

INTER-OFFICE MEMORANDUM

TO: Francisco Garcia
Director
Planning Department

DATE: December 23, 2010
SUBJECT: Zoning Interpretation
10-0003

FILE :

FROM: Barnaby Min
Zoning Administrator
Office of Zoning

REFERENCES :

ENCLOSURES:

This Zoning Interpretation is issued to clarify and interpret procedures under Article 7 of the Zoning Ordinance ("Miami21") concerning modifications of special permits issued and approved under the previous zoning ordinance ("11000").

Special permits, which included Class I Special Permits, Class II Special Permits, Special Exceptions, Major Use Special Permits, and Variances, were granted under 11000 in order to allow development as set forth in and subject to a set of plans or other supporting materials submitted by the applicant which were subsequently reviewed by the appropriate authorities and deemed to be in compliance with all applicable regulations set forth in 11000.

Oftentimes, with any development, modifications must be made to the aforementioned plans or other supporting materials, between the time of the approval (or approval with conditions) of the special permit and the time of submittal for a building permit.

Article 7.1.3.5(d) of Miami21 details the procedures for modifications of special permits and classifies these modifications as minor or not minor.

Many of the modifications that are submitted are often so minor as to be insubstantial or negligible in consequence and resulting in essentially the same qualitative and quantitative overall product detailed in the original plans.

Previously, when a special permit was modified under Section 2215 of 11000, the modification was considered substantial, non-substantial, or substantially in compliance. Modifications that were substantially in compliance with the original plans were approved without further consideration. Non-substantial modifications to the original plans were reviewed administratively. Substantial modifications required an additional public hearing.

Article 7.1.3.5(d)(1) of Miami21 specifies that minor modifications of any special permit requires an administrative review. Article 7.1.3.5(d)(2) further states that modifications that are not minor (i.e. substantial modifications) of Class I Special

Permits are to be reviewed pursuant to the City of Miami Code; Class II Special Permits are to be reviewed administratively; and Special Exceptions, Major Use Special Permits, and Variances require an additional public hearing.

As stated above, Miami21 currently only lists two (2) methods for an original plan to be modified – minor modification and not a minor modification. The third category, substantially in compliance, is not listed in Miami21.

The absence of the third category, substantially in compliance, presents an issue of hardship requiring this formal Zoning Interpretation. It is desirable to allow a measure of flexibility for the natural refinement and adjustment that comes with the advanced stages of design between conceptual or design development and construction drawings. Accordingly, it is my interpretation of Article 7 of Miami21 that modifications to special permits that are substantially in compliance with the original plans may be approved by the Planning Director without further administrative review or a public hearing, similar to the procedures under 11000.

Lastly, it is my opinion that while this Formal Zoning Interpretation sets forth the procedures for evaluating modifications that are substantially in compliance, it is my recommendation that a formal amendment to Article 7 of Miami21 be drafted in order to clarify the procedures.

This Zoning Interpretation shall be binding reversed on appeal. Pursuant Article 7.1.2.3(b) of Miami21, an appeal of this Interpretation must be presented to the Planning, Zoning and Appeals Board within fifteen (15) days and filed with the Office of Hearing Boards.

cc: Haydee Wheeler, Director of NET
Office of Zoning