

# MIAMI BEACH

## PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: May 25, 2021

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: **PB21-0433: Alton Road Office Height Ordinance.**

### **RECOMMENDATION**

Transmit the proposed ordinance amendment to the City Commission with a favorable recommendation.

### **HISTORY**

On June 24, 2020, at the request of Mayor Dan Gelber, a discussion item pertaining to strategic increases in height for office uses was referred to the Land Use and Sustainability Committee (C4C). At the time of referral, Commissioner David Richardson became a co-sponsor.

The Land Use and Sustainability Committee (LUSC) discussed the proposal on July 21, 2020 and continued the item to September 22, 2020, with the following general direction:

1. Provide additional information regarding existing office space inventory in the City, and where the best locations for office space would be.
2. Further study the areas proposed for office height incentives and look at other commercial areas.
3. Further study the minimum floor area benchmark for offices.

On September 22, 2020 the LUSC discussed the item and moved it to the full City Commission, in accordance with the following:

1. A recommendation in favor of the proposal for a height increase applying to Terminal Island.
2. No recommendation on the areas fronting Alton Road from 5<sup>th</sup> Street to Collins Canal.
3. No recommendation on Sunset Harbor

The LUSC also recommended that the City Commission consider the following in its discussion on the matter:

1. Requiring visual images and massing studies for the larger areas affected by the proposal, and not just the specific properties seeking the change.
2. Potential quality of life and community/public benefits.
3. Consider a sunset provision for the proposal.
4. Requirements for neighborhood uses and activation at the first level of the building.
5. The inclusion of North Beach in the scope of the ordinance.

On October 14, 2020, the City Commission referred a draft ordinance that included height increases for office uses on Terminal Island and Alton Road to the Planning Board for review and recommendation. On November 17, 2020 the Planning Board held a public hearing and transmitted the ordinance pertaining to Alton Road and Terminal Island to the City Commission with a favorable recommendation by a vote of 6-0.

On December 9, 2020 the City Commission considered the proposed Ordinance at first reading (item R50), and the Ordinance was approved for Terminal Island only. The Alton Road / CD-2 portion of the ordinance was bi-furcated and referred to the Land Use and Sustainability Committee (LUSC) for further discussion. The sponsors of the proposal are Mayor Dan Gelber and Commissioner David Richardson.

On January 20, 2021 the LUSC discussed and continued the item to the February 17, 2021 meeting. On February 17, 2021 the LUSC discussed the revised Ordinance and continued the item to the March 24, 2021 LUSC with direction to the Administration to incorporate the modifications discussed at the meeting into a revised draft Ordinance.

On March 24, 2021, a revised Ordinance was presented to the LUSC. The LUSC discussed the revised Ordinance and recommended that the ordinance be amended to exclude the east side of Alton Road, exclude hotels, and include a one year look back. Additionally, the LUSC recommended additional safeguards be incorporated if, in the future, an office development is proposed to be converted to a different use. To this end, if a property owner elects, at the owner's sole discretion, to record a voluntary covenant agreeing that any residential units on the property shall not be leased or rented for a period of less than six months and one day, then the property owner would qualify for the height incentive.

#### **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, including the regulations in the CD-2 future land use category.

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

**Consistent** – The proposed amendment does not create an isolated district unrelated to adjacent or nearby districts.

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

**Consistent** - The proposed ordinance amendment allows for a modest height increase in order to incentivize class A office uses; however, it contains upper-level setbacks to minimize potential impacts to adjacent residential buildings. As a result, it is not out of scale with the needs of the neighborhood.

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** – Changes associated with businesses migrating to South Florida from other states and a desire to capture a portion of the economic growth within the City of Miami Beach in order to diversify the City's economy from an overreliance on tourism 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 as it contains safeguards to ensure that the additional height does not impact adjacent residential neighborhoods and provides for additional use limitations in order for a development to take advantage of that additional height.

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, as the FAR is not being modified by this ordinance and the intensity of uses is not proposed to be increased.

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

**Consistent** – The proposed change would not reduce light and air to adjacent areas, as the additional height includes a setback from adjacent residential buildings and additional limitations for rooftop height exceptions that are not applicable in other parts of the City.

**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** – Existing restrictions disincentivize the development of Class A office uses. As a result, this may lead to the development of uses that are less desirable and more impactful to the neighborhood.

**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 increase the resiliency of the City with respect to sea level

rise be encouraging new development that complies with the sea level rise criteria regulations of the land development regulations and the Florida Building Code.

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

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

**ANALYSIS**

On November 17, 2020, the Planning Board held a public hearing and transmitted an Ordinance pertaining to height increases on Alton Road and Terminal Island to the City Commission with a favorable recommendation by a vote of 6-0. On December 9, 2020, the City Commission considered the proposed Ordinance at First Reading (item R50), and the Ordinance was approved for Terminal Island only. The Alton Road / CD-2 portion of the Ordinance was bifurcated and referred to the Land Use and Sustainability Committee (LUSC) for further discussion. The Ordinance was discussed by the LUSC and, on March 24, 2021, the LUSC recommended that the attached version of the Ordinance be approved by the City Commission. In light of the substantive changes to the Ordinance following the Planning Board's initial transmittal on November 17, 2021, this matter has been re-noticed for Planning Board review and transmittal to the City Commission.

An increase in maximum building height from 50 feet and 60 feet to 75 feet has been proposed for portions of the Alton Road CD-2 District with the purpose of incentivizing high-end office development. The proposal would create an Alton Road Office Development Overlay that would be applicable on the west side of Alton Road between 8<sup>th</sup> Street and 11<sup>th</sup> Street and between 14<sup>th</sup> Street and 17<sup>th</sup> Street.

A minimum threshold to qualify for increased height has been incorporated to ensure that an eligible project is dedicated primarily to office use. However, non-office uses for sidewalk activation would be permitted and residential uses would be permitted, as part of the residential FAR bonus currently permitted in the Code. Additionally, a minimum lot size of 7,500 square feet is proposed to ensure that the higher height is for medium to large size office projects, and so that the site is large enough to absorb the increase in height. Collectively these thresholds will help ensure the increased height will be limited to projects that consist primarily of offices. Additionally, at the direction of the LUSC, the draft Ordinance contains the following regulations which apply to developments exceeding 60 feet in height within the Alton Road office development overlay:

- (1) *Minimum office requirement.* The development shall consist solely of office use above the ground level of the structure; provided, however, that residential uses, but not hotel units, may be permitted on such properties up to a maximum FAR of 2.0, pursuant to section 142-307(d)(1), but only if the first 1.5 FAR of the development is dedicated to office use and ground floor commercial use.
- (2) *Covenant.* New development may only be eligible for the voluntary office height incentive provided in this subsection (b) if the property owner elects, at the owner's sole discretion, to voluntarily execute a restricted covenant running with the land, in a form approved by the City

Attorney, affirming that, for a term of 30 years, none of the residential units on the property shall be leased or rented for a period of less than six months and one day.<sup>1</sup>

- (3) *Ground level activation.* The ground level of the building shall consist of active retail, restaurant, personal service or similar uses. Office uses, including, but not limited to, professional offices, banks, and financial services, shall not be permitted at the ground level. This shall not preclude a ground level lobby to access the upper floors.
- (4) *Maximum Height.* The maximum building height shall be 75 feet and all portions of the building above 60 feet in height shall be setback a minimum of 20 feet from the rear property line.
- (5) *Height exceptions.* In general, rooftop elements that are exempt from a building's height calculations shall be located in a manner to minimize visual impacts on predominant neighborhood view corridors as viewed from public rights-of-way and waterways. The height regulation exceptions contained in section 142-1161 shall not apply to the Alton Road Office Development Overlay. Instead, only the following rooftop elements shall be excluded from a building's maximum height and, unless otherwise specified, such elements shall not exceed ten feet above the main roof of the structure:
  - a. Roof-top operational and mechanical equipment. This exception shall be limited to essential, non-habitable, building elements such as mechanical rooms/devices, air conditioning and cooling equipment, generators, electrical and plumbing equipment, as well as any required screening. The height of such elements shall not exceed 25 feet above the roof slab.
  - b. Roof-top elevator towers, including code required vestibules, and stair towers, with the height of such structures not exceeding 25 feet above the roof slab. Projecting overhangs at the doorways to elevator vestibules and stair towers required by the Florida Building Code may be permitted, provided the projection does not exceed the minimum size dimensions required under the Building Code
  - c. Satellite dishes, antennas, sustainable roofing systems, solar panels and similar elements. Such elements shall be set back a minimum of 15 feet from the roof parapets on street-facing facades.
  - d. Decks located more than six inches above the top of the roof slab, and not exceeding three feet above the roof slab, may be permitted provided the deck area is no more than 50 percent of the enclosed floor area immediately one floor below.
  - e. Rooftop areas that are accessible only to the owners or tenants of office or residential

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<sup>1</sup> Because the height increase has been proposed as a development incentive, premised on property owner's voluntary agreement to certain development regulations, this Ordinance is consistent with, and does not violate the preemption in Section 509.032(7)(b), Florida Statutes ("[a] local law, ordinance, or regulation may not prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals."). The draft Ordinance neither prohibits vacation rentals, nor regulates the duration or frequency of vacation rentals, but rather creates a framework for a development incentive at the application/permitting stage.

units may have trellis, pergolas or similar structures that have an open roof of cross rafters or latticework. Such structures shall not exceed a combined area of 20 percent of the enclosed floor area immediately one floor below and shall be set back a minimum of 15 feet from the roof parapets on street-facing facades.

- f. Parapets shall not exceed four feet in height above the main roof.
  - g. Exterior speakers required to meet applicable requirements of the life safety or building code.
- (6) *Outdoor uses and special events.* Commercial uses of any kind, including, but not limited to restaurants, bars and entertainment, as well as special events, of any kind, shall be prohibited within any outdoor areas above the ground floor.
- (7) *Outdoor mechanical equipment.* Any outdoor mechanical equipment located above the ground floor including, but not limited to, air conditioning equipment, cooling towers, compressors and generators shall be fully screened with sound attenuating materials on all sides.
- (8) *Sunset provision.* The development regulations shall only apply to projects that have obtained a full building permit by December 31, 2026.

The proposed increase in height would allow for the expanded interior floor to ceiling space being sought by office users and office developers. From a practical standpoint, when parking and mixed-use pedestals are included, the current height limitations in the aforementioned areas limit the interior ceiling heights for all uses. Additionally, the Alton Road corridor where this proposal is applicable is along and within a transit corridor and has access to public parking facilities.

The proposal would help diversify the City's economy and is consistent with the concept of transit-oriented development (TOD), which is ideal for the identified area. This is an important point because the City's long-term mobility plan places considerably more emphasis on transit. In turn, this will likely result in less of a need for onsite vehicular storage in the future, which would equate to a reduction in overall building height.

The City's real estate consultant, CBRE, has provided the following information regarding total office space in South Beach:

- Total Class A space - 937,526 SF with 9% vacancy
- Total Class B space – 892,885 SF with 11% vacancy
- South of Fifth Street – Approx. 400,000 SF of Class A & B space
- Lincoln Road (including adjacent side streets) – approx. 1.13 million SF of Class A & B space

As it pertains to the migration of office tenants from the northeast (e.g. New York and Connecticut)

and Chicago to the greater Miami area (212 to 305), the Administration has discussed this with CBRE, who was able to provide some anecdotal data regarding leasing they have done in the larger office market area. In general, there appears to be a meaningful increase in interest from financial services and related firms, some of which are focused on the greater Miami market, and others in downtown West Palm Beach.

### **MASSING STUDY**

The City Commission requested that massing studies be provided, comparing what is permitted under the existing regulations (60') and what is proposed for office uses (up to 75'). At the end of this report are three separate section diagrams, with corresponding massing illustrations, comparing the current height regulations along Alton Road with two different options for a potential height increase. The study lot chosen is located between 14<sup>th</sup> Street and 15<sup>th</sup> Street on the west side of Alton Road. The following is a summary of each option:

#### **Option 1: Current Building Height Limit of 60 Feet**

Under existing regulations, buildings with structured parking have a maximum building height limit of 60 feet on Alton Road. As noted in the attached section diagram, buildings with this maximum height have upper-level internal ceiling height limits of 11 feet.

#### **Option 2: Increase Building Height Limit to 65'**

Option 2 contains the same interior dimensions as option 1 at the ground and parking deck levels. The interior ceiling heights can be increased to 13 feet for two levels, and 12 feet for a third level.

#### **Option 3: Increase Building Height Limit to 75'**

Option 3 contains the same interior dimensions as options 2 and 3 at the parking deck level and allows for a more expansive interior height at the ground level. Additionally, the upper levels, at all floors, can accommodate up to 15 feet of interior ceiling height at each level.

It is important to point out that the maximum increase in building height proposed would not exceed fifteen (15') as commercial and mixed-use/office structures that include structured parking already have a maximum building height limit of 60 feet. The current parking regulations in the LDR's require that parking for office and residential uses be provided on site.

Of the three height options proposed herein, staff recommended that option 3, with a maximum height limit of 75 feet, be approved at the LUSC, as it allows for maximum flexibility for first level activation and expanded floor-to-floor heights at all levels. The LUSC agreed with the recommendation of staff and recommended option 3.

Additionally, as noted in the corresponding massing studies, the difference in height is not significant. Moreover, actual development projects will consist of fully developed architectural plans, not massing studies, which will incorporate a significant level of architectural design, changes in building plane and movement in the overall mass of the building. All new construction is also subject to Design Review Board (DRB) approval, at which time issues of massing, view corridors and surrounding context will be fully addressed as part of a public hearing.



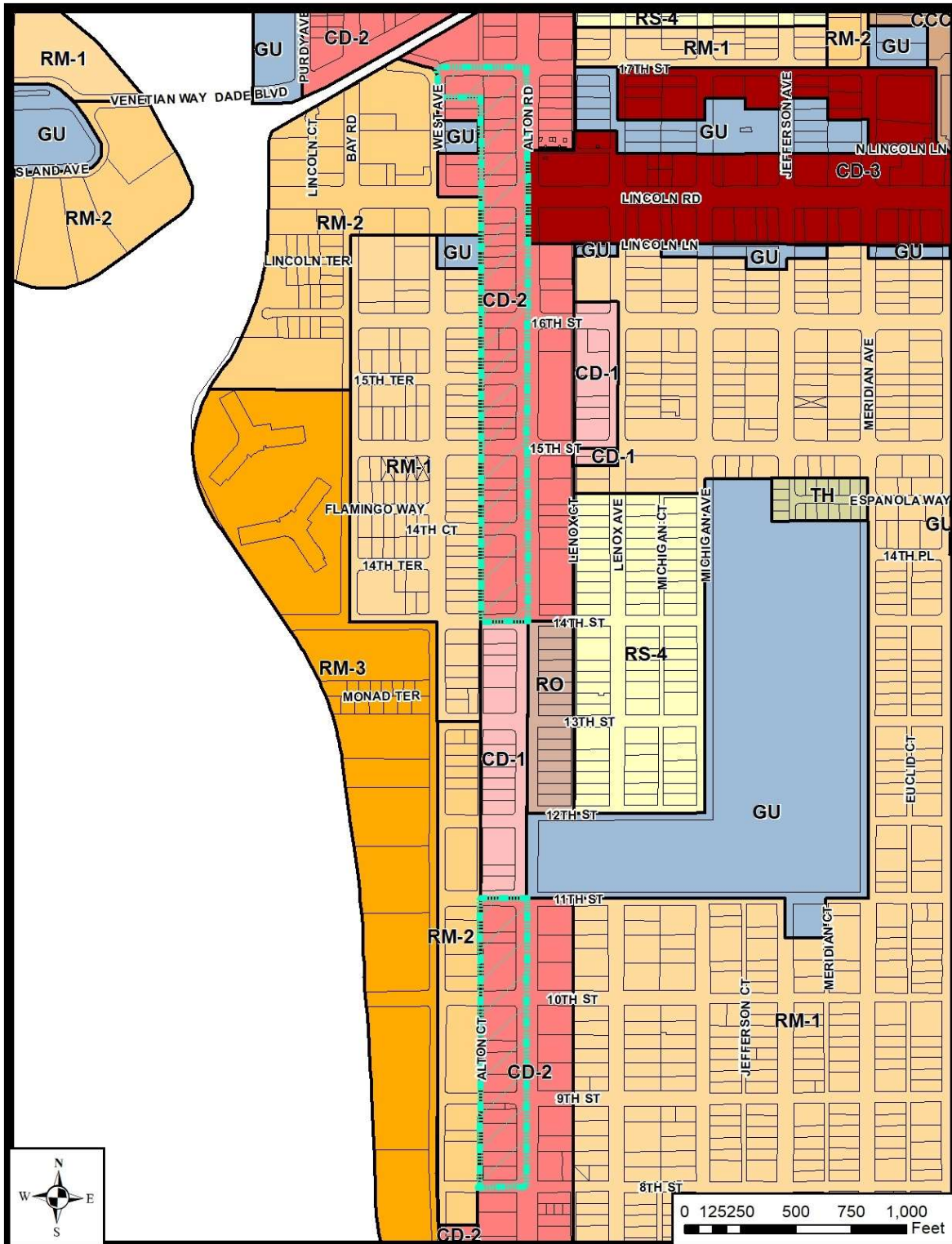
**RECOMMENDATION**

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.

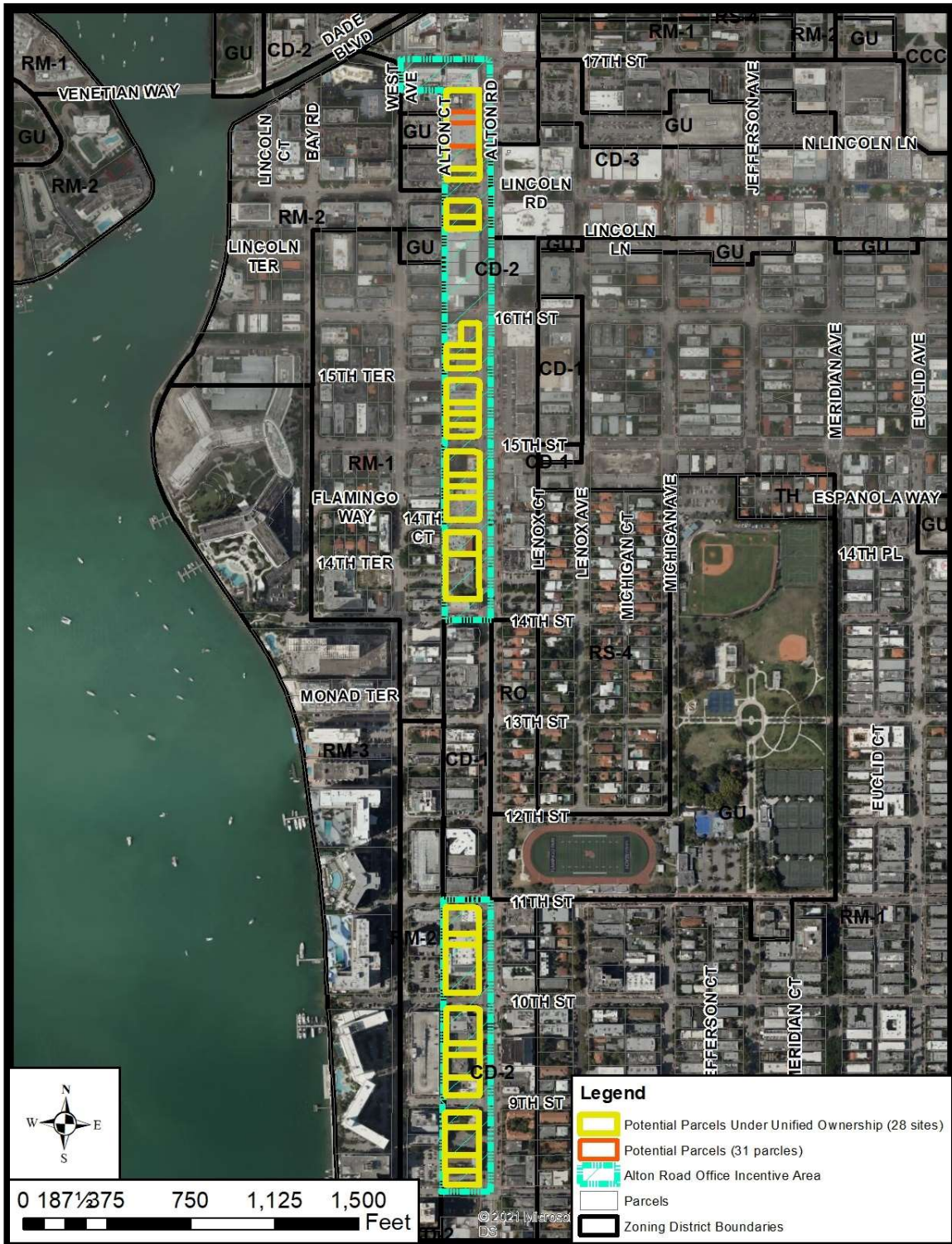
### AERIAL MAP



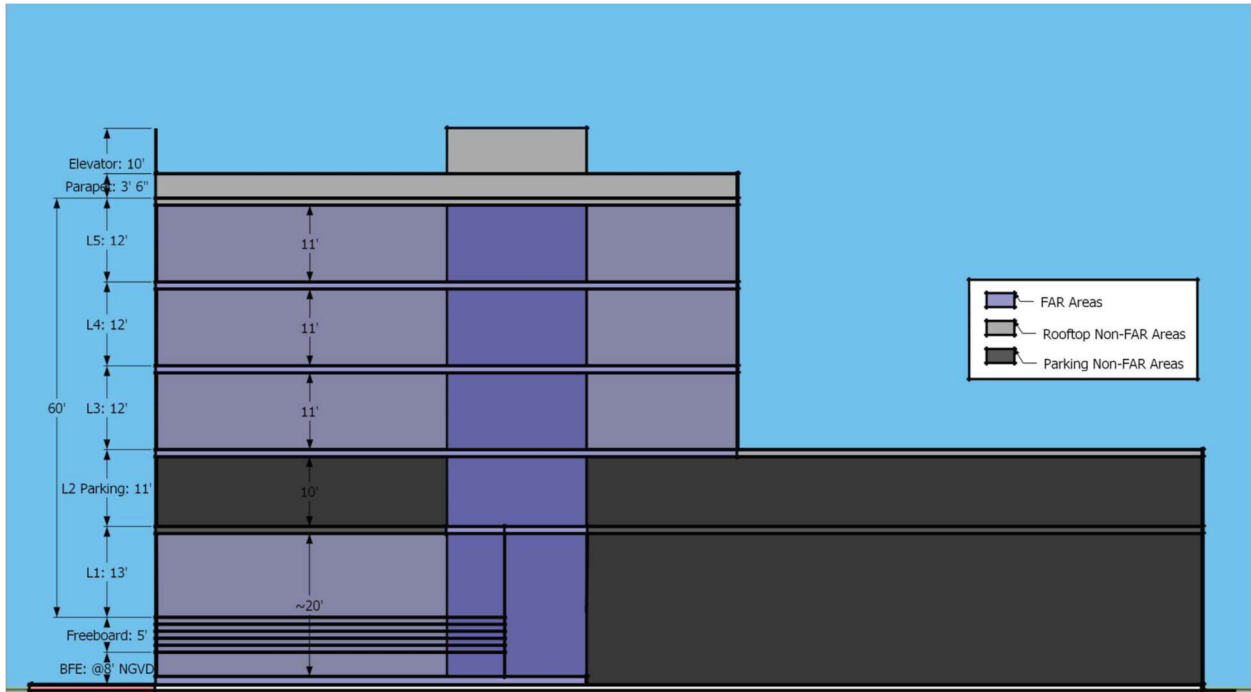
### ZONING MAP



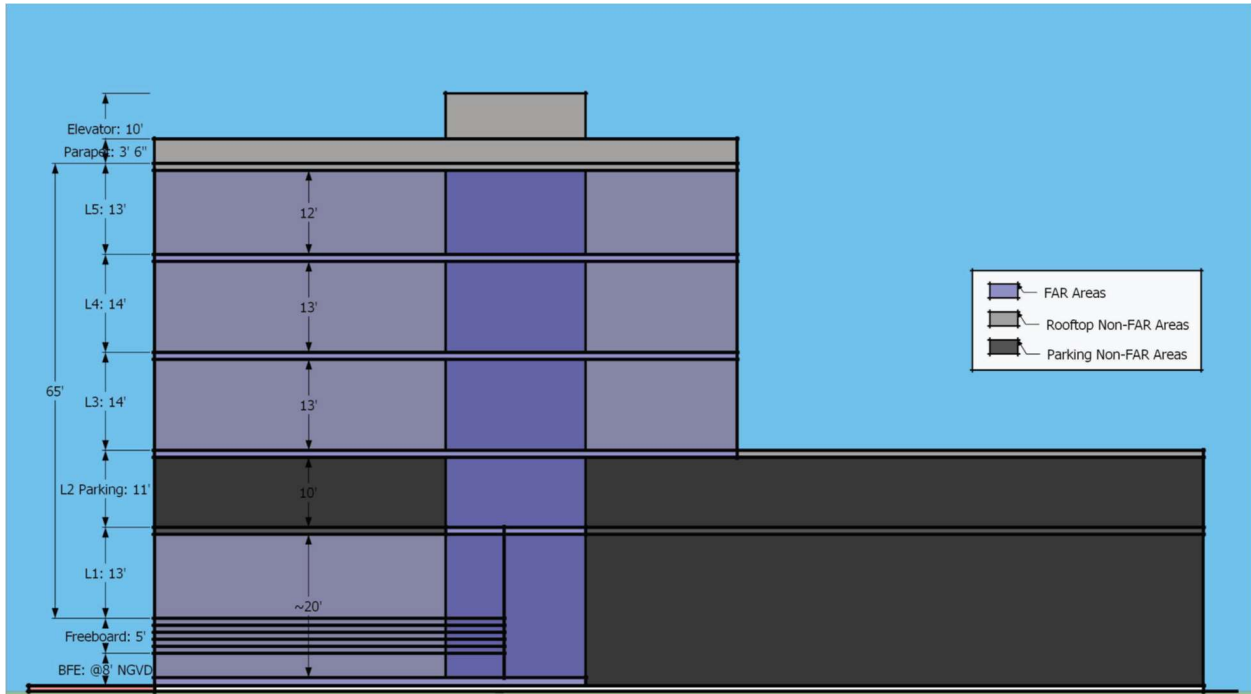
### OFFICE INCENTIVE POTENTIAL SITES



### MASSING STUDY – 60' HEIGHT (CURRENTLY PERMITTED)



### MASSING STUDY – 65' HEIGHT OPTION



### MASSING STUDY – 75' HEIGHT OPTION

