

**VICTORIA E. BRIANT
1118 FERDINAND STREET
CORAL GABLES, FL 33134**

October 11, 2011

Coral Gables Planning & Zoning Board:

Mr. Jeffrey Flanagan – Jeffrey@cwfpa.com
Mr. Robert Behar – Robert@beharfont.com
Mr. Javier Salman – jsalman@c3ts.com
Mr. Eibi Aizenstate – eibi@bellsouth.net
Mr. Grabiél Julio – juliograbiél@grapastudio.com
Mr. Vince Lago – vincelago@yahoo.com

Coral Gables City Commissioners and Mr. Mayor:

Mayor Jim Cason -- jimcason@coralgables.com
Vice-Mayor William H. Kerdyk, Jr. -- wkerdyk@coralgables.com
Commissioner Maria Anderson – manderson@coralgables.com
Commissioner Rafael “Ralph” Cabrera, Jr. – rcabrera@coralgables.com
Commissioner Frank C. Quesada -- fquesada@coralgables.com

Coral Gables City Attorney, Craig Leen, Esq. -- lalfonsin@coralgables.com

Re: Proposed Truck Proposals

Dear Members of the Zoning Board, City Commissioners and City Attorney:

I respectfully submit my thoughts on the issue of modifying the truck ordinance, in advance of Wednesday’s public hearing.

Coral Gables residents and property owners should be asking a different question. The question should not be whether to ban trucks or allow trucks. Even under the current ordinance, some trucks are allowed under certain conditions. The question should be what kinds of vehicles should be permitted on residential property overnight in Coral Gables?

I believe the most appropriate answers are in the modified Version A, submitted with this letter. In summary, I submit that the City should modify the restrictions to allow overnight parking of vehicles in good repair that are not used for trade, services or commerce in general and limit overnight parking restrictions to trucks that are used for trade or services and commerce in general. (Modified Proposal A, attached to my letter) The noncommercial trucks should be able to be parked in driveways, in garages or shielded from view by the street on three sides (for example, two walls and a garage). This approach would preserve the restrictions on overnight parking on the swale or the street.

I would like the Zoning Board to please consider these facts in formulating its recommendation to the City Commission.

In 2010, five (5) cities competed for the Most Beautiful City Award. They are: (1) Baker City, Oregon; (2) Coral Gables, Florida; (3) Franklin, Tennessee; (4) Marco Island, Florida, Pacifica, California; and (5) Sand Point, Idaho. Of those finalists, only Coral Gables has a limitation on parking trucks. Sand Point, Idaho won. What does Sand Point do that made it a winner over Coral Gables? I suggest the decision was not made because of trucks.

Homeowners and renters are not most intent on observing the streets and homes between 7 p.m. and 7 a.m. and prospective buyers look at property during the day. The aesthetics of our neighborhoods is more important during daylight hours (7 a.m. to 7 p.m.), when people are out and about and there is no ban in effect on parking any kind of vehicle in your driveway or on the street or swale on a temporary basis. What do we see then? Manicured lawns and ubiquitous lawn trucks and trailers parked in our streets. (We need the lawn services and other contractors to help maintain our properties.) We also see well maintained homes with dirty roofs that in increasing numbers need to be power washed. We see streets with cracks, potholes and patches, trees in need of trimming, and sidewalks in need of repair. These are, correctly, the focus of the current City administration and they have much more of an effect on property values than whether the number-one and number-three selling vehicles in America and number-one selling luxury vehicles in our country are parked in our neighbors' or our driveways overnight. The Ford F-Series and the Chevrolet Silverado Trucks are two of the top three selling vehicles in America in 2010 and thus far in 2011. See www.cars.com.

At night, we do not see trucks in garages, which are permitted under the current and our proposed ordinance. But even if we were to see vehicles in good repair that are not used for trade, services or commerce at night, how is that more offensive than seeing them during daylight hours or seeing commercial trucks during daylight hours? The aesthetic offense should come from vehicles outfitted with ladders, advertising signs and logos, and being in a junked condition that can be seen from the streets, regardless of the hour. For the residents on the tonier streets, the Greenways and Granada, for example, their neighbors are unlikely to buy and park a rundown vehicle, so their nighttime aesthetic views should be protected by their own affluence.

I believe we should be wary of some of the proposals that have been discussed that are detailed in what would be permitted or not permitted that would require code enforcement officers to enter onto private property to peer into the beds of trucks to see whether they are covered or what they may contain, or to count wheels that cannot be seen from the street or check details of the vehicle and then compare it against checklists (make, model, coverings, etc.). Under the Fourth Amendment to the U.S. Constitution, code enforcement officers are required to make their observations from off private property, without entering private property to search for a possible or suspected violation. Code enforcement officers may not enter private property to search for a code violation without the consent of the owner or the operator or occupant of such premises, or without a duly issued search or administrative inspection warrant. If the enforcement officers cannot make a determination by their observations from the street, no aesthetic violation should be claimed. If an officer must leave the street and enter our private properties to determine whether a non-commercial truck has two or four doors, a covered bed, doolies or cargo, then I believe the proposed ordinance would be an intrusion on our Constitutional rights, and unrelated to the purpose of preserving the character of our community

and we should be way of proceeding down that path. Aesthetics matter if they can be seen by public observation.

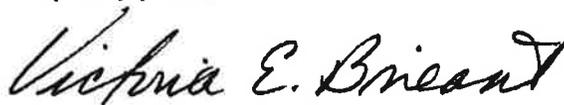
In informal meetings I have attended in recent weeks, a few people has said they would consider moving away from Coral Gables if trucks are permitted to park overnight in driveways, even when these individuals have lived in Coral Gables for decades, or that they would never have bought here if they thought trucks would have been allowed. I regret they may feel that way, but where are they going to go? I could not find a truck ban the same as ours. And I doubt that we envisioned the transition from station wagons to SUVs and trucks. A more serious effect of compelling people to move away is that many sons and daughters of decades-long residents face the real hardship of having to move away from their parents' homes and the community they grew up in because their sole vehicle is a modern, well-maintained, non-commercial truck. These young adults are the present and the future of our community. I submit we should not want to drive them out because they are part of our cultural shift of having purchased pickup trucks.

Coral Gables adapted when our society shifted to owning SUVs. Starting in 1991 with the introduction of the Ford Explorer, SUVs became popular. The City granted them an exception to the truck ban. How could it do otherwise? Does anyone really believe that our property values would be higher if we prohibited parking SUVs in our driveways? Pickup trucks are this decade's SUVs. To drive out our young adults because they are part of this trend, citing the need to uphold property values, is, at best, misguided.

Just as the City is modernizing Miracle Mile, it's time to modernize the truck ban to recognize that the future of our City lies in recognizing that our current and future residents own noncommercial trucks. If we do not move forward, we will fall behind.

Thank you for your time and consideration.

Very truly yours,

A handwritten signature in black ink that reads "Victoria E. Briant". The signature is written in a cursive, flowing style.

Victoria E. Briant

Article 2, Definitions

Carport. A roofed structure not more than seventy-five (75%) percent enclosed by walls and attached to the main building for the purpose of providing shelter for one or more motor vehicles. (Sec. 2-27)

Trailer. Every vehicle without motor power, designed for carrying persons or property on its own structure and for being drawn by a motor vehicle. (Sec. 2-125)

Truck *Commercial.* ~~Any motor vehicle designed, used or maintained for transporting or delivering property or material used in trade or commerce in general. Trucks shall include any motor vehicle having space designed for and capable of carrying property, cargo, or bulk material and which space is not occupied by passenger seating. (2536) (Sec. 2-128)~~

Vehicle. Every device, in, upon, or by which any person or property is or may be transported or drawn upon a highway or street, except devices moved by human power. (Sec. 2-134)

Vehicle, commercial. ~~Any vehicle designed, used or maintained, as a means of transportation on land of people, goods or things used in trade, services, or~~

~~commerce in general. For the purposes of this ordinance, buses, vans and other vehicles seating more than nine (9) persons used for transportation of people shall be considered commercial vehicles. (2536) (Sec. 2-135)~~

(1) Any vehicle designed, used or maintained for the transportation of persons, goods, or things used in trade, services or commerce in general *or equipped on the outside with ladders or scaffolding* For the purposes of this ordinance, buses, vans and other vehicles seating more than nine (9) persons used for transportation of people shall be considered commercial vehicles.

(2) Any vehicle which bears, displays, or has affixed to it any marking, sign, lettering, logo, picture, symbol, number, or the like, whether alone, or in combination, which identifies or advertises a business or similar commercial venture or use.

(3) Any vehicle with a curb weight (vehicle only) exceeding 8,500 pounds.

(4) Any vehicle having unenclosed space designed for and capable of carrying property, cargo, or bulk material and which unenclosed space is not occupied by passenger seating.

Vehicle, motor. Every vehicle which is self propelled. (Sec. 2-136)

Vehicle, Personal. A vehicle in good repair that is not used for trade, services or commerce in general is NOT a commercial vehicle.

Vehicle, Abandoned, Junked and Derelict Vehicles. Any inoperable vehicle, any vehicle partially dismantled or wrecked, any vehicle loaded with trash or refuse for more than 72 hours or is more than 10 years old and appears to be worth less than \$1000. Any vehicle in a condition that it can or does harbor diseases, furnish shelter and breeding places for mosquitos or other insects or become a breeding ground and harbor for rats and other pests.

Vehicle, recreational. Any vehicle self propelled or capable of being towed and primarily designed, constructed or converted to provide recreational uses, or to provide temporary living quarters for camping, or recreational travel. The following shall be included as recreational vehicles, but not to the exclusion of any other types not mentioned; trailers; trailer coaches; camping trailers; and full-tent trailers; motor homes; pickup (slide-in) camper and mini-motor homes, *so called "Monster Trucks" consisting of a vehicle modified or purposely built with extremely large wheels and suspension.* Any van designed for and containing seating for the transportation of not more than nine (9) persons and containing rear and side windows shall not be considered a recreational vehicle. (2536) (Sec. 2-137)

Truck, Pickup. A light truck with an open body and low sides or no sides, not used for trade, services or commerce in general.

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Sec. 8-11 - Parking in residential areas.

(a) It shall be unlawful for any person to park any vehicle displaying advertising signs or any pickup truck, trailer, commercial vehicle, or recreational vehicle, in or upon any property, public or private, in any area of the city which is zoned residential. This prohibition, however shall not apply in the following cases: (2536)

1. Vehicles which are entirely enclosed within the confines of an enclosed garage.

2. Vehicles, not being used or maintained as commercial vehicles, which are entirely enclosed on at least three sides by a carport or other structure (including walls, fences or hedges of more than four feet) so that the rear, driver and passenger sides of the vehicle are shielded from visibility from any adjacent street. Said carport or other structure shall be permitted only when placed in accordance with all applicable building and zoning codes.

3. Pickup trucks, not being used or maintained as commercial vehicles, that have the truck's cargo box fully covered by a rigid cover made specifically for the purpose of covering pickup truck cargo boxes. Such cargo box cover must be

no higher than the cargo box walls and does not include tarps.

4. Pick-up trucks which contain no property, cargo or other material in the cargo box.

~~2.~~ 5. Vehicles used by licensed contractors or service establishments while actually doing work in such residential areas between the hours of 7:30 a.m. to 6:00 p.m. excluding Sundays and holidays, provided, however, that such vehicles shall contain written identification on both sides of the vehicle clearly indicating the name of the contractor or service establishment. Such identification shall be in conformance with the standards set forth in Section 8A-276(b), Commercial Vehicle Identification, of the Code of Metropolitan Dade County, Florida.

~~3.~~ 6. Loading or unloading of trucks, trailers or commercial vehicles provided that such loading or unloading takes no more than two (2) hours, and is not done between the hours of 7:00 p.m. of one day and 7:00 a.m. of the next day.

4. 7. Automobiles carrying advertising signs on the top of such automobiles dealing with the candidacy of individuals for elected office. This exemption, however, shall cease seven (7) days after the date of the election in which the person was finally voted upon.

~~5.~~ 8. Automobiles carrying advertising signs, advertising propositions to be submitted and voted upon by the people. This exemption, however, shall cease seven (7) days after the date of the election in which the proposition advertised was finally voted upon.

~~6.~~ 9. The loading or unloading of recreational vehicles as provided for under Section 8-11 herein.

~~7.~~ 10. Mobile cranes and other heavy equipment used during building construction.

11. Vehicles owned or operated by a physically impaired individual when a medical doctor has certified that the vehicle is necessary due to physical impairment.

12. Passenger automobiles which require governmental identification, markings or insignias of a local, state or federal government agency.

(b) The Building and Zoning Director and its designees shall be charged with the responsibility of determining compliance with the regulations governing the parking of such trucks, trailers, commercial vehicles and recreational vehicles in residential areas as provided herein, however, in case of dispute, direct application

may be made to the City Commission.

Sec. 8-12 - ~~Trucks, Trailers, commercial vehicles, and recreational vehicles~~—

Parking upon streets and public places.

Except as provided for herein no trucks, trailers, commercial vehicles, or recreational vehicles, shall be parked upon the streets or other public places of the City between the hours of 7:00 p.m. on one day and 7:00 a.m. of the next day. This prohibition is in addition to the ~~total~~ prohibition covering residential areas dealt with in Section 8-11 hereof. (2536) The prohibition of this Section shall not apply to pickup trucks which are not being used or maintained as commercial vehicles as defined in this Code.