

# PB23-0589 – Below Grade Floor Area Legislation

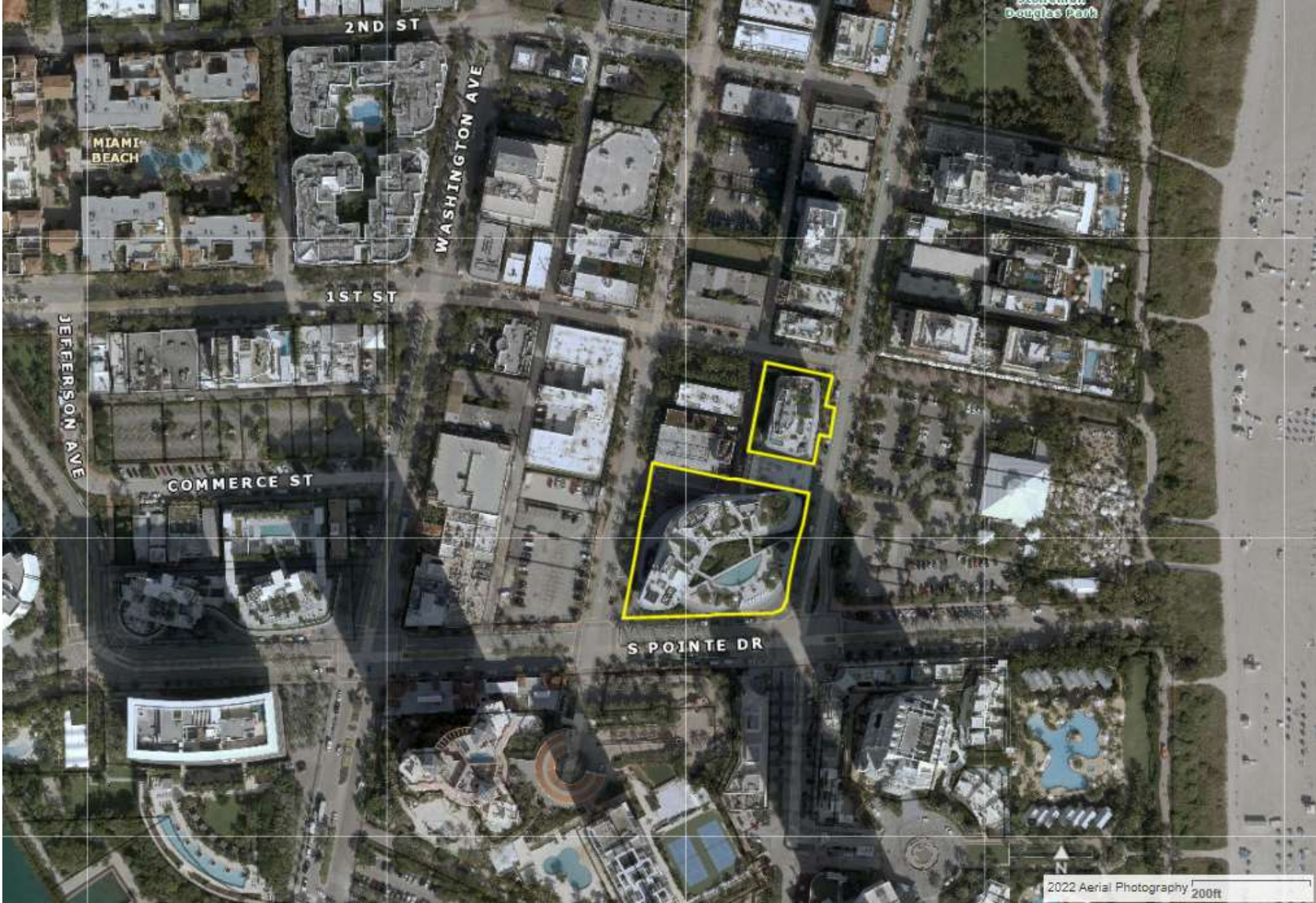


May 23, 2023 Planning Board Meeting – Item 8





# Context




# Ownership – Black Lion Investment Group

CT

**BLACK LION**

📍 1 Collins Ave, Miami Beach, FL 33139




**LOCATION**  
1 Collins Ave, Miami Beach, FL 33139

**SQUARE FOOTAGE**  
13,500

**CATEGORY**  
Fine Dining

**FEATURED TENANTS**



Located on the corner of South Pointe and Ocean Drive, and attached to multi-million dollar residential condos, the space interiors span 10,000 square feet with 3,500 square feet of exteriors. This trophy restaurant space inside One Ocean South Beach completes the final piece of the company's Monopoly board in the South of Fifth neighborhood and ushering in a transformative "Restaurant Row."





*Philippe*

by Philippe Chow



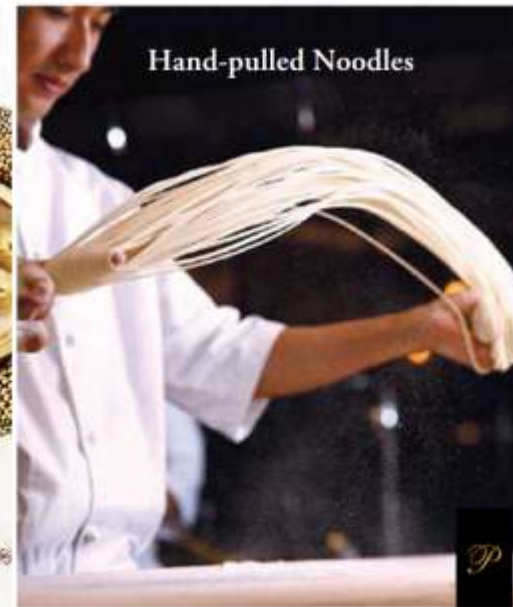
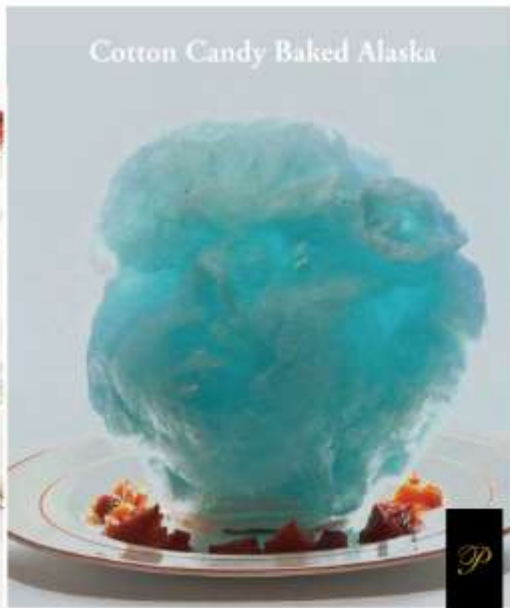


Rare Elegance And Creative Chinese Cuisine At Philippe Chow

- Forbes



# Modern Beijing Cuisine





# New York City Location





# Philippe Chow Miami Beach

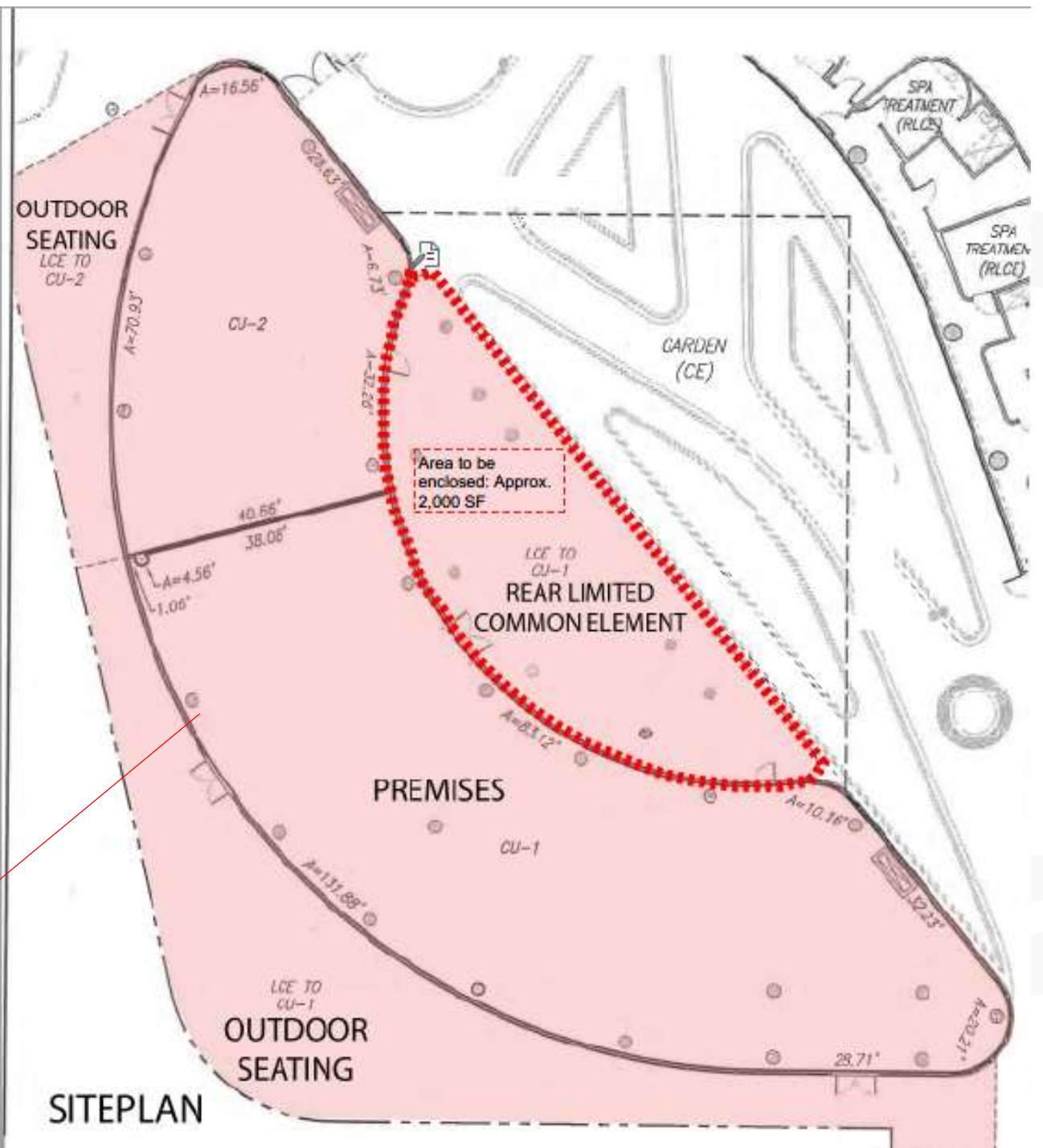




# Proposed Enclosure

Approx. 2,000 SF outdoor patio

Enclose at ground level for kitchen/back of house

















# Development History

- **2012:** DRB Approves One Ocean Project

## FAR Analysis

174,560 sf permitted  
-172,753 sf built

**2,007 sf surplus floor area**

F.A.R.				
Maximum/Allowable: 2.0 x Lot Area <b>TOTAL MAXIMUM / ALLOWABLE; 87,380 sq.ft. x 2.0 = 174,760 sq.ft.</b>				
per height  ver  c	<b>ONE OCEAN - SOUTH</b> Actual / Provided F.A.R.	development	<b>ONE OCEAN - NORTH</b> Actual / Provided F.A.R.	development
	sub. lev. = 0 sq. ft. level 01 = 12,805 sq. ft. level 02 = 13,748 sq. ft. level 03 = 18,786 sq. ft. level 04 = 18,806 sq. ft. level 05 = 18,786 sq. ft. level 06 = 18,801 sq. ft. level 07 = 18,786 sq. ft. level 08 = 2,981 sq. ft. level 09 = 137 sq. ft. <hr/> F.A.R. 123,636 sq. ft.	level 0 = 0 units level 1 = 1 TH unit/comm. level 2 = 4 condo units level 3 = 6 condo units level 4 = 6 condo units level 5 = 6 condo units level 6 = 6 condo units level 7 = 6 condo units level 8 = 0 level 9 = 0 <hr/> total = 35 units	level 01 = 4,910 sq. ft. level 02 = 7,105 sq. ft. level 03 = 7,105 sq. ft. level 04 = 7,105 sq. ft. level 05 = 7,105 sq. ft. level 06 = 7,105 sq. ft. level 07 = 7,105 sq. ft. level 08 = 1,577 sq. ft. <hr/> F.A.R. 49,117 sq. ft.	level 1 = 3 TH units level 2 = 2 condo units level 3 = 2 condo units level 4 = 2 condo units level 5 = 2 condo units level 6 = 2 condo units level 7 = 2 condo units level 8 = 0 <hr/> total = 15 units
<b>TOTAL F.A.R. = 172,753 sq. ft.</b>	<b>TOTAL = 50 UNITS</b>			

# Chronology – 2012 Floor Area Definition

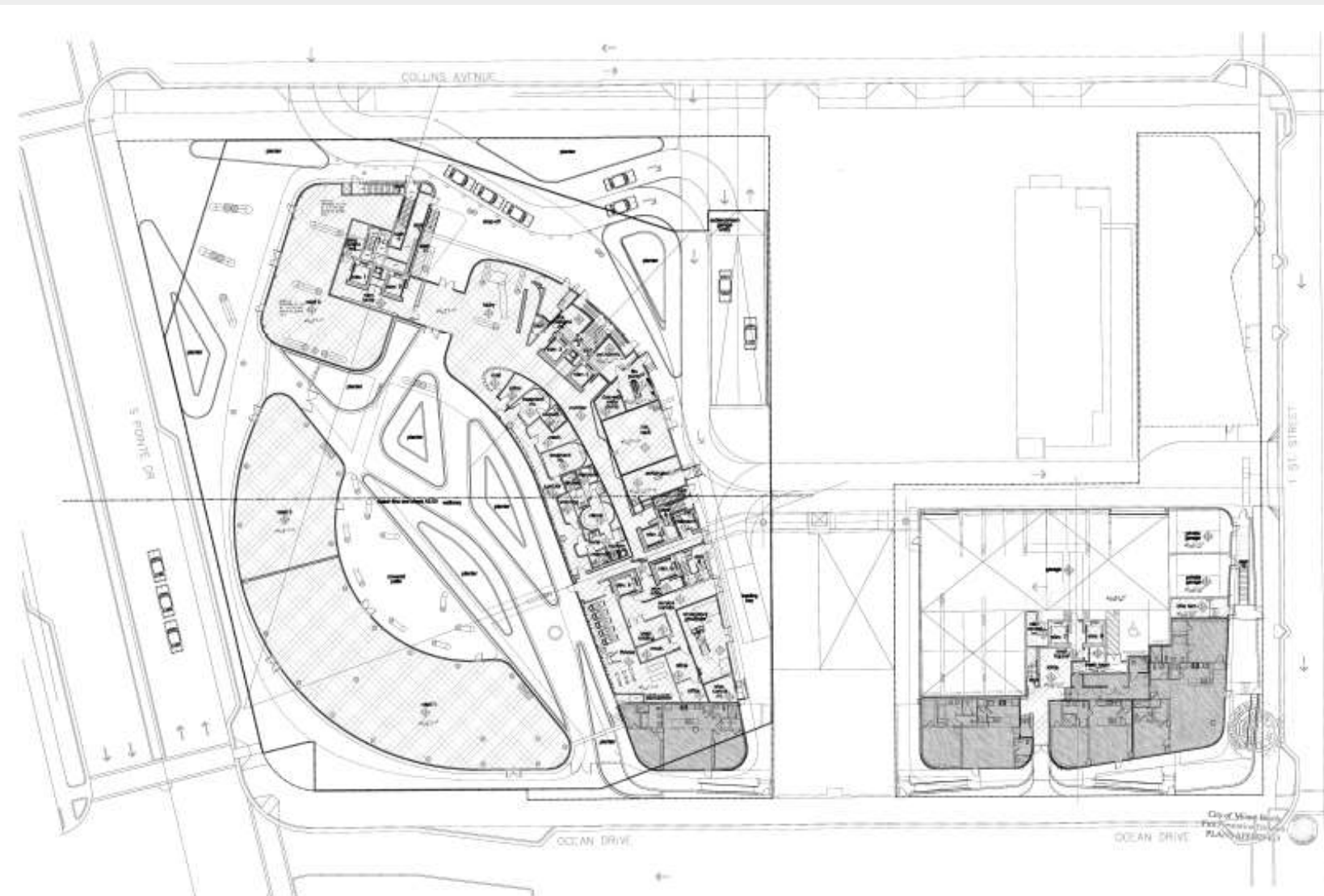
Sec. 114 – “*floor area*” exemptions

\* \* \*

(9) Floor area located below grade; however, if the ceiling is above grade, one-half of the floor area that is below grade shall be included in the floor area ratio calculation.

**Only 50% of floor area located below grade counts (the “Partial Basement Exception”)**





FAR floor plan - level 01 (lot)

FAR floor plan - level 1 (lobby)

FAR (shaded area @ 100%)	5,605 sq. ft.
FAR (hatched area) @ 50%	12,105 sq. ft.
<b>total FAR</b>	<b>17,710 sq. ft.</b>

Scale: 1/8" = 1'-0" (1/16" = 1'-0")

North  
1/16"

# Chronology – 2014 Floor Area Definition

*Floor area* means the sum of the gross horizontal areas of the floors of a building or buildings, measured from the exterior faces of exterior walls or from the exterior face of an architectural projection, from the centerline of walls separating two attached buildings. However, the floor area of a building shall not include the following unless otherwise provided for in these land development regulations.

- **2014:** City amends floor area definitions to eliminate partial basement exemption

- (1) Accessory water tanks or cooling towers.
- (2) Uncovered steps.
- (3) Attic space, whether or not a floor actually has been laid, providing structural headroom of less than seven feet six inches.
- (4) Terraces, breezeways, or open porches.
- (5) Floor space used for required accessory off-street parking spaces. However, up to a maximum of two spaces per residential unit may be provided without being included in the calculation of the floor area ratio.
- (6) Commercial parking garages and noncommercial parking garages when such structures are the main use on a site.
- (7) Mechanical equipment rooms located above main roof deck.
- (8) Exterior unenclosed private balconies.
- (9) Floor area located below grade when the top of the slab of the ceiling is located at or below grade; ~~however,~~ However, if any portion of the top of the slab of the ceiling is above grade, one-half of the floor area that is below grade shall be included in the floor area ratio calculation.



# Chronology – 2016 Floor Area Definition

- **2016:** City amends floor area definitions to reinstate Partial Basement Exception only for contributing historic properties

- (9) Floor area located below grade when the top of the slab of the ceiling is located at or below grade. However, if any portion of the top of the slab of the ceiling is above grade, the floor area that is below grade shall be included in the floor area ratio calculation. Despite the foregoing, for existing contributing structures that are located within a local historic district, national register historic district, or local historic site, when the top of the slab of an existing ceiling of a partial basement is located above grade, one-half of the floor area of the corresponding floor that is located below grade shall be included in the floor area ratio calculation.

# Proposed Ordinance

(9) Floor area located below grade when the top of the slab of the ceiling is located at or below grade. However, if any portion of the top of the slab of the ceiling is above grade, the floor area that is below grade shall be included in the floor area ratio calculation. Despite the foregoing, ~~for~~ when the top of the slab of an existing ceiling of a partial basement is located above grade, one-half of the floor area of the corresponding floor that is located below grade shall be included in the floor area ratio calculation in the following instances:

a. Existing contributing structures that are located within a local historic district, national register historic district, or local historic site.

b. Structures located within Block 1 Properties as more specifically defined in section 142-698(a).

**Reinstates Partial Basement Exception for One Ocean only**





# One Ocean Supports Enclosure



January 31, 2023

Honorable Mayor Dan Gelber and Members of the City Commission  
City of Miami Beach  
1700 Convention Center Drive, 4th Floor  
Miami Beach, Florida 33139

Honorable Members of the Planning Board  
c/o Rogelio Madan  
City of Miami Beach Planning Department  
1700 Convention Center Drive, 2<sup>nd</sup> Floor  
Miami Beach, Florida 33139

**RE: Construction of Wall Enclosing Terrace of Unit CU-1  
One Ocean Condominium Association, Inc. ("Association")**

Dear Mayor Gelber and Members of the City Commission:

We are writing this letter in connection with RKR Zeus, LLC's ("Owner") request to construct a wall enclosing the limited common element terrace appurtenant to Unit No. CU-1 facing the garden ("Enclosure Wall"). The Owner has submitted a request to the Association to, among other things, permit the Owner to construct the Enclosure Wall in accordance with the enclosed plans and drawings. The Association's Board of Directors is agreeable to approving the Owner's request to construct the Enclosure Wall subject to and conditioned on the Owner and the Association executing an agreement with terms that are acceptable to the parties.

If you should have any questions, please do not hesitate to contact us to discuss this matter.

Sincerely,

The Board of Directors,  
One Ocean Condominium Association, Inc.  
Print Name: Michael Kosnitzky  
Title: President

# SOFNA Supports Enclosure

**From:** Ronald Starkman <rpstarkman@gmail.com>  
**Sent:** Wednesday, May 17, 2023 4:31 PM  
**To:** belias@fowler-white.com; Tanya K. Bhatt; jonathan.planningboard@gmail.com; YCIMENTMB@gmail.com; Gayle Durham - CF Systems; magazinemiamibeach@gmail.com; melissa@melissabeattie.org  
**Cc:** Mooney, Thomas; John - One Ocean; Michael W. Larkin; Nicholas J. Rodriguez-Caballero; Keith Marks; Herman Aly S.; Jordy Levy; John Caprio; markphaskins@gmail.com; David Podein  
**Subject:** SOFNA Resolution Supporting PB23-0589 -- Zoning Amendment Clarifying FAR for Below Grade Areas

Dear Planning Board Members,

At a public meeting of the South of Fifth Neighborhood Association (SOFNA) held on May 15th, 2023 the SOFNA board voted to **support** a zoning amendment to clarify that only 1/2 of the area below grade should be used for the calculation of Floor Area for the commercial property at One Ocean Drive. SOFNA's position is based on support for this change from the One Ocean Condominium Association and the attractive architectural plan which was presented for the Phillippe Chow restaurant that will be leasing this space.

Sincerely,

SOFNA Board of Directors

Keith Marks -- President

Alyson Herman -- Vice President

Jordan Levy -- Treasurer

Ronald Starkman -- Secretary

John Caprio -- Director

Mark Haskins -- Director

David Podein -- Director





## No Referendum Required - City Charter Sec. 1.03(c)

(c) The 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 as it exists on the date of adoption of this Charter Amendment [November 7, 2001], including any limitations on floor area ratios which are in effect by virtue of development agreements through the full term of such agreements, 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; and

# Thank You

200 S. Biscayne Boulevard  
Suite 300, Miami, FL 33131

[www.brzoninglaw.com](http://www.brzoninglaw.com)

305.374.5300 office

305.377.6222 fax

[Info@brzoninglaw.com](mailto:Info@brzoninglaw.com)



# Chronology – 2004 Settlement

- **2004:** Settlement Agreement that results in specific FAR for 3 properties that eventually become:

A) One Ocean (2.0 FAR)

B) Marea (1.5 FAR)

C) Apogee (1.5 FAR)

## RESOLUTION NO. 2004-25650

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA APPROVING A SETTLEMENT AGREEMENT BY AND AMONG EAST COASTLINE DEVELOPMENT, LTD., WESTSIDE PARTNERS, LTD., AND OTHER ENTITIES COLLECTIVELY KNOWN AS THE "PORTOFINO ENTITIES," AND CERTAIN SUCCESSORS IN INTEREST THAT ARE PART OF THE RELATED GROUP OF FLORIDA, KNOWN AS THE "RELATED ENTITIES," AND THE CITY OF MIAMI BEACH AND THE MIAMI BEACH REDEVELOPMENT AGENCY, CONCERNING LITIGATION OVER CERTAIN PARCELS IN THE SOUTH POINTE AREA OF MIAMI BEACH KNOWN AS THE ALASKA PARCEL, GOODMAN TERRACE, THE HINSON PARCEL, BLOCKS 51, 52 AND BLOCK 1, AND INCLUDING A PORTION OF THE FEDERAL TRIANGLE, AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE SUCH AGREEMENT, AND THE TAKING OF NECESSARY AND APPROPRIATE STEPS FOR THE IMPLEMENTATION THEREOF.

WHEREAS, East Coastline Development, Ltd. ("East Coastline") and West Side Partners, Ltd. ("West Side"), among others (collectively known as the "Portofino Entities"), have initiated litigation against the City of Miami Beach (the "City") and the Department of Community Affairs in various actions respectively claiming damages and rights under the Bert J. Harris, Jr. Private Property Rights Protection Act, other civil rights violations and other relief in Circuit Court Case No. 98-13274 CA 01(30), and United States District Court Case No. 01-4921-CIV-Moreno, and Florida Division of Administrative Hearings Case No. 02-3283GM (the "Lawsuits"); and

WHEREAS, the Portofino Entities have conveyed certain parcels involved in such litigation to certain entities that are part of the Related Group of Florida (collectively known and referred to as the "Related Entities"); and