

Miami 21 Unresolved Major Issues,
July 16, 2007

Professional Input Concerning Major Miami 21 Unresolved Issues.

A. The City should address several major, unresolved issues by establishing public forums to receive input from selected, qualified professionals concerning the following:

1. The impact on buildable/salable/revenue-producing square footage under the current code and under Miami 21. A variety of examples of different locations, sizes, uses of lots of different T-zones versus current zoning should be prepared by several professional firms with a public discussion of the differences. The goal would be to collect a variety of professionally suggested amendments to the current draft requirements of Miami 21. Clear examples of the final impact (increase or decrease of square footage) must be available for education of the neighborhoods, along with dimensioning the impact on infrastructure.
2. The need for additional T- zones or subsets, for medium density and low density sectors of the city and also for small lots in the urban core, medium density sectors and low density/single-family sectors. Again, a variety of examples of different ideas and proposals versus the current Miami 21 draft should be prepared by several professional firms with a public discussion of the differences. The goal would be to collect a variety of professionally suggested amendments to the current draft requirements of Miami 21. The process of collecting, discussing and deciding upon appropriate solutions must be open to the public and educational materials must be prepared for public participation in final decision-making.
3. Parking needs. Miami 21 supposedly includes a transportation plan suggesting parking facilities in the first quadrant. The fact that the parking facilities are not an integral part of Miami 21 with proposed financing and construction/development timelines has resulted in the imposition of parking requirements for every building in the proposed form-based code. The city must immediately arrange for input from additional specialists in parking and transit and in order to incorporate in Miami 21 a specific plan for public and private and public/private parking facilities and possibly adjust the parking requirements being dictated in Miami 21. A formal Transportation Plan must be incorporated as part and parcel of Miami 21 when submitted for approval to the City Commission. The process of collecting, discussing and deciding upon appropriate solutions must be open to the public and educational materials must be prepared for public participation in final decision-making.
4. Affordable and workforce housing must also be addressed specifically in Miami 21, including a variety of solutions which must be clearly defined in conjunction with professional specialists in this field. The process of collecting, discussing and deciding upon appropriate solutions must be open to the public and educational materials must be prepared for public participation in final decision-making.

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5. Legal, financial/banking (re mortgages), insurance, code enforcement, and urban planning professionals to work out reasonable solutions to non-conforming issues.
6. A.) Language of notice to nearby residents and neighborhood associations in regard to the applications for waivers, warrants, exceptions, variances, zoning changes, and special area plans and the decisions and recommendations thereto;

B.) Also, the zoning administrator under Miami 21 has the authority to make decisions regarding approval of a building permit, certificate of use, and an interpretation of the zoning code. Notice should be given to nearby residents and neighborhood associations of these decisions with appeal provisions;

C.) Provision of comprehensive standards to be applied to all of these decisions; and

D.) Reinstatement of all or portions of Code Section 1305.
7. Comprehensive Plan Issues. There are several issues relating to the Comprehensive Plan and FS163, such as massive Land Use changes, designation of the entire City as Urban Infill relating to Transportation Concurrency Exception Area designation, etc.

The City and the Commissioners must address ASAP ideas how to structure forums for the above major unresolved issues as well as methodology to select and invite appropriate professionals, etc. Ideally, these Unresolved Major Issues should be fleshed out, with corrective action already taken or clear examples of specific alternatives prepared to intake to the citizens during the neighborhood meetings in each quadrant.

B. Other specific amendments to Miami 21 Code include:

A. height of single family residential structures should remain at a total of 25 feet to mid eave of pitched roof structures.

B. Broaden the use of rescission procedures to include any administrative decision or Board/Commission resolution granting an administrative waiver, warrant, exception, variance, rezoning or special area plan if there is a finding by the PZAB of a violation of any conditions, restrictions, and limitations in the subject administrative decision, or Boart/Commission resolution. Notice of the hearing on this issue shall be given to the nearby residents and neighborhood association in the subject property's NET district.

C. Modifications to applications requiring public hearings should include changes which result in failure to protect, promote and comply with character of neighborhood, of ownership, the uses of the property, the vehicular traffic flow, conflicts or amounts, including commercial vehicle intrusion, water usage, noise levels, fumes, odors, spillover effect of light or any provisions of existing section

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1305. No changes may be made after notice of the public hearing on these modifications have been given to the nearby residents and neighborhood associations in the subject property's NET district.

D. The appeal period from the decisions of the planning director to the PZAB and from the PZAB decision to the City Commission shall be twenty days .

E. Broaden the definition of "person" to include any adversely affected party pursuant to general law and the definition of aggrieved party for seeking rescission to include property owners within 500 feet and the neighborhood association for or closest to the subject property.

C. Several other issues which are of concern to MNU are included in the attached "Items of Concern" dated May 18, 2007. They must also be addressed as soon as reasonably possible.

Miami Neighborhoods United

Miami 21 - Items of Concern

May 18, 2007

Miami Neighborhoods United proposes that many major modifications be made to the Miami 21 Project. All of the Items of Concern have been raised in prior public meetings with Duany Plater-Zyberk or the City Commission.

I. Authority Issues.

1. Does the City Commission have authority to approve Miami 21, or must a 'shared decision making authority' per FL 163.2517(2) approve? The whole City of Miami is declared an Urban Infill Area in the Miami Comprehensive Neighborhood Plan (MCNP), Policy LU-1.1.11, which has been the justification for the whole City being designated, improperly, as a transportation concurrency exception area. Clearly Miami 21 is an urban infill and redevelopment plan.

II. Comprehensive Plan Issues.

2. The city is currently over-zoned, causing much of the 'out of context' development and prohibiting a rational geographic focus of infrastructure investments. Estimated 'built-out' population of current zoning is over two million inhabitants (or approximately six times the current population of the City). Miami 21 is a 50 year or longer-term plan. It is fine to have that long range plan, but the City needs a 7 Year Plan with a Future Land Use Map and zoning which are consistent with its ability to fund infrastructure for incremental density and consistent with needs for water management, sewage, affordable housing, transportation, parking, schools, and public safety. A 15 Year Plan consistent with a "long term concurrency management system" per FS163.3177(2) would also be appropriate.

The City must make detailed estimates of the maximum population density under the current zoning, population projections for 7 years and 15 years, and plan accordingly in Miami 21. This will possibly entail considerable down-zoning. This requirement is clarified in HB7203-03-e3, 163.3177(3)(d) and (e). Please see MNU's estimated maximum population calculations in the Appendixes.

3. Although the Miami 21 proposed Code has received public input from the East Quadrant only, both DPZ and the City Planning Department have stated publicly at PAB meetings that "the Code is finished" and only the Miami 21 Atlas has to be prepared for the remaining Quadrants. There are two major problems with this:
 - A. Citizens of the three other quadrants have not participated actively (nor been invited to do so in focus or other small group or neighborhood gatherings) in the public process to develop the proposed Code, in violation of FS163;

- B. Citizens and neighborhoods in the remaining three quadrants are concerned about what will be happening with development in their quadrants while the Atlas for their respective areas are being prepared.

MNU insists that:

- A. the Code not be approved until there has been extensive public input from the citizens of the other three quadrants and the Code be approved and implemented for all four quadrants simultaneously.
 - B. If the Code is approved for the East Quadrant as proposed, it should ALSO be applied to the other three quadrants as follows: all permits applied for in those quadrants in which the Miami 21 Code has not been implemented will have to conform to the more restrictive of Ordinance 11,000 or the Miami 21 Code (using the Old to New Conversion charts from Miami 21). Any conflicts will be resolved through a request for Variance under 11000.
4. Our analysis indicates that the so-called ‘conversion’ of current zoning does not result in similar developed square footage, rather substantial increases in square footage result. The ‘conversion’ is greatly complicated by the current Gross Lot Area. Even if the current units per acre density limits in the current Comprehensive Plan are maintained, the huge increase of square footage in commercial, office, and other non-residential space will mean an even greater increase of necessary infrastructure – with no known means of financing. Reversion to the Net Lot Area, exercising the policing powers of the City, would help solve the over-zoning problem. DPZ originally was going to start with the structures in existence ‘on the ground’ (instead of the current zoning) and were going to use Net Lot Area. Miami 21 should be revised to follow these original guidelines. See FS163.3177.
 5. Our analysis also indicates that the ‘conversion’ is greatly complicated by using the current Gross Lot Area as the basis. Significant inequities, originally created in 1985 when Gross Lot Area calculations replaced Net Lot Area calculations, will be exacerbated further, with buildable areas again increasing or decreasing (relatively) depending on new ‘averages’ - originally caused by frontage of roads, water, open space, etc. MNU believes strongly that reversion to the Net Lot Area would cure many of the problems of inequity being compounded with the proposed ‘conversion’ and is the simplest methodology, used throughout the rest of the United States.
 6. Provisions to protect the neighborhoods per the Miami Comprehensive Neighborhood Plan (MCNP) and in Code Sections 1305 are going to be effectively eliminated (and technically deleted with 11000). Their future application is immaterial given the Atlas and design principles codified in Miami 21. This is not acceptable. These protections must be on-going and the public must have continuous input to make corrections. Please see MNU proposed amendments (prepared by Barbara Bisno).
 7. The Transportation Plan (including proposed parking facilities essential for overflow of reduced parking in mixed use developments) has no details as to implementation or financing (required per FS339.175(6)). How can Miami 21 be approved without these critical details?

8. Miami 21 continues to rely on the prior declaration of the whole City as a “transportation concurrency exception area” in violation of FS 163.2517(1), (3), and (3)(i). FS 163.3180 includes requirements relating to “transportation concurrency management areas” and designation of exception areas. The City must include detailed designations with supporting data as part of the EAR Amendments. There is no evidence that Miami 21 looks forward to those requirements effectively.
9. There are no Impact Fees included for non-residential development and the recently approved Impact Fees for residential development will not begin to provide for the cost of incremental infrastructure required. Impact Fees for local parks must be implemented also. See FS163.3180(2)(b).
10. Affordable and Workforce Housing are a major issues for the City and are not addressed explicitly as part of the Miami 21 Plan. There should be specific measures to require the development of Affordable and Workforce Housing as integral components of Miami 21. The impact fees and bonuses which are related to Affordable and Workforce Housing are grossly insufficient and the bonuses allowed in the higher density T-Zones of the East Quadrant are not necessary for the economics of new developments in those areas. See 163.2517(3).
11. Height limitations in use and accepted as fundamental to maintain the integrity of residential neighborhoods are being violated.

III. Process Issues.

12. There appears to be a lack of formal inter-governmental reviews or approvals of Miami 21. No evidence has been presented that the South Florida Water Management District, FEMA (evacuations, safety), Fire, MPO, , M-D transportation, FDOT, M-D School District or other governmental agencies have reviewed and accepted/approved the proposed Plan.
13. The proposed approval process for new development removes appropriate Notice provisions and effective public input (see MNU amendments prepared by Barbara Bisno). The proposed PAZB(?) has a minority component representing the public or neighborhoods. There are no ‘Checks and Balances’ in this system. If the Miami 21 design goals are working, there will be little interference by the public.
14. The formal review procedure for Miami 21 itself, to make adjustments to the Plan as problems arise with the actual implementation, does not provide for changes initiated by the public or a group of citizens, nor does it provide for changes to the Code. These are imperative and public input in the review process must be guaranteed. The City Charter should also be modified to provide for initiation of MCNP and ordinance changes by the public or a group of citizens.

15. The Miami 21 Plan continues to change, based on postings to the Miami21.org website. There has been insufficient time and notice for the public to be made aware, analyze and comment on the on-going changes.

IV. Land Development Regulation Issues.

16. Use of the terminology “As of Right” and “Allowed by Right” give the appearance of bestowing ‘vested rights’ or economic value on property, possibly decreasing the policing powers of the City to downzone and possibly affecting the value of a property in a future ‘taking’ by the City for public benefit. This also contradicts the language of 2301. Please suggest other terms.
17. The Miami 21 code over-simplifies the requirements of our City in a variety of ways. Conversion of the Gross Area allowances (versus Net Area) are oversimplified and will have major detrimental impact on lower density neighborhoods, by allowing significantly greater square footage development which is out of scale/height/context with existing neighborhoods. Use of T-4, T-5 and T-6 designed for high density, urban core are not appropriate for medium density and low density neighborhoods in the City. DPZ has refused to respond to requests for modified versions of T-4, T-5 and T-6 for medium density and low density sections of the City. This would also apply to T-3, if our requested amendments to 3.10 prepared by Barbara Bisno are not accepted.
18. The Miami 21 Atlas violates in several areas the principles of new urbanism and the current zoning code context and other requirements, in that in many cases contiguous T zones are not “transitional”, so there are clear violations of sections 1305 and 2301. T-5 and T-6 lots often abut T-3. A T-3 neighborhood next to a transit corridor should be protected by having that corridor designated a T-4. The Miami 21 Atlas often creates the transition by up-zoning into the T-3 neighborhoods.
19. Transfer Development Rights (TDR) should be available only for limited use, such as to preserve historic buildings. It is unlikely that there will be sufficient supply or demand to adopt TDR’s broadly, but in any case, in areas where height limits and TDRs are being enacted, the height limits shall not be predicated on the TDRs – so that if the TDR program is not successful the height limits are still in place.

Please refer to the Appendixes attached for additional background information relating to the Items above.

Attachments