

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: June 23, 2020

FROM: Thomas R. Mooney, AICP  
Planning Director

SUBJECT: **PB20-0363. CPS-4 Land Development Regulations amendment establishing additional regulations for public-private marina mixed-use redevelopments.**

**PB20-0363. CPS-4 Land Development Regulations amendment establishing additional regulations for public-private marina mixed-use redevelopments.** An Ordinance of the Mayor and City Commission of the City of Miami Beach, Florida, amending the Code of the City of Miami Beach, at Subpart b, entitled "Land Development Regulations," by amending Chapter 142, entitled "Zoning Districts and Regulations," Article II, entitled "District Regulations," Division 18, entitled "PS Performance standard district," by creating Section 142-708, entitled "Additional regulations for public-private marina mixed-use redevelopments," to create development regulations applicable to public-private marina mixed-use redevelopments incorporating City-owned marina property; and providing for codification, repealer, severability, and an effective date.

#### **RECOMMENDATION**

Transmit the proposed Ordinance to the City Commission with a favorable recommendation.

#### **HISTORY**

On April 22, 2020, at the request of Mayor Dan Gelber, the City Commission referred the item to the Land Use and Sustainability Committee (Item C4 F). The item was simultaneously referred to the Planning Board. On May 6, 2020 the Land Use and Sustainability Committee (LUSC) discussed the item and continued it to the May 26, 2020 LUSC agenda. On May 26, 2020, the LUSC recommended that the Planning Board transmit the item to the City Commission with a favorable recommendation.

#### **BACKGROUND**

The City is the owner of the property located at 300-344 Alton Road, the site of the Miami Beach Marina. Miami Beach Marina Associates, Ltd., the current lessee of the Miami Beach Marina ("Lessee"), and Alton Road Mixed Use Investments, LLC ("ARMUI"), are proposing a public-private partnership with the City of Miami Beach to enter into a new lease of the Miami Beach Marina, for the purpose of developing and constructing the following (altogether, the "Project"):

1. A private luxury residential tower that would include approximately 60 residential units and approximately 275,000 gross square feet. To maximize design flexibility as this process proceeds, ARMUI seeks the ability to develop a tower with a maximum height of up to 385 feet.

2. A new Marina building and enhanced neighborhood ground floor retail on the site of the current Marina building, with a total of approximately 45,000 gross square feet of accessory commercial, retail and office space.
3. Significant upgrades to the existing condition of the Marina facilities.
4. The introduction of substantial green space, including an at-grade "Marina Park". This new park is approximately one (1) acre in size, and will be open to the general public.
5. Significant resiliency enhancements, as well as improvements to the public baywalk along the Miami Beach Marina.

The proposal would provide the City with a rare opportunity to negotiate a new lease with improved lease terms and deliver additional public benefits to the City. The proposed transaction is complex, as it will involve the negotiation, drafting and approval of various interrelated agreements to implement the Project and its various components. The following is a summary of the different components of the Project, which are companion items to this ordinance:

1. A new lease agreement for the Miami Beach Marina, with a term of 99 years proposed by Lessee and improved financial and other terms.
2. A purchase and sale agreement for the sale, by the City, of the development site and air parcel for the private residential portion of the Project, with the purchaser, an affiliate of ARMUI ("Air Rights Purchaser"), paying to the City fair market value.
3. A development agreement governing the development, design and construction of the entire project.
4. The vacation of the western half of the Alton Road right-of-way abutting the City-owned parcels along 300-344 Alton Road, consisting of approximately 25,500 square feet (the "Alton ROW"). Upon the vacation, fee ownership of the Alton ROW would revert to the City, with the associated development rights to be incorporated for use as part of the Project to permit the Project to be realized as contemplated above. Currently, as to the Alton ROW, the City holds a right-of-way dedication, which confers on the public an exclusive right of use, so long as the Alton ROW is used for the purpose of the dedication (namely, for pedestrian and vehicular access). By operation of law, once the City vacates the right-of-way, the underlying fee interest in the Alton ROW reverts to the current abutting property owner (which in this case, is the City, as owner of a portion of Lot 21 and all of Lots 22-31, as described in Exhibit 1). Accordingly, the proposed vacation of the Alton ROW differs from prior vacations approved by the City, because the City would be vacating a right-of-way in favor of itself, and the vacated Alton ROW would remain under the City's complete control.
5. An amendment to the Public Facility (PF) future land use regulations in the Comprehensive Plan, to permit public-private marina redevelopments, including retail sales and service establishments, commercial uses including business and professional offices, eating and drinking establishments, apartment residential uses, and recreational uses. The Miami Beach Marina site at 300 Alton Road (the "Marina Site") has a future land use designation of "Public Facilities (PF) Governmental Use." The Comprehensive

Plan amendment would modify the PF Future Land Use regulations to allow for “public-private marina redevelopments.”

The new lease agreement and sale of air rights will each require approval by a majority of the voters voting in a Citywide referendum pursuant to Section 1.03(b)(1) of the City Charter.

#### **REVIEW CRITERIA**

Pursuant to Section 118-163 of the City Code, in reviewing a request for an amendment to these land development regulations, the board shall consider the following when applicable:

1. **Whether the proposed change is consistent and compatible with the comprehensive plan and any applicable neighborhood or redevelopment plans.**

**Partially Consistent** – The proposed ordinance is consistent with the goals, objectives, and policies of the Comprehensive Plan as proposed to be amended.

2. **Whether the proposed change would create an isolated district unrelated to adjacent or nearby districts.**

**Not applicable** – The proposed amendment does not modify district boundaries.

3. **Whether the change suggested is out of scale with the needs of the neighborhood or the city.**

**Consistent** - The proposed ordinance amendment is not out of scale with the surrounding neighborhood.

4. **Whether the proposed change would tax the existing load on public facilities and infrastructure.**

**Consistent** – The proposed ordinance should not affect the load on public facilities and infrastructure.

5. **Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.**

**Not applicable.** – The proposed amendment does not modify district boundaries.

6. **Whether changed or changing conditions make the passage of the proposed change necessary.**

**Consistent** – The end of the lease at the Miami Beach Marina Site and the need for the City to improve the resiliency to sea level rise in the South of Fifth neighborhood makes passage of the proposed change necessary.

7. **Whether the proposed change will adversely influence living conditions in the neighborhood.**

**Consistent** – The proposed ordinance amendment will not adversely affect living conditions in the neighborhood.

8. **Whether the proposed change will create or excessively increase traffic congestion beyond the levels of service as set forth in the comprehensive plan or otherwise affect public safety.**

**Consistent** – The proposed change should not excessively increase traffic congestion from what is currently permitted; however, traffic impacts will be analyzed in detail as part of any development approval process.

9. **Whether the proposed change will seriously reduce light and air to adjacent areas.**

**Consistent** – The proposed change will not seriously reduce light and air to adjacent residential buildings, as the ordinance contains large side yard setbacks.

10. **Whether the proposed change will adversely affect property values in the adjacent area.**

**Consistent** – The proposed change should not adversely affect property values in the adjacent areas.

11. **Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.**

**Consistent** – The proposed change should not be a deterrent to the improvement or development of properties in the City.

12. **Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.**

**Not applicable.**

13. **Whether it is impossible to find other adequate sites in the city for the proposed use in a district already permitting such use.**

**Not applicable.**

#### **COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA**

Section 133-50(b) of the Land Development Regulations establishes the following review criteria when considering ordinances, adopting resolutions, or making recommendations:

- (1) **Whether the proposal affects an area that is vulnerable to the impacts of sea level rise, pursuant to adopted projections.**

**Partially Consistent** – The proposal does affect areas that are vulnerable to the impacts of sea level rise in the long term.

- (2) **Whether the proposal will increase the resiliency of the City with respect to sea level rise.**

**Consistent** – The proposal will improve the resiliency of the City with respect to sea level rise due to proposed infrastructure improvements.

**(3) Whether the proposal is compatible with the City's sea level rise mitigation and resiliency efforts.**

**Consistent** – The proposal does not diminish and is compatible with the City's sea level rise mitigation and resiliency efforts.

**PLANNING ANALYSIS**

The attached ordinance amends the Land Development Regulations for the CPS-4 district, as further detailed below. Pursuant to the Land Development Regulations, the Marina Site has a zoning designation of "GU, Government Use." City Code Section 142-425 provides that the development regulations for the GU district are an average of the development regulations (setbacks, floor area ratio, signs, parking, etc.) of the surrounding zoning districts. The sites immediately abutting the Marina Site have a designation of "CPS-4, Intensive Mixed-Use Phased Bayside Commercial." As such, the CPS-4 zoning district regulations apply to the adjacent GU district, where the Marina Site is located.

The attached draft Ordinance amends the Land Development Regulations to create regulations for sites with a public-private marina mixed-use redevelopment and a PF Future Land Use designation. A summary of the proposed new regulations is as follows:

- 1) Increase the building height limit from 150 feet to 385 feet.
- 2) Increase the height for allowable height exceptions from 25 feet to 30 feet.
- 3) Modify setbacks as follows:
  - a. Increase the front setback from 0 feet to 5 feet.
  - b. Increase the interior side setback from 7.5 feet to 20 feet.
  - c. Maintain the 5-foot rear setback.
- 4) Allow non-use screening (as opposed to commercial and residential uses) along floors containing parking, on all frontages except the Alton Road frontage.

As the subject property is owned by the City, and the zoning designation of the site is GU, any new development requires City Commission approval. Additionally, as the Project qualifies as a private or joint government/private use within the meaning of City Code Section 142-423, Planning Board review is also required. Ultimately, if the various Project components are approved by the City Commission and the voters in a Citywide referendum, the design of the Project will require Design Review Board approval.

The massing and scale of the Project will be determined by the overall height and the aggregation of development rights resulting from the sale of air rights and vacation of the Alton ROW. Staff would like to emphasize that these components are interrelated, and the developer has studied numerous options regarding the dimensions of both the tower and pedestal portions of the proposed new structure.

**Building Height**

The most significant part of the CPS-4 amendments is the proposed increase in allowable building height. The average height for waterfront buildings along the Alton Road corridor to the south of 5th Street is 301 feet. The following are the building heights of adjacent structures:

- 1) Icon at South Beach – 450 Alton Road: 423 feet

- 2) Murano Grande – 400 Alton Road: 407 feet
- 3) Rebecca Tower North – 200 Alton Road: 115 feet
- 4) Rebecca Tower South – 150 Alton Road: 115 feet
- 5) The Yacht Club – 90 Alton Road: 341 feet
- 6) Murano – 1000 South Pointe Drive: 402 feet

Staff believes that the proposed maximum allowable height of 385 feet is compatible with existing, surrounding buildings, given the established context of taller residential structures along the east side of Alton Road / South Pointe Drive. In this regard, the proposed maximum height of 385 feet is well below most of the existing residential structures along the east side of Alton Road / South Pointe Drive.

The existing Marina Site is quite large, particularly in terms of width, and, although composed of an uninspired array of surface parking and an awkward commercial building, does provide a very substantial light, air and view corridor, from multiple vantage points. This is due, in large part, to the relatively low height of the existing Monty's building. If the maximum building height were lower, the floor area would be distributed in a more horizontal manner, resulting in the broadsiding of the Marina Site. This would wall off an important light, air and view corridor. The utilization of a more narrow, although taller, tower, would allow for the retention of a significant portion of this light, air and view corridor.

When viewed holistically with all of the waterfront parcels south of 5<sup>th</sup> Street, the proposed building height of 385 feet is contextually compatible from an urban design standpoint. This is fully consistent with the established fabric of residential buildings that have been built along the waterfront since 1987. A narrower tower and a smaller building footprint create more opportunities for ground level open space. The modified setbacks and frontage requirements proposed also provide greater opportunities for open space.

#### **Alton Road ROW Vacation**

The developer is proposing a residential tower with accessory commercial space, comprised of approximately 60 units and 320,000 square feet of development on the site. The FAR calculations for this site are complicated by an apparent transfer of +/-174,000 square feet of floor area to the Murano Grande and Icon projects from the Marina Site as part of the Development Agreement executed in 1986 by and between the City, the Miami Beach Redevelopment Agency, and South Shore Developers, Inc. (the "SSDI DA"). At or about the same time, the evidence suggests that an additional 105,000 square feet of floor area from Lots 30 and 31 were transferred to the parcels to the north in connection with the development of the Murano Grande and Icon projects.

The SSDI DA, together with a series of City development actions throughout the 1980s, combined to form links resulting in the successful transformation of the South of Fifth neighborhood. By operation of the transfer, all information reviewed to date indicates that the available FAR on the Marina Site is less than the maximum zoned FAR of 2.5 permitted at present under the City's Land Development Regulations. Consequently, the developer has proposed the vacation of the Alton ROW to provide for additional development rights, in order to accommodate the proposed Project, and to account for, and offset, the previous transfers of FAR. Without the vacation of the

Alton ROW, the remaining available floor area on the Marina Site would not be sufficient to accommodate the Project as proposed.

Planning staff and the City Attorney's Office have previously advised the developer that if the proposed vacation of the Alton Road ROW does not receive City Commission approval, the Land Development Regulations could be amended to increase the maximum zoned FAR for public-private marina mixed-use redevelopments. Such an increase would require the approval of the City's voters in a Citywide referendum pursuant to City Charter Section 1.03(c).<sup>1</sup> Based on information reviewed to date, the Land Development Regulations would need to be amended to increase the maximum permitted FAR by approximately 0.5 FAR.

Staff would like to emphasize that the overall square footage proposed for the Project is modest and suitably scaled when measured against the existing, as-built neighborhood context established by Murano, The Yacht Club Portofino, Murano Grande, and Icon.

**NOTES:**

1. City Charter Section 1.03(c) provides that "[t]he floor area ratio of any property or street end within the City of Miami Beach shall not be increased by zoning, transfer, or any other means from its current zoned floor area ratio . . . , unless any such increase in zoned floor area ratio for any such property shall first be approved by a vote of the electors of the City of Miami Beach."

**RECOMMENDATION**

In view of the foregoing analysis, staff recommends that the Planning Board transmit the proposed Ordinance to the City Commission with a favorable recommendation.



### 300 Alton Road Surrounding Buildings & Future Land Use/Zoning Map





**CPS-4 LAND DEVELOPMENT REGULATIONS  
PUBLIC-PRIVATE MARINA MIXED-USE REDEVELOPMENTS**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, SUBPART B, ENTITLED, "LAND DEVELOPMENT REGULATIONS," BY AMENDING CHAPTER 142, ENTITLED, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, ENTITLED "DISTRICT REGULATIONS," DIVISION 18, ENTITLED "PS PERFORMANCE STANDARD DISTRICT," BY CREATING SECTION 142-708, ENTITLED, "ADDITIONAL REGULATIONS FOR PUBLIC-PRIVATE MARINA MIXED-USE REDEVELOPMENTS," TO CREATE DEVELOPMENT REGULATIONS APPLICABLE TO PUBLIC-PRIVATE MARINA MIXED-USE REDEVELOPMENTS INCORPORATING CITY-OWNED MARINA PROPERTY; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the Miami Beach Marina, owned by the City of Miami Beach, is a uniquely situated property along the bayfront with a future land use designation of Public Facility (PF) Governmental Use in the 2040 Comprehensive Plan ("Comprehensive Plan"); and

**WHEREAS**, the Public Facility (PF) Governmental Use land use designation in the Comprehensive Plan is intended to provide opportunities for existing and new governmental uses on City-owned or controlled property, such as the Miami Beach Marina; and

**WHEREAS**, the Miami Beach Marina has a zoning classification of GU Governmental Use; and

**WHEREAS**, pursuant to City Code Section 142-425, the development regulations in the GU Governmental Use district "shall be the average of the requirements contained in the surrounding zoning districts as determined by the planning and zoning director"; and

**WHEREAS**, the Miami Beach Marina is surrounded by property with a zoning classification of CPS-4; accordingly, the development regulations applicable to the Miami Beach Marina site are the regulations for the CPS-4 district; and

**WHEREAS**, the Mayor and City Commission now desire to amend the land development regulations applicable to the CPS-4 zoning district, in order to encourage the public-private redevelopment of aging facilities, and to provide additional public benefits; and

**WHEREAS**, the proposed improvements will address resiliency and sea level rise, consistent with the policies and goals in the 2040 Comprehensive Plan; and

**WHEREAS**, the proposed zoning regulations will allow for increased height and modified setback and use regulations to reflect the unique nature of the property; and

**WHEREAS**, the adoption of these regulations will promote desirable public-private marina redevelopment;

**WHEREAS**, the amendments set forth below are necessary to accomplish all of the above objectives; and,

**WHEREAS**, the amendments have been reviewed by the Planning Board, the City's local planning agency, which recommends their adoption and finds them to be consistent with the City's adopted Comprehensive Plan.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:**

**SECTION 1.** Chapter 142 of the Land Development Regulations, entitled "Zoning Districts and Regulations," at Article II, entitled "District Regulations," at Division 18, entitled "PS Performance Standard District," is hereby amended as follows:

**CHAPTER 142  
ZONING DISTRICTS AND REGULATIONS**

\* \* \*

**ARTICLE II  
DISTRICT REGULATIONS**

\* \* \*

**DIVISION 18  
PS PERFORMANCE STANDARD DISTRICT**

\* \* \*

**Sec. 142-708. - Additional regulations for public-private marina mixed-use redevelopments.**

Public-private marina mixed-use redevelopments incorporating City-owned marina property, and including residential dwelling units and significant publicly accessible green open space, which property is designated as "Public Facility (PF)" under the City's Comprehensive Plan, may be developed as provided in this section; in the event of a conflict within this division, the criteria below shall control:

- (1) Maximum building height: 385 feet. The maximum height for allowable height regulation exceptions for elevator and mechanical equipment shall be 30 feet above the height of the roofline of the main structure. Notwithstanding the foregoing, the design review board, in accordance with the applicable review criteria, may allow up to an additional five feet of height, as measured from the base flood elevation plus maximum freeboard, to the top of the second-floor slab.
- (2) The setback requirements shall be as provided in section 142-699, except that the pedestal shall be subject to the following minimum setbacks:
  - (a) Front: 5 feet
  - (b) Interior side: 20 feet
  - (c) Rear: 5 feet.

- (3) All floors of a building containing parking shall incorporate residential or commercial uses along the eastern side fronting Alton Road; all other sides of a building containing parking may incorporate alternative non-use screening such as landscape buffering and physical design elements.

**SECTION 2. REPEALER.**

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith are hereby repealed.

**SECTION 3. CODIFICATION.**

It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

**SECTION 4. SEVERABILITY.**

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

**SECTION 5. EFFECTIVE DATE.**

This Ordinance shall take effect ten days following adoption.

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Dan Gelber, Mayor

ATTEST:

\_\_\_\_\_  
Rafael E. Granado, City Clerk

APPROVED AS TO FORM  
AND LANGUAGE  
AND FOR EXECUTION

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date

First Reading: July 29, 2020  
Second Reading: September 16, 2020

Verified by: \_\_\_\_\_  
Thomas R. Mooney, AICP  
Planning Director