

# MIAMI BEACH

## PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: July 27, 2020

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: **PB20-0370. Faena District Overlay Amendments.**

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 142, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE III, ENTITLED "OVERLAY DISTRICTS," AMENDING DIVISION 10, ENTITLED "FAENA DISTRICT OVERLAY," TO AMEND THE PARKING REQUIREMENT FOR PLACE OF ASSEMBLY USE; AMEND THE ALLOWABLE HEIGHT FOR RM-3 OCEANFRONT LOTS GREATER THAN 70,000 SQUARE FEET IN SIZE, WHICH ALSO CONTAIN A CONTRIBUTING HISTORIC STRUCTURE; AND AMEND THE ALLOWABLE SETBACKS AND REQUIRED YARDS FOR RM-3 OCEANFRONT LOTS GREATER THAN 70,000 SQUARE FEET IN SIZE, WHICH ALSO CONTAIN A CONTRIBUTING HISTORIC STRUCTURE; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, 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 Commissioner Ricky Arriola, the City Commission referred the item to the Land Use and Sustainability Committee and the Planning Board (Item C4 D). On May 26, 2020, the Land Use and Sustainability Committee (LUSC) reviewed the ordinance and provided a favorable recommendation. At the request of Faena representatives, the LUSC discussion was also continued to the June 30, 2020 meeting in order for a detailed presentation to be provided to the committee. On June 30, 2020 the item was deferred to the July 21, 2020 LUSC meeting.

### **BACKGROUND**

On December 17, 2014, the City Commission adopted ordinance 2014-3913 establishing the Faena Overlay District. The district includes the properties owned and operated by the FAENA Group and is generally located along Collins Avenue between 32nd and 36th Streets. The parcels west of Collins Avenue are in the more restrictive RM-2 zoning district and the adopted overlay district modified some of the permitted uses in the RM-2 district as follows:

- Allowed for ballroom and assembly space (west of Collins and south of 34<sup>th</sup> Street) to be a main permitted use and not classified as a neighborhood impact establishment, within

the confines of the overlay district. Typical uses would include art exhibits, conferences and other similar activities.

- Allowed commercial uses to be a main permitted use within existing contributing structures on the west side of Collins Avenue.

The adopted overlay also encouraged and allowed for non-standard paving designs for the sidewalks and those portions of 34<sup>th</sup> Street between the Arts Center and Atlantic Beach Hotel.

On November 14, 2014, the Historic Preservation Board approved a Certificate of Appropriateness for 3425 Collins Avenue (The Versailles Hotel – HPB File No. 7490). This project was comprised of the partial demolition, renovation and restoration of the existing 16-story Versailles hotel building, the total demolition of the 1955 south addition, and the construction of a new 16-story detached ground level addition, as part of a new residential development. On December 5, 2014, the Board of Adjustment approved a total of eleven (11) variances related to the proposed new construction located on the site of the Versailles Hotel building.

On March 8, 2016, the Historic Preservation Board approved modifications to the design and site plan, including additional variances (HPB File No. 7603). Although the renovation and addition to the Versailles Hotel was initially approved about the same time that the Faena Overlay District was created, permits for the restoration and new construction have not been issued and little activity has taken place on the site since the 1955 south addition was demolished. With the application of numerous state extensions, the current approvals remain active.

### **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.**

**Consistent** – The proposed ordinance is consistent with the goals, objectives, and policies of the Comprehensive Plan.

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

**Consistent** – The proposed amendment does not change the boundaries of the existing Faena District.

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

**Partially Inconsistent** - The proposed height increase from 200 to 250 feet may be out of scale with the surrounding historic neighborhood and ocean front properties, as the maximum height of existing buildings along the ocean front corridor does not exceed 200 feet for several blocks to the north and south of the Faena District. The closest property with a building over 200 feet is located at 42<sup>nd</sup> street to the north and approximately 27<sup>th</sup> street to the south. However, additional height, if properly located on the site, may allow more open views to the historic Versailles Tower as viewed from Collins Avenue.

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

**Consistent** – The proposed ordinance will not affect the load on public facilities and infrastructure as the maximum FAR is not modified.

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 need to allow for respectful redevelopment of the site and the constraints placed due to the existing contributing structure make the passage of the proposed changes 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 if additional modifications are not incorporated.

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 will not create or increase traffic congestion from what is currently permitted.

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

**Partially Consistent** – The proposed change may somewhat reduce light and air due to increased shadows as a result of the proposed increase in height. However, the majority of the impact will be located within the Faena district, and not on neighboring properties, with the exception of limited increase to the east.

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.**

**Consistent** – Due to the placement of the existing contributing structure, it would be difficult to further develop the property without some changes to the existing zoning requirements, as evidenced by the numerous variances previously granted for the construction of a new tower on the site.

**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.**

**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 by allowing for new development that is more resilient.

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

**Consistent** – The proposal is compatible with and supports the City's sea level rise mitigation and resiliency efforts.

**ANALYSIS**

The owner of the Versailles Hotel property is currently in the process of redesigning the residential tower addition, along with some changes to the Versailles Hotel restoration plans. When numerous variances were first granted by the Board of Adjustment and additional variances were granted by the Historic Preservation Board, the importance of restoring one of the most iconic Art Deco hotel structures was clearly recognized as a hardship due to the siting issues related to the restoration of the contributing structure and site planning for new construction.

Nearly all the variances are associated with locating the new construction as far from the existing Versailles Hotel tower as possible, resulting in the construction located very near to the south property line of the site. This was also only possible with the demolition of the former 1955 attached addition, which impacted the iconic original tower constructed in 1940 and designed by architect Roy France.

Because of the design modifications now proposed, absent the ordinance amendment proposed herein, modifications to the variances previously granted would be required. As proposed, the subject Ordinance would apply to properties with an underlying zoning designation of RM-3 within the existing overlay district on oceanfront lots with a lot area greater than 70,000 sq. ft. that also

contain a contributing structure. The property within the Faena Overlay District that meets this requirement and is occupied by the vacant Versailles Hotel located at 3425 Collins Avenue.

The following is a summary of the proposed amendments, which except for the proposed increase in height, are largely consistent with the variances previously granted by the Historic Preservation Board and Board of Adjustment:

- The required parking for a place of assembly is reduced from one space per sixty (60) square feet to one space per eighty (80) square feet of floor area available for seating.
- Within areas that have an underlying zoning designation of RM-3, oceanfront lots with a lot area greater than 70,000 sq. ft. that also contain a contributing historic structure, shall be subject to the following:
  - The maximum building height is increased from 200 feet to 250 feet.
  - The required pedestal and tower side street setback for alterations to and extensions of a contributing historic structure shall be equal to the existing setback of the contributing historic structure.
  - The required pedestal side street setback for additions to a contributing historic structure that are located on the ground is 0'.
  - The required pedestal side street setback for a ground floor addition is 2'-10" for the first and second floor.
  - The required pedestal side street setback for a ground floor addition is 8" for the third and fourth floor.
  - The required tower side street setback for a ground floor addition is 8".
  - There are no required sum of the side yard setbacks for pedestal or tower side setbacks.
  - The required subterranean side street setback is 0'.
  - The required subterranean rear setback is 40' from the bulkhead line.
  - The required subterranean front setback is 15'.
  - The required front setback for at-grade parking and driveways is 8'-6".
  - The required setback in the Dune Preservation Overlay Zone from the Erosion Control Line for a fence is 5'.
  - The required side setback in the Oceanfront Overlay Zone for fences is 5'.
  - The required pedestal side street setback for a fence is 5'.

- The maximum permitted width of a porte-cochere is 45% of the width of the building's frontage.
- The maximum permitted height of a porte-cochere is 19'.
- The term "grade, average existing" which means the average grade elevation calculated by averaging spot elevations of the existing topography taken at ten-foot intervals along the property lines, shall be substituted for the term "grade" for purposes of fence and wall heights and setbacks. However, a fence or wall which faces Collins Avenue shall be measured from grade (the city sidewalk elevation at the centerline of the front of the property).

As the modifications proposed are largely consistent with the variances previously granted for the Versailles Hotel site, staff is supportive of the ordinance except for the proposed 40-foot rear subterranean setback. In this regard, the Historic Preservation Board approved a rear subterranean setback of 46 feet from the bulkhead line, where 50 feet is required. Staff recommends a rear subterranean setback of 46 feet from the bulkhead line, consistent the variances previously granted, in order to not reduce the amount of pervious landscape area on the site.

As it pertains to the proposed increase in height, even if adopted by the City Commission, the Historic Preservation Board still has the full authority to evaluate the overall massing and design of any new construction in accordance with the Certificate of Appropriateness review criteria, and require a lower height and modifications to the design. In light of the unique nature and history of the site as outlined above, staff believes that the additional height may be warranted if benefits to the historic Versailles tower can be established, as determined by the Historic Preservation Board.

### **RECOMMENDATION**

In view of the foregoing analysis, staff recommends that the Planning Board transmit the proposed ordinance amendment to the City Commission with a favorable recommendation, with the following modification:

1. The rear subterranean setback shall be a minimum of 46 feet from the bulkhead line.

**FAENA DISTRICT OVERLAY**

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

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 142, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE III, ENTITLED "OVERLAY DISTRICTS," AMENDING DIVISION 10, ENTITLED "FAENA DISTRICT OVERLAY," TO AMEND THE PARKING REQUIREMENT FOR PLACE OF ASSEMBLY USE; AMEND THE ALLOWABLE HEIGHT FOR RM-3 OCEANFRONT LOTS GREATER THAN 70,000 SQUARE FEET IN SIZE, WHICH ALSO CONTAIN A CONTRIBUTING HISTORIC STRUCTURE; AND AMEND THE ALLOWABLE SETBACKS AND REQUIRED YARDS FOR RM-3 OCEANFRONT LOTS GREATER THAN 70,000 SQUARE FEET IN SIZE, WHICH ALSO CONTAIN A CONTRIBUTING HISTORIC STRUCTURE; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Miami Beach ("City") desires to encourage private property owners to redevelop and manage properties under common ownership comprehensively rather than piecemeal; and

**WHEREAS**, the City seeks to encourage and incentivize new development and the preservation and restoration of structures located within the Collins Avenue corridor; and

**WHEREAS**, contributing historic structures located within the Collins Avenue corridor pre-date the City's land development regulations and therefore do not meet the zoning standards and are frequently permitted as legal nonconforming structures; and

**WHEREAS**, the preservation and restoration of the City's historic buildings and character furthers the general welfare and is especially important to the citizens of Miami Beach;

**WHEREAS**, the preservation and restoration of historic structures is often possible through the construction of additions and/or new buildings on the same property; and

**WHEREAS**, the amendment set forth below is necessary to accomplish all of the above objectives.

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

**SECTION 1.** Chapter 142, Article III entitled "Overlay Districts", Division 10 "Faena District Overlay" is hereby amended as follows:

**CHAPTER 142  
ZONING DISTRICTS AND REGULATIONS**

\* \* \*

**ARTICLE III  
OVERLAY DISTRICTS**

\* \* \*

**DIVISION 10. FAENA DISTRICT OVERLAY**

**Sec. 142-867. Location and purpose.**

The purpose of this overlay district is to allow limited flexibility of uses, ~~and~~ limited increases in heights, and limited flexibility in setbacks because of the common ownership and operation of the properties within the overlay district and the value of preserving historic buildings within the overlay district.

\* \* \*

**Sec. 142-869. Compliance with regulations.**

The following overlay regulations shall apply to the Faena District Overlay. All development regulations in the underlying regulations shall apply, except as follows:

\* \* \*

(a) One place of assembly may be permitted as a main permitted use, within the areas that have an underlying zoning designation of RM-2, in accordance with the following minimum requirements:

\* \* \*

xvii. The required parking for a place of assembly is one space per eighty (80) square feet of floor area available for seating.

\* \* \*

(g) Within areas that have an underlying zoning designation of RM-3, lots which are oceanfront lots with a lot area greater than 70,000 sq. ft. that also contain a contributing historic structure shall have a maximum height of 250 feet.

(h) Within areas that have an underlying zoning designation of RM-3, lots which are oceanfront lots with a lot area greater than 70,000 sq. ft. that also contain a contributing historic structure, the following regulations shall apply in lieu of the underlying Land Development Regulations:

- i. The required pedestal and tower side street setback for alterations to and extensions of a contributing historic structure shall be equal to the existing setback of the contributing historic structure.
- ii. The required pedestal side street setback for additions to a contributing historic structure that are located on the ground is 0'.



- iii. The required pedestal side street setback for a ground floor addition is 2'-10" for the first and second floor.
- iv. The required pedestal side street setback for a ground floor addition is 8" for the third and fourth floor.
- v. The required tower side street setback for a ground floor addition is 8".
- vi. There are no required sum of the side yard setbacks for pedestal or tower side setbacks.
- vii. The required subterranean side street setback is 0'.
- viii. The required subterranean rear setback is 40' from the bulkhead line.
- ix. The required subterranean front setback is 15'.
- x. The required front setback for at-grade parking and driveways is 8'-6".
- xi. The required setback in the Dune Preservation Overlay Zone from the Erosion Control Line for a fence is 5'.
- xii. The required side setback in the Oceanfront Overlay Zone for fences is 5'.
- xiii. The required pedestal side street setback for a fence is 5'.
- xiv. The maximum permitted width of a porte-cochere is 45% of the width of the building's frontage.
- xv. The maximum permitted height of a porte-cochere is 19'.
- xvi. The term "grade, average existing" which means the average grade elevation calculated by averaging spot elevations of the existing topography taken at ten-foot intervals along the property lines, shall be substituted for the term "grade" for purposes of fence and wall heights and setbacks. However, a fence or wall which faces Collins Avenue shall be measured from grade (the city sidewalk elevation at the centerline of the front of the property).

## **SECTION 2. CODIFICATION.**

It is the intention of the Mayor and City Commission of the City of Miami Beach, 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, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and, the word "ordinance" may be changed to "section", "article", or other appropriate word.

## **SECTION 3. REPEALER.**

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

## **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.

\_\_\_\_\_  
**MAYOR**

**ATTEST:**

\_\_\_\_\_  
**CITY CLERK**

APPROVED AS TO  
FORM AND LANGUAGE  
& FOR EXECUTION

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

\_\_\_\_\_  
Date

First Reading:  
Second Reading:

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

Underscore denotes new language  
~~Strikethrough~~ denotes removed language