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New Miami mayor wants delay in Miami 21 zoning code

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Miami 21, the ambitious and controversial city zoning rewrite passed in October after years of vetting, revision and intense public debate, may get delayed yet again -- this time at the request of new Mayor Tomás Regalado, who was the lone vote against the measure.

Supporters of the new, urban-oriented rule book fear Regalado is attempting to pull the plug on Miami 21 before it takes effect.

Regalado says all he intends to do is ask the city's three sitting commissioners for a 90-day delay in the implementation of Miami 21, which is now scheduled to go into effect in February. The delay, until May, will be debated at the commission Dec. 17.

Regalado's reason: a proposed Publix store in Little Havana that he contends could not win approval under the new rules. The delay would allow the store to receive permits under existing rules, he said.

"It's the law of unintended consequences for planned projects like Publix in Little Havana," Regalado said in an interview, referring to Miami 21 rules he claims would bar construction of the store as it's currently designed.

Yet it is unclear what Publix proposal Regalado is referring to.

A project on the site, on the corner of Southwest 22nd Avenue and First Street, was approved in 2005, city records show. That mixed-use project by a private developer would have included space for a small-footprint Publix store as well as housing, but was never built. That permit is still valid and would be grandfathered in under Miami 21.

City officials have received no new application for the site. Publix officials did not return a message requesting an interview.

Miami 21 supporters say they fear the Publix project is a pretext for delaying the new code, buying time to eventually kill it altogether.

"Anyone who is a supporter of Miami 21 would not want to see a delay in implementation," said Miami zoning lawyer Neisen Kasdin, a key advocate of the measure. "I would be concerned that a short-term delay could potentially turn into a longer delay, and then a permanent delay."

The so-called "smart" code, a key piece of former Mayor Manny Diaz's administration, was designed to tame the over-scaled development that has plagued the city for years. In some

areas, it reduced the allowable amount of development and imposed steep new fees if developers want to exceed certain height limits.

Several developers' lawyers, led by the Bilzin Sumberg law firm, energetically fought Miami 21 and pledged to sue the city on behalf of landowners they say would see their development rights curtailed under the new rules. Bilzin lawyers Carter McDowell and Vicky Garcia-Toledo told commissioners that claims in the millions of dollars would bankrupt the city.

If such claims are filed, Regalado and the city -- which faces fiscal shortfalls -- would have to reconsider Miami 21, one attorney said.

``It's reasonable to expect the city is going to be inundated'' with claims, said Carlos Gimenez, an attorney who said he has several clients weighing action against the city. ``In an era of declining land values and revenue, the policy makers will have to determine if Miami 21 is worth keeping.''

Regalado was the only commissioner to side with the critics when Miami 21 passed.

Newly installed Commission Chair Marc Sarnoff is the only surviving member of that 4-1, pro-Miami 21 majority. One member, Joe Sanchez, lost to Regalado in the mayor's race. Two others were removed from office because of unrelated corruption charges. Their seats remain vacant until a special election is held in January.

Two newly elected commissioners, Frank Carollo and Francis Suarez, are strong Regalado allies.

Sarnoff, who was appointed as chair by Regalado, said Friday he still strongly supports Miami 21. He said he would consider the request for a delay but said he is leery.

``I'd like to know more of the facts as to why,'' Sarnoff said. ``I'm also very concerned about going down this slippery slope where it's 60 days this time, 90 days another and so on. This is not a direction I want to go in.

``I voted for Miami 21 and I would like to see Miami 21 implemented.''