

# MIAMI BEACH

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

## COMMISSION MEMORANDUM

TO: Mayor Dan Gelber and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: June 24, 2020

SUBJECT: **LAND USE AND SUSTAINABILITY COMMITTEE MEETING OF MAY 6, 2020**

A Land Use and Sustainability Committee virtual meeting was held on May 6, 2020. Land Use and Sustainability Committee Members participating were Commissioners Mark Samuelian, Michael Gongora, Ricky Arriola and Micky Steinberg. Members from the administration, including Alina T. Hudak, Thomas Mooney, Eric Carpenter, Elizabeth Wheaton, Nick Kallergis, Roy Coley, Nelson Perez, David Martinez and Rogelio Madan as well as members of public, also participated.

The meeting was called to order at 8:05 AM

1. Discuss Limiting Big Box Formula Retail And Formula Restaurants In Sunset Harbour.

Commissioner Ricky Arriola

June 5, 2019 C4 Q (Continued from February 18, 2020)

Planning / City Attorney's Office

**Deferred to June 30, 2020.**

2. Discussion Pertaining To Strategic Increases In FAR Related To Resiliency And Other Defined Policy Benchmarks.

Mayor Dan Gelber

January 15, 2020 C4 K (Continued from February 18, 2020)

Planning

### **AFTER-ACTION:**

Thomas Mooney introduced the item.

Commissioner Samuelian requested information regarding the timing of ballot questions.

Thomas Mooney indicated that if there was a desire to have a ballot question in November, that action would be necessary today.

Commissioner Gongora indicated that he would be ok with attachment B moving forward but wanted to hear from the public on remaining items and wanted additional information.

Commissioner Samuelian requested additional information regarding attachment B.

Thomas Mooney provided clarifications regarding the minor increases that would be allowed with the noted exemptions in attachment B.

Members of the public addressed the committee.

Commissioner Arriola suggested that there be a potential increase for office development. Commissioner Gongora requested additional information regarding the potential of ADA exemptions.

Thomas Mooney indicated that he would not recommend exemptions for ADA in historic buildings because it would be difficult to calculate and would add to the bulk and mass of the building.

Commissioner Arriola indicated he was supportive of sending both options to the City Commission for discussion.

Commissioner Gongora indicated that option B was ready to move forward but that he had concerns and questions regarding option A and that much more information and discussion was necessary.

Nick Kallergis indicated that option B would comply with the single subject requirement and could be a single question, but option A might require separate questions.

Commissioner Samuelian indicated that he was supportive of option B to the City Commission with a favorable recommendation, but that option A was not ready and needed additional thought, including ADA exemptions and office exemptions.

**MOTION – MG/RA (3-0):**

1. **The City Commission refer attachment B, pertaining to revisions to FAR exceptions, in Sec. 114-1 of the LDR's, to the Planning Board.**
2. **The City Commission discuss attachment A, as amended, regarding a more comprehensive strategy for FAR increases city wide, including additional considerations for office development and ADA exemptions.**

3. Parking Requirements in Historic and Conservation Districts – MXE Regulations

Commissioner Ricky Arriola  
February 12, 2020 R5 H  
Planning

**Deferred to June 30, 2020.**

4. Proposed Zoning Overlay For The Lehrman Day School At 77th Street And Dickens Avenue.

Commissioner Micky Steinberg  
December 11, 2019 C4 N (Deferred from February 18, 2020)  
Planning

**AFTER-ACTION:**

Thomas Mooney introduced the item.

Commissioner Steinberg and members of the public addressed the committee.

Thomas Mooney indicated that plans for the Lehrman Day School would be published as part of the Planning Board agenda.

**MOTION – MG/RA (3-0):**

**Recommend that Planning Board transmit the item to the City Commission with a favorable recommendation.**

5. A) Review Of Resilience Strategy Workplan – Planned And In Progress Resiliency Projects.  
The following items 5.1 to 5.5 are projects discussed under this item.

Commissioner Mark Samuelian  
Recurring Item  
CIP / Public Works

5.1.) Discussion regarding establishing private property harmonization and the residential / commercial property runoff and public drainage infrastructure policies for the West Avenue neighborhood. (PW)

**AFTER-ACTION:**

Roy Coley presented an updated resolution with an updated drainage policy and harmonization policy specific to West Avenue. The new policy delineates the items the city will pay for to harmonize between the public and private property. Public Works is also recommending the policy be further updated to include that the city pay for fire connections.

Commissioner Samuelian inquired if the cost of harmonization incurred additional costs. Mr. Coley stated the recommendations do not generate additional costs.

Commissioner Samuelian asked if there was an analysis that shows the West Avenue properties are not at a greater risk of flooding during normal or abnormal conditions.

Mr. Coley stated there is a pre- and post- design construction model, which is intended to establish the private property is not negatively impacted if the city were to receive a 10-year designed storm. This model does assume the systems are working the drains and pumps are not clogged.

Members of the public spoke (Arthur Marcus, Alex Fernandez, Stephan Ginez owner of the Hotel Gaythering, and Michael Larkin).

Commissioner Gongora asked if other residential neighborhoods are not required to pay for harmonization. Mr. Coley explained said other neighborhoods pay for their harmonization.

Commissioner Samuelian asked if other neighborhoods will have separate harmonization policies. Mr. Coley explained the current policy is citywide and this resolution is being recommended because of the multiple property uses in West Avenue. The existing policy will be used in other neighborhood projects.

Mr. Coley stated the designers are at a standstill until there is a harmonization policy in place.

**MOTION: By Acclamation:**

**Continue to the May 26, 2020 LUSC, with the following direction:**

- a. **Staff to meet with Mr. Larkin to discuss Gumenick property and potential to accelerate the Baywalk.**
- a. **Staff to provide a public meeting with the West Avenue residents to gather feedback on the proposed resolution prior to May 26.**

**Continue to the June 30<sup>th</sup>, 2020, LUSC with the following direction:**

- a. **A summary of the Rise Guide recommendations and best practices, which have been completed, and when the remaining will be completed for West Avenue.**

5.2.) Discussion regarding siting of the stormwater pump station and above ground components for the West Avenue neighborhood project. (CIP)

**AFTER ACTION:**

Commissioner Samuelian introduced this item.

David Martinez, Capital Improvements Director, provided an update regarding the stormwater pump station and generator location. City staff evaluated 11 potential locations for the pump station and generator equipment and determined the proposed location is the best alternative.

Members of the public spoke (Valerie Navarrete, Arthur Marcus, Robert Ploehn, Diane Klein, Alice Palatnick, Stephan Ginez owner of the Hotel Gaythering, and Michael Larkin).

Commissioner Michael Gongora inquired about Alternative 2.

Eric Carpenter, Assistant City Manager, provided an overview of how the evaluation of pump station location and generator were selected. Nelson Perez-Jacome, City Engineer, explained Alternative 2 poses an engineering challenge because of the technical requirements needed for equipment placement. He expressed the most feasible alternative from an engineering perspective is alternative 1. Roy Coley, Public Works Director, stated the project went through the Columbia Resilience Accelerator and there were multiple noticed public meetings during this time. Elizabeth Wheaton, Environment & Sustainability Director, stated through the Resilience Accelerator, 100 Resilient Cities, and Columbia University, the location of the pump station was discussed. Following the Resilience Accelerator, city staff hosted public meetings with the West Avenue Neighborhood Association and the North of Fifth Neighborhood Association with the location and the size of the infrastructure.

Commissioner Arriola commented the additional feasibility assessment will put a pause on the project and asked how long the delay would be.

Mr. Perez-Jacome provided an overview of the delay the project will face and the impact it will have with negotiations for water quality enhancements with Miami-Dade County Environmental Resources Management Division. He stated the design builder hired by the city highly recommended against alternative 2. Mr. Coley listed the steps the city and design consultant would need to take to create a design for alternative 2. He stated it would put a 4-6 month pause on the project.

**MOTION: MG/MS (2-1)**

**Bring the item to the City Commission to determine whether a feasibility assessment should be performed on alternative 2; and identify a funding source.**

5.3) Discussion regarding the relocation of auxiliary power generator for the storm water pump station for Indian Creek Phase III project.

**AFTER-ACTION:**

David Martinez presented this item. He provided an update on the Indian Creek project and the location of the generator into surface lot P-55. He requested direction to move forward with issuing an amendment to current designer and a change order for the actual work. Mr. Coley explained this item is a relocation of the generator only whereas the West Avenue project is a relocation of the stormwater pump station and all the above ground components.

**MOTION: By Acclamation.**

**City staff to negotiate an amendment for the designer to conduct due diligence and redesign of the requested change and bring back to City Commission a change order for performing additional work.**

5.4) Review of Palm Hibiscus status.

**AFTER-ACTION:**

David Martinez presented this item. Mr. Martinez stated 14 properties are currently being renegotiated. He provided an update on new permits submitted to Miami-Dade County Department of Environmental Resources Management (DERM). This will allow installation of the 30 inlets. He explained a close-out package for Hibiscus Island has been submitted to DERM and resubmitted in April and a partial close out package is being completed for Palm Island.

Commissioner Samuelian asked when construction can begin. Mr. Martinez stated there had been substantial landscaping progress on Palm and Hibiscus and the overall project is 95% complete.

**MOTION:**

**Continued to the May 26, 2020 LUSC.**

5.5) Palm Hibiscus / Road Elevation Experience.

**AFTER-ACTION:**

Commissioner Samuelian introduced this item.

David Martinez, Capital Improvements Projects Director, and Nelson Jacome-Perez, City Engineer, provided an update on the DERM permitting status. Mr. Martinez explained the project is 95% completed and the contractor will be ready to mobilize once they have the permit.

Mr. Coley reported Jacobs has submitted their final deliverable and will be presented at Commission.

Commissioner Samuelian asked whether the IPCC Median curve was evaluated. Mr. Coley responded he would follow-up with Jacobs to confirm if it was included in their final deliverables.

**MOTION:**

**Continued to the May 26, 2020 LUSC.**

6. Discussion To Review The Role Of Land Use Boards In Neighborhood Improvement Projects.

Commissioner Mark Samuelian  
April 11, 2018 C4 N (Deferred from January 21, 2020)  
Planning

**AFTER-ACTION:**

Thomas Mooney introduced the item.

Commissioner Arriola expressed support for good aesthetics and had questions regarding the timeframes that would be added to the process of reviewing projects.

Commissioner Gongora indicated that he did not want this used as a tool for DRB to slow down projects.

Thomas Mooney indicated that it would add 2 to 3 months to the process and also that it would

open projects to the appeal process. He suggested that the commission retain the ability to send projects to the DRB on a case by case basis and that it be on an advisory basis.

Commissioner Samuelian wanted to codify the process but was amenable to the DRB review being only in an advisory capacity, with a limit on the number of days available to discuss the item before it has to move forward, and provide the manager with the ability to request that the City Commission opt out of the DRB review.

Thomas Mooney suggested that additional criteria be established for what types of projects would go to the DRB so as to not excessively impact their agenda.

Members of the public addressed the committee.

Commissioner Arriola and Gongora expressed concerns over having criteria for which projects should go before the board and having an ability to exempt projects.

Commissioner Gongora stated that these DRB decisions should not be subject to challenge.

Thomas Mooney clarified that the item would need to be sent to the City Commission when it is ready for referral to the Planning Board.

**MOTION – By Acclamation:**

**Recommend that the City Commission refer an ordinance to the Planning Board that includes the following:**

- 1. Establish a procedure for DRB advisory review of certain types of neighborhood projects.**
  - 2. Goal is to elevate aesthetics.**
  - 3. Establish a timeframe for the review by the DRB, as well as a process for the City Manager to seek a waiver from the advisory review by the City Commission.**
  - 4. Types of neighborhood projects subject to advisory review would be those with significant above ground components.**
  - 5. Establish a public notice project.**
7. Discuss RM-2 Zoning At The West End Of Arthur Godfrey Road/41st Street And Potential For Public Benefits.

Commissioners Michael Gongora and Ricky Arriola  
October 16, 2019 C4 T (Deferred from February 18, 2020)  
Planning

**AFTER-ACTION:**

Thomas Mooney introduced the item.

Michael Larkin and Ray Forte made a presentation on behalf of the proposer.

Members of the public addressed the committee.

Commissioner Arriola expressed support for the proposal.

Commissioner Gongora expressed the need for additional refinements to the public benefits, that a lower height be explored, and the need to ensure that other areas are not affected by the ordinance. He also expressed the need for additional public outreach.

Commissioner Samuelian commented on the height increase and expressed a need for enhanced public outreach.

**MOTION by Acclamation:**

**Recommend that the City Commission refer the attached ordinances to the Planning Board.**

8. Discuss Rezoning CD-1 Area Between 40th Street And 41st Street To CD-3 In Order To Incentivize Mixed-Use Development In Mid-Beach.

Commissioner Ricky Arriola  
March 18, 2020 C4 AC  
Planning

**AFTER-ACTION:**

Thomas Mooney introduced the item, including the recommendation of the 41<sup>st</sup> Street committee in support of the item and that it apply to all CD-1 parcels.

Commissioner Arriola expressed support of the proposal to help revitalize the corridor.

Commissioner Gongora expressed support of the more limited proposal.

**MOTION by Acclamation:**

**Recommend that the City Commission refer an ordinance to the Planning Board that was only applicable to parcels unified with a lot on 41<sup>st</sup> Street.**

9. Discussion Regarding Finding A Plan, A List Of Locations Where Blue And Green Infrastructure Solutions Can Be Applied To, In Areas Prone To Flood During Heavy Rain.

Commissioner Mark Samuelian  
January 15, 2020 C4 N (Continued from February 18, 2020)  
Public Works

**AFTER-ACTION:**

Roy Coley, Public Works Director, presented this item. The La Gorce neighborhood, West 59<sup>th</sup> Street between Alton Road and Biscayne Bay, was selected as a pilot program where a basic bioswale will be installed to test the efficacy and value of bioswales of reduce flooding.

Commissioner Samuelian asked what the timeline would be once approved.

Mr. Coley reported it would be 30 days for city engineers to design the bioswale, one month of the permitting process, and less than 30 days to install.

**MOTION: By Acclamation: Public Works to begin pilot program in the La Gorce neighborhood and bring feedback to the committee upon implementation before moving onto the other recommended bioswale.**

10. Mitigation Project Funding From The Department Of Housing And Urban Development.

Commissioner Mark Samuelian  
September 11, 2019 C4 P (Continued from October 23, 2019 SRC)  
Office of the City Manager – Grants and Intergovernmental Affairs

**AFTER-ACTION:**

Judy Hoanshelt, Grants and Intergovernmental Affairs Director provided an update on this item. She stated city staff submitted comments to the State's Action Plan in October. The State's Action Plan was submitted to the United States Department of Housing and Urban Development in February and the application was released in April. Ms. Hoanshelt provided additional information on the milestones and stated that the grant deadline is June 30, 2020. Ms. Hoanshelt stated that an internal meeting was held with Department Directors on the grant, and a preliminary list of proposed projects has been developed. Staff is currently in the process of reviewing the scope,

and timeline of each project for final selection of the most suitable projects to submit for this grant.

Commissioner Samuelian asked if there is a deadline to receiving the grant funds. Ms. Hoanshelt stated that it usually takes a few months for the State's review.

Commissioner Samuelian asked if there is any assist needed from the commissioners. Ms. Hoanshelt stated city staff is working with the federal and state lobbyist, as well as Miami-Dade County to complete the application.

**MOTION – By Acclamation: City staff to provide updates through Letters to Commission.**

11. Discuss Permitting Outdoor Theatre Use.

Commissioner Ricky Arriola  
February 12, 2020 C4 X (Continued from February 18, 2020)  
Planning

**AFTER-ACTION:**

Commissioner Arriola introduced the item.

Thomas Mooney provided details regarding the amendments that would be required to allow the proposed use.

Graham Penn provided additional details regarding the proposal for outdoor theater use at 1212 Lincoln Road.

Members of the public addressed the committee.

Commissioner Samuelian asked if the applicant has ever done a 90-day pilot.

Commissioner Gongora was supportive of the concept and felt that if this did not move forward there could be a use that is a greater nuisance. Additionally, Comm. Gongora was sympathetic to neighbor concerns, and believes that the use must show movies and that it needs to be ensured that alcohol sales only occur when movies are played. Comm. Gongora expressed a concern that the ordinance might be too broad and suggested enhanced conditions to ensure compliance with noise restrictions.

Nick Kallergis asked if the committee would like the ordinance to be modified so that alcohol sales only occur on nights that movies are scheduled to be played.

Commissioner Gongora suggested that the item not be placed on the City Commission consent agenda and that additional protections for the residents be considered, including the ability to close down the use if there are issues and to mitigate noise and light issues.

Thomas Mooney stated that the item was already on the consent agenda for a referral on the Planning Board and that a Commissioner could pull the item for discussion.

**MOTION by Acclamation:**

**Without a recommendation on the proposal, move the item from the consent (C4) agenda to a discussion item (R9) on the May 13, 2020 City Commission to discuss the referral of the item to the Planning Board.**

12. Discuss Limiting Big Box Formula Retail And Formula Restaurants On Lincoln Road.

Commissioner Ricky Arriola  
June 5, 2019 C4 R (Deferred from January 21, 2020)  
Planning

**Deferred to July 21, 2020.**

13. Discussion Regarding The Establishment Of Penalties For Property Owners Engaging In Demolition By Neglect.

Commissioner Ricky Arriola  
July 17, 2019 C4 O (Deferred from January 21, 2020)  
Planning

**AFTER-ACTION:**

Thomas Mooney introduced the item.  
Commissioner Samuelian expressed support for the item.

**MOTION by Acclamation:**

**Recommend that the City Commission move forward with the Building Registry ordinance at First Reading.**

14. Comprehensive Plan Amendment For Public Facility (PF) Future Land Use Element.

Mayor Dan Gelber  
March 18, 2020 C4 V  
Planning

**AFTER-ACTION:**

The item was combined with item 15.  
Thomas Mooney introduced the item.  
David Martin made a presentation on behalf of the proposer.  
Commissioner Samuelian requested additional information on potential resiliency improvements and how it can be integrated with the City's stormwater projects.  
Eric Carpenter mentioned that replacing an impervious parking lot with a pervious open space provides many opportunities to enhance water quality as part of the City's stormwater system.  
Members of the public addressed the committee.  
Commissioner Samuelian requested additional information regarding the impact on the City's infrastructure and that if additional height can make the design more beautiful and minimize impacts to not let that be a constraint.  
Commissioner Gongora stated that the design is more important than the height and that the design needed to be world class.

**MOTION by Acclamation:**

**The item was continued to the May 26, 2020 meeting**

15. Proposed Amendment To Chapter 142 Of The Land Development Regulations Of The City Code Pertaining To Development Regulations In The CPS-4 District.

Mayor Dan Gelber  
April 22, 2020 C4 F  
Planning

**AFTER-ACTION:**

The item was combined with item 14.

**MOTION by Acclamation:**

**The item was continued to the May 26, 2020 meeting.**

**DEFERRED ITEMS**

16. Discuss The Status Of Suite-Hotels In The West Avenue Neighborhood.
17. Discussion Pertaining To Amendments To The City Code Regarding Potential Requirements For Higher Elevation For New Commercial Construction That Is Vulnerable To Flooding.
18. Matrix Recommendations – Simplification Of Single Family Home Regulations And DRB Administrative Review Procedures.
19. Discussion Regarding Tight Urbanism.
20. Discussion Regarding The Frequency Of Water Testing In Miami Beach.
21. Discuss Piloting The Closure Of 9th Street Between Ocean Drive And Collins Avenue.
22. Discuss Designating Ocean Drive As A Valet Only Street.
23. Discussion Regarding Incentivizing New Development To Include Units For Workforce And Affordable Housing Within New Developments That Seek Development, Height, And/Or Zoning Amendments From The City Of Miami Beach.
24. Discussion Regarding How Green Infrastructure Including Living Or Hybrid Shorelines Can Complement Grey infrastructure In Our Climate Adaptation On-Going Work.
25. Discussion On City Of Miami Beach Stormwater, Sanitary, Sewer, And Water Infrastructure Best Management Practices.
26. Discussion On Repurposing Our Golf Courses For The Future.
27. Discussion On Artificial Reefs.
28. Discuss The July 30, 2019 Sustainability Committee Motions.
29. Discussion And Review Of Allowable Store Signage.
30. Discuss The Potential Implementation Of Adopt-A-Drain Or Similar Program In Miami Beach.
31. Discussion Pertaining To A Transfer Of Development Rights (TDR) Along The Tatum Waterway Area.
32. Discussion Regarding The Status and Implications Of The Action Items Associated With Ongoing Water Quality Coordination With Miami-Dade County.

33. An Ordinance Amendment Excepting Office Uses Not Also Operating As An Entertainment Establishment Or Dance Hall From The Definition Of Neighborhood Impact Establishment (NIE).
34. Discuss Arkup's Luxury Houseboats And Their Effects On Biscayne Bay And The Quality Of Life Of Surrounding Residents.
35. Discuss Prohibiting Banks Located On First-Floor Retail Spaces.
36. Discuss The Miami-Dade County Resolution Urging Municipalities To Adopt Post-Disaster Temporary Zoning Relief.
37. Discussion Regarding The Palm View Neighborhood Study.
38. Discuss How The Cities Of Miami And Miami Beach Measure Flooding.
39. Discuss Making Aesthetics A Primary Criterion In Future Resiliency Projects.
40. Discuss Potential Additional Support For Miami Beach Resiliency From The Army Corps Of Engineers.
41. Review The City Of Miami Beach Experience And Perspectives On Pervious/Permeable Pavement And Identify Potential Opportunities For Use.
42. Review The City Of Miami Beach's Experience And Perspective On Full Depth Asphalt And Identify Potential Opportunities For Use.

The meeting adjourned at 1:41 p.m.

#### Attachment

JLM/EC/ATH/ND/TRM/EW/MAB/FT/MR

M:\\$CMB\CCUPDATES\Land Use and Sustainability Committee\2020\May 6, 2020\Report of the May 6 2020 LUSC Meeting - FINAL.docx

# LAND USE AND SUSTAINABILITY COMMITTEE MEETING

May 6, 2020  
Virtual Zoom Meeting

## Attendance Sheet

NAME	E-MAIL ADDRESS	PLEASE ADD ME TO THE ELECTRONIC AGENDA LIST
1. Daniel Ciraldo	@	
2. Alfredo Gonzalez	@	
3. David Berg	@	
4. Mathew Goltana	@	
5. Gayle Durham	@	
6. Matis Cohen	@	
7. Neisen Kasdin	@	
8. Valerie Navarrete	@	
9. Arthur Marcus	@	
10. Robert Ploehn	@	
11. Diane Klein	@	
12. Alice Palatnick	@	
13. Stephan Ginez	@	
14. Alex Fernandez	@	
15. Michael Larkin	@	
16. Graham Penn	@	
17. Gerry Cottle Rooftop Cinema Club	@	
18. Priscila Lopes	@	
19. Mark Lacerda	@	
20. Andressa West	@	

# LAND USE AND SUSTAINABILITY COMMITTEE MEETING

May 6, 2020

Virtual Zoom Meeting

## Attendance Sheet

NAME	E-MAIL ADDRESS	PLEASE ADD ME TO THE ELECTRONIC AGENDA LIST
21. Amy Lita	@	
22. Susan Lipman & Louis Solish	@	
23. Marisa Galbut	@	
24. Greg Fontela	@	
25. Christina Cuervo	@	
26. Ray Fort	@	
27. David Martin	@	
28. Matthew Goltanof	@	
29. Andrea Spiridona	@	
30.	@	
31.	@	
32.	@	
33.	@	
34	@	
35.	@	
36.	@	
37.	@	
38.	@	
39.	@	
40.	@	