

**CITY OF MIAMI
OFFICE OF ZONING
MEMORANDUM**

TO: Gilberto Pastoriza, Attorney at Law
FROM: Barnaby L. Min, Zoning Administrator
DATE: February 16, 2012
RE: Zoning Interpretation
12-0001

This Zoning Interpretation is issued to clarify the procedures for accessory or incidental parking.¹ There are properties throughout the City of Miami (“City”) that have dual zoning. Many of these properties have the principal use in one Transect Zone and the associated accessory parking in a second Transect Zone. The issue presented for this Zoning Interpretation is what requirements must a property comply with when its principal use is in one Transect Zone and its accessory parking is in a separate Transect Zone.

Section 3.3.1 of Miami21 states that lots “assembled into one ownership that encompass more than one Transect Zone shall be developed according to the corresponding Transect regulation for each Lot.” Accordingly, pursuant to Section 3.3.1, both Transect Zone requirements must be complied. When accessory parking is located in a Transect Zone, it is only authorized if it complies with the requirements of that particular Transect Zone. Because accessory parking is incidental and subordinate to the principal use, the principal use must also comply with the requirements of the particular Transect Zone.

To illustrate the issue, consider a property that has dual zoning of both a T6-8-O Transect Zone and a T4-R Transect Zone. Article 4, Table 3 of Miami21 indicates that general commercial uses are allowed by right in a T6-8-O Transect Zone but strictly prohibited in a T4-R Transect Zone. As Section 3.3.1 of Miami21 indicates, both Transect Zone requirements must be complied with in order to allow the principal use of a general commercial use. Because the T4-R Transect Zone strictly prohibits general commercial uses, the accessory parking is likewise prohibited.

There is a provision of Section 3.3.1 of Miami21 that arguably presents conflicting authority on this issue. Specifically, Section 3.3.1 of Miami21 also states that “T4 Lots adjacent to T5 or T6 Lots may provide parking for adjacent Lot uses, and shall follow all other T4 requirements including Liner requirements. Access for such parking shall be provided only through the T4-O, T5 or T6 Lot.” An inference can be made that because this section refers to parking in a T4 Lot for the adjacent lot, parking is thus allowed regardless of whether the principal use is allowed. This section, however, must be read in conjunction with the remaining portions of Miami21, including the above-cited portion of Section 3.3.1. Accordingly, if the actual use is not allowed in the specific Transect Zone, the corresponding accessory parking is likewise not

¹ Accessory parking is parking that is customarily incidental and subordinate to the principal use. The terms accessory and incidental are interchangeable and for the purposes of this Zoning Interpretation, the term accessory parking shall be used.

allowed. The language concerning T4 lots is meant to solely address uses that are allowed in a T4 Transect Zone.

In addition to the statutory construction analysis above, deference must also be paid to the intent of Miami21 and the zoning atlas. Article 4, Table 1 of Miami21 indicates that T4 Transect Zones are “primarily residential urban fabric with a range of building types including rowhouses, small apartment buildings, and bungalow courts.” T6 Transect Zones, on the other hand, “consists of the *highest density* and *greatest variety* of Uses.” (Emphasis added). Accordingly, the intent of Miami21 is to have lower impact commercial uses in a T4 Transect Zone and keep it primarily residential. Parking for an associated use in a T6 Transect Zone which is of a higher density and more variety does not comply with this intent.

In conclusion, accessory parking is only authorized in a Transect Zone if the principal use in which the parking is associated is also allowed in the specific Transect Zone.²

This interpretation shall be final unless appealed to the Planning, Zoning, and Appeals Board within 15 days of the date of its issuance.

cc: Francisco Garcia, Director of Planning
Victoria Mendez, Assistant City Attorney
Office of Zoning
Office of NET

² This Zoning Interpretation is limited to the applicability of Article 4, Table 3 to accessory parking. Assuming the accessory parking is authorized, it must also comply with the remaining provisions of Miami21 including, but not limited to, Article 3 with respect to heat island effects, Article 5 with respect to design and location criteria, and Article 9 with respect to landscaping requirements.