MIAMI BEACH
PLANNING DEPARTMENT

Staff Report & Recommendation — PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: September 26, 2023

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: **PB23-0592. 6th Street Overlay – CPS-2 Development Regulations.**

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

HISTORY
On July 28, 2021, at the request of Commissioner Steven Meiner, the City Commission referred a discussion item (Item C4 T) pertaining to the creation of a 6th Street Overlay between Washington Avenue and Alton Road, to the Land Use and Sustainability Committee (LUSC). On September 14, 2021, the LUSC discussed the item and continued it to October 19, 2021.

On October 19, 2021, the item was deferred to the December 2021 LUSC meeting. The December 2021 LUSC meeting did not take place and the item was automatically deferred to the first available meeting of 2022.

On March 4, 2022, the LUSC discussed and continued the item to the May 13, 2022 LUSC meeting with the following direction:

1. Engage in follow-up outreach to the affected stakeholders and provide a summary of the applicable comments and input.

2. Modify the northeast boundary of the overlay to remove Washington Avenue.

On May 13, 2022, the item was deferred to the June 6, 2022, LUSC meeting, with no discussion. On June 6, 2022, the item was deferred to the July 7, 2022, LUSC meeting, with no discussion. On July 7, 2022, the item was deferred to the September 28, 2022 LUSC meeting, with no discussion.

On September 28, 2022, the LUSC discussed the proposal, including additional revisions to the draft overlay, and continued the item to the November 18, 2022 LUSC meeting with direction to further explore allowable uses within the proposed overlay, as well as hold a publicly noticed community meeting in the neighborhood. On November 18, 2022, the item was deferred to the January 25, 2023, LUSC meeting, with no discussion.

On December 19, 2022, the city held an evening public meeting at the Miami Beach Police Department Community Room within the Flamingo Park neighborhood to discuss the proposed overlay. The hybrid meeting was advertised and well attended by residents and property owners both in person and via Zoom.

On January 25, 2023, the item was discussed and continued to the March 1, 2023 LUSC with direction to the Administration to develop incentives to transfer allowable intensity from the south side of 6th Street closer to 5th Street. On March 1, 2023, the LUSC recommended that the City Commission refer the Administration version of the proposed overlay ordinance to the Planning Board.

On March 27, 2023, the City Commission referred the attached ordinance to the Planning Board (Item C4 B).

On April 25, 2023, the Planning Board discussed the item and continued it to the May 23, 2023 meeting. On May 23, 2023, the Planning Board discussed the item and continued it to the June 27, 2023 meeting. On June 27, 2023, the Planning Board continued the item to the September 26, 2023 meeting.

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 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 improves the scale of development be providing for better transitions between the 5th Street corridor and the Flamingo Park residential neighborhood, as such the amendment is not out of scale with the needs of the neighborhood or the city.

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 floor area ratio (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 ensure that there are appropriate transitions in both use and scale between 5th Street and 6th Street, 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 is intended to provide safeguards to the quality of life of residents living in the Flamingo Park 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 will not create or increase traffic congestion from what is currently permitted, as the FAR is not being modified by this ordinance.

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

Consistent – The proposed change will improve penetration of air and light and air to the Flamingo Park neighborhood.

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

Consistent – The proposed change will 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 will 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.

Partially Consistent – The proposal should not impact the resiliency of the City with respect to sea level rise.

(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.

BACKGROUND

The area between 5th and 6th Street, from Washington Avenue to Alton Road, is currently zoned C-PS2 (commercial performance general mixed-use). The C-PS2 district permits a range of business, commercial, office and hotel use, as well as medium density residential development.

As noted on the attached map, the north side of 6th Street between Washington Avenue and Alton Road is comprised of the following zoning districts: RM-2, residential multifamily medium intensity (between Washington Avenue and Pennsylvania Court); GU, government use (between Meridian Avenue and Jefferson Avenue); CD-2, commercial medium intensity (between Lenox Court and Alton Road), with the remainder RM-1, residential multifamily low intensity.

The south side of 6th Street between Washington Avenue and Alton Road is comprised of C-PS2, general mixed-use commercial (between Washington Avenue and Alton Road) The center line of 6th Street between Washington Avenue and Lenox Court serves as the boundary for the Flamingo Park Historic District to the north and the Ocean Beach Historic District to the south.

The Flamingo Park neighborhood is bounded on the south by 6th Street, and on the north by Lincoln Lane south, and is generally between Alton Road and Washington Avenue. The Flamingo Park neighborhood is within a designated local historic district, and is composed predominantly of low scale, multi-family residential apartment buildings.

ANALYSIS

The low scale residential neighborhood within Flamingo Park is currently buffered from the higher intensity zoning CD-2 district on the west (Washington Avenue) by the RO (Residential Office) zoning district on Pennsylvania and Drexel Avenues. Additionally, in 2014, the Alton Road Historic District Buffer Overlay was created along the east side of Alton Road, in order to create a transition zone between that CD-2 commercial district. Over time, these transition areas have helped to mitigate the impacts of higher intensity commercial uses adjacent to lower intensity residential uses on the east and west sides of the Flamingo Park neighborhood.

Recently there have been several large, high intensity projects approved within the C-PS2 area between 5th and 6th streets, from Alton Road to Meridian Avenue. Most recently, a new hotel with a rooftop amenity deck and accessory outdoor café was approved for the property located at the southeast corner of 6th Street and Lenox Avenue. Given that there are a number of non-contributing properties, including several surface parking lots, in this area, as well as the designation of 5th Street as a major transit corridor, it is likely the City will see an increase in new development proposals in this C-PS2 area.

In order to ensure that future development proposals within the C-PS2 area north of 5th Street are compatible with and sensitive to the established, low scale area of Flamingo Park north of 6th Street, additional development regulations have been proposed as part of a new 6th Street Overlay. The attached draft ordinance amends the Land Development Regulations of the City Code (LDRs) creates the 6th Street Overlay and is specific to properties and uses that front on the south side of 6th Street, as well as all properties between 5th and 6th Street, from Lenox Avenue to Euclid Avenue.

The proposed overlay provides a meaningful buffer along the 6th Street corridor and has been carefully created, as the make-up of existing properties between 5th and 6th Streets is unique and includes variations in overall lot sizes and unified development sites. The intention of the overlay regulations is to foster a more compatible relationship in terms of scale, massing and land uses between the 6th Street corridor and the Flamingo Park residential neighborhood.

Also, this area contains several less than desirable uses, including surface parking lots, gas stations and other automobile related uses. The proposed overlay also considers the ability for multiple lots to be developed in a tangible manner. Attached are maps showing the following:

1. Existing unified development sites (current property owners map); and

2. Existing properties with buildings classified as ‘contributing’ in the City’s historic properties database (contributing buildings map).

These maps show how dispersed the area between 5th and 6th Street is both from a property ownership and unified site standpoint. Additionally, there is no strong concentration of contributing structures along 5th Street and the mid portions of most blocks.

In light of this, the overlay regulations do not create a barrier to establishing desirable unified sites, even if some of the lots within a unified site are close to or fronting 6th Street. Additionally, as 5th Street is a dedicated transit corridor there is an opportunity to maximize the development potential of these properties, including unification efforts with properties immediately north of 5th Street. Currently there are a number of highly underutilized parcels fronting on and north of 5th Street, as well as a number of uses that would be better suited elsewhere.

The following is a summary of the attached overlay regulations:

1. The overlay would apply to properties bounded by 6th Street to the north and 5th Street to the south, between the east side of Lenox Avenue and the west side of Washington Avenue.

2. Properties with frontage on Washington Avenue as of January 1, 2022 have been removed from the overlay. However, in the future, if a lot with frontage on Washington Avenue is unified with a lot that does not have frontage on Washington Avenue, such unified site shall therein after be subject to the overlay regulations. For properties with frontage on Washington Avenue, indoor entertainment would be allowed, as well as outdoor and open-air entertainment as a conditional use, as this is consistent with the character of the Washington Avenue corridor and the permitted uses on the surrounding blocks fronting Washington Avenue that are north of 5th Street.

3. The following shall apply to alcoholic beverage establishments within the proposed overlay:

    a. Operations in outdoor or open-air areas of an alcoholic beverage establishment shall cease no later than 12:00 a.m., except as otherwise provided herein.

    b. Alcoholic beverage establishments participating in the Outdoor Dining Concession Program shall not be permitted to have outdoor speakers abutting or adjacent to any public sidewalks.

    c. Outdoor bar counters shall be prohibited within 200 feet of the south side of 6th Street.

    d. Within 100 feet of the south side of 6th Street, outdoor restaurant and/or bar seating shall not exceed 100 seats, and only when associated with an indoor venue. Additionally, such outdoor seating shall only be permitted until 10:00 p.m. The Planning Board, pursuant to the Conditional Use criteria, may allow an increase in the number of seats, but not to exceed 200 seats.

    e. Within 200 feet of the south side of 6th Street, outdoor restaurant and/or bar seating located above the ground floor shall not exceed 100 seats, and only when associated with an indoor venue. Additionally, such outdoor seating shall only be permitted until 10:00 p.m. Notwithstanding the foregoing, the Planning Board, pursuant to the Conditional Use criteria, may allow for the following as it pertains to outdoor restaurant and/or bar seating located above the ground floor:

        i. For outdoor restaurant and/or bar seating located within 100 feet of the south side of 6th Street, the Planning Board may allow for an increase in the number of seats, but

not to exceed 200 seats.

ii. For outdoor restaurant and/or bar seating that is more than 100 feet from the south side of 6th Street, but less than 200 feet from the south side of 6th Street, the Planning Board may allow for an increase in the number of seats, but not to exceed 300 seats, as well allow for an increase in the permitted hours of operation, not to exceed 12:00 am.

4. Outdoor music, whether amplified or nonamplified, and television sets, shall be prohibited within 100 feet of the south side of 6th Street.

5. For properties with frontage on 6th Street, entry and exit doors, as well as access points (with the exception of required emergency egress) to hotels, apartment hotels and suite hotels, and food and beverage establishments serving alcohol, shall be subject to the following regulations:

   a. Entry and exit doors, as well as access points, shall not be permitted on 6th Street.

   b. A minimum setback of 20 feet from the south side of 6th Street, for all such entry and exit doors, as well as access points, shall be required.

   c. For properties which contain 200 feet or more of frontage along Euclid, Meridian, Jefferson, Michigan or Lennox Avenues, all entry and exit doors, as well as access points shall be setback a minimum setback of 100 feet from the south side of 6th Street.

   d. Subject to the approval of the Historic Preservation Board, for existing contributing structures the minimum setbacks from the south side of 6th Street may be waived or modified by the Historic Preservation Board, and the location of such entry and exit doors, and access points, may be permitted on 6th Street.

6. For properties with frontage on 6th Street, the storage or parking of vehicles above the ground level shall be setback a minimum of 100 feet from the south side of 6th Street.

7. The following uses shall be prohibited:

   a. The sale, lease or rental of any motor vehicles, including, but not limited to, automobiles, golf carts, low-speed vehicles, mopeds, motorcycles, motorized bicycles, and motorized scooters.

   b. Hostels.

   c. Convenience stores.

   d. Smoke shops and vape stores.

   e. Package stores and the retail sale of alcohol for off premise consumption.

8. The maximum permitted height within the first two platted lots south of 6th Street shall not exceed 50 feet, regardless of property use.

9. A minimum setback of five (5') feet shall be required along all front and side facing a street yards, in order to provide a clear pedestrian path that exceeds the width of the abutting sidewalk. This requirement may be waived by the Historic Preservation Board for portions of a property containing a contributing building.

10. If an alley exists, no front or street side curb cut shall be permitted. If no alley exists, any curb-cut required shall not exceed 12 feet in width.

11. Notwithstanding the provisions of section 142-1161 of these land development regulations, roof-top additions shall not exceed the applicable maximum building height set forth in the C-PS2 district.

Staff believes that the proposed overlay, as drafted, represents a tailored set of regulations that provides an appropriate transition area along 6th Street. The subject ordinance achieves a careful balance between protecting the quality of life for residents in the RM-1 district to the north of 6th Street, while allowing for the development and improvement of properties within the overlay south of 6th Street.

UPDATE

On April 25, 2023, the Planning Board briefly discussed and continued this item to the May 23, 2023 meeting. On May 23, 2023 the item was deferred to the June 27, 2023 meeting. The Flamingo Park Neighborhood Association (FPNA) also requested that the matter be continued and that the FPNA would be providing more specific information regarding their concerns with the current draft of the ordinance. The concerns primarily relate to creating an appropriate massing transition and further limits on "high-impact commercial uses".

As it pertains to an appropriate massing transition, the proposed ordinance provides for a height limit of 50 feet within the first 100 feet located south of 6th Street (first two platted lots south of fifth street) regardless of use. Currently, the height limit is 75 feet for residential and mixed-use buildings and 50 feet for commercial uses. FPNA would like to see the height restricted further. Staff has previously expressed concerns that restricting the height further would not allow sites that are entirely located within the first 100 feet south of 6th Street to fully develop based on the 2.0 FAR limit. For reference the RM-1 residential district to the north of 6th Street has a height limit of 35 feet; however, the FAR is limited to 1.25.

In regard to "high-impact commercial uses," FPNA would like to see additional limitations placed on such uses. Staff believes that the current proposal provides significant new limits that would minimize the impacts of alcoholic beverage establishments and incentivize such uses to be closer towards 5th Street, away from the residential areas to the north.

In summary, staff continues to believe that the proposed ordinance achieves a good balance between protecting the quality of life of residents north of 6th Street and the ability to develop commercial uses south of 6th Street. It is also important to note that the attached ordinance, which was also recommended by the LUSC, is the version referred to the Planning Board by the City

Commission. Should the Planning Board recommend significant changes to the ordinance, a new referral by the City Commission may be required.

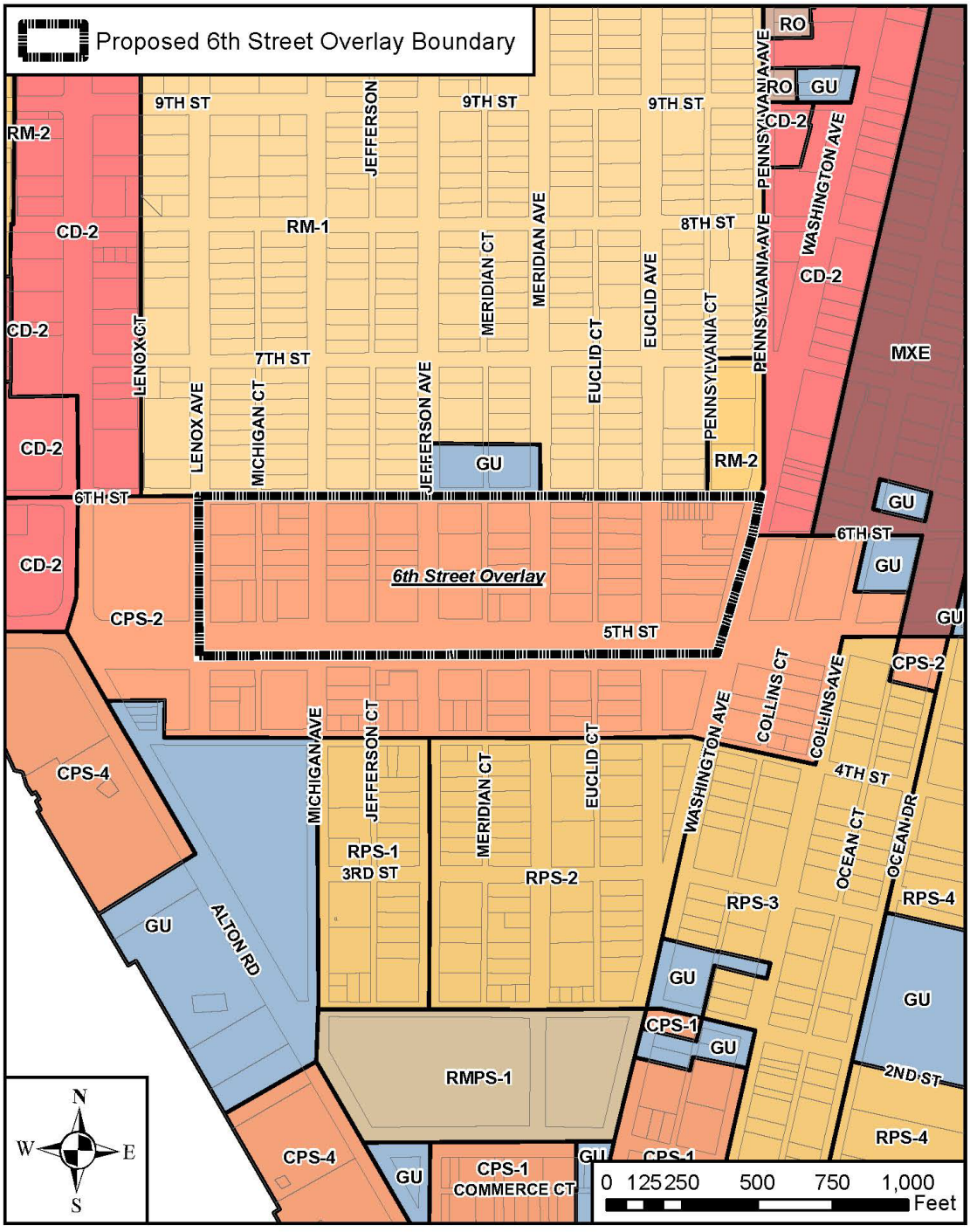
As the Resiliency Code took effect on June 1, 2023, the proposed ordinance has been reformatted to the structure of the new Code. The substance of the ordinance has not changed.

On August 30, 2023, staff met with representatives of FPNA to discuss the differences between their recommendations and the referred ordinance, as well as the next steps in the legislative process.

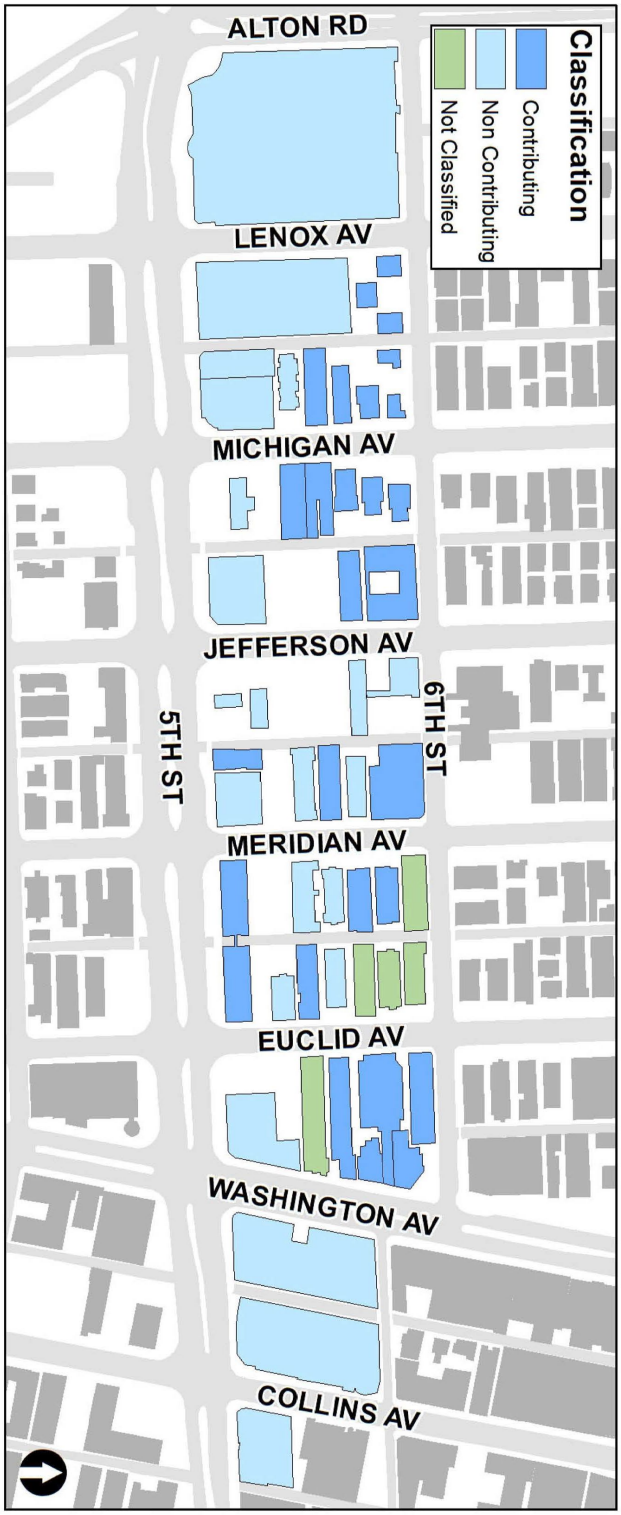
RECOMMENDATION

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.

6th Street Overlay - Zoning Districts Map



Contributing Properties to the Flamingo Park Historic District



Properties Under Unified Ownership



6th Street Overlay - C-PS2 Development Regulations

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE RESILIENCY CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 7, ENTITLED "ZONING DISTRICTS AND REGULATIONS, ARTICLE II, ENTITLED "DISTRICT REGULATIONS," SECTION 7.2.15, ENTITLED "PS PERFORMANCE STANDARD DISTRICT," AT SUB-SECTION 7.2.15.3, ENTITLED "COMMERCIAL PERFORMANCE STANDARDS DISTRICTS (C-PS), TO AMEND THE PERMITTED USES AND THE MAXIMUM PERMITTED HEIGHT WITHIN THE C-PS2 ZONING DISTRICT; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE

WHEREAS, the properties located on the south side of 6th Street that area east of Lenox Avenue are located in the Flamingo Park Historic district.

WHEREAS, residents of the Flamingo Park Historic District have expressed concerns with recent development trends along 6th Street that have impacted their neighborhood; and

WHEREAS, 5th Street has been designated as a transit corridor by the Miami-Dade County SMART plan; and

WHEREAS, the proposed "6th Street Overlay" is intended to provide an appropriate transition between the higher intensity 5th Street commercial corridor and the Flamingo Park Historic District residential neighborhood on the north side of 6th Street, while still allowing for new development to take place; and

WHEREAS, the proposed "6th Street Overlay" is intended to minimize the impact of certain commercial uses on nearby residential areas; and

WHEREAS, these regulations will ensure that the public health, safety, welfare, and morals will be preserved; and

WHEREAS, the amendments set forth below are necessary to accomplish the above objectives.

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

SECTION 1. Chapter 7, entitled "Zoning Districts And Regulations, Article II, entitled "District Regulations," Section 7.2.15, entitled "PS Performance Standard District," at Sub-Section 7.2.15.3 of the Land Development Regulations of the Code of the City of Miami Beach, Florida is hereby amended as follows:

7.2.15.3 Commercial Performance Standards Districts (C-PS)

a. **Purpose (C-PS)**

* * *

b. **Uses (C-PS)**

Uses permitted by right, uses permitted by conditional use permit and uses not permitted.

No building, structure or land shall be used or occupied except as a main permitted use, a conditional use, or an accessory use to a main permitted use, in accordance with the table and text of permitted uses. A use in any district denoted by the letter "P" is a use permitted by right in such district or subdistrict, provided that all requirements and performance standards applicable to such uses have been met. A use in any district denoted by the letter "C" is permissible as a conditional use in such district or subdistrict, provided that all requirements and performance standards applicable to such use have been met and provided that all requirements of Section 2.5.2, have been met. A use in any district denoted by the letter "Pro," or specifically listed as a use not permitted in the text of Section 7.2.15.2.b, is not permitted in such district or subdistrict. Uses permitted by right, as a conditional use, or as an accessory use shall be subject to all use regulations and performance standards contained herein and to such other regulations as may be applicable, including site plan review and design review. Uses not listed in the table of permitted uses are not permitted in the district or subdistrict. Notwithstanding any provision of this section, no use is permitted on a parcel, whether listed by right, as a conditional use or as an accessory use in such district, unless it can be located on such parcel in full compliance with all of the performance standards and other requirements of these land development regulations applicable to the specific use and parcel in question.

The following uses are permitted in the commercial performance standard districts:

USES TABLE (C-PS)	
	C-PS 1, 2, 3, 4
RESIDENTIAL	
Single-family	P
Townhome	P
Apartment	P
LODGING	
Apartment hotel pursuant to Section 7.5.4.5	P
Hotel pursuant to Section 7.5.4.5	P
Suite hotels pursuant to Section 7.5.4.5	P
Hostel pursuant to Section 7.5.4.5	Pro in C-PS1 and C-PS2 P in C-PS3 and C-PS4
OFFICE	
COMMERCIAL	
Commercial	P
Accessory outdoor bar counters, provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for an accessory outdoor bar counter which is located on a property that is abutting a property with an apartment unit, the accessory outdoor bar counter may not be operated or utilized between 8:00 p.m. and 8:00 a.m.	A (North of 5th Street only)
Kennel	P in C-PS2 and C-PS4 Pro in C-PS1 and C-PS3

USES TABLE (C-PS)	
Entertainment establishments	Pro P for properties fronting directly on Washington Avenue as of January 1, 2022 and located north of Fifth Street*
Outdoor entertainment establishments	Pro C for properties fronting directly on Washington Avenue as of January 1, 2022 and located north of Fifth Street*
Open air entertainment establishments	Pro C for properties fronting directly on Washington Avenue as of January 1, 2022 and located north of Fifth Street*
Pawnshops	Pro*
Dance Halls	Pro*
Neighborhood Impact Structure	C*
Gambling and casinos pursuant to section 7.1.8	Pro
Rentals or leases of mopeds, motorcycles, and motorized bicycles pursuant to section 7.1.8	Pro
Rentals or leases of any motor vehicle not described in section 7.1.8	Pro on properties located north of 5th Street, between the east side of Lenox Avenue and the west side of Washington Avenue, within the C-PS2 district P elsewhere
Sale of any motor vehicle, including, but not limited to, automobiles, golf carts, low-speed vehicles, mopeds, motorcycles, motorized bicycles, motorized scooters, and others described in section 7.1.8	Pro on properties located north of 5th Street, between the east side of Lenox Avenue and the west side of Washington Avenue, within the C-PS2 district P elsewhere
Convenience stores	Pro on properties located south of 5th Street and located north of 5th Street, between the east side of Lenox Avenue and the west side of Washington Avenue, within the C-PS2 district P elsewhere
Tobacco/vape dealers pursuant to section 7.5.5.9	Pro on properties located south of 5th Street and located north of 5th Street, between the east side of Lenox Avenue and the west side of Washington Avenue, within the C-PS2 district P elsewhere

USES TABLE (C-PS)	
Liquor store and the retail sale of alcohol for off-premises consumption	Pro on properties located south of 5th Street and located north of 5th Street, between the east side of Lenox Avenue and the west side of Washington Avenue, within the C-PS2 district P elsewhere
Neighborhood and Retail Fulfillment Centers pursuant to section 7.1.8	Pro
CIVIC	
Institutional	C
Religious Institutions with occupancy of 199 persons or less	P
Religious Institutions with occupancy of more than 199 persons	C
CIVIL SUPPORT	
EDUCATIONAL	
INDUSTRIAL	
Industrial Uses	Pro
OTHER	
Neighborhood impact establishments	C
Commercial and Non-Commercial Parking Lots and Garages	C
Key P—Main Permitted Use C—Conditional use A — Accessory use Pro—Prohibited Use *See Supplemental Use Regulations Below	

c. **Supplemental Use Regulations (C-PS)**

i. For purposes of this section, a car wash, filling station and any use that sells gasoline, automobiles or automotive or related repair uses are considered as industrial uses and are not permitted within any C-PS district.

ii. For purposes of this section, pawnshops~~, dance halls, outdoor entertainment establishments, open air entertainment establishments and entertainment establishments~~ are not permitted as main permitted or accessory use within any C-PS district.

iii. For purposes of this section, dance halls and entertainment establishments, including outdoor entertainment establishments and open air entertainment establishments, shall not be permitted as a main permitted or accessory use within any R-PS or C-PS district,

except for properties fronting directly on Washington Avenue as of January 1, 2022 and located north of Fifth Street.

iv. Commercial and noncommercial parking lots and garages shall be considered as a conditional use in all C-PS districts.

v. Neighborhood Impact Structure in the C-PS1, 2, 3, and 4 districts (even when divided by a district boundary line) shall be considered as a conditional use, which review shall be the first step in the process before the review by any of the other land development boards.

vi. Additional regulations for alcoholic beverage establishments located south of 5th Street. (MAP EXHIBIT-1)

1. The following additional regulations shall apply to alcoholic beverage establishments, whether as a main use, conditional use, or accessory use, that are located south of 5th Street: (MAP EXHIBIT-1)

I. Operations shall cease no later than 2:00 a.m., except as otherwise provided herein.

II. Operations in outdoor or open air areas of an alcoholic beverage establishment shall cease no later than 12:00 a.m., except as otherwise provided herein.

III. Alcoholic beverage establishments with sidewalk cafe permits shall only serve alcoholic beverages at sidewalk cafes during hours when food is served, shall cease sidewalk cafe operations no later than 12:00 a.m. (except as otherwise provided herein), and shall not be permitted to have outdoor speakers.

IV. Outdoor bar counters shall be prohibited.

V. No special events permits shall be issued.

VI. The provisions of this Section 7.2.15.3.c.v.1 shall not apply, to the extent the requirements of this subsection are more restrictive, to an alcoholic beverage establishment with a valid business tax receipt that is in application status or issued prior to June 28, 2016; or an establishment that has obtained approval for an alcoholic beverage establishment from a land use board, and which land use board order is active and has not expired prior to June 28, 2016.

i. Existing sidewalk cafes issued a sidewalk cafe permit as of June 28, 2016, for alcoholic beverage sales after 12:00 a.m., with food service, may continue to be renewed, but shall not serve alcoholic beverages later than 1:30 a.m., and alcoholic beverages may not be consumed at sidewalk cafes after 2:00 a.m.

ii. Should an alcoholic beverage establishment with a sidewalk cafe permit under (A), above, be delinquent in a payment obligation to the city, and/or receive two final adjudications of violations of section 12-5 of the General Ordinances (special event permit), section 46-152 of the General Ordinances (noise ordinance), or chapter 82, article IV, division 5 of the General Ordinances (sidewalk cafe ordinance), that alcoholic beverage establishment shall only be allowed to serve alcoholic beverages at its sidewalk cafe until 12:00 a.m. for a 12-month period.

2. Notwithstanding the uses permitted in Section 7.2.15.3.b (Uses Table) above, no alcoholic beverage establishment, or restaurant, may be licensed or operated as a main permitted, conditional, or accessory use in any open area above the ground

floor (any area that is not included in the FAR calculations) located south of 5th Street, MAP EXHIBIT-1. Except that:

I. Outdoor restaurant seating above the ground floor, not exceeding 40 seats, associated with indoor venues may be permitted until 8:00 p.m.

II. Outdoor music, whether amplified or nonamplified, and television sets shall be prohibited.

III. No commercial activity may be permitted on areas as described in this subsection v.2 between the hours of 8:00 p.m. and 10:00 a.m.

IV. Nothing herein shall prohibit residents of a multifamily (apartment or condominium) building, or hotel guests and their invitees to use these areas as described in this subsection v.2, which may include a pool or other recreational amenities, for their individual, personal use.

3. Any increase to an alcoholic beverage establishment's approved hours of operation shall meet the requirements of this section.

4. Variances from this Section 7.2.15.3.c.5 shall not be permitted. Special events shall not be permitted.

5. The following additional regulations shall apply to properties located within the C-PS2 district that are within 100 feet of the north side of 4th Street. In the event of a conflict within this division, the following provisions shall control:

I. Outdoor music and television sets shall be prohibited within 100 feet of the north side of 4th Street, unless approved by the Planning Board as a conditional use, pursuant to chapter 2, Article 5 section 2.5.2 of this Code. Outdoor music and television sets shall not exceed an ambient volume level (i.e. a volume that does not interfere with normal conversation).

II. Entrances/ exits to/ from hotels, apartment hotels, and suite hotels, as well as food and beverage establishments serving alcohol, shall be limited to side streets only, and shall not be permitted on 4th Street. Additionally, a minimum setback of 25 feet from the north side of 4th Street, for all public entrances to the aforementioned uses, shall be required. Notwithstanding the foregoing, this subsection shall not be applicable to existing contributing structures.

6. The following additional regulations shall apply to properties located from 5th Street to 6th Street, between the east side of Lenox Avenue and the west side of Washington Avenue, within the C-PS2 district, except for those lots with frontage on Washington Avenue as of January 1, 2022; where there is conflict within this division, the following shall control:

I. In the event a lot with frontage on Washington Avenue is unified with a lot that does not have frontage on Washington Avenue, such unified site shall therein after be subject to the regulations herein.

II. The following additional regulations shall apply to alcoholic beverage establishments, whether as a main use, conditional use, or accessory use:

i. Operations in outdoor or open-air areas of an alcoholic beverage establishment shall cease no later than 12:00 a.m., except as otherwise provided herein.

ii. Alcoholic beverage establishments with sidewalk cafe permits shall not be permitted to have outdoor speakers abutting or adjacent to any public sidewalks.

iii. Outdoor bar counters shall be prohibited within 200 feet of the south side of 6th Street.

iv. Within 100 feet of the south side of 6th Street, outdoor restaurant and/or bar seating shall not exceed 100 seats, and only when associated with an indoor venue. Additionally, such outdoor seating shall only be permitted until 10:00 p.m. The Planning Board, pursuant to the Conditional Use criteria, may allow an increase in the number of seats, but not to exceed 200 seats

v. Within 200 feet of the south side of 6th Street, outdoor restaurant and/or bar seating located above the ground floor shall not exceed 100 seats, and only when associated with an indoor venue. Additionally, such outdoor seating shall only be permitted until 10:00 p.m. Notwithstanding the foregoing, the Planning Board, pursuant to the Conditional Use criteria, may allow for the following as it pertains to outdoor restaurant and/or bar seating located above the ground floor:

[1] For outdoor restaurant and/or bar seating located within 100 feet of the south side of 6th Street, the Planning Board may allow for an increase in the number of seats, but not to exceed 200 seats.

[2] For outdoor restaurant and/or bar seating that is more than 100 feet from the south side of 6th Street, but less than 200 feet from the south side of 6th Street, the Planning Board may allow for an increase in the number of seats, but not to exceed 300 seats, as well allow for an increase in the permitted hours of operation, not to exceed 12:00 am.

III. Outdoor music, whether amplified or nonamplified, and television sets, shall be prohibited within 100 feet of the south side of 6th Street.

IV. For properties with frontage on 6th Street, with the exception of required emergency egress, all entry and exit doors, as well as access points to hotels, apartment hotels and suite hotels, and food and beverage establishments serving alcohol, shall not be permitted on 6th Street. Additionally, a minimum setback of 20 feet from the south side of 6th Street, for all such entry and exit doors, as well as access points, shall be required. Notwithstanding the foregoing, subject to the approval of the Historic Preservation Board, the location of such entry and exit doors, and access points, may be permitted on 6th Street for existing contributing structures.

V. For properties with frontage on 6th Street, which contain 200 feet or more of frontage along Euclid, Meridian, Jefferson, Michigan or Lennox Avenues, with the exception of emergency egress, all entry and exit doors, as well as access points to hotels, apartment hotels and suite hotels, and food and beverage establishments serving alcohol, shall not be permitted on 6th Street. Additionally, a minimum setback of 100 feet from the south side of 6th Street, for all such entry and exit doors, as well as access points, shall be required. Notwithstanding the foregoing, subject to the approval of the Historic Preservation Board, the location of such entry and exit doors, and access points, may be permitted on 6th Street for existing contributing structures, and

the minimum setback of 100 feet from the south side of 6th Street may be waived or modified by the Historic Preservation Board.

VI. For properties with frontage on 6th Street, the storage or parking of vehicles above the ground level shall be setback a minimum of 100 feet from the south side of 6th Street.

* * *

f. **Commercial Performance Standard Area Requirements (C-PS)**

i. Definitions. For purposes of this district, the following parcels are defined as set forth below:

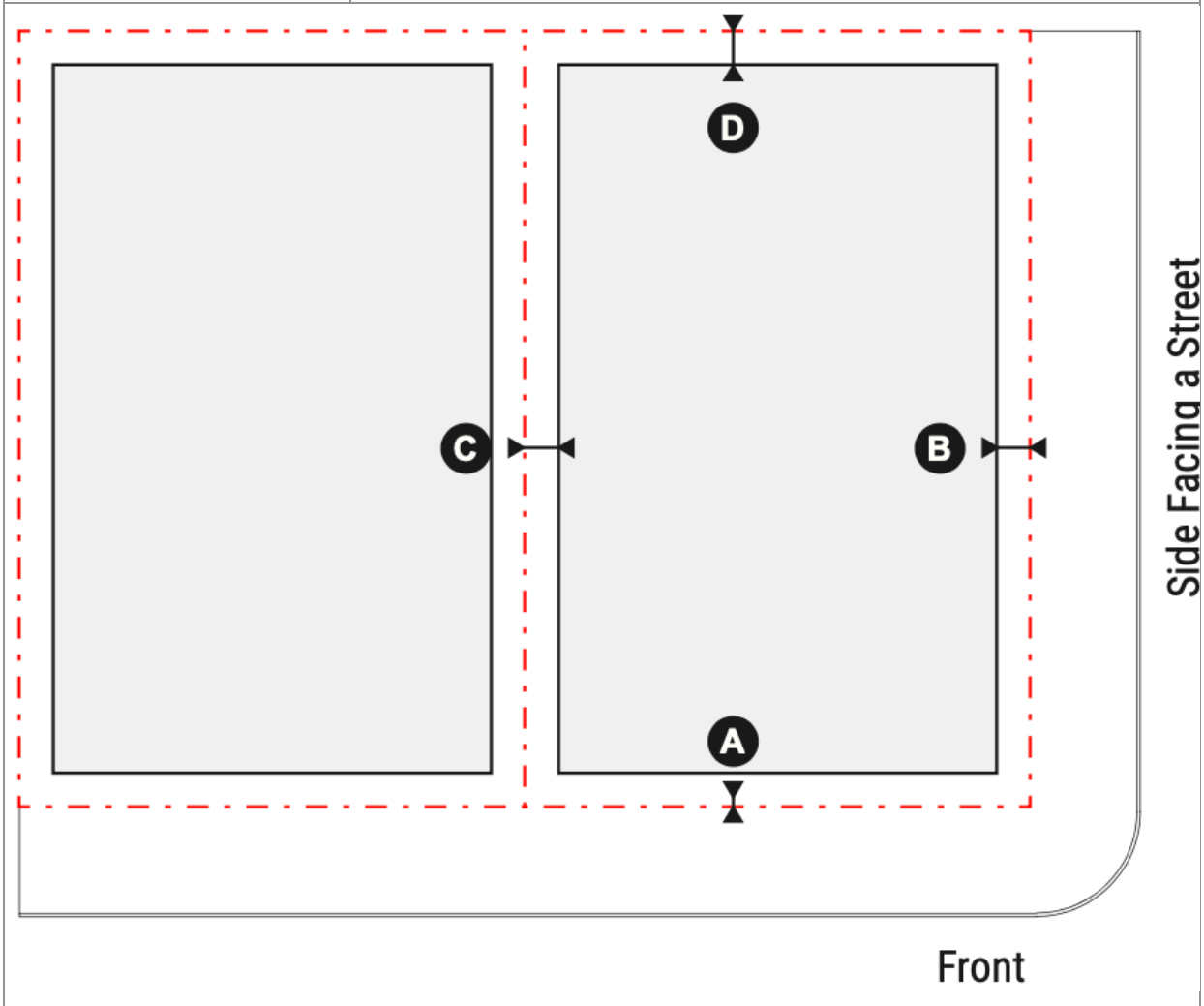
1. The “Block 51 Properties” shall mean Lots 5-9, 11, 12, 18-30 (and adjacent 10-foot strip of land), Block 51, Ocean Beach Addition No. 3, PB2, Pg81, Public Records of Miami-Dade County. MAP EXHIBIT-3
2. The “Block 51 Swap Property” shall mean Lot 4, Block 51, Ocean Beach Addition No. 3, PB2, Pg81, Public Records of Miami-Dade County. MAP EXHIBIT-4
3. The “Block 52 Properties” shall mean Lots 4-11, Block 52, Ocean Beach Addition No. 3, PB2, Pg81, Public Records of Miami-Dade County. MAP EXHIBIT-5
4. The “Block 1 Properties” shall mean Lots 1-3, 5-13 (and alley adjacent thereto), 17, Block 1, Ocean Beach Florida, PB2, Pg38, Public Records of Miami-Dade County. MAP EXHIBIT-6
5. The “Goodman Terrace and Hinson Parcels” shall mean those properties commonly known as the Goodman Terrace and Hinson Parcels, located south of South Pointe Drive and West of Washington Avenue, whose legal description is on file in the City Clerk’s Office. MAP EXHIBIT-7
6. The “Retail Parcel” shall mean the commercial building located south of South Pointe Drive, between Washington Avenue and the theoretical extension of Collins Avenue. MAP EXHIBIT-8

DEVELOPMENT REGULATIONS TABLE (C-PS)				
	C-PS1	C-PS2	C-PS3	C-PS4
Maximum FAR	1.0 1.5 for the Block 51 Properties (MAP EXHIBIT-3) and Block 52 Properties (MAP EXHIBIT-5) 2.0 for the Block 1 Properties (MAP EXHIBIT-6)	2.0	2.5	2.5

DEVELOPMENT REGULATIONS TABLE (C-PS)				
FAR Residential and/or hotel development	1.5 (4)	1.75 (5)	2.5 (6) (except on the Goodman Terrace and Hinson Parcels (MAP EXHIBIT-7), the FAR shall be that necessary to achieve 305,500 square feet (estimated at 3.2 FAR), and 300 feet height maximum for the Goodman Terrace and Hinson Parcels, and open space ratio 0.60 measured at or above grade)	2.5 (6) (open space ratio shall be 0.60 measured at or above grade)
Maximum Density (Dwelling Units per Acre)	80 DUA (80% bonus for workforce or affordable units)	106 DUA (80% bonus for workforce or affordable units)	125 DUA (80% bonus for workforce or affordable units)	125 DUA (80% bonus for workforce or affordable units)
MINIMUM UNIT SIZES (SQUARE FEET)	C-PS1	C-PS2	C-PS3	C-PS4
Apartments/Multifamily Units				
New Construction	650 SF	600 SF	550 SF	550 SF
Non-elderly and elderly low and moderate income housing	400 SF			
Workforce Housing	400 SF			
Rehabilitated Buildings	400 SF			
Lodging and Hotel Units	15%: 300 SF—335 SF 85%: 335 SF +			
MINIMUM AVERAGE UNIT SIZES (SQUARE FEET)	C-PS1	C-PS2	C-PS3	C-PS4
Apartments/Multifamily Units				
New Construction	900 SF (9) (10)	850 SF (9) (10)	800 SF (9) (10)	800 SF (9) (10)

DEVELOPMENT REGULATIONS TABLE (C-PS)				
Non-elderly and elderly low and moderate income housing	400 SF (9) (10)			
Workforce Housing	400 SF (9) (10)			
Rehabilitated Buildings	550 SF (9) (10)			
Lodging and Hotel Units	N/A			
LOT OCCUPATION	C-PS1	C-PS2	C-PS3	C-PS4
Minimum Lot Area (square feet)	6,000 SF			
Minimum Lot Width (feet)	50 feet			
BUILDING SETBACKS				
	C-PS1	C-PS2	C-PS3	C-PS4
Building setbacks for residential and/or hotel development	Pursuant to R-PS2 district regulations except maximum building height for residential and mixed use buildings shall be 75 feet	Pursuant to R-PS3 district regulations except maximum building height for residential and mixed use buildings shall be 75 feet	Pursuant to R-PS4 district regulations	Pursuant to R-PS4 district regulations
Front Setback (feet) Ⓐ	C-PS1	C-PS2	C-PS3	C-PS4
Subterranean	0 feet			
Pedestal	0 feet (2) (3) 5 feet – for residential (2) (3)			
Tower	20 feet from adjacent streets above the first 40 feet in height for the Block 1 Properties (MAP EXHIBIT-6), Block 51 Properties (except lots 11 and 12) (MAP EXHIBIT-3), Block 51 Swap Properties (MAP EXHIBIT-4) and Block 52 Properties (MAP EXHIBIT-5) (2) (3)			
Side, Facing a Street Setback (feet) Ⓑ	C-PS1	C-PS2	C-PS3	C-PS4
Subterranean	0 feet			
Pedestal	0 feet (2) Residential uses shall follow the R-PS1, 2, 3, 4 setbacks (See Section 7.2.15.2.f)			
Tower				
Side, Interior Setback (feet) Ⓒ	C-PS1	C-PS2	C-PS3	C-PS4
Subterranean	0 feet			

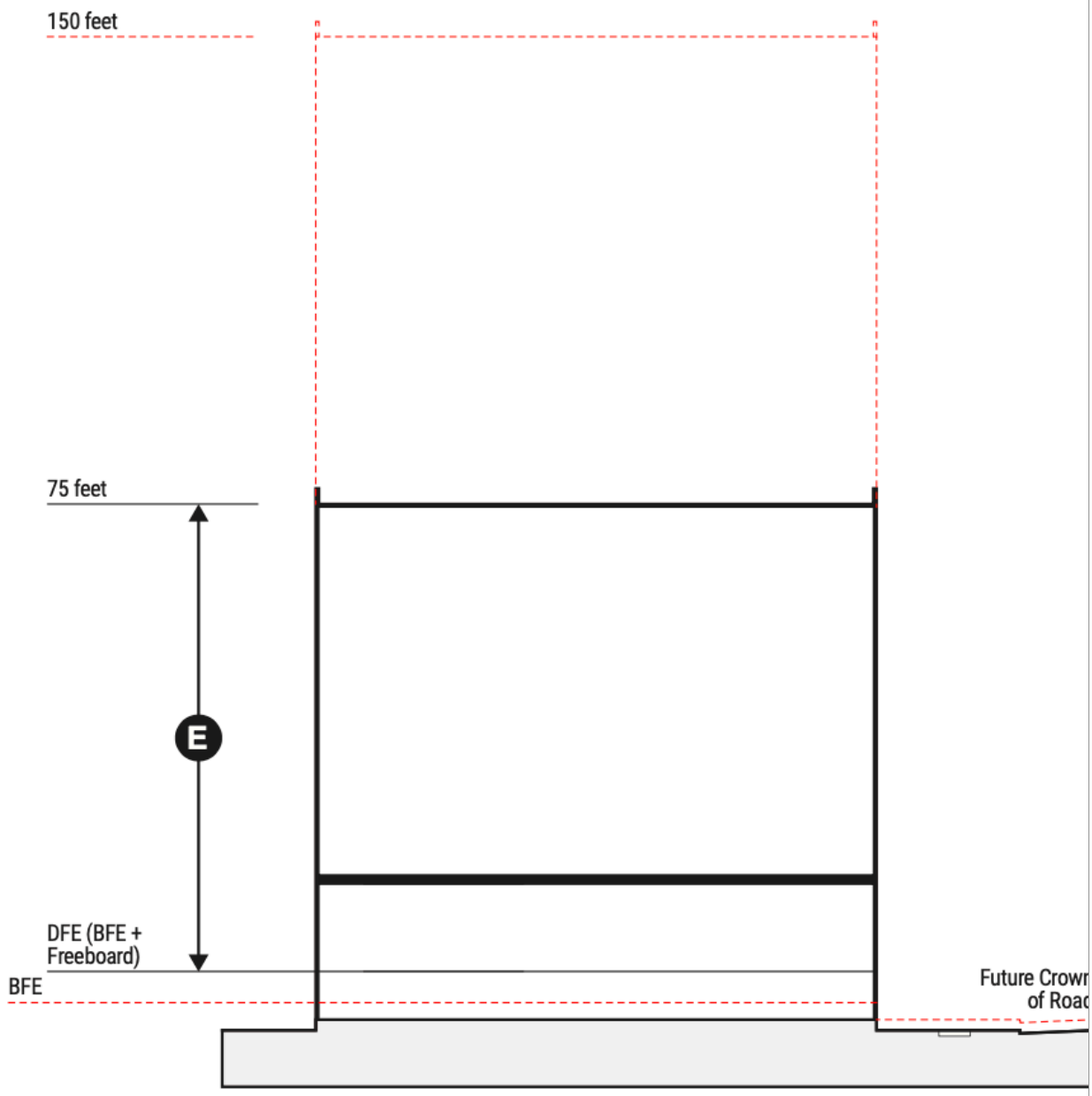
DEVELOPMENT REGULATIONS TABLE (C-PS)				
Pedestal	0 feet 7.5 feet - when abutting a residential district Residential uses shall follow the R-PS1, 2, 3, 4 setbacks (See Section 7.2.15.2.f)			
Tower				
Rear Setback (feet) Ⓓ	C-PS1	C-PS2	C-PS3	C-PS4
Subterranean	0 feet			
Pedestal	5 feet 10 feet - when abutting a residential district 3.5 feet for the Block 1 Properties (MAP EXHIBIT-6), Block 51 Properties (except lots 11 and 12) (MAP EXHIBIT-3), Block 51 Swap Properties (MAP EXHIBIT-4) and Block 52 Properties (MAP EXHIBIT-5) 0 feet - separated by a waterway			
Tower				



BUILDING HEIGHT				
	C-PS1	C-PS2	C-PS3	C-PS4
Maximum Height (feet) Ⓔ	40 feet (1) 75 feet (1) – for the Block 51	50 feet (1) – East of Lenox Ave (MAP	80 feet (1)	150 feet (1)

DEVELOPMENT REGULATIONS TABLE (C-PS)				
	Properties (MAP EXHIBIT-3), the Block 51 Swap Property (MAP EXHIBIT-4). Block 52 Properties (MAP EXHIBIT-5)., and Block 1 Properties (MAP EXHIBIT-6). 75 feet - For residential and mixed use buildings	EXHIBIT-9) 75 feet – West of Lenox Ave (MAP EXHIBIT-10) 75 feet - For residential and mixed use buildings 75 feet – office building (7) (8) (11)		

DEVELOPMENT REGULATIONS TABLE (C-PS)



1. An additional 5 feet of height is allowed if the nonresidential first habitable level is at least 14 feet in height, as measured from DFE to the top of the second floor slab. This provision shall not apply to existing historic districts or existing overlay districts (existing as of 7/26/2017), or commercial buildings immediately adjacent to residential district not separated by a street. However, an applicant may seek approval from the historic preservation board or design review board, as may be applicable, to increase height in accordance with the foregoing within any historic district or overlay district created after 7/26/2017
2. All required setbacks shall be considered as minimum requirements except for the pedestal front yard setback and the pedestal side yard facing a street setback,

DEVELOPMENT REGULATIONS TABLE (C-PS)

which shall be considered as both a minimum and maximum requirements, except for the Goodman Terrace and Hinson Parcels (MAP EXHIBIT-7).

3. For lots greater than 100 feet in width the front setback shall be extended to include at least one open court with a minimum area of 3 square feet for every linear foot of lot frontage, except for those properties located in the C-PS1 district described in Section 7.2.15.3.f.i.
4. Pursuant to All R-PS2 district regulations.
5. Pursuant to all R-PS3 district regulations, except maximum height for residential and mixed use buildings shall be 75 feet.
6. Pursuant to all R-PS 4 district regulations.
7. Notwithstanding the building height regulations set forth above, for unified development sites in the C-PS2 district with a lot line on the south side of 5th Street, which are located west of Jefferson Avenue, the maximum building height for office buildings is 75 feet.
8. Notwithstanding the building height regulations set forth above, in the C- PS2 district, the maximum permitted height within 100 feet of the north side of 4th Street shall not exceed 50 feet, regardless of the use of the property. This paragraph shall not apply to unified development sites governed by note 7. above
9. The number of units may not exceed the maximum density set forth in the comprehensive plan.
10. Developments located in zoning districts that do not prohibit the short-term rental of residential apartment units shall be eligible for an exemption from the average unit size requirements established above, subject to the following conditions:

- **Density**. The development shall not be permitted to exceed the maximum residential density established in the Comprehensive Plan or Land Development Regulations.
- **Minimum Unit Size**. This incentive shall not be construed to permit any unit that is smaller than the minimum allowable unit size for the type of unit being proposed.
- **Covenant**. In order to be eligible for this voluntary average unit size incentive, the property owner, at the owner's sole discretion, shall voluntarily execute a restrictive covenant running with the land, in a form approved by the City Attorney, affirming that in perpetuity no residential units on the property shall be leased or rented for a period of less than six months and one day.

11. Notwithstanding the building height regulations set forth above, the following regulations shall apply to properties located between 5th Street and 6th Street, within the C-PS2 district, except for those lots with frontage on Washington Avenue as of January 1, 2022; where there is a conflict within this division, the following shall control:

    I. In the event a lot with frontage on Washington Avenue is unified with a lot that does not have frontage on Washington Avenue, such unified site shall therein after be subject to the regulations herein.

DEVELOPMENT REGULATIONS TABLE (C-PS)	
II.	The maximum permitted height within the first two platted lots south of 6th Street shall not exceed 50 feet, regardless of property use.
III.	A minimum setback of five (5') feet shall be required along all front and side facing a street yards, in order to provide a clear pedestrian path that exceeds the width of the abutting sidewalk. This requirement may be waived by the Historic Preservation Board for portions of a property containing a contributing building.
IV.	If an alley exists, no front or street side curb cut shall be permitted. If no alley exists, any curb-cut required shall not exceed 12 feet in width.
V.	Notwithstanding the provisions of section 7.5.2.1 of these land development regulations, roof-top additions shall not exceed the applicable maximum building height set forth in this note.

SECTION 2. REPEALER.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith be and the same 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 2023

_____
Dan Gelber, Mayor

ATTEST:

_____
Rafael E. Granado, City Clerk.

APPROVED AS TO FORM AND
LANGUAGE AND FOR EXECUTION

_____
City Attorney Date

First Reading: October 18, 2023
Second Reading: December 13, 2023
Verified by: _____
Thomas R. Mooney, AICP
Planning Director