



# ST. THOMAS JOURNAL OF COMPLEX LITIGATION

Volume 6

Spring 2020

## **DEVELOPERS OR MAGICIANS?**

### **ZONING CODE LOOPHOLE IN THE MAGIC CITY**

*Amanda G. Gomez*

**DEVELOPERS OR MAGICIANS?**  
**ZONING CODE LOOPHOLE IN THE MAGIC CITY**

Amanda G. Gomez\*

*“The secret to the city is integration . . . [e]very area of the city should combine work, leisure and culture. Separate these functions and parts of the city die.”<sup>1</sup>*

In 2009, the City of Miami, Florida (“Miami”) adopted a new zoning code dubbed Miami 21, which details specific guidelines for a universal approach to land use and urban planning within city limits.<sup>2</sup> Prior to Miami 21, Miami was planned and built based on a Euclidean zoning code, Zoning Code 11000, which entailed the reduction of population density and separation of building usage based on size, height, noise, and pollution.<sup>3</sup> Zoning Code 11000, however, led Miami to become unsustainable to live because of the long commuting distances, more trips for daily tasks, and separation of industry outside of the city limits.<sup>4</sup> Miami 21, on the other hand, changed the archaic Zoning Code 11000 by restructuring it into a form-based code, with an emphasis on interconnecting streets, buildings, pedestrians, vehicles, and public and private spaces inevitably allowing for a more unified infrastructure.<sup>5</sup>

Miami 21 represents the “Miami of the 21<sup>st</sup> Century” a historical city that has gradually developed into the epitome of work and play, with its industrial districts meshing into its entertainment and residential provinces.<sup>6</sup> Miami 21 was created with the particular goal of seamlessly combining all aspects that make Miami unique, coupled with the intention of allowing residents and visitors alike to reap the benefits of a well-balanced city plan.<sup>7</sup> Included in the construction of the Miami 21 zoning code was a provision for the creation, from time to time, of a Special Area Plan (“SAP”).<sup>8</sup> This SAP provision allows city planners and developers—with bordering holdings totaling at least nine acres—the flexibility to work outside of the predominately

---

\* Amanda Gisell Gomez, Juris Doctor Candidate May 2021, St. Thomas University School of Law, ST. THOMAS JOURNAL OF COMPLEX LITIGATION, *Member*. I would first like to thank Professor Mahoney, the editorial staff, and the members of St. Thomas Journal of Complex Litigation for their insightful comments and support while I wrote my comment. I would also like to thank Javier Peña for always managing to be supportive and uplifting. Finally, I would like to thank my entire family, especially my father, Jorge Gomez, for introducing me to my passion and teaching me all I know about construction and real estate; my mother, Beatriz Gomez, for always encouraging me to do my best and stay humble and kind; and my brother, John Gomez, for being my best friend in life. I continue to succeed each day for them and my success means nothing without them.

<sup>1</sup> Mac Margolis, *Profile: The Maestro of Curitiba: By the end of Jaime Lerner’s third term as mayor, this Brazilian city was a model metropolis. He fused creative urban planning with an abiding concern for the environment.*, LOS ANGELES TIMES (Apr. 27, 1993), <https://www.latimes.com/archives/la-xpm-1993-04-27-wr-27917-story.html>.

<sup>2</sup> See City of Miami Planning and Zoning Dept., *Project Vision*, MIAMI 21, <http://www.miami21.org/> (last updated Oct. 18, 2019); see also Shaan Patel, *Finding the Magic No. 9 in the Magic City*, MIAMI GRID (Sept. 26, 2018), <https://miami-grid.com/2018/09/26/magic-city-innovation-district-sap/>.

<sup>3</sup> See City of Miami Planning and Zoning Dept., *Types of Zoning Codes*, MIAMI 21, <http://www.miami21.org/TypesofZoningCodes.asp> (last updated Oct. 18, 2019).

<sup>4</sup> See *id.*

<sup>5</sup> *Id.*

<sup>6</sup> See Project Vision, *supra* note 2.

<sup>7</sup> *Id.*

<sup>8</sup> See David Smiley and Andres Viglucci, *Redesigning Miami, 9 Acres at a Time*, MIAMI HERALD (Jan. 13, 2017), <https://www.miamiherald.com/news/local/community/miami-dade/article126501109.html>.

strict guidelines found in the Miami 21 regulations.<sup>9</sup> SAPs give city planners and developers substantial leeway to foster urban development in small, historic neighborhoods, overhauling them structurally and aesthetically in an attempt to make Miami more contiguous.<sup>10</sup>

The inclusion of the SAP provision has led to the existence of well-known, large-scale, projects such as Brickell City Centre in Miami's financial district and the Wynwood area near downtown Miami.<sup>11</sup> While these projects do serve their purposes of increasing the amount of mixed-use buildings in Miami, they also unavoidably increase the amount of traffic in the areas<sup>12</sup> and the amount of displacement of long-term residents who can no longer afford to live there.<sup>13</sup> With sea levels inevitably rising around Miami, developers are searching for communities with higher elevations on which to build, and have quickly discovered that low-income neighborhoods meet this coveted need.<sup>14</sup> Developers are hungry to find a new SAP location, and low-income neighborhoods are next on the menu.

For Miami, the development of low-income neighborhoods equates to a new, more attractive look for the city. However, this outlook is not so optimistic for low-income residents who may no longer be able to afford to live in these communities.<sup>15</sup> Many development projects permitted by the Miami 21 SAP provision ignore the needs and comforts of the residents who are residing in the project areas or are now being forced out by developers' predatory tactics.<sup>16</sup> Yet, Miami continues to upscale historically low-income areas in hopes of advancing itself as a whole, even though Miami 21 inherently requires that all new developments be compatible with surrounding neighborhoods.<sup>17</sup>

Generally, developers and city planners have specific goals and factors in mind when planning what Miami will look like in coming years: cost, return on the investments, effect on the image of the city, and neighborhood response are among the many considerations.<sup>18</sup> As expected with the increasing number of proposed SAPs, residents of these coveted neighborhoods have recently decided to strike back in opposition to further development for subjective reasons.<sup>19</sup> Community members do not want to be displaced from their neighborhoods; some residents are afraid of the noise and commotion that will disrupt their daily lives; some truly do not want to see the historic neighborhoods of Miami consumed by glamorous structures; and some simply do not want their cost of living to increase drastically.<sup>20</sup> The loophole that is the SAP provision of Miami 21 has begged the question of whether the drafters of this code left too much room for developers and planners to be able to obtain a permit for a SAP simply by obtaining a continuous nine acres

---

<sup>9</sup> *Id.*

<sup>10</sup> *See id.*

<sup>11</sup> *See* City of Miami Planning and Zoning Dept., *Final Code – May 2014*, MIAMI 21, [http://www.miami21.org/final\\_code\\_May2014.asp](http://www.miami21.org/final_code_May2014.asp) (last updated Oct. 18, 2019) [hereinafter "Final Code"].

<sup>12</sup> Ariel Zirulnick, *Brickell City Centre Showed You Can Build for People, Not Cars*, THE NEW TROPIC (Dec. 20, 2016), <https://thenewtropic.com/2016-real-estate-swire/>.

<sup>13</sup> Alex Harris, *Climate gentrification: Is sea rise turning Miami high ground into a hot commodity?*, MIAMI HERALD (Dec. 18, 2018), <https://www.miamiherald.com/news/local/environment/article222547640.html>.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *See* Harris, *supra* note 13.

<sup>17</sup> *See id.*

<sup>18</sup> *See id.*

<sup>19</sup> *See* Joey Flechas, *Little Haiti Resident Sues Miami Over Approval of Massive Magic City District*, WLRN (Aug. 2, 2019), <https://www.wlrn.org/post/little-haiti-resident-sues-miami-over-approval-massive-magic-city-district>.

<sup>20</sup> *See id.*

of land, forcing residents to take matters into their own hands and fight back against their own local government to keep historic and low-income neighborhoods as-is.<sup>21</sup>

Therefore, this article will discuss Miami 21 and its SAP provision, specifically the evident positive and negative effects of the new code on Miami and how this code could be modified in order to ensure its optimal execution. To analyze changes that may be necessary to this zoning code, this note will be divided into five sections. Part I will explore a brief history of Miami and describe the transformation this city has undergone to become the budding metropolis it is today. Part II will explain the already developed SAPs in Miami and their effects on the city. Part III will then expand on the SAPs that are currently up for debate, and the public response that they have elicited. Part IV will then compare zoning codes of other cities to Miami and how those cities implement provisions in their zoning codes to intertwine historic communities with modern developments. Finally, Part V will discuss the possible solution to the discrepancy between what residents of historic neighborhoods need and what developers covet. Ultimately, this note will advocate to make it a priority of developers to integrate the surrounding communities to satisfy residents and maintain the culture that Miami offers.

## **I. Brief History of the City of Miami**

Since its inception, Miami has been a city of rapid development and a getaway for the rich and famous.<sup>22</sup> Miami is most notably a hub of cultural influences.<sup>23</sup> In the late nineteenth century, Julia Tuttle, a wealthy widow from Ohio, moved to what had been named “The Village of Miami” and immediately recognized the potential Miami had as a point for international trade.<sup>24</sup> Tuttle made it her goal to persuade millionaire Henry Flagler to extend his railroads to Miami.<sup>25</sup> After much debate, with the help of William and Mary Brickell, Tuttle convinced Flagler to extend his railroads and by 1896, the railways had reached the beaches of Miami.<sup>26</sup> This was just the beginning of what was to come; streets were built, hotels flourished, and Miami’s nightlife blossomed.<sup>27</sup> Prominent figures such as John Collins and Carl Fisher assisted in creating the foundation of the Miami we now know by advertising the stress-free living of the city and its sunny beaches.<sup>28</sup>

In the late 1960s, an influx of immigrants created neighborhoods like Little Havana and Little Haiti, communities that still foster tightknit groups of Cuban and Haitian-Americans.<sup>29</sup> What was once a small village off the Miami River has progressively become the home and headquarters to international corporations and financial institutions alike because of its close proximity to Latin

---

<sup>21</sup> *Id.*

<sup>22</sup> *See City of Miami History*, CITY OF MIAMI (2017), <http://archive.miamigov.com/home/history.html>.

<sup>23</sup> *See id.*

<sup>24</sup> *Id.*

<sup>25</sup> *City of Miami History*, *supra* note 22.

<sup>26</sup> The Editors of Encyclopedia Britannica, *Miami*, ENCYCLOPEDIA BRITANNICA, <https://www.britannica.com/place/Miami-Florida> (last visited Mar. 11, 2020).

<sup>27</sup> *See City of Miami History*, *supra* note 22.

<sup>28</sup> *Id.*

<sup>29</sup> *See id.*

America.<sup>30</sup> Miami has never wavered from its goal to be an ever-growing destination that offers everything in one place: work, living, and fun.

## II. Adopted Special Area Plans and Their Effect on Miami

Miami's most recent attempt to contribute to its perpetually innovative nature is the SAP provision included in the Miami 21 Zoning Code.<sup>31</sup> As previously discussed, SAPs afford developers an opportunity to transform Miami like never before, which technically aligns with the city's primary objective to evolve continuously.<sup>32</sup> Each time a SAP is adopted, Miami 21 is amended and updated to reflect the code including the new SAP.<sup>33</sup> As of March 2020, there have been four SAPs adopted into Miami 21: Brickell City Centre ("BCC"), the Design District, River Landing, and Ransom Everglades.<sup>34</sup> This note will focus primarily on BCC and the Design District; specifically, how the principal purpose of these plans is to encourage the combination of distinct building heights, designs, and uses in order to promote the goals of Miami 21.<sup>35</sup> However, what happens when developers' and planners' lofty goals to reinvent Miami's look infringe upon the lives of those who have to neighbor these developments?

### a. Brickell City Centre

The first of the SAPs brought to life under Miami 21 was BCC.<sup>36</sup> BCC opened its doors in 2016.<sup>37</sup> Swire Properties, Inc., its developer, called BCC "a landmark mixed-use development in downtown Miami."<sup>38</sup> Among other uses, BCC includes a shopping complex, two residential towers, a hotel, and two office towers.<sup>39</sup> At first glance, the benefits of BCC look clear: a trendy hang-out in the middle of one of Miami's hottest locations for work and entertainment. However, what may not have been so readily apparent were the ramifications that this development would present to the City of Brickell's many residents and locals who must commute in and out of the area each day.<sup>40</sup>

Developments, such as BCC, naturally contribute to the density of the area where they are located because of the amount of people they attract on a daily basis, so getting in and out of

---

<sup>30</sup> See United States History, *History of Miami, Florida*, <https://www.u-s-history.com/pages/h3901.html> (last visited Nov. 22, 2019).

<sup>31</sup> See Final Code, *supra* note 11.

<sup>32</sup> See Types of Zoning Codes, *supra* note 3.

<sup>33</sup> Final Code, *supra* note 11.

<sup>34</sup> *Id.*

<sup>35</sup> *Miami 21 Special Area Plan*, ARCGIS, <https://www.arcgis.com/home/item.html?id=87685165e17447d8890f8828028df60a> (last updated Feb. 20, 2019).

<sup>36</sup> Miami 21 Code of Ordinances, *Appendix E – Brickell City Centre*, (2014), <https://codehub.gridics.com/us/fl/miami#/71f28b8f-3ff7-401b-b86f-c9a7cb354eb9>.

<sup>37</sup> *Brickell City Centre*, SWIRE PROPERTIES, <https://www.swireproperties.com/en/portfolio/current-developments/brickell-city-centre.aspx>.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> See Zach Edelson, *Optimism fuels Miami's mega-developments, but a denser Miami isn't a sure thing*, THE ARCHITECT'S NEWSPAPER (Apr. 9, 2017), <https://archpaper.com/2017/04/miami-mega-developments-feature/#gallery-0-slide-0>.

Brickell has become more time consuming since the development and construction of BCC.<sup>41</sup> Apart from the traffic congestion, the lack of practical public transportation available to those living in neighborhoods outside of Miami often prevents individuals living in low-income neighborhoods from being able to find opportunities to work in locations like Brickell because it is too difficult to access through public transportation.<sup>42</sup> The BCC and the Design District developments were among the earliest SAPs to be conceptualized and brought to life and, as a result, lacked the opposition that newly proposed SAPs now face.<sup>43</sup> Although BCC is not positioned in an area that immediately affects the cost of living for its surrounding neighborhoods, which would make it impossible for low-income families to thrive there, affordability is certainly a factor with which SAP developers have been challenged in other projects, such as the Design District.

### **b. The Miami Design District**

The Miami Design District is a unique neighborhood located near Little Haiti<sup>44</sup> that began to plant its roots and reinvent itself into a city scape when Miami native Craig Robins recognized the area's potential and started acquiring and refining properties there.<sup>45</sup> The Design District has now become a hub for residents and tourists alike to experience luxury brand stores, upscale art galleries, and lavish culinary experiences – a stretch from its humble beginnings as farmland.<sup>46</sup> The Miami Design District was first introduced as a SAP mechanism used to evolve what Robins had started and to improve the District, essentially by making it more pedestrian-friendly.<sup>47</sup> The Design District has undoubtedly brought radiance and new life to this area of Miami, but it is hard not to wonder what the area was like prior to Robins and Miami 21.

Although the Design District has constantly been the subject of improvement, the Design District of 2020 has a completely different ambiance and culture than the original Design District once had.<sup>48</sup> Like most neighborhoods in Miami, the Design District was once an area dominated by homes and family-owned commercial businesses such as restaurants and corner markets.<sup>49</sup> Now, fully gentrified, this area of Miami boasts an entirely different high-end persona.<sup>50</sup>

---

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> Andrew McIntyre, *Despite Opposition, Akerman Gets Major Miami Project Zoned*, LAW360 (Oct. 11, 2019), <https://www.law360.com/articles/1208761/despite-opposition-akerman-gets-major-miami-project-zoned>.

<sup>44</sup> Kara Franker, *Experience Art and Culture in Miami's Little Haiti Neighborhood*, GREATER MIAMI AND THE BEACHES, <https://www.miamiandbeaches.com/things-to-do/arts-culture/explore-art-culture-in-little-haiti> (last visited Mar. 11, 2020).

<sup>45</sup> *About, History*, MIAMI DESIGN DISTRICT, <https://www.miamidesigndistrict.net/history/> (last visited Mar. 11, 2020).

<sup>46</sup> *See id.*

<sup>47</sup> Congress for The New Urbanism, *An Introduction to the Miami Design Project*, CNU, [https://www.cnu.org/sites/default/files/Design-District-Introduction\\_Sprawl-Retrofit-Council\\_v1.0.pdf](https://www.cnu.org/sites/default/files/Design-District-Introduction_Sprawl-Retrofit-Council_v1.0.pdf) (last visited Mar. 11, 2020).

<sup>48</sup> *See* Zachary Fagenson, *Allapattah's Restaurants Look Toward an Uncertain Future*, MIAMI NEW TIMES (Aug. 13, 2019), <https://www.miaminewtimes.com/restaurants/gentrification-threatens-restaurants-in-miamis-allapattah-neighborhood-11241625>.

<sup>49</sup> *Id.*

<sup>50</sup> *See* James Brasuell, *Gentrification and Displacement in One of Miami's Most Vulnerable Neighborhoods*, PLANETIZEN (Oct. 1, 2019), <https://www.planetizen.com/news/2019/10/106458-gentrification-and-displacement-one-miamis-most-vulnerable-neighborhoods>.

Unlike BCC, the Design District has threatened to gentrify the historic neighborhoods at its border, namely areas like Allapattah and Little Haiti.<sup>51</sup> These neighborhoods of Miami are dominated by diverse individuals from varying cultures and backgrounds who, at one point, immigrated to the United States and ended up in Miami.<sup>52</sup> Allapattah and Little Haiti are the epitome of the cultural experience that makes Miami as unique as it is. Both cities are specifically known for traditional, family-owned shops and restaurants that boast an array of Dominican, Central-American, and Haitian menu options.<sup>53</sup> However, with the ever-growing nature of areas like the Design District, residents of Allapattah and Little Haiti have become increasingly worried that their cost of living and cost of renting work spaces will soon become unattainable to them and will ultimately force them out of the place they have called home for so long.<sup>54</sup> One Little Haiti resident and business owner expressed his concern, and the concern of many of his neighbors, explaining that “[a]ctivists are afraid this will become another Midtown, another Wynwood, because so many of these small business[es] don't own their buildings and could be at the mercy of their landlords . . . [i]t would be unfortunate because those businesses are what makes this neighborhood special and unique.”<sup>55</sup> This is a popular opinion in neighborhoods like Little Haiti; while there are business owners who own their buildings, this is not a reality for many of the other business owners in the area who can only afford to lease their locations.<sup>56</sup> Those individuals who are merely renting a space in order to run their businesses are most susceptible to being forced out of the neighborhood as new developments in the area arise and family-owned businesses gradually disappear.<sup>57</sup> This has not gone unnoticed by residents; as rent prices increase, so do the residents’ efforts to push back against the modernization of their neighborhood.<sup>58</sup>

The beginning of the gentrification of these neighborhoods begs the question of how developers, city planners, and residents can work together to find a solution that salvage these culturally-rich areas that give Miami its flare, while simultaneously enabling the city to modernize along with the times. The most recently introduced SAP may prove that there can, in fact, be some common ground between opposing forces on each end of the spectrum with respect to Miami’s development.

### **III. Proposed Magic City Innovation District and Public Response**

Perhaps the most talked about and controversial SAP taking Miami and its residents by storm is the Magic City Innovation District.<sup>59</sup> This project was initially introduced by developers

---

<sup>51</sup> Fagenson, *supra* note 48.

<sup>52</sup> See Andres Viglucci, *Priced Out of Paradise: Why Locals Can No Longer Afford to Live in Miami*, MIAMI HERALD (June 5, 2019), <https://www.miamiherald.com/news/business/real-estate-news/article229029784.html>.

<sup>53</sup> Fagenson, *supra* note 48.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> See Fagenson, *supra* note 48.

<sup>58</sup> See Andrew Buncombe, *Craig Robins: Meet Miami's Mr. Gentrification - the man behind controversial \$2bn art and fashion development*, INDEPENDENT (May 27, 2015), <https://www.independent.co.uk/news/world/americas/craig-robins-meet-miamis-mr-gentrification-the-man-behind-controversial-2bn-art-and-fashion-10279230.html>.

<sup>59</sup> See Francisco Alvarado, *\$1B Magic City Innovation District clears final hurdle*, THE REAL DEAL (June 28, 2019 01:30 PM), <https://therealdeal.com/miami/2019/06/28/1b-magic-city-innovation-district-clears-final-hurdle/>.

with the intention of revitalizing and renovating the area currently known as Little Haiti.<sup>60</sup> The Magic City Innovation District encompasses fifteen (15) acres of land made up of a mixed-use development holding an innovation center, retail spaces, and apartment buildings up to twenty-five (25) stories tall, skyscrapers that will tower over the low-rise existing neighborhood of Little Haiti.<sup>61</sup>

Despite Little Haiti's desperate need for physical and economic rejuvenation, residents of the historic neighborhood have still decided to fight back against the SAP Magic City Innovation District.<sup>62</sup> Even in the best case scenario, merchants of the area have failed to make ends meet.<sup>63</sup> For example, Emilienne Derosiers is one of the few merchants who was lucky enough to be chosen by investors to be moved to a newly remodeled shop they owned in the heart of Little Haiti instead of being displaced with nowhere to go.<sup>64</sup> Unfortunately, when the investors were forced to raise the rent to cover their development costs, Derosiers had no choice but to close shop because she could not afford the increased rent price, although she had previously benefited from several rent-free and discounted months of rent.<sup>65</sup> Stories like Derosiers' are precisely what the residents and merchants of neighborhoods like Little Haiti fear, and why they are passionately opposing the development of their special areas.<sup>66</sup>

Reflecting the controversial divergent positions, in the summer of 2019, it took five (5) public hearings in front of the Miami City Commission, hours of debate lasting into the night for months, an abundance of determined opposition from locals and advocates for the preservation of the historic neighborhood, before the final 1:00 a.m. decision to approve the \$1 billion mixed-use project that will be the Magic City Innovation District.<sup>67</sup> While developers claim that their essential goal is to renovate and rejuvenate the neighborhood, many of Little Haiti's residents are skeptical of this objective and believe that "[t]he plan is not to develop Little Haiti, it is to erase Little Haiti."<sup>68</sup> It seems as though neighborhood opposition grows stronger and more persistent with each new SAP proposition, so what is the future of the SAP provision loophole of Miami 21?

#### **IV. How Other Cities Make it Work**

Not straying too far from home in Miami, Seaside is a small-scale yet paramount example of how developments should properly be integrated into surrounding residential neighborhoods in Florida.<sup>69</sup> Miami 21 is just one example of a form-based zoning code, but the very first modern application of this type of code, also called the New Urbanism method, was the Seaside Code.<sup>70</sup>

---

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> See Andres Viglucci, *Little Haiti is up for grabs. Will gentrification trample its people and culture?*, MIAMI HERALD (Sep. 29, 2019 06:00 AM), <https://www.miamiherald.com/news/business/real-estate-news/article232134932.html>.

<sup>64</sup> See *id.*

<sup>65</sup> *Id.*

<sup>66</sup> See *id.*

<sup>67</sup> Alvarado, *supra* note 59.

<sup>68</sup> Viglucci, *supra* note 63.

<sup>69</sup> See Samantha Salden, *The Seaside Code: The Poster that Started it All*, THE SEASIDE RES. PORTAL (Nov. 20, 2019), <https://seaside.library.nd.edu/essays/the-code#fn>.

<sup>70</sup> *Id.*

The establishment of this coastal town on the Florida Panhandle began when J. Smolian bought eighty (80) acres of land in hopes of providing a relaxing location for his employees to enjoy.<sup>71</sup>

Years later his grandson, Robert Davis, inherited the land and sought to develop what is considered the first “New Urban” community from the ground up.<sup>72</sup> Davis intentionally applied the New Urbanism movement, which had not quite been successfully utilized before, to create a town that made it feasible for individuals to walk from residential areas to commercial areas of the town while enjoying the richness of the community that bordered the homes, such as parks and plazas.<sup>73</sup> Mr. Davis, together with his wife Daryl Davis, decided to build Seaside.<sup>74</sup> They began by constructing two model homes with the intention of selling similar homes to potential Seaside residents.<sup>75</sup> Through tireless efforts such as the creation of the Seaside Saturday Market, sponsoring volleyball at the beach, and community movie nights, the Davis’ successfully managed to draw crowds to Seaside while they gradually developed the new area using what is interchangeably known as a form-based code.<sup>76</sup>

Most notably, the Seaside Code “recognizes that a community is made of a variety of building types and uses, economic levels and residential scales. Instead of setting out to organize residents by class and income, the Seaside Code seeks a mixture organized instead based on building form.”<sup>77</sup> For example, a look into the types of buildings and uses that are defined in the Seaside Code demonstrates the expectation of specific uses that were intended for these buildings, such as automobile repair shops, a firehouse, small shops, and even plans for a Sunday Market.<sup>78</sup> The Seaside Code is thoughtful and specific as to the uses for each type of building; however, still “recogniz[ing] that the needs and an economy of a place may change over time.”<sup>79</sup> Further, the Seaside Code provides for leeway to allow for building uses to alter and consequently, to keep, the community’s character intact.

In the span of about forty years, Seaside has earned over fifteen (15) awards for its progressive architecture and innovative urban design that continues to successfully intertwine all aspects of this community without losing its original small city life feel.<sup>80</sup> Commended by hundreds of newspapers, magazines, books, and journals for features that reach far “beyond the architecture and design community,” this coastal town is thought to be “a tangible example of the success of building principles based upon human scale and activity.”<sup>81</sup> Simply put, Seaside is both a pioneer and modern example of how to implement modern developments while maintaining community character that was fostered years ago by its founders.

In light of Seaside’s founder’s and developer’s success, Miami’s developers and city planners ought to look to the Seaside Code for answers when residents of Miami’s neighborhoods

---

<sup>71</sup> Robert Smolian Davis, *Visions of Seaside 1946-2011*, THE SEASIDE RES. PORTAL (Nov. 21, 2019), <https://seaside.library.nd.edu/essays/visions-of-seaside>.

<sup>72</sup> *See id.*

<sup>73</sup> *Id.*

<sup>74</sup> Daryl Rose Davis, *The Artfulness of Community Making*, THE SEASIDE RES. PORTAL (Nov. 21, 2019), <https://seaside.library.nd.edu/essays/the-artfulness-of-community-making>.

<sup>75</sup> *Id.*

<sup>76</sup> *See id.*

<sup>77</sup> Salden, *supra* note 69.

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> *See* Steven Brooke, *Seaside*, PUBLIC AND PROFESSIONAL ACCLAIM 23 (2005).

<sup>81</sup> *Id.*

plead to keep their community character intact while planners develop Miami's SAPs. The section of Miami 21 that details what SAPs may include provides that the allocation of development capacity and height requirements of individual developments shall be flexible as long as it "does not result in development that is out of scale or character with the surrounding area, and provides for appropriate transitions."<sup>82</sup> The lack of specificity as to how exactly to provide appropriate transitions to ensure SAPs are not out of character may be part of the problem developers are facing when attempting to develop neighborhoods without necessarily altering their character entirely.

An amendment to this portion of Miami 21 will offer more concrete ways to follow this directive, aiding in the intertwining of large-scale developments and the communities surrounding them. For instance, the Stapleton neighborhood in Denver, Colorado is known as another successful example of New Urbanism because of its "clear boundaries [that] honor surrounding areas of historical significance, preserve agricultural lands, and create a sense of belonging . . . [that is] dependent upon the desires of its current residents."<sup>83</sup> This comes as no surprise, as Stapleton's Development Plan, carefully details how to integrate modern developments and historic neighborhoods with the vision of the plan aiming to "support the health of surrounding neighborhoods and . . . provide a model for the region of serving the economic and social needs of the people without degrading the natural environment."<sup>84</sup>

Perhaps Stapleton's success is because the objectives of the Development Plan are overwhelmingly resident-centered.<sup>85</sup> In fact, the majority of sections in Stapleton's plan include ways to integrate the surrounding communities, and ensure that the residents are provided jobs and a healthy community in which to live.<sup>86</sup> To improve the relationship between residents and developers, Miami developers must explore the idea of blending their developments culturally and characteristically into the neighboring communities, like Stapleton, as opposed to solely contemplating how they will logistically be able to build them on the land they own.

## V. The Solution

To arrive at a middle ground, it is important to first understand the personality of Miami and the rituals of its citizens – Miami's community character. What does community physically look like in Miami? For some, community in Miami means visiting Cuban bakeries where you can buy dozens of *croquetas*<sup>87</sup> and *pastelitos*<sup>88</sup> for under ten dollars; for others, community in Miami means going to the neighborhood barber shop where the barber knows your name and what

<sup>82</sup> Miami, Fla., MIAMI 21 CODE, vol. 1, art. 3 (2014), <http://www.miami21.org/PDFs/May2014-VolumeI.pdf>.

<sup>83</sup> Lyn Kathlene, *New Urbanism: The Stapleton Experiment*, FRONT PORCH (Feb. 1, 2014), <https://frontporchne.com/article/new-urbanism-stapleton-experiment/>.

<sup>84</sup> Stapleton Redevelopment Found. Et. Al., *A. Vision*, STAPLETON DEVELOPMENT PLAN 5-3 (1999), [https://www.denvergov.org/content/dam/denvergov/Portals/646/documents/planning/Plans/Stapleton\\_Development\\_Plan.pdf](https://www.denvergov.org/content/dam/denvergov/Portals/646/documents/planning/Plans/Stapleton_Development_Plan.pdf).

<sup>85</sup> *See id.*

<sup>86</sup> *Id.*

<sup>87</sup> *See Croqueta*, LEXICO, <https://www.lexico.com/en/definition/croqueta> (last visited Mar. 11, 2020).

<sup>88</sup> *See Pastelito*, SPANISH DICT, <https://www.spanishdict.com/translate/pastelito> (last visited Mar. 11, 2020).

type of fade<sup>89</sup> you want; and for others, community in Miami is being married in the same neighborhood church by the very priest who once bored you to death in your teenage years with his Spanish sermons. The citizens of a community give a community its character initially and, in turn, this community's character becomes the foundation for the expectations those citizens have for the modernization of their city. Citizens have a desire to see their city revitalized, not reinvented.<sup>90</sup>

There is nothing inherently wrong with the notion of a SAP and none of the current SAPs need to be eliminated. There does, however, need to be an increase of interplay between local governments, city planners, and developers where community character is not only discussed by the parties, but also where the community is actually involved in the implementation of a SAP's development. The increase in community resistance to SAPs have highlighted the reservations residents have in allowing their neighborhoods to be completely renovated by developers. One feasible solution to this gap in ideals is to retain community character of these historic neighborhoods by integrating the developments with the features that give these neighborhoods their individual style.

Interestingly enough, for a perfect example of what blending community character with modern developments looks like, developers can simply turn to Calle Ocho, a historic area of Miami that exceptionally demonstrates the synergy between rich community character and modern development.<sup>91</sup> Calle Ocho is the center of Miami's Little Havana neighborhood, historically known for showcasing rich Cuban culture with its restaurants, bars, and local shops.<sup>92</sup> Much like its bordering neighborhoods, Calle Ocho has seen its share of development and modernization over the years, yet it still manages to maintain its historic ambiance.<sup>93</sup> A walk down Calle Ocho will take any pedestrian through Cuban age-old traditions on a relatively modernized street, whether it be by catching an elder Cuban crowd playing dominoes in Domino Park, enjoying a dancing session at Ball and Chain jazz bar, or having a meal at the renowned Versailles restaurant.<sup>94</sup>

Miami 21 represents the "Miami of the 21<sup>st</sup> century:" a historical city that has gradually developed into the epitome of work and play with its industrial regions noticeably integrating into its entertainment and residential regions.<sup>95</sup> Miami 21 was created with a particular goal in mind: to seamlessly combine all the aspects that make Miami unique with the intention of allowing residents and visitors alike to reap the benefits of a well-balanced city plan.<sup>96</sup> The SAP provision in the code makes it possible for Miami to continue to innovate in ways that only the most

---

<sup>89</sup> *Back to the Basics: The Difference Between Fades, Tapers, and Blends*, SUPERCUTS, <https://www.supercuts.com/advice/back-to-the-basics-the-difference-between-fades-tapers-blends.html> (last visited Mar. 11, 2020).

<sup>90</sup> Gary Pivo, *How Do You Define Community Character? Adapting the Environmental Impact Statement Process too Snoqualmie, Washington*, SMALL TOWN (1992), <http://www.u.arizona.edu/~gpivo/Character.pdf>.

<sup>91</sup> See America's Story From America's Library, *Calle Ocho-Miami Carnival A Local Legacy*, THE LIBRARY OF CONGRESS, [http://www.americaslibrary.gov/es/fl/es\\_fl\\_cuba\\_1.html](http://www.americaslibrary.gov/es/fl/es_fl_cuba_1.html) (last visited Mar. 11, 2020).

<sup>92</sup> Kara Franker, *Experience Cuban Culture On Calle Ocho in Little Havana*, OFFICIAL WEBSITE GREATER MIAMI CONVENTION & VISITORS BUREAU, <https://www.miamiandbeaches.com/things-to-do/attractions/explore-calle-ochoin-little-havana> (last visited Jan. 30, 2020).

<sup>93</sup> See Tanvi Misra, *Redesigning the Iconic Thoroughfare at the Heart of Little Havana*, CITY LAB (Apr. 25, 2016), <https://www.citylab.com/solutions/2016/04/redesigning-the-iconic-thoroughfare-at-the-heart-of-little-havana/478926/>.

<sup>94</sup> See *id.*

<sup>95</sup> See Project Vision, *supra* note 2.

<sup>96</sup> *Id.*

prominent cities in the country can fathom, but, unfortunately, the SAP provision, in reality, seems to overlook the needs of its very own residents and, in turn, contradicts the most prominent objective of Miami 21.

It is well established that Miami is often referred to as the Magic City,<sup>97</sup> undoubtedly because it is a fast-paced city that provides both business and recreational venues for locals and visitors alike. However, it may be time for developers and city planners to slow down and begin to truly integrate community character into their plans in order to stay true to its residents and historic roots. In order to do this, an amendment to Miami 21 under the SAP provision section of the code potentially limiting the number of SAPs permitted in a span of five or ten years may help residents become accustomed to older developments and be more inclined to welcome new ones. In the alternative, an amendment further detailing how exactly to integrate historic neighborhoods and their character with modern developments may help developers thoroughly understand the intricacies in sustaining city culture. Ultimately, without its people, the Magic City loses its culture, and without culture, the Magic City loses its magic.

---

<sup>97</sup> Alvarado, *supra* note 59; *see also* Franker, *supra* note 92.