NORTH MIAMI
FLORIDA
776 N.E. 125 Street, North Miami, Florida 33161

Staff Report

Date: April 12th, 2016

To: The Honorable Mayor and City Council of the City of North Miami

From: Tanya Wilson-Séjour, AICP, Community Planning & Development Director TWS for AEP

Re: **Text Amendment to Article 5, Division 16, Section 5-1608. – Room Additions to Residential Structures & Conversions of Garages/Carports to Living Spaces**

Sponsor: **Councilman Scott Galvin**

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 29 OF THE NORTH MIAMI CODE OF ORDINANCES ENTITLED "LAND DEVELOPMENT REGULATIONS", BY AMENDING ARTICLE 5, DIVISION 16, ENTITLED "STANDARDS FOR SPECIFIC USES", SPECIFICALLY AT SECTION 5-1608 A.1. ENTITLED "ROOM ADDITIONS TO RESIDENTIAL STRUCTURES AND CONVERSION OF GARAGES OR CARPORTS TO LIVING SPACE" TO REMOVE THE MAXIMUM 250 SQUARE FEET FLOOR AREA LIMITATION FOR HOME ADDITIONS PERMITTED WITH FLAT ROOFS, AS LONG AS SAID ADDITIONS ARE LOCATED IN THE REAR OF THE PROPERTY AND ARE NOT VISIBLE FROM ANY PUBLIC RIGHT-OF-WAY; PROVIDING FOR REPEAL; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND FOR AN EFFECTIVE DATE.

RECOMMENDATION

That the Mayor and City Council pass and adopt the proposed ordinance, as revised by the Planning Commission, to amend Chapter 29 of the North Miami Code of Ordinances entitled "Land Development Regulations" by amending the texts of Article 5, Division 16 ("Standards for Specific Uses"), specifically at Section 5-1608 ("Room additions to residential structures and conversions of garages or carports to living space") to remove the maximum 250-sq. ft. floor area limit for home additions permitted with flat roofs.

PLANNING COMMISSION RECOMMENDATION

At its March 1st, 2016 meeting, the Planning Commission (attended by Commissioners Kevin Seifried, Charles Ernst, Peggy Boule, Michael McDearmaid, Bob Pechon, and Emmanuel

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Jeanty) reviewed and discussed the proposed ordinance to amend the aforementioned section of the City's Land Development Regulations (LDRs). Following staff's presentation, the Planning Commission engaged in a relatively long discussion on the item. They applauded the removal of the 250-square foot floor area limitation for home additions that may be permitted with flat roofs, which they found overly restrictive. Nevertheless, they decried the undue restriction that has always been placed and is still being placed, even with the proposed amendment, on properties situated on corner lots because of the requirement for non-visibility from a right-of-way. Upon further deliberation, the Commissioners agreed to revise the proposed amendment to exempt corner lot properties from the relevant requirement. Commissioner Ernst made a motion to recommend adoption of the ordinance as revised and forward it to the Mayor and City Council for final consideration. Seconded by Commissioner Jeanty, the motion passed 6-0 by roll call vote.

BACKGROUND

Article 5, Division 16, Section 5-1608 of the Land Development Regulations (LDRs) currently requires **all room additions to have the same roof line (level, peak, etc.) as the existing residential structure**. Pursuant to this section, a room addition may be permitted with a flat roof only in the event said addition: **(1) does not exceed two hundred fifty (250) square feet; (2) is located in the rear of the property; and (3) is not visible from a public right-of-way**. The guidelines set forth in this section aim to preserve the defining visual characteristics of the City's neighborhoods and foster sensitivity towards existing residential structures on the sites.

Recently, Councilman Scott Galvin was contacted by a resident whose building permit was denied because the plans showed a master bedroom addition (with a floor area in excess of two hundred fifty (250) square feet) with a proposed flat roof. The resident purported that this provision of the LDRs is too restrictive and unduly burdens City residents, like herself, who are trying to renovate their properties and thereby increase the values of same. As a result, the Councilman has agreed to sponsor the subject text amendment, which seeks to remove the maximum 250-sq. ft. floor area limit for home additions with flat roofs, as long as said additions are located in the rear of existing residential structures, meet setback requirements and are not visible from any public right-of-way.

As stated above, the item was reviewed by the Planning Commission, which unanimously recommended that corner lot properties, due to the fact that they have a double street frontage, be exempted from the non-visibility requirement in the proposed amendment. The staff report has thus been updated to incorporate said change, and the ordinances with all pertinent exhibits have also been revised accordingly.

ANALYSIS

Article 3, Division 10, Section 3-1004 requires that all text amendments to the LDRs adhere to the following minimum standards:

1. **Promotes the public health, safety and welfare;**

   The proposed text amendment only seeks to remove the maximum 250-sq. ft. floor area restriction on home additions with flat roofs in the LDRs. Such amendment is architectural in nature as it deals with the roof articulation and other aesthetic features on new additions to existing residential structures. It is not be in conflict with and does not otherwise waive the requirements of Chapter 15 of the Florida Building Code, which governs the design, materials, construction and quality of roof assemblies and rooftop structures. In fact, as with any other construction, any new addition with a proposed flat roof must be permitted and reviewed by the Building Official, pursuant to the provisions of the aforementioned chapter of the Florida Building Code, as may be amended from time to time. As such, this text amendment is consistent with the purpose and intent of the LDRs, and will promote the public health, safety and welfare of the residents.

2. **Does not permit uses the Comprehensive Land Use Plan prohibits in the area affected by the zoning map change or text amendment;**

   The proposed text amendment pertains to roof design guidelines for the construction of room additions to existing residential structures. It does not impact the City's Adopted Comprehensive Plan in that it does not allow land uses, which are otherwise prohibited by said Plan.

3. **Does not allow densities or intensities in excess of the densities and intensities which are permitted by the future land use categories of the affected property;**

   As previously stated, the proposed text amendment does not impact the City's Adopted Comprehensive Plan. It neither changes the residential land use map designations nor modifies the densities or intensities of the affected properties.

4. **Will not cause a decline in the level of service for public infrastructure which is the subject of a concurrency requirement to a level of service which is less than the minimum requirements of the Comprehensive Land Use Plan;**

   As stated previously, the proposed text amendment does not allow densities in excess of those permitted in the affected districts. As such, it will neither cause a decline in the

level of service for public services, nor negatively impact the response time for emergency service in said districts.

5. **Does not directly conflict with any goal, objective or policy of the Comprehensive Land Use Plan; and**

   The proposed text amendment provides for the construction of room additions with flat roofs in residential districts, without any restriction on floor area, as long as these additions are located in the rear and are not visible from a public right-of-way. The amendment, which, by the way excludes, corner lot properties, does not conflict with and is in fact consistent with the goals, policies and objectives of the City's Comprehensive Plan, specifically Policy 1.7.3, which calls for the adoption of appropriate standards in the LDRs for the maintenance, appearance and occupancy of residential areas.

6. **The proposed amendment furthers the orderly development of the City of North Miami.**

   As stated above, the proposed text amendment seeks to provide greater flexibility in residential design guidelines for the construction of room additions to existing residential structures. It also removes an age-old restriction that was unduly placed on properties situated on corner lots. Indeed, that provision severely limited said properties from incorporating any additions with a flat roof or converting existing garages with existing flat roofs into living spaces, even if said additions or existing garages were less than 250 square feet, since the latter improvement would never be able to meet the non-visibility requirement. The amendment does not weaken the original intent of that section of the LDRs and will continue to preserve the defining visual characteristics of the City's neighborhoods and foster sensitivity towards existing residential structures on the sites, in furtherance of the City's Comprehensive Plan.

CONCLUSION

Based on the foregoing, staff believes that the proposed text amendment is consistent with the zoning guidelines in the City's LDRs and conforms to the future land use goals, objectives and policies identified in the City's adopted Comprehensive Plan. Therefore staff **requests that the Mayor and City Council pass and adopt the attached ordinance, as revised by the Planning Commission, to amend Chapter 29 of the North Miami Code of Ordinances entitled "Land Development Regulations" by amending the texts of Article 5, Division 16 ("Standards for Specific Uses"), specifically at Section 5-1608 ("Room additions to residential structures and conversions of garages or carports to living space") to remove the maximum 250-sq. ft.**

floor area limit for home additions permitted with flat roofs, as long as said additions are located in the rear of the property and are not visible from any public right-of-way.

TWS/nl

Attachments: 1. Proposed Ordinance
2. Newspaper Advertisement

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 29 OF THE NORTH MIAMI CODE OF ORDINANCES ENTITLED "LAND DEVELOPMENT REGULATIONS", BY AMENDING ARTICLE 5, DIVISION 16, ENTITLED "STANDARDS FOR SPECIFIC USES", SPECIFICALLY AT SECTION 5-1608 A.1. ENTITLED "ROOM ADDITIONS TO RESIDENTIAL STRUCTURES AND CONVERSION OF GARAGES OR CARPORTS TO LIVING SPACE" TO REMOVE THE MAXIMUM 250 SQUARE FEET FLOOR AREA LIMITATION FOR HOME ADDITIONS PERMITTED WITH FLAT ROOFS, AS LONG AS SAID ADDITIONS ARE LOCATED IN THE REAR OF THE PROPERTY AND ARE NOT VISIBLE FROM ANY PUBLIC RIGHT-OF-WAY; PROVIDING FOR REPEAL; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND FOR AN EFFECTIVE DATE.

WHEREAS, on April 28, 2009, the Mayor and City Council adopted the City of North Miami ("City") Land Development Regulations under Chapter 29, City Code of Ordinances ("LDRs"); and

WHEREAS, applicable provisions of the LDRs are designed to protect and regulate residential and commercial uses, as reflected in the various residential and commercial zoning districts within the City, and are consistently used to implement the intent of the City Comprehensive Plan ("Comprehensive Plan"); and

WHEREAS, the LDRs also emphasize dwellings to be the principle use of residential properties, in furtherance of promoting peace and good order, safe vehicular traffic patterns, improving the aesthetic beauty of the community and hence, preserving the value of the all residential properties within the City; and

WHEREAS, a number of requests and concerns were submitted to City administration relating to Section 5-1608 A.1., LDRs, which currently requires that all new additions shall have

the same roof line (level, peak, etc.) as the existing residential structure, provided however, that flats roofs may only be permitted on additions "***which do not exceed two hundred fifty (250) square feet to the rear of the property, if not visible from a street frontage***"; and

WHEREAS, the current limitation of two hundred fifty (250) square feet is deemed too restrictive against homeowners desiring to improve their properties; and

WHEREAS, the existing limitation serves only to hamper residential renovation and thereby stagnating neighborhood property values; and

WHEREAS, a just and equitable solution lies in the proposed text amendment which strikes the two hundred fifty (250) square feet limitation on floor area, as long as said additions are located in the rear of existing residential structures and are not visible from any public right-of-way; and

WHEREAS, the Planning Commission, after a duly noticed public hearing held on March 1, 2016, recommended approval to the Mayor and City Council, pursuant to the standards for approval under Section 3-1004, LDRs; and

WHEREAS, the Mayor and City Council find the proposed text amendment, as approved by the Planning Commission, is in the best interest of the City since it: 1) promotes the public health, safety and welfare; 2) does not permit uses the comprehensive land use plan prohibits in the area affected by the zoning map change or text amendment; 3) does not allow densities or intensities in excess of the densities and intensities which are permitted by the future land use categories of the affected property; 3) will not cause a decline in the level of service for public infrastructure which is the subject of a concurrency requirement to a level of service which is less than the minimum requirements of the comprehensive land use plan; 4) does not directly conflict with an goal, objective or policy of the comprehensive land use plan; and 5) the proposed amendment furthers the orderly development of the City.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, THAT:

Section 1. **Amendments to Chapter 29, North Miami Code of Ordinances.** The Mayor and City Council of the City of North Miami, Florida, hereby amend Chapter 29 of the North Miami Code of Ordinances entitled "Land Development Regulations", by amending Article 5, Division 16, entitled "Standards for Specific Uses", specifically at Section 5-1608 A.1. entitled "Room Additions to Residential Structures and Conversion of Garages or Carports to Living Space" to remove the maximum 250 square feet floor area limitation for home additions permitted with flat roofs, as long as said additions are located in the rear of the property and are not visible from any public right-of-way, as follows:

CITY OF NORTH MIAMI CODE OF ORDINANCES
CHAPTER 29. LAND DEVELOPMENT REGULATIONS
* * * * * *

ARTICLE 5. DEVELOPMENT STANDARDS

* * * * *

DIVISION 16. STANDARDS FOR SPECIFIC USES

* * * * *

Sec. 5-1608. - Room additions to residential structures and conversions of garages or carports to living space.

A. Room additions to residential structures, or conversions of garages and carports attached to residential structures on the same parcel of property for the purpose of creating living space are permitted as follows:

1. The newly created living space shall be directly accessible through an interior doorway or doorways, to the existing residence and must be completely integrated within the existing residence so that it is a logical extension of the residence. New additions shall have the same roof line (level, peak, etc.) as the existing structure so as to harmoniously blend; provided however, that flat roofs may be permitted on additions ~~which do not exceed two hundred fifty (250) square feet to the rear of the property, if not visible from a street frontage~~ consistent with the minimum bedroom size and housing standards under Article II, Section 17-26, Miami-Dade County Ordinances.

2. Exterior doorways from the newly created living space shall not exit into the outdoor area lying to the front of the residential structure, unless the doorway is intended to and does replace an existing front entrance. Such exterior doorways shall not exit into the area adjacent to a secondary drive or parking area for the residential structure.

3. No cooking facilities, kitchen counter and sink combinations, kitchen cabinets, or electrical or plumbing connections for such facilities shall be permitted within the newly

created living space unless the approved building plans for such space demonstrate clearly that such facilities are to be used as an expansion or replacement of an already lawfully existing kitchen.

B. Conversion of detached garages or other accessory structures for the purpose of creating living space shall be permitted only if the newly created living space qualifies as an allowable dwelling unit within the applicable zoning district, and all municipal code requirements for its use as a dwelling unit are satisfied.

C. Any required offstreet parking that is deleted or rendered unusable by a conversion or addition pursuant to the provisions of this section shall be replaced in a manner consistent with the provisions of article 5, division 14.

* * * * *

Section 2. **Repeal.** All ordinances or parts of ordinances in conflict herewith are repealed.

Section 3. **Conflicts.** In the event that the provisions of this Ordinance are in conflict with any other ordinance, rule or regulation, the provisions of this Ordinance shall prevail.

Section 4. **Severability.** The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. **Codification.** It is the intention of the City Council of the City of North Miami 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, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and the word "ordinance" may be changed to "section," "article" or any other appropriate word.

Section 6. **Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading.

PASSED AND ADOPTED by a _____ vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this _____ day of _____, 2016.

PASSED AND ADOPTED by a _____ vote of the Mayor and City Council of the City of North Miami, Florida, on second reading this _____ day of _____, 2016.

_____

DR. SMITH JOSEPH
MAYOR

ATTEST:

_____
MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

_____
ROLAND C. GALDOS
INTERIM CITY ATTORNEY

SPONSORED BY: COUNCILMAN GALVIN

Moved by: _____

Sponsored by: _____

Vote:

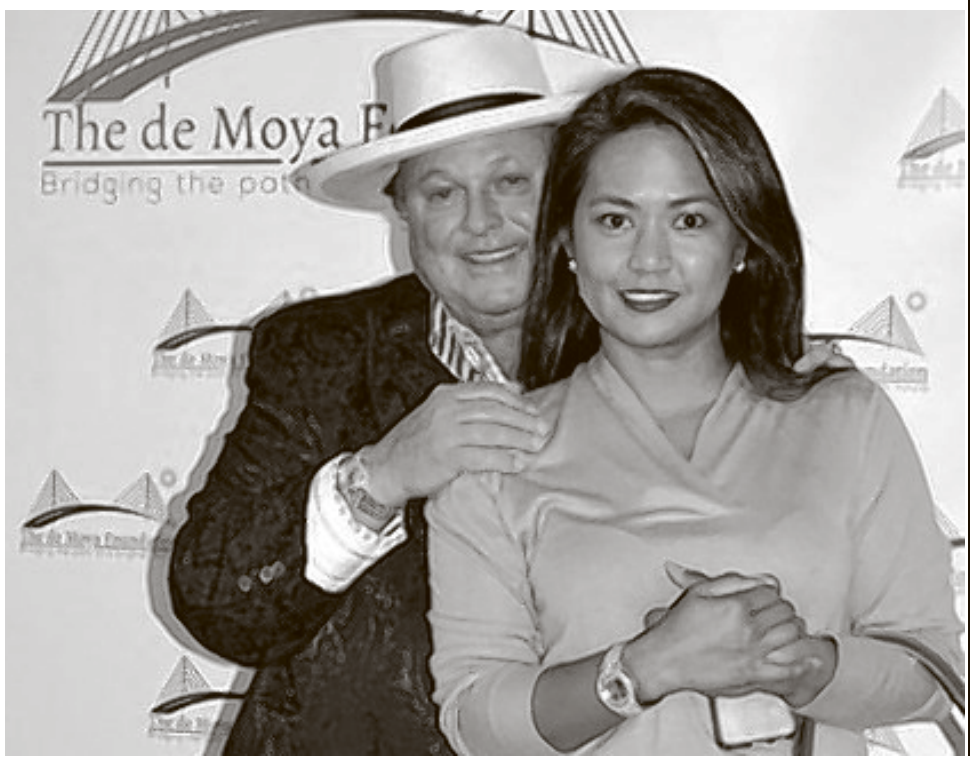
Mayor Dr. Smith Joseph, D.O., Pharm. D.	_____ (Yes)	_____ (No)
Vice Mayor Alix Desulme	_____ (Yes)	_____ (No)
Councilman Scott Galvin	_____ (Yes)	_____ (No)
Councilman Carol Keys, Esq.	_____ (Yes)	_____ (No)
Councilman Philippe Bien-Aime	_____ (Yes)	_____ (No)

Additions shown by underlining. Deletions shown by ~~overstriking~~.

Photo provided by the de Moya Foundation

GATHERING FOR A GOOD CAUSE

The de Moya Foundation celebrated its second annual Gathering of Hearts Benefit on Feb. 6. The de Moya Foundation is a tax-exempt nonprofit charitable trust "that creates and supports programs and raises awareness for children and young adults with unique abilities and special needs and their families. Above from left, Guillermo Acosta, Lily de Moya (foundation president/CEO & founder), Alvaro de Moya and Catherine Madura attend the gathering. Below, Happy Alter and Ovie Eilon arrive at the event.



NORTH MIAMI FLORIDA

NOTICE OF PROPOSED ORDINANCE

CITY OF NORTH MIAMI, FLORIDA

NOTICE IS HEREBY GIVEN that the City of North Miami, Florida proposes to adopt the following ordinance:

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 29 OF THE NORTH MIAMI CODE OF ORDINANCES ENTITLED "LAND DEVELOPMENT REGULATIONS", BY AMENDING ARTICLE 5, UNDER DIVISION 16 ENTITLED "STANDARDS FOR SPECIFIC USES", SPECIFICALLY AT SECTION 5-1608 ENTITLED "ROOM ADDITIONS TO RESIDENTIAL STRUCTURES AND CONVERSIONS OF GARAGES OR CARPORTS TO LIVING SPACE" TO REMOVE THE MAXIMUM 250-SQ. FT. FLOOR AREA LIMIT FOR HOME ADDITIONS PERMITTED WITH FLAT ROOFS, AS LONG AS SAID ADDITIONS ARE LOCATED IN THE REAR OF THE PROPERTY AND ARE NOT VISIBLE FROM ANY PUBLIC RIGHT-OF-WAY; PROVIDING FOR REPEAL; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND FOR AN EFFECTIVE DATE.

ANDV

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 29 OF THE NORTH MIAMI CODE OF ORDINANCES ENTITLED "LAND DEVELOPMENT REGULATIONS", BY AMENDING ARTICLE 5, DIVISION 6 ENTITLED "BOATS, DOCKS, SEAWALLS, ETC.", SPECIFICALLY AT SECTION 5-601 ENTITLED "BOATS" AND SECTION 5-602 ENTITLED "DOCKS" TO ESTABLISH APPROPRIATE REGULATIONS FOR THE TOWNHOME PROPERTIES IDENTIFIED AS SECTIONS 1 THROUGH 9 OF ARETA ESTATES SUBDIVISION, LOCATED ALONG THE SOUTH SIDE OF THE CANAL IMMEDIATELY NORTH OF NE 123RD STREET, BY ALLOWING BOATS TO BE MOORED EITHER PARALLEL OR PERPENDICULAR TO THE PROPERTY LINE ABUTTING THE CANAL AND BY INCREASING THE PROJECTION OF MOORING PILES (DOLPHINS), FLOATING VESSEL PLATFORMS, HYDRO-HOISTS, BOATLIFTS AND WATERCRAFTS INTO THE CITY'S WATERWAYS OR CANALS FROM THE CURRENT MAXIMUM OF TWENTY PERCENT (20%) OF THE WIDTH OF THE CANAL, OR TWENTY-FIVE (25) FEET, WHICHEVER IS LESS, TO A MAXIMUM OF THIRTY PERCENT (30%) OF THE WIDTH OF THE CANAL, OR THIRTY (30) FEET, WHICHEVER IS LESS, AS MEASURED FROM THE RECORDED PROPERTY LINE; PROVIDING FOR REPEAL; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND FOR AN EFFECTIVE DATE.

A Public Hearing on these Ordinances will be held by the Planning Commission on **Tuesday, March 1st, 2016 at 7:00 p.m.** and the City Council for first reading on **March 22nd, 2016 at 7:00pm** in the Council Chambers of North Miami City Hall, Second Floor, 776 NE 125 Street, North Miami, Florida 33161.

Members of the public are invited to attend the Public Hearings and provide oral or written comments on the matter. A copy of the application and report containing the Community Planning and Development Department's recommendation will be available for public review from Monday to Friday between the hours of 8:15 a.m. and 5:00 p.m. in the City Clerk's Office, City Hall. Written comments may be submitted to: City of North Miami, 776 N.E. 125th Street, North Miami, Florida 33161, Attn: Community Planning and Development Department. For questions, please call (305) 893-6511, Ext. 12182.

ANY PERSON WISHING TO APPEAL THE DECISION OF THE CITY COUNCIL WILL NEED A VERBATIM RECORD OF THE MEETING'S PROCEEDINGS, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED (SECTION 286.0105. F.S.).

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, PERSONS NEEDING SPECIAL ACCOMODATION TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT THE OFFICE OF THE CITY CLERK NO LATER THAN FOUR (4) DAYS PRIOR TO THE PROCEEDING. TELEPHONE (305) 893-6511, EXT. 2147, FOR ASSISTANCE. IF HEARING IMPAIRED, TELEPHONE OUR TDD LINE AT (305) 893-7936 FOR ASSISTANCE.