be even less likely that the Fire Station would leave the facility.

Mr. Edwards observed that the only issue would be if the City decided to take back the Fire Station. Chair Piper said it would be within the Board's purview to remind the City's Legal Department to ensure the contractual arrangement with Fire and Rescue does not have any unforeseen issues.

Ms. Santovenia asked if Mr. Edwards' question was whether there would be unjust enrichment to the City. Mr. Edwards confirmed this, and asked if the City would need to repay Fire and Rescue for these improvements if they took the property over from the tenant. Ms. Santovenia said leases are typically drafted so any improvements made by tenants will stay behind if the tenant leaves. Mr. Heid added that a permit would be necessary in order to physically remove any structures from the property, and as the property owner, the City would need to sign a permit allowing this removal.

Chair Piper opened the floor for public comment. There were no members of the public present who wished to speak on the Item. Public comment was closed.

Chair Piper asked for the City's recommendation. Mr. Heid said the City recommends favorably, with the ten conditions as listed in the Staff Report.

Chair Piper asked if the Applicant accepted the ten conditions. Mr. Lamela said they could. He also noted that the variance is limited to six months, and asked if it would be possible to extend

this time period to one year, as it was not certain the improvements could be made within this time frame.

Ms. Kamali said the City is in the process of changing the six month time frame, although the change had not yet gone before the City Council. She asked that the Applicant ensure the request is made to renew the variance before the first six months have passed.

Mr. Heid said if this was part of the Code, it would require a variance to waive this requirement, and such a variance has been neither requested nor advertised. He did not feel this would be possible. However, he noted that the requirement was for six months to pull a permit or one year to submit it. The City Administration is also willing to write a letter on behalf of the Applicant to extend the time frame for six months. He felt this would be sufficient until the Code is changed.

A motion to approve Item 12-526 was made by Julian Kreisberg and seconded by Norman Edwards. The motion to approve Item 12-526 passed with a vote of 6-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

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Item #12-519: Fence Height – LDR Text Amendment

Mr. Heid stated that this Item was originally brought before the Board in April 2012, but was tabled because it was thought to be confusing. Upon further review, Staff felt the original amendment was complicated and difficult to understand. Portions of the original amendment, including hedge height and some fence specifications, have been omitted from the current draft. Hedges may now be the same height as fences, as long as the hedge is maintained. The height proposed for a corner side yard was originally 4 ft.; it has now been raised to 6 ft., as there are often requests from homeowners to make this change.

He continued that fences may remain 4 ft. in the front of a property and 6 ft. in the rear, corner, and side yards, which is commonly requested in the City.

Chair Piper asked if Mr. Heid recalled any of the details of the discussion about fence height. Mr. Heid said there had been significant resistance from homeowners with regard to limiting the size of hedges. He also clarified that rear yard fences are the side fences between buildings rather than a fence on the rear of the property. The limitation of a solid fence to 3 ft. in height will not be changed.

Mr. Kreisberg asked how this would affect hedges that encroach on a setback. Mr. Heid said this would not be an issue on private property, as the depth of rights-of-way should ensure sufficient room. If the fence extends beyond the property line, however, it may be cited. If a hedge results in complaints from neighbors, it may also trigger a citation.

Mr. Heid added that pedestrian and vehicular gates may be 1 ft. higher than the fence to which they are attached. This would allow for a less uniform and more decorative appearance.

Mr. Kreisberg noted that the measurement from the minimum finished floor elevations had also been changed, which could affect fence height if a home is at a higher elevation on one side. Mr. Heid said this occurs on occasion if a house is elevated. He noted, however, that most individuals do not object to fencing or landscaping.

A motion to approve Item 12-519 was made by Julian Kreisberg and seconded by Joseph Litowich. The motion to approve Item 12-519 passed with a vote of 6-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

◆-----◆
Item #12-520: B-2 (Modification of Use) LDR Text Amendments

Mr. Heid advised that the Board has seen these amendments for the B-2 General Business Zoning District before, and recalled that they had expressed concern that pet stores would become permitted uses. This suggestion has been left as a conditional use for the sale of live pets, and pet groomers and sale of pet supplies will be permitted uses.

Other changes include repetition of some uses that are also allowed in the B-1 District; because these are clearly permitted uses in B-1, they were removed from the B-2 listing. These include health and exercise studios, coin laundries, convenience stores, and delis. Antiquated uses, such as dry goods stores and telegram offices, were also removed from the B-2 amendments. Code includes a clause that may allow for these uses if they are sufficiently similar in nature to other uses.

He continued that while it may sound easier to classify a use as conditional in order to retain better control over it, making some uses conditional will effectively mean they will not be allowed, particularly in the case of small local businesses, as they are less well-funded and may

not be able to afford the approval process. The result in many cases is that these businesses will simply relocate. Therefore, the suggestion is that many of these uses become permitted uses.

Mr. Heid said fast food restaurants are defined as those restaurants in which customers order from an overhead board, at a counter, and take their items. He explained that this term could apply to a small coffee shop that serves pastries. Two additional uses, museums and vintage/collectible goods, were introduced as well.

Chair Piper asked if this would not qualify as a standard retail use. Mr. Heid replied that there are specific regulations prohibiting secondhand sales, which are restricted to the warehouse district. The amendment would address this issue and allow the use in B-2 districts. He also clarified that standard fast food restaurants with a drive-through window will remain a conditional use, as these require more control.

Restrictions are also decreased for check cashing businesses, as they are currently very restricted. Mr. Heid said this restriction places a burden on individuals who rely on this service. He pointed out that many other businesses, such as grocery and convenience stores, will cash checks, which created an inequality between businesses. Lifting the restrictions would allow the market to determine whether or not this is an appropriate use.

Mr. Kriesberg asked why delicatessens were removed from the amendment. Mr. Heid explained they are permitted in B-1 Districts, and were removed to lessen confusion. Because it is allowed in B-1, it is not necessary to allow it in B-2.

Mr. Kriesberg asked why tanning salons were non-conditional rather than conditional uses. Mr. Heid said there are several national companies that manage tanning salons, and felt this use would be lost if subjected to the process for a conditional use.

Chair Piper requested clarification of the language regarding check cashing facilities. Mr. Heid said language would be clarified to show that this is now a permitted use.

Mr. Litowich asked how the Code differentiates between vintage and collectible goods and vintage or secondhand clothing. Mr. Heid said the difference in this case is in the eye of the beholder, as there is no defined difference. He observed that it can be "difficult to legislate quality," and reiterated that it is hoped the market will take care of any issues. He noted that there is no logical way to enforce distinctions between these categories: they must either be accepted as a class or not.

Mr. Heid continued that secondhand sales are a permitted use in B-4 Districts, and advised that a judgment call could be made based upon several factors to determine whether or not these sales qualify as vintage or collectible. Consignment stores, for example, are included under vintage/collectible use.

Mr. Smukler asked if the requirement that check cashing businesses would prevent them from being less than 200 ft. from a residential area. Mr. Heid said it would be recommended that this requirement be stricken from the amendment; while it may be associated with “unsavory” elements, this was not always accurate. He pointed out that this restriction represented more of a moral stance than zoning equality.

Mr. Smukler asked if the restriction preventing these businesses from being established within 200 ft. of a residential area would have limited the potential locations open to them. Mr. Heid said they are not allowed in some locations at all. He added that this was preferable to attaching so many restrictions that a location became prohibitive.

Chair Piper noted that the owners of some shopping centers would not want these businesses to be part of the centers. He commented that any problems could be controlled by a police presence or “No Trespassing” signs. Mr. Heid said this was an example of the issue being market-driven: landlords who have the long-term interests of their properties at heart would not want to rent to low-end establishments.

Mr. Edwards asked if the language moving pet grooming to a permitted use should also contain the conditions that it must take place in an air-conditioned, soundproof building no less than 300 ft. from a residential area. Mr. Heid said this was a good point, but noted that businesses selling pet supplies but not offering grooming services would not need the air-conditioned and soundproofed requirements. He suggested that there may need to be a separate category for pet groomers, or additional language attached to discussion of this business.

Mr. Edwards asked if places of public assembly would remain a permitted use. Mr. Heid said this use is currently permitted and no change was suggested. Mr. Edwards asked if this category would include schools and churches. Mr. Heid said they would include churches, but not schools. Ms. Kamali said schools are allowed in CF and RM-23 districts, but not B-2.

Mr. Edwards asked why schools were not allowed within B-2 districts if churches were allowed. He suggested that smaller schools, such as schools without playgrounds or tutoring facilities, might be permissible in this district. Chair Piper pointed out that there are several requirements that accompany schools, such as traffic considerations, that could limit their placement. Mr. Heid added that B-2 districts allow retail uses, such as liquor stores and bars. If a school is allowed within this district, there must be a 1500 ft. radius from these facilities. While it is possible for these businesses to seek a variance, it can be expensive and difficult, and parents of schoolchildren may object to the location.

Mr. Litowich noted that some places of public assembly, such as churches and synagogues, may have schools attached to their facilities. Mr. Heid said while day care is allowed at these facilities in B-2 districts, elementary through high schools are not permitted in B-2. Vocational training is permitted within the district.

Mr. Edwards asked to know the height and density maximums of these residential multi-family or mixed-use uses within B-2 areas. Mr. Heid said these are conditional uses and must go through a hearing. Mr. Heid said B-2 districts are allowed to have multi-family residential in accordance with RM-23; the maximum height allowed is three stories or 35 ft., although the City Council may authorize up to six stories or 65 ft.

He noted that these would be conditional uses that must come before the Board for recommendations and the City Council for approval. They would also require a future land use map amendment to the Comprehensive Plan, as virtually all B-2 districts have future land use categories of Business and do not allow Residential. The mixed-use future land use category allows this mixed use of residential and business.

Mr. Smukler asked if the 1500 ft. radius around schools in which liquor cannot be sold could be extended to a restaurant that serves liquor after hours. Mr. Heid clarified that restaurants which serve alcohol are not included in this restriction, which is specific to bars, lounges, and packaged liquor stores. He noted that a business may request a variance to waive the 1500 ft. distance separation. Ms. Kamali noted that the State-required radius is only 500 ft., and also provides an avenue for variance within municipalities.

Mr. Smukler pointed out that there is a cost associated with conditional use, and proposed that the amendment could make these uses permitted in evenings and on weekends. Mr. Heid said while he did not see a mechanism for this, it could be considered further.

Chair Piper opened the floor for public comment.

Matthew Amster, representing the owner of the Intracoastal Mall, was sworn in at this time. He advised that the owner is supportive of the changes presented before the Board at today's meeting, and hoped the Board would recommend them favorably.

Mr. Kriesberg asked if Mr. Amster could provide specific examples of any part of the amendment that would make it easier for tenants to go into the Intracoastal Mall. Mr. Amster said the owner had wanted to rent to a dog grooming service, as well as a wine bar.

Mr. Heid said the proposed amendment is part of an ongoing program by which districts are to be made more liberal regarding their list of uses in order to be more competitive with neighboring municipalities. The lessened restrictions are seen as more business-friendly.

As there were no other members of the public wishing to speak on the Item, public comment was closed.

A motion to approve Item 12-520 was made by Julian Kreisberg. Mr. Kreisberg added that the motion was made with the understanding that Mr. Heid would amend some of the Item's language as discussed by the Board, specifically as it applied to pet groomers.

Mr. Litowich seconded the motion. The motion to approve Item 12-520 passed with a vote of 6-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

◆-----◆
Next Meeting: Monday, July 9, 2012

Mr. Edwards requested that a presentation on changes and legislative updates at the State level be made at the next meeting. Ms. Kamali said this could be done, although she noted it may be very short, as the State does not have any control over any changes that have been made in the City. She concluded that this responsibility has been given to the City versus the State.

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Adjournment

A motion to adjourn was made by Julian Kreisberg and seconded by Norman Edwards. The meeting was adjourned at 7:47 p.m.

ORDINANCE NO. 2012-12

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING CHAPTER 24, ARTICLE V, SECTION 24-52, ENTITLED "B-2 GENERAL BUSINESS DISTRICT" BY MODIFYING THE LIST OF PERMITTED AND CONDITIONALLY PERMITTED USES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, a review of the permitted uses in the Business Use (B-2) Zoning District of the City of North Miami Beach was performed by planning, development, and zoning staff; and

WHEREAS, on September 6, 2011, the Mayor and City Council approved Ordinance No. 2011-10 which added and deleted particular permitted uses and uses permitted conditionally in the B-1, Limited Business District of the City; and

WHEREAS, in an effort to update and modify the current Zoning Code, staff has made numerous recommendations to add uses not currently addressed in the Code, to delete certain uses listed in the B-2 Zoning District, which have been moved to other zoning districts, and to change some of the uses permitted conditionally to uses permitted; and

WHEREAS, the City Council, after review and discussion of staff's recommendations, have determined it is in the best interests of the residents, citizens and business community for the City of North Miami Beach to revise and amend certain B-2 Zoning District regulations, in order to better serve its residents and consumers; and

WHEREAS, this item was heard and discussed at a publicly advertised meeting where it was favorably recommended by the City's Planning & Zoning Board on Monday, June 11, 2012 by a vote of 6-0; and

ORDINANCE NO. 2012-12

WHEREAS, in order to adhere to the purpose and intent of the B-2 Zoning District, the Mayor and City Council wholeheartedly support the amendments in the B-2 Zoning District, as proposed.

NOW, THEREFORE,

BE IT ORDAINED by the City Council of the City of North Miami Beach, Florida.

Section 1. The foregoing recitals are true and correct.

Section 2. Section 24-52, B-2 General Business District, of the Code of Ordinances of the City of North Miami Beach, is hereby amended as follows:

Sec. 24-52 B-2 General Business District

(A) *Purpose and Intent.* The purpose and intent of this district is to provide suitable sites for development of retail and service commercial uses of a general nature which serve the diverse consumer needs of the entire community.

(B) *Uses Permitted.*

(1) All office, retail and service uses permitted in the B-1 district.

(2) Additional retail and service establishments, limited to:

(a) Antique shops, collectables and vintage;

(b) Apparel shops: men's, women's and children's;

(c) Automobile tag agencies;

(d) Bake shops; Provided that any such use shall have a gross floor area of not more than three thousand (3,000) square feet and shall include baking only for retail sales at the same location. (Ord. No. 2006-1 § 8, 2/21/2006)

(e) Bicycle sales, rental, service and repair;

(f) Blueprinting service;

(g) Business machine sales and service;

(h) Camera and photographic supply stores;

~~(i) Catalog services;~~

~~(j) Check Cashing/Cash Advance/Money Wire; providing such use shall not be located on Biscayne Boulevard, State Road 826 or Northeast 164 Street or within two hundred (200) feet of any residential use or zone;~~

~~(k) Convenience stores;~~

~~(k) (l)~~ Copying services;

~~(m)~~ Delicatessens;

~~(k) (n)~~ Department stores;

ORDINANCE NO. 2012-12

- ~~(m)(o)~~ Drapery stores;
- ~~(n)(p)~~ Driver's license (no road test);
- ~~(o)(q)~~ Driving school (classroom only);
- ~~(r) Dry goods stores;~~
- ~~(p)(s)~~ Fabric stores;
- ~~(q)(t)~~ Flooring and carpeting stores;
- ~~(r)(u)~~ Food stores: Super-markets and specialty markets;
- ~~(s)(v)~~ Furniture and home furnishing stores;
- ~~(t)(w)~~ Garden supply stores;
- ~~(u)(x)~~ Gift, novelty and souvenir shops;
- ~~(y) Health and exercise studios, martial arts studios;~~
- ~~(v)(z)~~ Home improvement centers;
- ~~(w)(aa)~~ Interior decorators;
- ~~(x)(bb)~~ Jewelry stores;
- ~~(cc) Laundries/Self Serve Coin Operated, provided that no such use be located on Biscayne Boulevard, State Road 826 or N.E. 164 Street or within two hundred (200) feet of residential use or zone;~~
- ~~(y)(dd)~~ Leather goods and luggage stores;
- ~~(aa)(ee)~~ Lighting fixture stores;
- ~~(bb)(ff)~~ Locksmiths;
- ~~(gg)~~ Messenger and delivery services;
- ~~(cc)~~ Modeling Agency;
- ~~(dd)(hh)~~ Moped sales;
- ~~(ee)(ii)~~ ~~Motion picture~~ Movie theaters;
- ~~(ff)~~ Museums;
- ~~(gg)(jj)~~ Music and record, video stores;
- ~~(hh)(kk)~~ Office supply stores;
- ~~(ii)(ll)~~ Optical stores;
- ~~(jj)(mm)~~ Paint and wallpaper stores;
- ~~(kk)~~ Pet supplies and pet groomers, provided that all activities relating to pet groomers are conducted entirely within an air conditioned, soundproofed building;
- ~~(ll)~~ Photography studios;
- ~~(mm)~~ Recording studios and radio stations, provided that that any such use shall be located entirely within an air conditioned, soundproofed building;
- ~~(nn)(oo)~~ Restaurants, including fast food, excluding drive thru (other than fast food), including outdoor dining;

- ~~(oo)(pp)~~ Sporting goods stores;
- ~~(pp)~~ Tanning salons;
- (qq) Television, radio and stereo sales and service;
- ~~(rr) Telegram Office;~~
- ~~(rr)(ss)~~ Toy stores;
- ~~(ss)(tt)~~ Trade schools for real estate, tax preparation and similar vocations;
- ~~(uu) Trading stamp redemption centers;~~
- (tt) Watch and clock repair shops;
- (uu) Variety stores.

- (3) Public parks and playgrounds.
- (4) Places of public assembly.
- (5) Public utilities.

(6) Other uses which are similar in nature to the uses permitted above but which are not specifically permitted in the B-3, B-4, or B-5 districts. (Ord. No. 99-1 § 2, 06/01/99)

(C) *Uses Permitted Conditionally.*

(1) Animal hospitals, veterinarians, kennels, and pet shops; ~~and dog groomers;~~ provided that all activities relating to any such uses are conducted entirely within an air conditioned, soundproofed building and that no such use shall be located less than three hundred (300) feet from any residential district.

(2) Automobile parts and accessories stores; provided that any such use shall sell new merchandise only and that it shall not provide any on-premises installation services.

(3) Barbeque Restaurants (Open Air).

(4) Bars, lounges and package liquor stores; provided that any such use shall not be located within one thousand five hundred (1,500) feet of any other bar, lounge or package liquor store.*

~~*Schools (elementary, middle or secondary) are covered by State Law § 562.45(2)(a) Florida Statute, with a five hundred (500) foot distance separation.~~

~~Maintaining a one thousand five hundred (1,500) foot distance requirement for places of public assembly (which includes churches and schools) would all but eliminate this as a viable use in this district.~~

(5) Bonding Companies (Bail).

(6) Drug/Alcohol Rehabilitation Service, including Residential Detoxification Service.

(7) Funeral homes; provided that any such use shall have a site area of not less than fifteen thousand (15,000) square feet, that it shall be located not less than three hundred (300) feet from any residential district, and that the front yard setback area shall be entirely landscaped.

(8) Hotels and motels; provided that any such use shall have a site area of not less than two (2) acres.

ORDINANCE NO. 2012-12

~~(9) Modeling Agency.~~

~~(9)(10) Pain Management Clinic.~~

~~(10)(11) Parking garages; provided that parked vehicles shall not be visible from surrounding properties or public street rights-of-way and that any such structure shall be well landscaped.~~

~~(11)(12) Psychiatric & Psychological services (Drug/Alcohol and Violent/Dangerous Behavior, Counseling or Treatment).~~

~~(13) Recording studios; provided that any such use shall be located entirely within an air conditioned, sound proofed building.~~

~~(12)(14) Residential Detoxification Services.~~

~~(13)(15) Residential, multifamily or mixed use: In conformance with the RM-23 provisions of Section 24-48 and conditioned upon compatible adjacent uses that will not adversely impact residential units.~~

~~(14)(16) Restaurants, fast food with drive thru.~~

~~(15)(17) Service stations as defined in Article II; provided that any such use shall not have any outside display of merchandise, that there shall not be any rental, sale or storage of trucks, trailers, motorcycles or automobiles, that there shall be no major mechanical repairs or body work conducted on-premises, and that automobile washing be limited to washing by hand in one (1) bay only as an accessory use to gasoline sales.~~

~~(16)(18) Social Service Agencies.~~

~~(19) Tanning Salons. (Ord. No. 99-1 § 2, 06/01/99; Ord. No. 2006-1 § 8, 9, 2/21/2006)~~

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. If any section, subsection, clause or provision of this ordinance is held invalid the remainder shall not be affected by such invalidity.

Section 5. It is the intention of the City Council of the City of North Miami Beach and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami Beach, Florida. The Sections of this Ordinance may be renumbered or relettered to accomplish this intention and the word "Ordinance" may be changed to "Section", "Article" or other appropriate word as the codifier may deem fit.

APPROVED BY TITLE ONLY on first reading this ___ day of July, 2012.

APPROVED AND ADOPTED on second reading this ___ day of _____, 2012.

ATTEST:

PAMELA L. LATIMORE
CITY CLERK

GEORGE VALLEJO
MAYOR

APPROVED AS TO FORM

DARCEE S. SIEGEL
CITY ATTORNEY

Sponsored by: Mayor & City Council



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MEMORANDUM

 **Print**

TO: Mayor and City Council

FROM: Lyndon L. Bonner, City Manager

DATE: Tuesday, July 3, 2012

RE: Ordinance 2012-13 - First Reading by Title Only (City Planner Christopher Heid)

BACKGROUND: Amendments to the Land Development Regulations pertaining to the allowable height of fences in multifamily and single-family zoning districts.

RECOMMENDATION: Approval.

FISCAL IMPACT: None.

CONTACT PERSON(S): Shari Kamali, Director of Public Services
Christopher Heid, City Planner

ATTACHMENTS:

- ❑ [Staff Report](#)
- ❑ [P&Z Minutes - April 9, 2012](#)
- ❑ [P&Z Minutes - June 11, 2012](#)
- ❑ [Ordinance No. 2012-13](#)



CITY OF NORTH MIAMI BEACH INTEROFFICE MEMORANDUM

TO: Mayor and City Council

FROM: Lyndon L. Bonner, City Manager

DATE: Tuesday, July 3, 2012

**RE: ORDINANCE NO. 2012-13: PROPOSED LAND DEVELOPMENT
REGULATIONS AMENDMENTS REGARDING FENCE HEIGHTS**

Staff is recommending modifications to fence, wall, and hedge heights in all of the residential zoning Districts.

Currently all of the single-family and duplex zoning districts, with the exception of the RS-1, Residential Single-Family Zoning District, allow fences and walls to be constructed to a maximum height of 6' in the rear and interior side yards, and 4' in the front and corner side yards. It is recommended that fences and walls in the corner side yard be increased to a height of 6' as well.

In the RS-1 District, fences and walls are allowed to be constructed to a maximum height of 5' in all yards. It is recommended that the regulations for fences and walls in the RS-1 district be the same as the City's other single-family districts. This would decrease the height of fences and walls to in the front yard from 5' to 4', and increased in the rear, corner side, and interior side yards from 5' to 6'.

All of the City's multifamily zoning districts, with the exception of RM-19, Residential Low-Rise Multifamily Zoning District, allows fences and walls to be a maximum height of 4' in the front and corner side yards and 6' in the rear and interior side yards. In the RM-19 District fences and walls are limited to 5' in all yards. It is recommended that height of fences and walls in all multifamily districts, including the RM-19, be increased to 6'.

In both the RS-1 and RM-19 Districts, solid waterfront walls, fences, and hedges are limited to a height of 3'. Staff is recommending that this provision remain. In all zoning districts, residential and commercial, it is recommended that an additional 1' in height be allowed for decorative elements on pedestrian and vehicular gates. In addition, the height of hedges will be limited to the maximum height of fences and walls in its corresponding yard.

HISTORY

- This Item was heard by the Planning & Zoning Board at the meeting of Monday, April 9, 2012 and was tabled by a unanimous vote of 7-0.
- This Item was heard by the Planning & Zoning Board at the meeting of Monday, June 11, 2012 and received a favorable recommendation with a vote of 6-0.



City of North Miami Beach, Florida
COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING & ZONING BOARD MEETING
MONDAY, APRIL 9, 2012

Attendees:

Members -	Chairman Evan Piper	Staff -	Shari Kamali, Director of Public Services
	Jaime Eisen		Christopher Heid, City Planner
	Saul Smukler		Darcee Siegel, City Attorney
	Julian Kreisberg		Steven Williams, Board Recorder
	Norman Edwards		
	Hector Marrero		
	Joseph Litowich		

Call to Order:

The meeting was called to order at 6:05 PM by Chairman Piper. The pledge of allegiance was recited and the roll call was taken.

Minutes:

Chairman Piper asked the Board if there was any discussion on the minutes for the meeting of Monday, February 13, 2012. There was no discussion.

A motion to approve the minutes of Monday, February 13, 2012 was made by Julian Kreisberg and seconded by Hector Marrero. The motion passed by a vote of 7-0.

Chairman Piper administered the oath for the members of the public that wished to speak during the meeting, he also instructed them to sign in.

OLD BUSINESS:

City Planners Report

Mr. Heid explained that Item 11-516 (After-the-Fact Dock: 2091 NE 191 Drive) and Item 11-513 (Townhouses: 16605 NE 35 Avenue) were approved by the City Council, Item 12-517 (LDR Text Amendments: Commercial Window Signs) has been approved on first reading and scheduled for second and final reading on April 17, 2012, and Items 11-511 (Development Review Procedures) and 11-512 (Comprehensive Plan Amendment: Policy 1.8.3) were deferred on first reading at City Council.

NEW BUSINESS:

Item # 12-518: Addition (Single-Family House); 1687 NE 174 Street – After-the-Fact Variance

Mr. Heid stated that the applicants, , Aurora A. Martins, Alvaro Azevedo, & Teresa Pacheco, request an after-the-fact variance for an existing addition to a single-family house at 1687 NE 174 Street, in the RS-

4, Residential Single-Family Zoning District. The request variance is from Section 24-44 (D) (3) to waive 2' the minimum required interior side yard setback of 5'. (Interior side yard setback of 3' existing.)

Chairman Piper requested the applicant to come forward and speak on behalf of the application. The project was represented by Carlos Azevedo.

Mr. Azevedo stated that his father (Alvaro Azevedo) was cited by Code Enforcement to have the addition removed. He said that the addition was there when they moved into the house and they enclosed the addition and added windows. He added the property owners are retired and have lived in the house for 22 years with the addition and it would be a financial burden for them to have the addition removed.

Mr. Litowich asked if the addition was being used as a family room. Mr. Heid stated that currently it is a family room. Mr. Heid went on to say that originally the room was a screen porch and the property owner has enclosed it with windows. He added that there is no evidence of permits for the original screen porch or the enclosure. Mr. Litowich also asked if the variance was for the side yard setback encroachment or increased lot coverage. Mr. Heid stated that the request is to waive 2 feet of the interior side yard setback.

Mr. Litowich asked the applicant if the room is currently being used as a family room and not an extra bedroom. Mr. Azevedo stated that the addition is the family room. Mr. Litowich asked how long the addition has been in existence. Mr. Azevedo said that his family purchased the house in 1988 and the addition was already there, and they added the windows. Mr. Litowich asked if any of the neighbors are present. Mr. Heid stated the neighbor that is adjacent to the addition has written a letter of support.

Chairman Piper asked if the Building Official has reviewed the addition. Mr. Heid said that the addition has been reviewed by the Building Department. He added that at first there was a concern that the setback did not meet the Florida Building Code, but it turns out that the Code only requires 6 feet between structures, which this addition does meet. Chairman Piper asked if there were other portions of the house that had the same setback issue. Mr. Heid advised the board that the rest of the house meets the setback requirements.

Mr. Litowich asked if the house would require a Class A fire rating because it is so close to the neighbor. Mr. Heid said that he did not know and it would be up to the Building Division.

Mr. Kreisberg asked how the addition was cited. Mr. Heid stated that the neighbor to the west pulled a permit and when the inspectors performed the inspection they noticed an issue with the shed on the subject property. The applicants corrected the violation with the shed. When the building inspectors inspected the property to verify that the violation with the shed had been corrected they noticed the addition. Mr. Kreisberg stated that he drove around the block and noticed other issues in the area. Mr. Heid stated that the block is not atypical. Mr. Kreisberg stated that the biggest issue is the addition and not the canopy or the sheds. Mr. Heid said that that is correct but the property should be looked at in its totality, like any other project that comes before the board. Mr. Heid pointed out the fact that there is a paver walkway between the addition and the fence that staff is requesting be moved as part of the approval.

Mr. Kreisberg asked what the property was cited for. Mr. Heid stated that the property was originally sited for an extension of the shed roof. Mr. Kreisberg asked if there were any fines. Mr. Azevedo stated

that there were no fines and they corrected the violation. Mr. Kreisberg asked if they have been cited for the setback encroachment. Mr. Heid stated that the code violation was for the shed and the building violation was for the construction of the addition without a permit. Mr. Kreisberg also asked who proposed who suggested that they get a variance. Mr. Heid stated that he did because they came to him with the issue of the structure and they only had two options; demolish the addition or get a variance to keep it.

Mr. Litowich asked which of the two sheds will be removed. Mr. Heid stated that the shed which is adjacent to the house. He added that it does not meet Florida Building Code. Mr. Litowich stated that the other shed only has a setback of 4 feet. He then asked if the requirement was 5 feet. Mr. Heid stated that the requirement is 5 feet, but the shed does have a permit and it was constructed in accordance with the permit plans.

Mr. Smukler stated that the plans are dated 2010, he asked if the plans are current and why they were done in 2010. Mr. Azevedo stated that they applied for a permit for the carport in 2010 and the plans are from that permit. He also stated that some modifications have been done as part of this application. Mr. Heid stated that the staff was able to determine that the survey was accurate with a site visit. Mr. Kreisberg asked what will be required for the permit. Mr. Heid stated that the survey that has been submitted will be sufficient.

Chairman Piper opened the floor for public comment. There no one present that wished to speak on this item.

Public comment was closed.

Chairman Piper asked for the City's recommendation. Mr. Heid stated that staff recommends favorably with the 5 conditions as listed in the staff report.

Chairman Piper asked the applicant if they could accept the all the conditions. Mr. Azevedo replied yes.

A motion to approve Item 12-518 was made by Joseph Litowich. The motion was seconded by Julian Kreisberg. The motion to approve item 12-518 passed with a vote of 7-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	YES
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

Item # 12-522: Yeshiva Tores Chaim; 1055 Miami Gardens Drive – Site Plan Modification

Mr. Heid stated that the project was originally recommended favorably by the Planning & Zoning Board on March 14, 2011 and approved by the City Council on April 26, 2011. The applicant is requesting a minor modification to the originally approved plans. The modifications are to the site plan, floor plan, and elevations, but no new variances have been created and the modifications are under the 500 square foot limitation.

Chairman Piper requested the applicant to come forward and speak on behalf of the application. The project was represented by Michael Hanlon, architect.

Mr. Hanlon stated that he modified the site plan because the program changed after the project was originally approved.

Chairman Piper asked for a simple explanation as to why the modification is needed. Mr. Hanlon stated that the programming for the project changed. Mr. Kreisberg asked what he meant by programming. Mr. Hanlon explained that the number of dorm rooms changed and a game room was added. Mr. Heid informed the Board that their packages included the originally approved plans and the proposed modifications.

Mr. Heid stated that he wanted the Board to be aware of the increase in student population; from 20 students originally approved to 28 students and a dorm counselor now being proposed. He added that other modifications include the addition of a game room and laundry facility and upgraded bathrooms. The dorm rooms have been reduced from 240 square feet to 84 square feet; from approximately 60 square foot per student to 21 square foot per person. He stated that the rooms are small but ultimately as long as it meets the Florida Building Code, the parents and students will have to decide if they are comfortable with the size of the rooms.

Chairman Piper asked if the footprint of the building has changed. Mr. Heid said that it has changed, but the proposed building does remain within the previously approved setbacks. Mr. Marrero asked if permits have been pulled for the changes. Mr. Heid stated that this is conceptual and nothing has been built. Chairman Piper asked if the square footage of the dorm rooms meets the applicable codes. Mr. Heid stated that the plans have been given to the building division and there were no comments.

Mr. Litowich asked why a 18 foot high parapet wall was needed. Mr. Hanlon stated that the parapet wall is needed to screen the rooftop equipment. Mr. Litowich stated that he believed that the previously approved plans showed the dorm attached to the existing building. Rabbi Askotzky stated that both proposals proposed the buildings to be separated. Mr. Hanlon added that the buildings will be connected by a covered walkway but not enclosed space. Mr. Heid stated that if the parapet was not proposed it would have been required as a condition of approval.

Mr. Kreisberg asked if a market study has been done to determine if students will be willing to live in 80 square foot space. Rabbi Askotzky stated that the students have class from 7:30 in the morning to 9 or 10:30 at night. The rooms are only used for sleeping and the game room will be used for other activities.

Mr. Edwards asked for the size of the main area of the room where the beds will be. Mr. Hanlon stated that it is about 14 feet by 7 feet. Mr. Edwards stated that the space is pretty small.

Mr. Smuckler stated that in his opinion the rooms are much too small. He also asked if egress requirements have been addressed. Mr. Heid stated that egress is reviewed by Miami-Dade Fire.

Mr. Heid stated that the rooms are small, but at some point that will be up to the students and parents. He added that the Rabbi makes a good point; the rooms are not designed for congregation. Mr. Heid

said that if the project was rental apartment or condominium it would be looked at differently because of the market.

Chairman Piper opened the floor for public comment. There was one person that wished to speak on this item; Robert Klein, President of the Royal Bahamian Condominium.

Mr. Klein stated that he was not opposed to the modification; although he believed that the original proposal looked better. He stated that his problem was that landscaping along the perimeter, buffering his community, had never been installed. He requested that the board require that the landscaping be installed prior to the construction of the building. He also recommended that a no u-turn sign be placed on Miami Gardens Drive because of the traffic from the school.

Public comment was closed.

Rabbi Askotzky stated that he has taken the comments into consideration and the landscaping has been designed by a Landscape Architect to address the issues. Chairman Piper asked if the landscaping from the original building was done and does it still exist. Rabbi Askotzky stated that he was not around at that time. Mr. Heid stated that originally the proposed property provided significant landscaping, but virtually none of the conditions that were attached to the approval were done. He added that almost all of the people involved with the original addition are no longer involved. Chairman Piper asked if it would be fair to say that all of the conditions will be completed prior to the issuance of a C.O. (certificate of occupancy) for the new addition. Mr. Heid stated yes, but the same was true 10 years ago.

Chairman Piper asked who makes the final decision of the C.O. Mr. Heid stated that the Building Department issues the certificates of occupancy. He added that back then when the first addition was built the certificates of occupancy were not signed by the Zoning Department, but now the Zoning Department must sign prior to its issuance. The certificate of occupancy will not be signed by Zoning until all the conditions of approval are completed. Chairman Piper asked Mr. Heid if it was fair to say that he will not sign off if the landscaping is not in place. Mr. Heid said yes. He then asked Mr. Heid if it was fair to say that if he does not sign a C.O. will not be issued. Mr. Heid stated yes. Mr. Heid added that he does not recommend the landscaping be installed at the beginning because it will be damaged during construction.

Mr. Kreisberg asked if the landscaping is only addressing the addition. Mr. Heid stated that the landscape plan is property wide. Mr. Kreisberg asked if landscaping could be done on other parts of the property that will not be affected by the construction. Mr. Heid said that it is possible, but it is cheaper and cleaner to do all the landscaping at one time. He advised the Board that they do have the ability to require that part of the landscaping be completed now through a condition. Rabbi Askotzky stated that they are also redoing the building on the east side and the parking lot; there is little space to play with that will not be affected by the construction.

Mr. Heid advised the Board that he would like to add language to condition number 6 for the revised landscape plan in pay special attention to the buffer between the two properties. He added that the new plan is much better than that previously approved but he would still like it to be looked at again.

Chairman Piper asked for the City's recommendation. Mr. Heid stated that staff recommends approval with the 11 conditions, including the modification to condition 6.

Chairman Piper asked the applicant if they could accept all the conditions. Mr. Hanlon replied yes.

A motion to approve Item 12-522 with the 11 conditions (as modified) listed in the staff report was made by Julian Kreisberg. The motion was seconded by Hector Marrero. The motion to approve item 12-522 passed with a vote of 7-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	YES
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

Item # 12-519: LDR Text Amendments – Fence Height

Mr. Heid gave a brief explanation of the proposed changes to the Land Development Regulations regarding fences, walls, and hedges. He stated that in the RS-1 current regulations limit fences, walls and hedges to 5 feet; however the rest of the city allows 6 foot in the rear yard and 4 in the front yard. He stated that people want 6 feet in the rear yard. The proposal is to increase the height of fences to 6 feet in the rear and reduce them to 4 feet in the front.

Mr. Smuckler asked about the height of fences and hedges around tennis courts. Mr. Heid stated that currently fences around tennis courts are permitted to a height of 10 feet with the permission of the abutting neighbor. He stated that staff is suggesting that the requirement of permission of the neighbor be removed from the code.

Mr. Heid stated that staff is recommending that vehicular and pedestrian gates be allowed to have an additional foot for decorative elements. He added that it is proposed that hedges be dropped from the fence section. He stated that it is not the height of the hedges, but the maintenance that is the problem. He said that they can be an attractive element to a house. Chairman Piper stated that it could be a safety issue because of the driveways. Mr. Heid stated that the hedges should stop at the property line.

Mr. Marrero stated that he believes that there should be a limit on hedges, and that the height should not be unlimited. Mr. Heid stated that it could be reverted back to the height of the fence. He suggested that the ordinance could be brought back.

Mr. Kreisberg asked about measuring from the crown of road. Mr. Heid stated that that is existing language. Mr. Kreisberg stated that measuring from the crown of road could be an issue because the new houses are built at a higher elevation. Mr. Heid said that staff will look at the issue.

Mr. Heid stated that staff is recommending that the fence height be increased to 6 foot in the front, side and rear yard of the multifamily zoning districts. He also added that an additional 1 foot would be allowed for decorative elements on vehicular and pedestrian gates. Mr. Edwards asked if staff considered allowing the decorative elements on the corners and not just limiting them to gates. Mr. Heid stated that staff would look into it.

A motion to table Item 12-519 was made by Hector Marrero. The motion was seconded by Julian Kreisberg. The motion passed with a vote of 7-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	YES
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

Item # 12-520: LDR Text Amendments – B-2 Zoning District

Mr. Heid explained that previously the FCC and B-1 zoning districts have been modified to make the districts more modern. He stated that the Land Development Regulations are a cumulative code. Uses that are allowed in the B-1 are automatically allowed in the B-2. Several uses are recommended for deletion because they are antiquated. There are some conditional uses that staff feels should not require special approval. He noted that pet shops and recording studio are required to be in sound proofed buildings.

Mr. Kreisberg asked if the pet shops would be allowed to sell dogs. Mr. Heid stated yes. Mr. Kreisberg stated that Hallandale beach recently passed an ordinance that banned the sale of dogs from puppy mills.

Chairman Piper asked about fast food restaurants. Mr. Heid stated that currently fast food restaurants are conditional and staff is recommending that they be permitted, but to keep fast food with drive-thru as conditional. He advised the board that a fast food restaurant is a restaurant that has an overhead menu, does not have waiter service, or uses disposable plates and utensils.

Mr. Heid stated that if the Board had any concerns with pet shops, pet shops could be conditional and groomers and supplies could be permitted. Chairman Piper asked why is there a concern with the sale of animals if they are in a air conditioned sound proofed building. Mr. Kreisberg that the issue is that the dogs and cats may come from puppy mills. Mr. Heid said that it is hard to regulate where a store gets there supplies.

A motion to table Item 12-520 was made by Julian Kreisberg. The motion was seconded by Jaime Eisen. The motion passed with a vote of 7-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	YES
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

Item # 12-521: LDR Text Amendments – Setback Exceptions

Mr. Heid explained that there is a provision in the Land Development Regulations that applies to properties in the RS-1, RS-2, and RS-3 which reduces the setbacks by 5 feet for all lots plotted before 1980 and are larger than 5,000 square feet in size. He stated that the exception is the rule, so it would potentially apply to all properties. He noted that in the RS-3 zoning district the interior side yard setback is 7.5 feet and a reduction of 5 feet would leave a 2.5 foot setback, which would violate the Florida Building Code.

Chairman Piper opened the floor for Board Discussion. There was no Board comment.

A motion to approve Item 12-521 was made by Julian Kreisberg. The motion was seconded by Hector Marrero. The motion passed with a vote of 7-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	YES
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

DISCUSSION:

Proposed changes to Section 2-67 Planning and Zoning Board

Ms. Siegel explained to the Board that the Mayor and Council want to update the City’s main boards. He stated that the new ordinance will add criteria for the board members such as requiring a professional degree that is relevant to the Board. She read a list of possible degrees that would be qualified for the Planning and Zoning Board. She stated that currently the board members are chosen on a rotation basis and the Council feels that individuals should be appointed by each council member due to the term limits. Each Council Member will have the authority over one seat. She stated that the appointments will be on a staggered basis. The new appointments will take place on November 15 as opposed to June 1. She stated that the section pertaining to failure to attend meetings was already amended and is simply being added to the section.

Mr. Heid asked if the Ordinance would come back to the Board. Ms. Siegel stated that it would not come back to the Board.

Chairman Piper asked if a legal degree would be appropriate to add to the list of professional degrees. Ms. Siegel stated that it could be added; she also noted that it does say professional degree.

Mr. Kreisberg asked why there are criteria when there are no criteria for the City Council. Ms. Siegel stated that her understanding is that these are technical boards and there is some expertise that is needed.

Chairman Piper stated that historically there have been members of the board that had the type of experience professionally or technically and their contribution has not been the same as people that

have a technical background. He asked if each of the Council already appoints one member. Ms. Siegel stated that they do, but if you were appointed by an individual that no longer sits in that position the Council felt that their hands were tied and they would have to wait for the 3 year term to make a new appointment.

Mr. Kreisberg asked if the language about the chairman attending the City Council meetings has always been in the code. Ms. Siegel stated that it has, she asked to board if they would like it to be changed. She advised the Board of their options to change the language. After the discussion the Board decided to have the language removed.

Chairman Piper asked about term limits for the Board. Ms. Siegel stated that she was not aware of any term limits. Chairman Piper asked how is it determined which Council Member gets which seats. Ms. Siegel stated that come November 15 seats 1, 3, 5, and 7 will make their appointments. She stated that she will have to amend the section that talks about the first board to clean the language up.

Mr. Kreisberg asked for a update on the project located at 17400 West Dixie Highway. Mr. Heid stated that it was approved at first reading by the City Council. He advised the Board that he will add it to the old business list to keep the Board updated.

Mr. Edwards stated that felt that it is important to have a broader mix other than construction professionals. He stated that the list of professional would limit the board to members with a bias towards development and construction. Ms. Spiegel stated that the board members are residents so they would hopefully use both hats. Chairman Piper pointed out that all the current board members meet the new requirements.

Mr. Kreisberg asked who will make the determination that an appointment is qualified. Ms. Spiegel stated that anyone wishing to be on the board would have to fill out a application that would go through that City Clerk and the Council.

Adjournment - A motion to adjourn was made by Julian Kreisberg and seconded by Jaime Eisen. The meeting was adjourned at 8:16 pm.



City of North Miami Beach, Florida
COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING & ZONING BOARD MEETING
MONDAY, JUNE 11, 2012

Attendees:

Members - Chairman Evan Piper

Jaime Eisen

Saul Smukler

Julian Kreisberg

Norman Edwards

Joseph Litowich

Hector Marrero – ABSENT

Staff - Shari Kamali, Director of Public Services

Christopher Heid, City Planner

Maria Santovenia, Asst. City Attorney

Steven Williams, Board Recorder

Call to Order and Pledge of Allegiance:

Chair Piper called the meeting to order at 6:06 p.m. The Pledge of Allegiance was recited and roll was called. Mr. Hector Marrero was absent.

Minutes:

A motion made by Jaime Eisen, seconded by Joseph Litowich, to approve the minutes of the April 9, 2012 meeting. In a voice vote, the motion passed unanimously.

Chair Piper administered the oath for any members of the public wishing to speak during the meeting. He instructed them to sign in as well.

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OLD BUSINESS

Mr. Heid advised that Item 12-517 (LDR Text Amendment: Commercial Window Signs) was favorably recommended by the Board and approved by City Council. Item 11-511 (LDR Text Amendment: Development Review Procedures) was also favorably recommended by the Board and will be presented to the City Council in July. Item 12-518 (After-the-Fact Variance: 1687 NE 174 Street) and Item 12-522 (Minor Site Plan Modification: 1055 Miami Gardens Drive) were favorably recommended by the Board and approved by City Council. Item 11-509 (FLUM and Rezoning: 17400 West Dixie Highway) was unfavorably recommended by the Board; however, City Council approved the Future Land Use Amendment change to Business, and the Rezoning was tabled until the June 19th meeting.

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NEW BUSINESS

Item #12-527: Addition (Single-Family House): 2100 NE 180 Street – Site Plan Review and Variance

Mr. Heid stated that the existing zoning for this site is RS-4, Residential Single-Family Zoning District, with an existing land use of Single-Family House and future land use designation of Residential/Low-Density. The Applicant requests approval for the construction of a 208 sq. ft. addition to an existing house. The request is for variance from Section 24-44 (D) (3), for a 3 ft. 6 in. variance from the corner side yard setback of 15 ft. The change would result in a corner side yard setback of 11 ft. 6 in. Mr. Heid noted that approximately 10% of the addition would extend into the setback; the corner lot of the house is skewed, which means the addition could not be accommodated without a variance.

Larry Simon, representing the Applicants, explained that the house was constructed in the 1950s. Because the house was skewed when constructed, the addition of a family room would extend off one side and into the setback. He pointed out that while one corner extends into the setback, another corner is much farther away. The extension is not visible from the street and does not infringe upon any neighbors.

Mr. Heid added that the greater portion of the home is set back equal to or further than the required minimum setback. The section extending into the setback is approximately 8 ft. by 3 ft.

Mr. Kreisberg asked if the family room has been constructed at this time. Mr. Simon assured the Board that it has not.

Chair Piper asked if the City routinely approves scenarios such as this one, or if it is an isolated case. Mr. Heid replied that not many such requests have come before the Board; however, in the case of a house that is skewed on a lot, he noted that the corner yard setback is at least 100 ft. away from the nearest property. The yard is heavily landscaped so the extension would not be visible. Mr. Simon confirmed that the house and lot are unique.

Mr. Kreisberg commented that in many parts of the City, the side setback is 10 ft. Mr. Heid clarified that a corner side setback is always 15 ft.

Chair Piper opened the floor for public comment. There were no members of the public present who wished to speak on the Item. Public comment was closed.

Chair Piper asked for the City's recommendation. Mr. Heid stated that only a small portion of the room would extend into the setback, and making the room smaller would be awkward and less usable, the City recommends favorably, with the two conditions as listed in the Staff Report.

Chair Piper asked if the Applicant would accept the two conditions. Mr. Simon said they could.

A motion to approve Item 12-527 was made by Julian Kreisberg and seconded by Joseph Litowich. The motion to approve Item 12-527 passed with a vote of 6-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

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Item #12-528: Gazebo (Single-Family House): 3323 NE 171 Street – Site Plan Review and Variance

Mr. Heid advised that the property is within an RS-1 Residential Single-Family Zoning District, with an existing land use of Single-Family House and future land use of Residential Low Density. The Applicant requests site plan approval and variance for the construction of a 193 sq. ft. gazebo. The request is for variance from Section 24-81 (A) (8), which allows a maximum of 15 x 49 sq. ft. for a gazebo of 144 sq. ft. He reminded the Board that gazebos were previously not permitted in a required yard setback, but have recently been made an allowable exception if they are 144 sq. ft. or less. The request would exceed this by 49 sq. ft.

Luis Larosa, representing the Applicant, stated he is the architect for the project. He explained that the gazebo meets the side and rear setback requirements for accessory use; however, it lies in front of a large family room, and has been slightly elongated so its glazing matches the width of the glazing in this room. If it were shortened, it would block the view from the room. He concluded that it is a light, attractive structure that does not affect waterway visibility. The neighbor to the east of the project has submitted a letter of no objection to the structure.

Mr. Heid referred the Board to the project’s plans, noting that the columns of the gazebo do not block the view from the family room when extended. He confirmed that the water view is maintained and the structure meets side and rear setback requirements, as well as building height. The materials and roof type are similar to those of the main residence. He concluded that the only concern was with regard to the affected property owner to the east, who is supportive of the gazebo.

Mr. Smukler asked how the 144 sq. ft. gazebo was adopted as an allowable exception. Mr. Heid said the Applicant has a good reason to want a slightly larger structure, as it is proportionate to the house.

Mr. Edwards noted that the Applicant’s neighbor to the south has also been shown the plans for the gazebo and did not object to the project. He asked if there was a letter from this

neighbor. Mr. Larosa said this was an error and referred to the neighbor to the east, who would be most affected by the project.

Mr. Kriesberg observed that the letter written on May 3, 2012 also states the gazebo is located in the southeast corner of the property. It was clarified that its actual location is the northeast corner, overlooking a canal.

Mr. Kriesberg asked if construction has begun and stopped on the addition. Mr. Larosa confirmed this, explaining that construction was halted so the Applicant could go through the appropriate channels for approval of the gazebo.

Mr. Litowich asked if the gazebo's proportions are calculated from outside column to outside column, not including the overhang. Mr. La Rosa confirmed this. Mr. Heid said the overhang is not typically included in size measurements of a structure.

Chair Piper asked if there were limitations on the size of an overhang. Mr. Heid said while there was no size limit, there is a limit on how far an overhang may encroach into a setback: this is limited to one-third of the required setback, or 3 ft., whichever is less. The gazebo in question has a 1 ft. overhang.

Chair Piper opened the floor for public comment. There were no members of the public present who wished to speak on the Item. Public comment was closed.

Chair Piper asked for the City's recommendation. Mr. Heid said the City recommends favorably, with the two conditions as listed in the Staff Report.

Chair Piper asked if the Applicant accepted the two conditions. Mr. LaRosa said they could.

A motion to approve Item 12-528 was made by Julian Kreisberg and seconded by Joseph Litowich. The motion to approve Item 12-528 passed with a vote of 6-0.

Mr. Heid advised that the Board's approval is only a recommendation: if members of the public would like to speak on any Items presented at tonight's meeting, they should do so at the appropriate City Council meeting, which will be advertised in the newspaper. Signage will also be posted on the properties and within 500 ft. of the properties' boundaries.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

◆-----◆
Item #12-525: IHOP: 1101 North Miami Beach Boulevard – Site Plan Review and Variance

Mr. Heid stated that this property is located in a B-2 General Business Zoning District, with an existing land use of Restaurant and a future land use designation of Business. The Applicant requests site plan approval and variances for construction of a 575 sq. ft. canopy over an existing wooden deck. The variances would be from Section 24-81 (2), which would waive 4 ft. of the minimum required corner side yard setback of 15 ft. for a canopy; a second variance would be from Section 24-81 (2), which would waive 11 ft. of the minimum required rear yard setback of 15 ft. for canopies.

Andreas Poschl, representing the Applicant, explained that he is Director of Construction and Development for Sunshine Restaurant Partners. The IHOP restaurant in question was built 52 years ago. The intent is to construct a canopy over an existing deck, which was built 42 years ago, in order to create outside dining for the restaurant. The canopy would match the restaurant's blue roof.

Mr. Litowich asked if the canopy overhang would extend farther than the existing deck. Mr. Poschl said it would overhang the perimeter of the deck by 1 ft. on three sides. It will abut the gable end of the structure.

Mr. Kreisberg asked if diners typically eat outside at the restaurant. Mr. Poschl said this occurs at times during the winter months; however, during the summer this is very difficult. The addition of a canopy would be an attempt to accommodate outside dining on a year-round basis. The deck itself will be redone, landscaping will be added, and repairs will be made to the parking lot in order to update the building.

Mr. Edwards asked if all restaurants may establish outside dining, or if special approval is required. Mr. Heid replied that a building permit is necessary, and some restaurants are difficult to retrofit for this purpose; in this case, however, there would be no impact on the landscaping or parking.

Mr. Smukler asked if the 11 ft. setback already existed with the deck. Mr. Heid confirmed this, explaining that the variance request is for the canopy, not the deck. There is no required setback for a deck. Mr. Smukler asked if electricity will be required for the outdoor dining area. Mr. Poschl said permits will be pulled to include fans and lighting, both of which are allowed beneath a canopy.

Mr. Litowich asked if the canopy will be made of canvas. Mr. Poschl said it will be a fireproof canvas-like material, which is recommended over plastic or vinyl. There will be plastic side curtains to exclude rain as well.

Chair Piper opened the floor for public comment. There were no members of the public present who wished to speak on the Item. Public comment was closed.

Chair Piper asked for the City’s recommendation. Mr. Heid said the City recommends favorably, with the seven conditions as listed in the Staff Report.

Mr. Edwards asked if there could be a condition requiring the canopy to remain open on the sides except in the event of rain. Mr. Heid said this condition could be added, bringing the number of conditions to eight.

A motion to approve Item 12-525 was made by Julian Kreisberg and seconded by Joseph Litowich. The motion to approve Item 12-525 passed with a vote of 6-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

◆-----◆
Item #12-526: Addition (Fire Station): 17050 NE 19 Avenue – Site Plan and Variance Re-approval

Mr. Heid stated that this is a City-owned property located in a CF Community Facility Zoning District, with an existing land use of Fire Rescue Station and Offices and a future land use of Public. The request is for approval to construct a 2324 sq. ft. one-storey addition to an existing two-storey Fire and Rescue Station. An existing 1002 sq. ft. one-storey portion of the building will be demolished to accommodate the proposed addition.

The variances requested are as follows: variance from Section 24-55 (B) (3), which would waive 4 ft. of the minimum required front yard setback of 30 ft., reducing it to 26 ft.; and variance from Section 24-55 (B) (3), to waive 11 ft. of the minimum required corner side yard setback of 25 ft., reducing this setback to 14 ft.

Mr. Heid pointed out that the Staff Report states this project was previously approved and favorably recommended by the Board and the City Council; however, the permit for the project has expired, which requires the Applicant to come back to the Board and regain approval. He concluded that Staff continues to support this project.

Mr. Heid explained that because the City is the property owner, the Applicant is Miami-Dade County Fire and Rescue. Angel Lamera, Facilities Division Manager for the project, was sworn in at this time. Mr. Lamera stated again that the project had been previously approved by the Board, but the permit had expired.

Mr. Smukler noted that p.5, Item 9 of the Staff Report discusses revising plans related to the curbing of the easternmost median. He requested clarification of this. Mr. Heid said this island is not currently curbed, and advised that these improvements are reflected in the building plans.

Mr. Kreisberg requested a brief description of the improvements to be made. Mr. Lamera said the north side of the building would be demolished and replaced with a new rescue side of the station. In addition, the entire station will be remodeled and repainted. Utilities will be segregated from the administration building, and will no longer be included under a single meter. This is expected to result in a slight decrease in the utility bill.

Mr. Heid stated that once the demolition is complete and the new addition has replaced it, there will be a new area of roughly 39 sq. ft.

Mr. Smukler noted that the corner side setback is 25 ft., on which the proposed addition will encroach by 11 ft. Mr. Heid confirmed this, advising that this will leave sufficient room for landscaping. It was also clarified that the building will always be owned by the City.

Mr. Edwards asked if the project would raise a legal question regarding unjust enrichment. Ms. Santovenia said she was not certain of the structure of the situation, so she could not answer this question. Mr. Lamera said once the funds have been spent to make the improvements, it would be even less likely that the Fire Station would leave the facility.

Mr. Edwards observed that the only issue would be if the City decided to take back the Fire Station. Chair Piper said it would be within the Board's purview to remind the City's Legal Department to ensure the contractual arrangement with Fire and Rescue does not have any unforeseen issues.

Ms. Santovenia asked if Mr. Edwards' question was whether there would be unjust enrichment to the City. Mr. Edwards confirmed this, and asked if the City would need to repay Fire and Rescue for these improvements if they took the property over from the tenant. Ms. Santovenia said leases are typically drafted so any improvements made by tenants will stay behind if the tenant leaves. Mr. Heid added that a permit would be necessary in order to physically remove any structures from the property, and as the property owner, the City would need to sign a permit allowing this removal.

Chair Piper opened the floor for public comment. There were no members of the public present who wished to speak on the Item. Public comment was closed.

Chair Piper asked for the City's recommendation. Mr. Heid said the City recommends favorably, with the ten conditions as listed in the Staff Report.

Chair Piper asked if the Applicant accepted the ten conditions. Mr. Lamela said they could. He also noted that the variance is limited to six months, and asked if it would be possible to extend

this time period to one year, as it was not certain the improvements could be made within this time frame.

Ms. Kamali said the City is in the process of changing the six month time frame, although the change had not yet gone before the City Council. She asked that the Applicant ensure the request is made to renew the variance before the first six months have passed.

Mr. Heid said if this was part of the Code, it would require a variance to waive this requirement, and such a variance has been neither requested nor advertised. He did not feel this would be possible. However, he noted that the requirement was for six months to pull a permit or one year to submit it. The City Administration is also willing to write a letter on behalf of the Applicant to extend the time frame for six months. He felt this would be sufficient until the Code is changed.

A motion to approve Item 12-526 was made by Julian Kreisberg and seconded by Norman Edwards. The motion to approve Item 12-526 passed with a vote of 6-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

◆-----◆
Item #12-519: Fence Height – LDR Text Amendment

Mr. Heid stated that this Item was originally brought before the Board in April 2012, but was tabled because it was thought to be confusing. Upon further review, Staff felt the original amendment was complicated and difficult to understand. Portions of the original amendment, including hedge height and some fence specifications, have been omitted from the current draft. Hedges may now be the same height as fences, as long as the hedge is maintained. The height proposed for a corner side yard was originally 4 ft.; it has now been raised to 6 ft., as there are often requests from homeowners to make this change.

He continued that fences may remain 4 ft. in the front of a property and 6 ft. in the rear, corner, and side yards, which is commonly requested in the City.

Chair Piper asked if Mr. Heid recalled any of the details of the discussion about fence height. Mr. Heid said there had been significant resistance from homeowners with regard to limiting the size of hedges. He also clarified that rear yard fences are the side fences between buildings rather than a fence on the rear of the property. The limitation of a solid fence to 3 ft. in height will not be changed.

Mr. Kreisberg asked how this would affect hedges that encroach on a setback. Mr. Heid said this would not be an issue on private property, as the depth of rights-of-way should ensure sufficient room. If the fence extends beyond the property line, however, it may be cited. If a hedge results in complaints from neighbors, it may also trigger a citation.

Mr. Heid added that pedestrian and vehicular gates may be 1 ft. higher than the fence to which they are attached. This would allow for a less uniform and more decorative appearance.

Mr. Kreisberg noted that the measurement from the minimum finished floor elevations had also been changed, which could affect fence height if a home is at a higher elevation on one side. Mr. Heid said this occurs on occasion if a house is elevated. He noted, however, that most individuals do not object to fencing or landscaping.

A motion to approve Item 12-519 was made by Julian Kreisberg and seconded by Joseph Litowich. The motion to approve Item 12-519 passed with a vote of 6-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

◆-----◆
Item #12-520: B-2 (Modification of Use) LDR Text Amendments

Mr. Heid advised that the Board has seen these amendments for the B-2 General Business Zoning District before, and recalled that they had expressed concern that pet stores would become permitted uses. This suggestion has been left as a conditional use for the sale of live pets, and pet groomers and sale of pet supplies will be permitted uses.

Other changes include repetition of some uses that are also allowed in the B-1 District; because these are clearly permitted uses in B-1, they were removed from the B-2 listing. These include health and exercise studios, coin laundries, convenience stores, and delis. Antiquated uses, such as dry goods stores and telegram offices, were also removed from the B-2 amendments. Code includes a clause that may allow for these uses if they are sufficiently similar in nature to other uses.

He continued that while it may sound easier to classify a use as conditional in order to retain better control over it, making some uses conditional will effectively mean they will not be allowed, particularly in the case of small local businesses, as they are less well-funded and may

not be able to afford the approval process. The result in many cases is that these businesses will simply relocate. Therefore, the suggestion is that many of these uses become permitted uses.

Mr. Heid said fast food restaurants are defined as those restaurants in which customers order from an overhead board, at a counter, and take their items. He explained that this term could apply to a small coffee shop that serves pastries. Two additional uses, museums and vintage/collectible goods, were introduced as well.

Chair Piper asked if this would not qualify as a standard retail use. Mr. Heid replied that there are specific regulations prohibiting secondhand sales, which are restricted to the warehouse district. The amendment would address this issue and allow the use in B-2 districts. He also clarified that standard fast food restaurants with a drive-through window will remain a conditional use, as these require more control.

Restrictions are also decreased for check cashing businesses, as they are currently very restricted. Mr. Heid said this restriction places a burden on individuals who rely on this service. He pointed out that many other businesses, such as grocery and convenience stores, will cash checks, which created an inequality between businesses. Lifting the restrictions would allow the market to determine whether or not this is an appropriate use.

Mr. Kriesberg asked why delicatessens were removed from the amendment. Mr. Heid explained they are permitted in B-1 Districts, and were removed to lessen confusion. Because it is allowed in B-1, it is not necessary to allow it in B-2.

Mr. Kriesberg asked why tanning salons were non-conditional rather than conditional uses. Mr. Heid said there are several national companies that manage tanning salons, and felt this use would be lost if subjected to the process for a conditional use.

Chair Piper requested clarification of the language regarding check cashing facilities. Mr. Heid said language would be clarified to show that this is now a permitted use.

Mr. Litowich asked how the Code differentiates between vintage and collectible goods and vintage or secondhand clothing. Mr. Heid said the difference in this case is in the eye of the beholder, as there is no defined difference. He observed that it can be "difficult to legislate quality," and reiterated that it is hoped the market will take care of any issues. He noted that there is no logical way to enforce distinctions between these categories: they must either be accepted as a class or not.

Mr. Heid continued that secondhand sales are a permitted use in B-4 Districts, and advised that a judgment call could be made based upon several factors to determine whether or not these sales qualify as vintage or collectible. Consignment stores, for example, are included under vintage/collectible use.

Mr. Smukler asked if the requirement that check cashing businesses would prevent them from being less than 200 ft. from a residential area. Mr. Heid said it would be recommended that this requirement be stricken from the amendment; while it may be associated with “unsavory” elements, this was not always accurate. He pointed out that this restriction represented more of a moral stance than zoning equality.

Mr. Smukler asked if the restriction preventing these businesses from being established within 200 ft. of a residential area would have limited the potential locations open to them. Mr. Heid said they are not allowed in some locations at all. He added that this was preferable to attaching so many restrictions that a location became prohibitive.

Chair Piper noted that the owners of some shopping centers would not want these businesses to be part of the centers. He commented that any problems could be controlled by a police presence or “No Trespassing” signs. Mr. Heid said this was an example of the issue being market-driven: landlords who have the long-term interests of their properties at heart would not want to rent to low-end establishments.

Mr. Edwards asked if the language moving pet grooming to a permitted use should also contain the conditions that it must take place in an air-conditioned, soundproof building no less than 300 ft. from a residential area. Mr. Heid said this was a good point, but noted that businesses selling pet supplies but not offering grooming services would not need the air-conditioned and soundproofed requirements. He suggested that there may need to be a separate category for pet groomers, or additional language attached to discussion of this business.

Mr. Edwards asked if places of public assembly would remain a permitted use. Mr. Heid said this use is currently permitted and no change was suggested. Mr. Edwards asked if this category would include schools and churches. Mr. Heid said they would include churches, but not schools. Ms. Kamali said schools are allowed in CF and RM-23 districts, but not B-2.

Mr. Edwards asked why schools were not allowed within B-2 districts if churches were allowed. He suggested that smaller schools, such as schools without playgrounds or tutoring facilities, might be permissible in this district. Chair Piper pointed out that there are several requirements that accompany schools, such as traffic considerations, that could limit their placement. Mr. Heid added that B-2 districts allow retail uses, such as liquor stores and bars. If a school is allowed within this district, there must be a 1500 ft. radius from these facilities. While it is possible for these businesses to seek a variance, it can be expensive and difficult, and parents of schoolchildren may object to the location.

Mr. Litowich noted that some places of public assembly, such as churches and synagogues, may have schools attached to their facilities. Mr. Heid said while day care is allowed at these facilities in B-2 districts, elementary through high schools are not permitted in B-2. Vocational training is permitted within the district.

Mr. Edwards asked to know the height and density maximums of these residential multi-family or mixed-use uses within B-2 areas. Mr. Heid said these are conditional uses and must go through a hearing. Mr. Heid said B-2 districts are allowed to have multi-family residential in accordance with RM-23; the maximum height allowed is three stories or 35 ft., although the City Council may authorize up to six stories or 65 ft.

He noted that these would be conditional uses that must come before the Board for recommendations and the City Council for approval. They would also require a future land use map amendment to the Comprehensive Plan, as virtually all B-2 districts have future land use categories of Business and do not allow Residential. The mixed-use future land use category allows this mixed use of residential and business.

Mr. Smukler asked if the 1500 ft. radius around schools in which liquor cannot be sold could be extended to a restaurant that serves liquor after hours. Mr. Heid clarified that restaurants which serve alcohol are not included in this restriction, which is specific to bars, lounges, and packaged liquor stores. He noted that a business may request a variance to waive the 1500 ft. distance separation. Ms. Kamali noted that the State-required radius is only 500 ft., and also provides an avenue for variance within municipalities.

Mr. Smukler pointed out that there is a cost associated with conditional use, and proposed that the amendment could make these uses permitted in evenings and on weekends. Mr. Heid said while he did not see a mechanism for this, it could be considered further.

Chair Piper opened the floor for public comment.

Matthew Amster, representing the owner of the Intracoastal Mall, was sworn in at this time. He advised that the owner is supportive of the changes presented before the Board at today's meeting, and hoped the Board would recommend them favorably.

Mr. Kriesberg asked if Mr. Amster could provide specific examples of any part of the amendment that would make it easier for tenants to go into the Intracoastal Mall. Mr. Amster said the owner had wanted to rent to a dog grooming service, as well as a wine bar.

Mr. Heid said the proposed amendment is part of an ongoing program by which districts are to be made more liberal regarding their list of uses in order to be more competitive with neighboring municipalities. The lessened restrictions are seen as more business-friendly.

As there were no other members of the public wishing to speak on the Item, public comment was closed.

A motion to approve Item 12-520 was made by Julian Kreisberg. Mr. Kreisberg added that the motion was made with the understanding that Mr. Heid would amend some of the Item's language as discussed by the Board, specifically as it applied to pet groomers.

Mr. Litowich seconded the motion. The motion to approve Item 12-520 passed with a vote of 6-0.

Chairman Even Piper	YES
Joseph Litowich	YES
Jaime Eisen	YES
Hector Marrero	Absent
Julian Kreisberg	YES
Norman Edwards	YES
Saul Smukler	YES

◆-----◆
Next Meeting: Monday, July 9, 2012

Mr. Edwards requested that a presentation on changes and legislative updates at the State level be made at the next meeting. Ms. Kamali said this could be done, although she noted it may be very short, as the State does not have any control over any changes that have been made in the City. She concluded that this responsibility has been given to the City versus the State.

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Adjournment

A motion to adjourn was made by Julian Kreisberg and seconded by Norman Edwards. The meeting was adjourned at 7:47 p.m.

ORDINANCE NO. 2012-13

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA AMENDING CHAPTER 24, SECTION 24-41 (D)(9)(m), ENTITLED “RS-1 RESIDENTIAL SINGLE-FAMILY DISTRICT” BY DECREASING THE HEIGHT OF WALLS AND FENCES IN THE FRONT YARD AND INCREASING THE HEIGHT OF WALLS AND FENCES IN THE REAR, CORNER SIDE, AND INTERIOR SIDE YARD; AMENDING CHAPTER 24, SECTION 24-47 (D) (9) (e), ENTITLED “RM-19 RESIDENTIAL LOW-RISE MULTI-FAMILY (MEDIUM DENSITY) DISTRICT” BY INCREASING THE HEIGHT OF WALLS AND FENCES IN THE FRONT, REAR, CORNER SIDE, AND INTERIOR SIDE YARD; AMENDING CHAPTER 24, SECTION 24-80 (C) (3) OF THE CITY’S CODE OF ORDINANCES, ENTITLED “FENCES, WALLS AND HEDGES” BY INCREASING THE ALLOWABLE HEIGHT OF WALLS AND FENCES IN THE FRONT AND CORNER SIDE YARD OF MULTI-FAMILY ZONED PROPERTIES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in order to create uniformity of the height of fences and walls in various zoning districts within the City, staff has reviewed and recommends modifying the heights of fences, walls and hedges in all of the residential zoning districts; and

WHEREAS, many citizens living and owning property in the RS-1 Residential Single-family Zoning District and the RM-19 Multi-family Zoning District desire more privacy on their property and have requested that the City amend its zoning code to reflect such; and

WHEREAS, the amendment to the fence, wall and hedge heights in all residential zoning districts will provide better security to the City's residents; and

WHEREAS, with modern construction and the placing of decorative and ornate structures on pedestrian and vehicular gates in all zoning districts, residential and commercial,

staff recommends that an additional one (1) foot increase be given to allow for such decorative elements; and

WHEREAS, the amendments and modifications to the fence, wall and hedge heights in all zoning districts was heard by the Planning and Zoning Board on Monday, June 11, 2012, and received a favorable recommendation with a vote of 6 to 0; and

NOW, THEREFORE,

BE IT ORDAINED by the City Council of the City of North Miami Beach, Florida.

Section 1. The foregoing recitals are true and correct.

Section 1. Sec. 24-41 Residential Single-Family District of the Code of Ordinances of the City of North Miami Beach is hereby amended as follows:

Sec. 24-41 RS-1 Residential Single-Family District

(D) *Site Development Standards.*

(m) Walls: No boundary wall or fence shall be constructed with a height of more than ~~five (5) feet~~ four (4) feet in the front yard or six (6) feet in the rear, interior side, and corner side yard, above the ground level of adjoining property and no boundary line hedge or shrubbery shall be permitted with a height of more than five (5) feet. Pedestrian and vehicular gates may be increased by one (1) additional foot for decorative features. Solid waterfront walls and fences of solid construction or solid waterfront hedges shall not be permitted in excess of three (3) feet in height. ~~Such walls or hedges, where partially open, will be permitted to a height of not more than five (5) feet.~~ The heights of elevation of any wall shall be measured from the ~~erown of the road~~ minimum finished floor elevation. Any questions as to such heights may be conclusively determined by a registered civil engineer, a registered land surveyor or an architect. Fences around tennis courts will be permitted to a height of ten (10) feet, ~~with the permission of the abutting neighbors.~~

Section 2. Sec. 24-47 Residential Low-Rise Multifamily (Medium Density) District of the Code of Ordinances of the City of North Miami Beach is hereby amended as follows:

Sec. 24-47 RM-19 Residential Low-Rise Multifamily (Medium Density) District

(D) *Site Development Standards.*

(e) Walls: ~~No boundary wall shall be constructed with a height of more than five (5) feet above the ground level of adjoining property.~~ No fence or wall shall exceed six (6) feet in height. Pedestrian and vehicular gates may be increased by one (1) additional foot for decorative features. ~~Waterfront walls and fences of solid construction or solid waterfront hedges shall not be permitted in excess of three (3) feet in height. Such walls or hedges, where partially open, will be permitted to a height of not more than five (5) feet.~~ The heights of elevation of any wall shall be measured from the erown of the road minimum finish floor elevation. Any questions as to such heights may be conclusively determined by a registered civil

engineer, registered land surveyor or an architect. Fences around tennis courts will be permitted to a height of ten (10) feet, ~~with permission of the abutting neighbors.~~

Section 3. Sec. 24-80 Fences, Walls and Hedges of the Code of Ordinances of the City of North Miami Beach is hereby amended as follows:

Sec. 24-80 Fences, Walls and Hedges

(C) *General Requirements.*

(3) *Maximum height:*

~~(a) In all residential districts, no fence, wall or hedge shall exceed six (6) feet in height within required side and rear yards, or four (4) feet in height within a required front yard.~~

~~(b) Under all circumstances, in all residential districts the six (6) foot height of any fence, wall or hedge shall not begin prior to the front building line.~~

(a) RS-1 Zoning District: See Sec. 24-41 (D)(m).

(b) RS-2, RS-3, RS-4, RS-5, MH-1, RD, and RO Zoning Districts: no fence or wall shall exceed six (6) feet in height within a required rear, corner side, and interior side yard, or four (4) feet in height within a required front yard. Pedestrian and vehicular gates may be increased by one (1) additional foot for decorative features.

(c) RM-19 Zoning District: See Sec. 24-47 (D)(e).

(d) RM-23, RM-32, and FCC Zoning Districts: No fence or wall shall exceed six (6) feet in height. Pedestrian and vehicular gates may be increased by one (1) additional foot for decorative features.

(e) Under all circumstances, in all residential districts the six (6) foot height of any fence, wall or hedge shall not begin prior to the front building line.

~~(e)(f)~~ In all nonresidential districts, no fence, wall or hedge shall exceed six (6) feet in height, except as may be permitted or further restricted elsewhere in this section.

(g) Hedges: In all zoning districts no hedge shall exceed the allowable height of a fence or wall in its corresponding yard.

Section 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 5. If any section, subsection, clause or provision of this ordinance is held invalid the remainder shall not be affected by such invalidity.

Section 6. It is the intention of the City Council of the City of North Miami Beach and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami Beach, Florida. The Sections of this

Ordinance may be renumbered or relettered to accomplish this intention and the word "Ordinance" may be changed to "Section", "Article" or other appropriate word as the codifier may deem fit.

APPROVED BY TITLE ONLY on first reading this ___ day of July, 2012.

APPROVED AND ADOPTED on second reading this ___ day of _____, 2012.

ATTEST:

PAMELA L. LATIMORE
CITY CLERK

GEORGE VALLEJO
MAYOR

APPROVED AS TO FORM

DARCEE S. SIEGEL
CITY ATTORNEY

Sponsored by: Mayor & City Council