

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Planning Board

TO: Chairperson and Members
Planning Board

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: **Ordinance Amendment**
Miami Beach Panel of Architects

DATE: June 28, 2016

REQUEST

PB0616-0027. MIAMI BEACH PANEL OF ARCHITECTS. AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," DIVISION 2, "RS-1, RS-2, RS-3, RS-4 SINGLE-FAMILY RESIDENTIAL DISTRICTS," BY CREATING AT SECTION 118-33, TO ESTABLISH THE MIAMI BEACH PANEL OF ARCHITECTS (MBPOA); AND BY AMENDING THE CRITERIA AND PROCEDURAL THRESHOLDS FOR THE REVIEW AND APPROVAL OF NEW SINGLE-FAMILY RESIDENTIAL CONSTRUCTION BY AUTHORIZING THE MBPOA TO CONDUCT CERTAIN REVIEWS; AND CREATING DIVISION 6, ENTITLED "MIAMI BEACH PANEL OF ARCHITECTS," AT SECTIONS 118-139 THROUGH 118-149, PROVIDING FOR PURPOSE, COMPOSITION OF BOARD, MEMBERSHIP, QUALIFICATIONS, QUORUM, MEETING PROCEDURES, POWERS AND DUTIES, FEES AND APPLICATIONS; AND MODIFYING SEC. 118-8, ENTITLED "NOTICE PROCEDURES FOR QUASI-JUDICIAL, PUBLIC HEARING QUASI-JUDICIAL LAND USE BOARD ACTIONS" TO INCLUDE NOTICE PROCEDURES FOR PROCEEDINGS BEFORE THE MIAMI BEACH PANEL OF ARCHITECTS; PROVIDING CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

RECOMMENDATION

Transmit the proposed ordinance amendment to the City Commission with a favorable recommendation.

HISTORY

On February 10, 2016, at the request of Commissioner Joy Malakoff, the City Commission referred a discussion item to the Land Use and Development Committee (Item C4J), pertaining to demolition procedures for single family homes. On February 17, 2016, the Land Use Committee directed the Administration to prepare the following for additional discussion at the March 30, 2016 meeting:

1. A draft ordinance extending existing demolition procedures to all single family homes.
2. Provide additional data on the potential fiscal and review process impact of having all new single family home construction reviewed by the Design Review Board.

On March 30, 2016, the Land Use Committee endorsed the draft ordinance regarding demolition procedures for single family homes and continued the discussion pertaining to a review process for all single family homes to April 20, 2016. The Committee also requested that the following information be brought back for discussion on April 20, 2016:

1. The City Attorney shall provide draft ballot language pertaining to an ethics ordinance modification for design professionals serving on both a new, rotating board of architects, as well as the existing City Land Use Boards.
2. The Planning Department shall obtain information on the City of Coral Gables Board of Architects process, and put together an outline of how such a process might be implemented in the City of Miami Beach.

On April 20, 2016, the Land Use Committee discussed the City of Coral Gables Board of Architects process and how a similar streamlined process could be adopted for Miami Beach for the review of new single family residential construction. The Committee also requested that a draft ordinance be brought back for discussion.

On May 18, 2016, the Land Use Committee reviewed the draft ordinance prepared by staff, creating a Miami Beach Panel of Architects. The LUDC recommended the following:

1. That the City Commission refer the proposed Ordinance Amendment to the Planning Board, with an effective date after a referendum in November.
2. That the Option 2 referendum language be forwarded to the full Commission with a favorable recommendation.

On June 8, 2016, the City Commission approved the proposed ordinance amendment at First Reading and referred it to the Planning Board for review and recommendation.

REVIEW CRITERIA

Pursuant to Section 118-163 of the City Code, in reviewing a request for an amendment to these land development regulations, the board shall consider the following when applicable:

1. **Whether the proposed change is consistent and compatible with the comprehensive plan and any applicable neighborhood or redevelopment plans.**

Consistent – The proposed ordinance amendment does not modify the permitted uses in the affected area and is consistent with the Goals, Objectives, and Policies of the Comprehensive Plan.

2. **Whether the proposed change would create an isolated district unrelated to adjacent or nearby districts.**

Not applicable – The proposed amendment does not modify district boundaries.

3. **Whether the change suggested is out of scale with the needs of the neighborhood or the city.**

Consistent – The proposed Ordinance will not modify the scale of development.

4. **Whether the proposed change would tax the existing load on public facilities and infrastructure.**

Consistent – The proposed will not modify the intensity of development.

5. **Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.**

Not applicable – The proposed change does not modify existing district boundaries.

6. **Whether changed or changing conditions make the passage of the proposed change necessary.**

Consistent – The need to ensure new homes are compatible with the surrounding neighborhood and of high architectural quality makes passage of the proposed change necessary.

7. **Whether the proposed change will adversely influence living conditions in the neighborhood.**

Consistent – The proposed change will not adversely affect living conditions in the neighborhood.

8. **Whether the proposed change will create or excessively increase traffic congestion beyond the levels of service as set forth in the comprehensive plan or otherwise affect public safety.**

Consistent – The proposed change will not create or increase traffic congestion.

9. **Whether the proposed change will seriously reduce light and air to adjacent areas.**

Consistent – The proposal will not reduce light and air to adjacent areas.

10. **Whether the proposed change will adversely affect property values in the adjacent area.**

Consistent – The proposed change should not adversely affect property values in the adjacent areas.

11. **Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.**

Consistent – The proposal will add an additional review process for single family home builders; however, it provides for processes that are expected to be quick and not pose an excessive burden to builders.

12. **Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.**

Not applicable.

13. Whether it is impossible to find other adequate sites in the city for the proposed use in a district already permitting such use.

Not applicable.

ANALYSIS

The current DRB process is not well structured to accommodate the level of single family home review previously suggested by the Design Review Board. As an alternative, a separate process for single family home review, consisting of a rotating panel of design professionals, has been proposed. The panel of architects proposed for Miami Beach is modeled on the City of Coral Gables Board of Architects process.

In this regard, the proposed Miami Beach Panel of Architects would meet on a bi-weekly basis, with less onerous notice and application exhibit requirements. Additionally, as a tangible strategy to recruit more design professionals to serve on the panel, a separate ballot question has also been proposed, which would amend the City's ethics laws to create a narrow exception for professionals practicing in architecture and landscape architecture.

The following is a summary of the proposed ordinance creating a Miami Beach Panel of Architects (MBPOA); as approved by the City Commission at First Reading:

- The Miami Beach Panel of Architects (MBPOA) would review new single family residential construction, including substantial additions, which are vacant or currently contain a post-1942 single family residence or a non-architecturally significant pre-1942 single family residence.
- The MBPOA would consist of a total of up to fifteen (15) design professionals, each appointed to serve for a term of one (1) year. The members of the MBPOA shall serve on a rotating basis and a review panel shall consist of three (3) members, serving on a rotating basis.
- MBPOA members would be appointed by the City Manager, with the consent of the City Commission. Each member shall be a State of Florida registered architect or landscape architect, and shall have demonstrated experience in the design and construction of projects or landscape design within the City of Miami Beach during the last five (5) years.
- MBPOA members would have to either be a resident of, or have their principal place of business in the City of Miami Beach. At the discretion of the City Manager, and with the consent of the City Commission, this residency requirement may be waived, provided that the applicant is a resident of, or has their principal place of business in Miami-Dade or Broward County.
- A quorum of two (2) members would be required to consider an application and a simple majority will be necessary to approve any application. In the case of a tie vote for a two (2) member panel, the matter will be continued to the next meeting.
- The MBPOA Panel would meet on a twice monthly basis, quorum permitting, and such

meetings shall not occur on a regularly scheduled HPB, DRB, PB or BOA monthly meeting day. The Planning Department would schedule all meetings of the Panel, coordinate attendance, as well as provide administrative and staff support. The City Attorney's office shall provide legal counsel, as may be needed from time to time.

- The MBPOA meeting would be open to the public, but it would not a public hearing. The member serving as the Chairperson to the Panel would have the discretion whether or not to allow public comments and limit the time per presenter.
- Any matter heard by the MBPOA Panel would not be quasi-judicial and would not replace the quasi-judicial hearing of the DRB that may be requested by the Applicant or an Affected Person following a Panel's decision.
- The MBPOA would review all applications in accordance with the applicable criteria and requirements of section 142-105 of the land development regulations of the City Code, and would not have the authority to approve any variances or grant any waivers of any portions of the City Code.
- All applications for review by the MBPOA must be filed with the Planning Department no later than fourteen (14) calendar days before the meeting date.
- Notice procedures for Miami Beach Panel of Architects would be limited to the posting of the subject property – ministerial review and not quasi-judicial at least five (5) days prior to the MBPOA meeting.
- An appeal of a decision of the Miami Beach Panel of Architects would be to the Design Review Board, which appeal shall be quasi-judicial, and a de novo review of the decision of the MBPOA. An appeal shall be submitted to the planning director on or before the 15th day after the date on which the decision by the Panel is reached.
- Parties eligible to file an appeal of a MBPOA decision would be limited to the following:
 - (i) Original applicant/property owner.
 - (ii) The city manager on behalf of the city administration
 - (iii) An affected person, which for purposes of this section shall mean a person owning property within 100 feet of the Application.

SUMMARY

The proposed ordinance would create a review procedure for new single family homes on vacant lots and lots containing a post-1942 home. As noted in the analysis section, the proposal is far less demanding than the DRB process.

In order to ensure that the Panel of Architects proposed herein can function properly, a separate proposal to amend the Code of Ethics in the City Code has also been proposed, in order to create a limited exemption from the lobbying prohibition applicable to City board members, which exemption would allow architects and landscape architects to serve on the proposed Panel, and still conduct professional design work in the City. Since this proposed modification to the Ethics Code requires the approval of the City's voters, the Ordinance proposed herein must be adopted by the City Commission either prior to or at the same meeting that the proposed ballot language is approved. Second Reading is currently scheduled for July 13, 2016.

In order to meet Miami-Dade County's August 2016 deadline to submit all ballot questions, at the request of the item sponsor, First Reading of the Ordinance took place on June 8, 2016, prior to Planning Board review. The Ordinance was approved at First Reading, and referred to the Planning Board for review prior to Second Reading.

Should the ballot measure creating a limited exemption for design professionals not be approved by the voters, a repeal provision has been included in the ordinance. As drafted, the repeal would be automatic, pending the result of the November 8, 2016 ballot question.

Finally, an effective date of February 1, 2017 is proposed, as well as the inclusion of an 'exceptions clause for anyone who obtained a Building Permit Process Number from the Building Department on or before the effective date of the ordinance. In the event that the ballot measure is approved, staff will need some lead time to fine-tune the panel process, and there will likely be a number of permits in applied status that could be impacted by the review panel process.

At First Reading approval on June 8, 2016, the City Commission requested the following changes to the Ordinance:

1. A time limit be set for the number of times an application can be considered by the panel of Architects.
2. Clarify the review criteria that the Panel of Architects will use.
3. Provide for a 6 month sunset provision which can be extended by the City Commission.

These changes have been incorporated into the Ordinance. However, the Planning Board may wish to consider recommending that the sunset period be extended to one (1) year, to allow for sufficient time to appropriately assess the effects of the MBPOA.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the Planning Board transmit the proposed ordinance amendment to the City Commission with a favorable recommendation.

TRM/MAB/RAM