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Zoning overhaul Miami 21 defeated

South Florida Business Journal - by [Oscar Pedro Musibay](#)

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Miami Mayor Manny Diaz praised the discourse during a commission meeting about his signature zoning overhaul plan, but criticized the defeat of Miami 21 as a return to “politics as usual.”

Miami commissioners met for seven hours Thursday before deadlocking 2-2 on a motion to approve Miami 21.

“For the moment, we are unclear as to next steps,” Diaz said in a statement Friday. “However, I am very clear in my deep concern that last night's commission action is a sign of things to come, a return to the old Miami of politics as usual.”

He warned that the status quo would continue to promote “uninviting streets, unsightly and exposed parking garages, poor or nonexistent transitions in residential neighborhoods, non-functioning public spaces and ugly commercial corridors.”

Commissioner Tomas Regalado, a frequent critic of Diaz’s administration, and commission Chairman Joe Sanchez, a solid Diaz ally, cast their votes against the new Miami 21 code, dealing the mayor a stinging and surprising political loss.

Both are running to replace Diaz in November. Commissioners Marc Sarnoff and Michelle Spence-Jones voted for it, with Commissioner Angel Gonzalez absent.

Regalado said he voted against the measure because it was being rushed without the proper input from the public. He also said that he had made suggestions to adjust heights on Coral Way that were never incorporated into the plan.

“This is a good idea, but done at the wrong time,” Regalado said.

The motion being considered included amendments Sarnoff made that would limit the heights of buildings constructed in the Miami Modern District on Biscayne Boulevard to 35 feet. It also adopted a series of recommendations, some involving height, the city’s Planning Advisory Board made to the commission when it gave final approval to Miami 21 in January.

Sanchez’s vote left a lot of people scratching their heads, as he had indicated during the meeting that he planned to vote for the measure. He called the old code, known as 11,000, a “Frankenstein,” and said the

necessary tweaking of Miami 21 would be done by the time commissioners considered the code on second reading.

But, he also pointed to two lawsuits against the city that cited the Bert J. Harris Jr. Private Property Rights Protection Act as harbingers of things to come if Sarnoff's 35-foot height limitation was approved. Bert Harris, as it is commonly known, says that some laws and rules inappropriately limit property rights. Sanchez said height limitations, such as the one Sarnoff proposed, would "open the floodgates" to Bert Harris claims and expose the city to millions of dollars in liability.

Sanchez's vote against Miami 21 deadlocked the commission, which is tantamount to a rejection.

Calls to Sanchez and Regalado were not immediately returned.

Diaz, who launched his re-election campaign for a second term with Miami 21 at its heart, was solemn after the vote. The mayor has usually gotten his way on big issues, including partnering with the county on a new **Florida Marlins** stadium and a proposed Port of Miami tunnel. He also pushed a vision that private investment could revitalize a moribund downtown core, a vision the commission implemented through approval of myriad high-rise projects.

After the vote, Diaz said the commission could decide to revisit the issue, but he had not decided whether to pursue it.

"I don't know," he said. "I'll think about it."

More than 100 people, including some of Miami's most notable zoning attorneys and the mayor, spoke before commissioners during the seven-hour meeting.

Diaz said Miami 21 would spur the city to become walkable, with wide sidewalks for pedestrian activity. He said Miami 21 would make planning neighborhood-centric, instead of a patchwork of out-of-scale buildings.

Neisen Kasdin, vice chairman of the **Miami Downtown Development Authority**, said Miami 21 had the potential to be like Chicago's Burnham Plan, which provided the framework for improved infrastructure, widened streets and an expansion of public parks.

Arva Moore Parks, former chairwoman of the city's Planning Advisory Board, said she had seen the damage the old code had wreaked on neighborhoods during her time on the PAB, which currently has very little power. She said Miami 21 would have given more power to the PAB.

"11,000 has to go," Parks said, referring to the old code. "I see the big perspective."

Carter McDowell, a partner at law firm **Bilzin Sumberg Baena Price & Axelrod**, said Miami 21 would create all kinds of legal problems for the city because property rights would be taken away through downzoning. He said property owners would have to buy back their rights, adding undue costs to projects in a weak economy. He also tried to derail the vote by arguing that the city had violated noticing procedures for a special meeting, which would void the commission vote, he said.

Grace Solares, a member of Miami Neighborhoods United who is fighting the city and Miami-Dade County's involvement in the construction of the new Marlins ballpark, also argued that the commission had voided its

vote by not hearing Miami 21 within 60 days of the planning board's January approval of the plan.

City Manager Pete Hernandez said he consulted with the city attorney, and she was confident there was no conflict in the timing of the hearing.

Bernard Zyscovich, an ardent opponent of Miami 21, said implementation of the plan would create cookie-cutter designs and stop investment. He also attacked a direction Sarnoff gave to the city administration to research whether Miami 21 and the old code could run simultaneously, to give administrators and property owners a chance to see if it worked.

"There is no chance development will happen in the city," if you have two codes running together, Zyscovich said.

Sylvia Wong, a business owner in Little Haiti's industrial district, argued that city commissioners should have deferred Thursday's hearing to let the public familiarize itself with the more than 400 pages of code that make up Miami 21. She said she supported the broad concepts of walkable streets and a greener city, but the city and the public needed more time.

"People have to use common sense, and there are so many controversial and unresolved issues that this Miami 21 has to be deferred," she told the *Business Journal*.

Ana Gelabert-Sanchez, the city's planning director, said Miami 21 had been under review for some time and that recent changes to the plan did not involve the entire document.

In the end, city attorney Julie Bru said the vote could be revisited in September, when commissioners meet again. Commissioners would have to agree to reconsider the Miami 21 vote at one meeting and then reconsider the plan at the next.

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