

Budget troubles led Miami (Fla.) to reject New Urbanism Tinkering with a zoning code could provoke lawsuits

by Randy Bright <http://www.tulsabeacon.com/?p=2926#more-2926>

On August 6, the Miami City Commission voted to kill Miami 21, what would have been their new Comprehensive Plan, when two commissioners voted no to its final approval.

The single vote that killed the initiative was delivered by Commission Chairman Joe Sanchez, who decided at the last minute that the zoning overhaul that would take place as a result of the new Comprehensive Plan placed the City of Miami at too great a risk over issues of property rights.

Sanchez released a press statement that explained his no vote on Miami 21:

“It was painful to vote against a concept I believe in.

“For more than a decade, I have supported smart growth principles such as pedestrian-friendly development, public transit, bicycle lanes, neighborhood preservation, shade trees, parkland, green space and sustainability.

“Tragically, the version of Miami 21 that came up for a vote yesterday was tainted by restrictions that placed our residents in harm’s way by exposing us to tens of millions of dollars in lawsuits from loss of property value.

“We are in a budget crisis that threatens to bankrupt the City, so I could not uphold my fiscal responsibility to the taxpayers if I approved that version of Miami 21.

“However, I am extremely hopeful that this is a temporary setback to a common goal that is within our reach. Miami 21 must be revisited immediately after we have cut the bloated salaries and pensions that threaten our current budget.

“We now have a golden opportunity to resolve key issues and craft a pure version of Miami 21 that truly protects our neighborhoods and our City revenues.

“With all five Commissioners on the dais, we must reconsider Miami 21. We must adopt a final version of Miami 21 that truly is the people’s plan.”

The failure to pass approval for Miami 21 was a blow to outgoing Mayor Manny Diaz, who hoped that it would be his legacy issue.

Prior to the vote, Diaz presented his goals for the passage of Miami 21. He said, “We must plan our city - not around cars, but around people.” A report from the Miami Herald said that his

goals were that “zoning decisions would be based on neighborhoods instead of single properties; the (zoning) code would prevent out-of-scale buildings, big-box stores and McMansions; and require active ground-floor uses.”

One blogger wrote of Manny Diaz, “thousands of empty condos, not generating all the promised property taxes. First Miami Arena not creating more jobs and improving that blighted neighborhood as promised. The present Library, Historical Museum and MAM (Miami Art Museum) not generating more attendance or improving downtown as promised. DDA (Downtown Development Authority) not improving downtown. Inadequate Bus Lines, Metrorail and People Mover, some with broken escalators. Thousands of new 1 & 2 bedroom condos built with only one parking space per unit. Patchwork quilt of spot zoning that has damaged neighborhood...”

Sanchez’s fear of lawsuits is well-founded. Form-based codes, depending on how they are “calibrated” to the city, can change expectations of property owners regarding how their property can be developed, which can affect the value of property up or down.

For example, not long ago I read an article about a man who wanted to tear down his old one-story building and replace it with a new one-story building, but because his city had changed their zoning code to a form-based type code, the city would not allow him to do so unless he constructed his new building with several floors of apartments on top of the single floor that he needed. He had two choices; spend about four times as much as he had originally planned to spend, or do nothing at all. That would be something to sue for, wouldn’t it?

PlaniTulsa just released its 50 page draft report “Our Vision for Tulsa” outlining the next steps in our comprehensive planning process. One of the items that it says must be done is to revise our zoning code, and the goals that are described in the report will essentially indicate a form-based code is in the works.

I will be writing more on the report in the coming weeks, and I will be looking for respect for our constitutional rights. I will also be looking at how it would treat our churches.

Obviously I can’t speak for Mr. Sanchez, but what I do see is that politicians are watching their constituents and realizing that maintaining the status quo without consequence is no longer a given.

People are fighting back. The critics of Miami 21 certainly got his attention, and this time, just in time.

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