



**CITY OF SOUTH MIAMI, FLORIDA
NOTICE TO THE PUBLIC OF THE VIRTUAL MEETING OF THE
ENVIRONMENTAL REVIEW AND PRESERVATION BOARD (ERP)**

In order to balance the need for the City of South Miami to function and conduct vital business during the COVID 19 pandemic and, at the same time, protect the health, safety, and welfare of our citizens and our staff, the City shall conduct its upcoming meetings virtually, including the Environmental Review and Preservation Board for the month of July, 2020, virtually through communications media technology (CMT) as explained more particularly below.

In accordance with City of South Miami Code, Chapter 286.011, Fla. Stat., and Executive Order Number 20-69, the City will be holding its Environmental Review and Preservation Board (ERP) Meeting VIRTUALLY. The meeting is scheduled to begin on Tuesday, July 21, 2020 at 8:30 a.m. to consider the following public hearing items:

I. Call to Order

II. Pledge of Allegiance to the Flag

III. Roll Call

IV. Swearing In

V. Requests are as follows:

[Note: following the presentation of a case the Board Chair will open public comment on the item to interested parties]

Quasi-Judicial Warning: The following matters are considered to be quasi-judicial. You are advised to review the full "Warning Regarding Ex Parte Communications" that can be found at the end of this agenda.

A) ERPB-2020-010

Applicant: Vivian Lastre

Property Owner: Krest 5989 Davis, LLC

Location: 5991 SW 80th Street

Request: Two-Story New Construction - Preliminary

B) ERPB-2020-011

Applicant: Javier Estrada

Property Owner: MB 7901 LLC

Location: 7901 SW 59th Avenue

Request: One-Story New Construction - Preliminary

VI. Approval of Minutes:

VII. Next ERPB meeting:

A) Tuesday, August 4, 2020 at 8:30 A.M.

VIII. Adjournment

Warning regarding *ex parte* communication: “*Ex parte* communication” is a written or verbal communication, between an elected or appointed public official and an applicant, his or her representatives, a citizen or any other person concerning the subject of a pending quasi-judicial hearing but which communication takes place outside of the hearing and before final action on the matter. The Florida Legislature by the adoption of section 286.0115(1), Florida Statutes, has authorized the adoption of local ordinances to remove the presumption of prejudice created by *ex parte* communications if certain procedures are followed to ensure that the written or verbal exchange is made public. It is designed to remove any presumption of prejudice that would otherwise result if the communication were kept private and not disclosed. *Ex parte* communication must be publicly disclosed prior to or at the quasi-judicial hearing at which the decision is to be made in order to dispel the presumption of prejudice. Almost all communication that occurs outside of the quasi-judicial hearing is considered to be hearsay and is not competent evidence. Normally, hearsay may not form the basis for making any quasi-judicial decisions, but it may be used to support or explain competent evidence. All decisions made at a quasi-judicial hearing must be based on substantial competent evidence.

Pursuant to Ordinance §2-2.1, City Code, the South Miami City Commission has adopted these procedures to dispel the presumption of prejudice due to *ex-parte* communications as follows:

1. The elected or appointed public official shall disclose in writing the subject of the communication and the identity of the person, group, or entity with whom the communication took place, as soon as practicable after the communication takes place, with the city clerk and made a part of the record at the hearing before final action on the matter.
2. A local public official may read a written communication from any person. Any written communication that relates to quasi-judicial action pending before a local public official, shall not be presumed prejudicial to the action, provided such written communication is disclosed and made a part of the record before final action on the matter.
3. A local public official may conduct investigations, make site visits and receive expert opinions regarding quasi-judicial action pending or impending before him or her provided that such activities and the existence of such investigations, site visits or expert opinions is made a part of the record before final action is taken on the matter.
4. Disclosure made pursuant to paragraphs 1, 2 and 3 above must be made before or during the public meeting at which a vote is taken on such matters so that persons who have opinions contrary to those expressed in the *ex parte* communication are given a reasonable opportunity to refute or respond to the communication.

It is possible that if the statute or ordinance discussed above, or a quasi-judicial action pending before the Commission or board are challenged, that a court might find that, despite the enactment of these procedures, the *ex parte* communications did in fact created a presumption of prejudice, which could result in the action taken being reversed. You thus proceed at your own risk in engaging in such communications, and they are not encouraged. They are, however, the policy of the Legislature and City Commission, and until determined otherwise by the Legislature or the courts, are legally permitted but not without possible adverse legal consequences to the detriment of the City and other parties.

The VIRTUAL MEETING will be held through communication media technology with the members of the City Commission, City staff, any applicant making a presentation, adjustment or determination of an issue, request or controversy within the jurisdiction of the City Commission, as well as the applicant’s attorney and witnesses participating through video conferencing. This virtual meeting will be held on the Zoom platform used by the City Clerk for live remote participation. Members of the public may join and participate in the meeting in the following ways:

- via Zoom at (<https://zoom.us/j/3056636338>); and
- via a dedicated phone line that will be available so that any individual who does not wish (or is unable) to use Zoom, may listen to and participate in the **meeting by dialing +1-786-635-1003 Meeting ID: 3056636338.**

The public may view the meeting live without participating on the City’s website: (<https://www.southmiamifl.gov/102/Agendas-Minutes>) (“Granicus”) as well as Channel 667 on Atlantic Broadband or by AT&T U-Verse.

If you intend to present a document to be live streamed at the time of the meeting, you must send it to the Clerk on or before 3:00 p.m. 2 business days (not counting the day of the meeting) before the meeting in one of the following ways:

- Scan or photograph the document and send it as an attachment in an email to the City Clerk at npayne@southmiamifl.gov; or
- Scan or photograph the document and upload it to a flash drive and deliver the flash drive, along with your name, address, phone number, facsimile number (if any), and email address (if any), to the City Clerk at 6130 Sunset Drive, South Miami, FL 33143.

If you plan on participating in the meeting, either in person, if allowed, through the Zoom platform, or by teleconferencing, it would be helpful if you sign-up for the meeting by providing the City Clerk with the following information, via email at npayne@southmiamifl.gov or by calling the City Clerk at 305-663-6340, one business day (not counting the day of the meeting) before the meeting, on or before 4:00 p.m.:

- your name;
- whether you are a business owner;
- whether you are a resident of the City;
- physical address;
- phone number;
- facsimile number, if any;
- email address, if any; and
- a description of the item on the agenda upon which you intend to present your verbal comments/evidence (Topic); and
- if using Zoom, your Zoom screen name, which must be your real name, or;
- if using the teleconferencing option, the phone number you will be using to call into the meeting.
- Your ability, or lack thereof, to use the Zoom platform to attend the meeting virtually.
- **If the item to which you want to speak is quasi-judicial** and your face will not be appearing on the Zoom screen when you are called upon to be sworn in, or if you will be speaking using a telephone, you must, in addition to the other sign up information, deliver a copy of your Florida identification card or driver license or the page of a valid passport that has your photograph on it or other identifying documents as described in s. 117.05(5)(b)2, Fla. Stat., to the Clerk. Without this information, you will not be sworn in and will not be allowed to testify at the quasi-judicial hearing.

At the appropriate time, all participants who want to speak will be asked to raise their “virtual hand”. If the Mayor/Chair requests that all or some speakers take their “virtual hands” down and if a participant fails to do so, or otherwise disrupts the meeting, the Mayor/Chair may permanently mute that persons microphone and video image for that meeting and said person will not be allowed to participant in that meeting. See the specific instructions below for raising your “virtual hand” using Zoom. If you have signed up in advance of the meeting you may be given priority ahead of others who did not sign up. In addition, by signing up you may also receive priority for the limited space available in the Commission Chambers. You will be called upon and you may speak on the Topic and present your evidence (physical (see special requirements for physical evidence) and testimonial) or comments through your choice of communication, either Zoom, teleconferencing or, if allowed, in person in the Commission Chambers using City provided Zoom connection to the meeting.

In addition to the foregoing, the City Commission Chambers at City Hall, located at 6130 Sunset Dr., will be open commencing at 6:30 p.m. on the day of the meeting in order to live stream public comment by those lacking an ability to participate and be heard through their own communication media technology. Seating is limited and priority will be given to those who contact the City Clerk in advance of the meeting, establish their lack of ability to attend the meeting virtually using the Zoom platform and provide the Clerk with their sign-up information. **ONLY APPROXIMATELY 16 ATTENDEES WILL BE ALLOWED IN CHAMBERS SINCE MAYOR GIMENEZ’S EXECUTIVE ORDER 10-20 REQUIRES SOCIAL DISTANCING AND AT LEAST ONE PERSON NEEDS TO BE A MEMBER OF CITY STAFF.** A person will be present to receive into the record materials presented by those attendees; however, if you failed to deliver your documents in advance of the meeting, as required above, your documents will be made part of the public record but will not be presented to the other participants or be made part of a quasi-judicial record. The City will strictly enforce the operative provisions of all controlling Executive Orders relating to social distancing. No electronic device that emits any sound will be allowed to be used in Chambers unless it is muted for the duration of the meeting. If your devise emits any sound and you fail to immediately silence it, or if it happens twice on that same day, you will be asked to leave the Chambers. No one with a cough, who has a fever or who is not properly wearing an appropriate facial covering over both the mouth and nose will be admitted. All facial coverings must always remain properly in place while in the building. Violators of any of the rules will be removed from the building for the remainder of the meeting. Persons shall be required to sit at least six (6) feet from one another and maintain six (6) feet of

distance when standing in line to enter or exit the building, the restrooms, and the Commission Chambers and when standing to speak at the podium. The public shall exit City Hall as soon as possible after the meeting ends. These rules may be amended by the City Manager and the manager may add additional rules for the purpose of protecting the health, safety and welfare of the public and City officer and employees. A Uniform Police Officer will be present to ensure enforcement of all these rules.

Anyone who wishes to review pending applications and supporting documentation in person must make an appointment by calling 305-663-6340.

Please note that Governor DeSantis's Executive Order Number 20-69 suspended the requirements of Section 166.045, Fla. Stat., that a quorum to be present in person, and that a local government body meet at a specific public place. The Executive Order also allows local government bodies to utilize communications media technology, such as telephonic and video conferencing such as Zoom for meetings of local government bodies. Note that pursuant to Florida Statutes 286.0105, a person who decides to appeal any decision made by a Board, Agency or Commission with respect to any matter considered at its meeting or hearing, a record of the proceedings will be required for said appeal and such person will be required to have a verbatim transcript of the proceedings including the testimony and evidence upon which the appeal is to be based ADA: To request a modification to a policy, practice or procedure or to request an auxiliary aide or service in order to participate in a City program, activity or event, you must on or before 4:00 p.m./a.m. 3 business days (not counting the day of the meeting) before the meeting deliver your request to the City Clerk by telephone: 305-722-8686 (voice) or 305-442-1600 (TTY/TDD) or by mail at 6130 Sunset Drive, South Miami, Florida or email at npayne@southmiamifl.gov.

ZOOM WEB-BASED VIRTUAL CITY MEETING PROCEDURE

Live Remote Public Comment Process

The City of South Miami is providing the ability to submit Live Remote Public Comments to its virtual Meetings. The person wishing to submit a live remote public comment through the Zoom process, will appear live on the TV screens in Commission Chambers as well on the computer screen of the other participants, including members of the applicable board, committee or commission during the meeting and will be afforded three (3) minutes to speak.

You can test your connection to Zoom by clicking on the following link: <http://zoom.us/test>

Please make sure that your computer has a working speaker, microphone and, preferably, a working webcam so that you can hear and be heard and see and be seen on the City Hall monitors and by the other Zoom participants in the live streaming of the meeting. Some computers and/or smartphones have both features. Should it be impossible or undesirable for you to attend virtually by computer or smartphone, you may participate in the meeting by telephone by dialing: +1-786-635-1003 and entering Meeting ID: 3056636338, and the participant's ID which is the same number (3056636338), or if there is enough room at City Hall, join the meeting using the system set up at City Hall. This notice of the meeting is posted at City Hall and also at <http://www.southmiamifl.gov/580/Public-Meetings-Notices>.

Each virtual participant in the Zoom virtual meeting will be automatically muted upon joining the meeting and only the Chair may unmute a participant. Members of the public who wish to speak will be allowed to do so at the appropriate time. When on the Zoom platform, if you wish to speak at public remarks or during a public hearing you must **raise your "virtual hand", BUT ONLY WHEN CALLED UPON TO RAISE YOUR "VIRTUAL HAND"**. **If you are asked to take your "virtual hand" down, you must do so or the host of the meeting, the Mayor or the Chair, may prevent you from further participation. If you are disruptive, you may be permanently removed from that meeting.**

If you intend to participate by speaking at public remarks or at a public hearing through Zoom, you must activate the "Participants" by waving your mouse at the bottom of the screen to reveal the controls and clicking the icon that is labeled "Participants".



This will open a column, which normally appears to the far right of the screen, where you will see the names of all the participants.

AFTER YOU ACTIVATE "Participants" AND ONLY WHEN CALLED UPON BY THE MAYOR OR CHAIR FOR A SHOW OF "VIRTUAL HANDS" OF ALL THOSE WHO WISH TO SPEAK, CLICK ON THE HAND ICON IN THE LOWER RIGHT-HAND CORNER OF THE "Participants" COLUMN TO "RAISE YOUR VIRTUAL HAND" AND TO INDICATE YOUR INTEREST IN SPEAKING.



If you are participating via telephone, please dial *9 to "raise your virtual hand" to indicate your interest in speaking.

If you intend to participate over a telephone line, you must dial 786-635-1003, and when asked for the meeting ID, type in 305-663-6338. When asked for the participant ID type the same number, 305-663-6338. if you are one of those people who have been asked to raise a "virtual hand" and you are using a telephone line to participate, then to raise your "virtual hand" when called upon, and only when called upon, enter the star symbol (or asterisk) on the phone keyboard and then the number 9. To take your "virtual hand" down, do the same thing a second time. if you want to mute yourself, enter the star (or asterisk) on the phone keyboard and then the number 6. To unmute yourself, do the same thing. If you mute yourself for privacy reasons the Mayor, or Chair of the meeting, may or may not be able to unmute you when they are

ready to call upon you. They may need to ask you to unmute yourself. If they do, enter the star symbol and then the number 6. It may take a few seconds for it to work. If it does not, you may be asked to do it a second time to unmute your phone. The Mayor or Chair will wait 5 seconds and if you are not unmuted, they may take your “virtual hand” down and go to the next person in line.

When you raise your “virtual hand”, the meeting host will be aware of this and at the appropriate time indicate your interest in speaking to the Mayor, or Chair. The Mayor/Chair will call on you at the appropriate time and the meeting host will attempt to unmute your microphone and you will be allotted your time to make your remarks public. When the Mayor/Chair requests that you put your “virtual hand” down, you must do so, otherwise the Mayor/Chair may mute your microphone for the remainder of the meeting and if you continue to disrupt the meeting you may be permanently removed from this meeting.

If you wish to participate in a meeting using Zoom, you will need to download the Zoom program by going to Zoom.us and in the top banner you will need to click on the box that states: SIGN UP, IT’S FREE. When signing up you need to add your real name. The opening signup page has a column in the far left titled “PERSONAL” and below, the first work is “Profile”. Tick the word “Profile” and to the right is a place to add your real name. If you did not provide your real name in the user profile when you originally signed up, you will need to sign-in and go to the menu on the left side and tick the word “Profile” and to the right is a place to add or edit your real name. If you fail to add your real name you may not be called upon to speak depending on the circumstances.

During the meeting, you may need to change the screen from “full screen” to “gallery” or “speaker view”. to do this, wave your mouse in the upper righthand corner of your screen and you will see the options

We thank you for participating in this meeting and ask you to please wait patiently for your turn to speak.

If you wish to be part of the scheduled Zoom meeting, please join the meeting by clicking on the following URL link: <https://zoom.us/j/3056636338> or dialing: +1-786-635-1003 and entering Meeting ID: 3056636338.