

# MIAMI BEACH

## COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission  
FROM: Jimmy L. Morales, City Manager  
DATE: September 16, 2020

**First Reading**

SUBJECT: FAENA DISTRICT OVERLAY

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.

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### **RECOMMENDATION**

The administration recommends that the City Commission approve the subject ordinance at first reading and set a second reading/public hearing for October 14, 2020.

### **BACKGROUND/HISTORY**

#### **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 for a more detailed presentation to be provided to the committee.

On June 30, 2020 the item was deferred to the July 21, 2020 LUSC meeting, at the request of Faena representatives. On July 21, 2020 the LUSC reaffirmed their favorable recommendation.

### **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 34th 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 34th 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.

## **ANALYSIS**

### **PLANNING 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 presented to the Planning Board. Except for the proposed increase in height, they 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:
  - o The maximum building height is increased from 200 feet to 250 feet.
  - o 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.
  - o The required pedestal side street setback for additions to a contributing historic structure that are located on the ground is 0'.
  - o The required pedestal side street setback for a ground floor addition is 2'-10" for the first and second floor.
  - o The required pedestal side street setback for a ground floor addition is 8" for the third and fourth floor.
  - o The required tower side street setback for a ground floor addition is 8".
  - o There are no required sum of the side yard setbacks for pedestal or tower side setbacks.
  - o The required subterranean side street setback is 0'.
  - o The required subterranean rear setback is 46' from the bulkhead line.
  - o The required subterranean front setback is 15'.
  - o The required front setback for at-grade parking and driveways is 8'-6".

- o The required setback in the Dune Preservation Overlay Zone from the Erosion Control Line for a fence is 5'.
- o The required side setback in the Oceanfront Overlay Zone for fences is 5'.
- o The required pedestal side street setback for a fence is 5'.
- o The maximum permitted width of a porte-cochere is 52% of the width of the building's frontage.
- o The maximum permitted height of a porte-cochere is 19'.
- o 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).
- o Security guardhouses, not to exceed 200 square feet, may be permitted to encroach eight (8') feet into the required front pedestal setback. The number of guardhouses shall be limited to two (2) per property, and the location and design of security guardhouses shall be subject to the review and approval of the historic preservation board, in accordance with the certificate of appropriateness review criteria.

The modifications proposed are largely consistent with the variances previously granted for the Versailles Hotel site by the Historic Preservation Board. 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 potentially require a lower height and modifications to the design. In light of the unique nature and history of the site, as outlined above, the additional height may be warranted if benefits to the historic Versailles tower can be established, as determined by the Historic Preservation Board.

### **PLANNING BOARD REVIEW**

On July 27, 2020 the Ordinance was discussed by the Planning Board and continued to a date certain of August 25, 2020. On August 25, 2020 the Planning Board held a public hearing and transmitted the ordinance to the City Commission with a favorable recommendation by a vote of 5-2. The Planning Board also recommended the following changes, which have been incorporated into the draft ordinance for first reading:

1. Consolidate the various side yard setback requirements for subterranean, pedestal and tower from the previously proposed range of (zero (0') feet to 2'-10") to zero (0') for all such setbacks as noted in the following condition, which includes a new view corridor requirement to be reviewed by the Historic Preservation Board:

*"The subterranean, pedestal, and tower interior side setbacks shall be zero (0') feet for properties abutting a GU zoned parcel, and which also provide a view corridor between an*

*existing contributing building and the construction of a detached ground level addition, subject to the review and approval of the historic preservation board, in accordance with the certificate of appropriateness review criteria ."*

2. Clarify that the porte-cochere exceptions from city code section 142-1132 only applied to the recreation/renovation of an original porte-cochere to a contributing building as follows:

*"The maximum permitted width of a porte-cochere for a contributing building may exceed the requirements of allowable encroachments as outlined in the city code section 142-1132, not to exceed the width of an original porte-cochere. The maximum permitted height of such porte-cochere shall be 19'."*

3. Eliminate the proposed allowance of security guardhouses as allowable encroachments into the required front yard.

The Planning Board also recommended that the City Commission accept the proffer made by the property owner to move, at the sole expense of the property owner, the Jack Stewart Apollo mural to a City owned building. The Board further recommended that the mural be placed on the north elevation of the 17th Street parking garage, at the intersection of Convention Center Drive.

### **SUMMARY**

The administration is supportive of the proposed amendment, as it addresses the complexities of a unique building site and allows for a tower addition that maximizes the visibility and individuality of the historic Versailles hotel. About the proffer of the property owner to relocate the Apollo mural to a City owned building, at this time it is not recommended that the City commit to such a proposal. The 17th Street garage would not be a good location for the mural, as it lacks the adequate canvass wall for showcasing it. Additionally, the 17th Street garage is anticipated to be replaced by a new structure in the future.

The administration also recommends that public benefits be explored for the project, in order to further mitigate the impacts of the proposed height increase and relaxation of minimum setbacks. In this regard, a scope of potential resiliency benefits pertaining to water management assets for the site and immediate area is attached. Additional potential benefits may include, but not be limited to a contribution to an affordable housing trust fund and beach resiliency benefits.

### **CONCLUSION**

The administration recommends that the City Commission:

1. Approve the subject ordinance at first reading and set a second reading/public hearing for October 14, 2020.

2. Consider applicable and appropriate public benefits. These may include but should not be limited to a contribution to an affordable housing trust fund, beach resiliency and water management assets for the site and immediate area as detailed in the attached scope of benefits.

### **Applicable Area**

Middle Beach

**Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?**

Yes

**Does this item utilize G.O. Bond Funds?**

No

**Legislative Tracking**  
Planning

**Sponsor**  
Commissioner Ricky Arriola

**ATTACHMENTS:**

**Description**

- ▣ Resiliency Benefits Scope
- ▣ Ordinance

## **FAENA - Summary of Potential Resiliency Features**

1. A continuous system of shallow injection wells shall be provided, with a total of 9 wells for a total capacity of 9@2,000 gallons per minute or 18,000 gpm. This will provide for water quality treatment for 27 acres which is equivalent to one third of the entire Indian Creek drainage basin as stated in the drainage study performed by AECOM.
2. Or provide 3.4 acre–feet of storage under the open space area between 1' above the water table and the surface. This will provide for water quality treatment for 27 acres which is equivalent to one third of the entire Indian Creek drainage basin as stated in the drainage study performed by AECOM.
3. Bioswales, within the green space area, provided the City receives credit from DERM for water quality treatment equivalent to a 27 acre site which is equivalent to one third of the entire Indian Creek drainage basin as stated in the drainage study performed by AECOM.
4. Any combination of items 1, 2 and 3 above to provide for water quality treatment for 27 acres which is equivalent to one third of the entire Indian Creek drainage basin as stated in the drainage study performed by AECOM.

The above noted water treatment options shall promote the cleaning of the first flush of rainfall from the lift station to the bay. The capacity of the above water treatment options shall not be utilized towards on-site stormwater management and a separate stormwater management system shall be constructed as described above.

At a minimum, the following benchmarks shall be met for the proposed shallow injection wells:

- All wells shall be provided for the sole purpose of improving the performance and quality of storm water runoff from the proposed stormwater system, within the Indian Creek Neighborhood.
- All wells shall have a minimum combined capacity of 18,000 gallons per minute with no well design assuming more than 2,000 gallons per minute per individual well.
- All wells shall be designed and constructed in accordance with regulatory requirements.
- All wells shall be permitted for use as injection wells with passive pressure relief by means of an orifice plate or other method approved by applicable regulatory authorities and the City.
- All wells shall contain a header, with an appropriate passive pressure relief device, manifolding all wells to a proposed pump station.
- All wells shall be spaced in a manner to ensure that no well capacity is limited by another.
- All wells shall be tested to confirm minimum required capacity is achieved.

## 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**, on December 17, 2014, the City Commission adopted Ordinance No. 2014-3913, establishing the Faena Overlay District, which consists of properties owned, operated, developed, or intended to be developed by the Faena Group, and is generally located along Collins Avenue between 32nd and 36th Streets; and

**WHEREAS**, the City seeks to encourage and incentivize new development and the preservation and restoration of structures located within the Faena Overlay District; 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; and

**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

\* \* \*

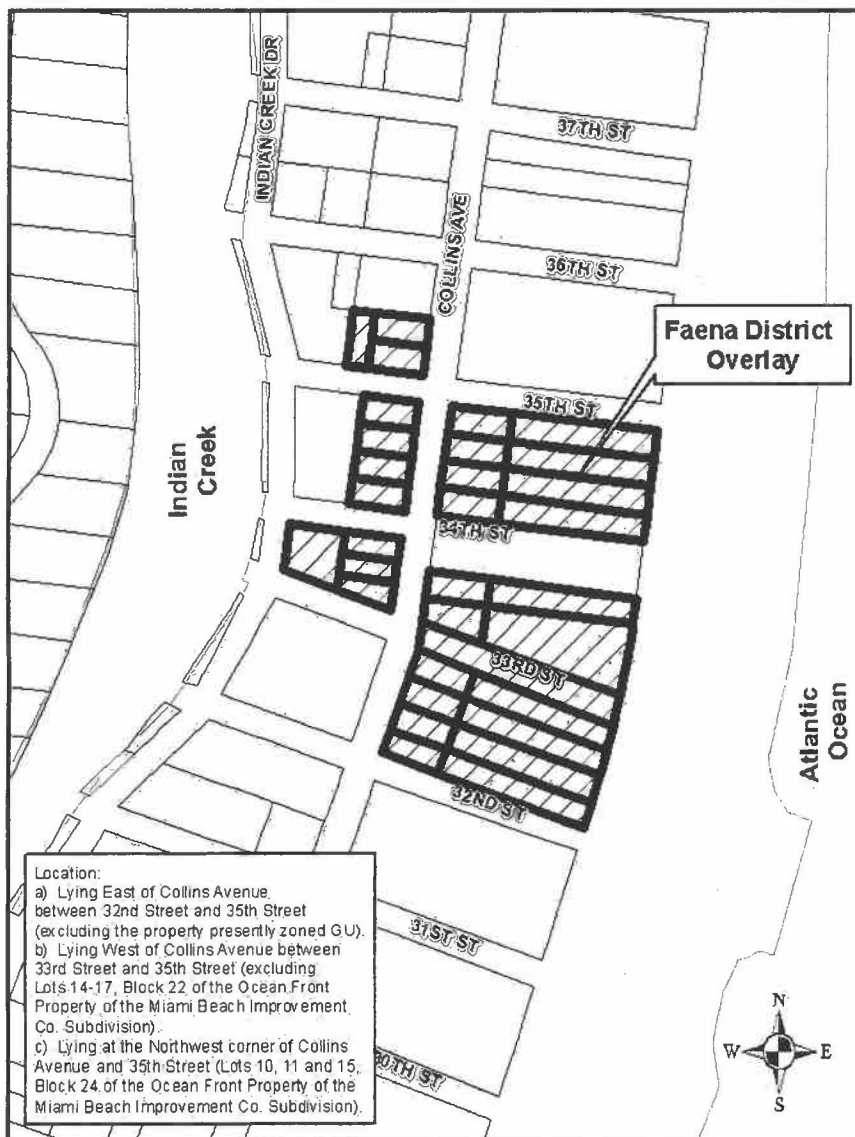
ARTICLE III. OVERLAY DISTRICTS

\* \* \*

DIVISION 10. FAENA DISTRICT OVERLAY

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

The overlay regulations of this division shall apply to the properties identified in the Overlay Map below:



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.

i. Any building with a height exceeding 203 feet shall have a front setback of 75 feet as measured to the closest face of a balcony.

(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:

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 attached or detached additions to a contributing historic structure that are located on the ground is 0'.

iii. The subterranean, pedestal, and tower interior side setbacks shall be zero (0') feet for properties abutting a GU zoned parcel, and which also provide a view corridor between an existing contributing building and the construction of a detached ground level addition, subject to the review and approval of the historic

preservation board, in accordance with the certificate of appropriateness review criteria.

- vi. There are no required sum of the side yard setbacks for pedestal or tower side setbacks.
- viii. The required subterranean rear setback is 46' 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".
- xiv. The maximum permitted width of a porte-cochere for a contributing building may exceed the requirements of allowable encroachments as outlined in city code section 142-1132, not to exceed the width of an original porte-cochere. The maximum permitted height of such porte-cochere shall be 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.

**ATTEST:**

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

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

First Reading: September 16, 2020  
Second Reading: October 14, 2020

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

APPROVED AS TO FORM AND  
LANGUAGE AND FOR EXECUTION

      NK       for       9-8-20        
City Attorney                      Date