

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: October 23, 2018

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **500-700 Alton Road – 6th Street Vacation.**

REQUEST

PB 18-0231. 500-700 Alton Road – 6th Street Vacation. SEEKING AN APPROVAL OF THE PLANNING BOARD, BY A 4/7 VOTE, PURSUANT TO CITY CHARTER SECTION 1.03(b)(4), AND SECTION 118-51(11) OF THE CITY'S LAND DEVELOPMENT REGULATIONS, OF THE PROPOSED SALE, EXCHANGE, CONVEYANCE OR LEASE OF TEN YEARS OR LONGER OF CERTAIN CITY-OWNED PROPERTY; TO WIT: THAT PORTION OF 6TH STREET BETWEEN THE EASTERLY RIGHT-OF-WAY (ROW) LINE OF WEST AVENUE AND THE WESTERLY ROW LINE OF ALTON ROAD WHICH IS PROPOSED TO BE VACATED AND WHICH CONSISTS OF A 50 FOOT RIGHT-OF-WAY (ROW) CONTAINING APPROXIMATELY 14,130 SQUARE FEET IN TOTAL LOT AREA, AS SHOWN ON (A) THE AMENDED PLAT OF THE FLEETWOOD SUBDIVISION, RECORDED IN PLAT BOOK 28, PAGE 34 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY (THE "FLEETWOOD PLAT") AND (B) THE AMENDED PLAT OF AQUARIUM SITE, RECORDED IN PLAT BOOK 21, PAGE 83 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, IN FAVOR OF SOUTH BEACH HEIGHTS I, LLC, 500 ALTON ROAD VENTURES, LLC, 1220 SIXTH, LLC AND KGM EQUITIES, LLC (COLLECTIVELY, THE "APPLICANT"); SUBJECT TO AND CONDITIONED UPON APPLICANT'S EXECUTION OF A DEVELOPMENT AGREEMENT THAT AMONGST OTHER THINGS (1) GRANTS TO THE CITY OF A 50 FOOT WIDE PERPETUAL UTILITY, ROADWAY AND PEDESTRIAN ACCESS EASEMENT ACROSS THE VACATED CITY ROW; AND (2) ENSURES APPLICANT'S TRANSFER TO THE CITY OF A 3+ ACRE PARK, CONSTRUCTED BY THE APPLICANT WITHIN THE 6 & 7TH STREET BLOCK BETWEEN WEST AVENUE AND ALTON ROAD.

RECOMMENDATION:

Approve the vacation in accordance with the attached resolution.

HISTORY

On July 25, 2018, at the request of Mayor Dan Gelber, the City Commission referred the proposed vacation of 6th Street, between Alton Road and West Avenue, to the Finance and City Wide Projects Committee (FCWPC).

On July 27, 2018, the Finance and City Wide Projects Committee (FCWPC) discussed the proposal to vacate 6th street between Alton Road and West Avenue, as part of the creation of a Unified Development Site involving the abutting properties to the immediate north and south of 6th street. The FCWPC directed the City Attorney to begin drafting the required ROW vacation as part of a comprehensive term sheet for the development proposal.

The properties along the 500-700 block of Alton Road and West Avenue are currently located within three separate zoning districts (CPS-2, CD-2 and RM-2). The 500 block is separated from the 600-700 block by a dedicated public right-of-way (6th Street). Currently there is an active, approved mixed use development project for the 500-700 blocks, which is broken down as follows:

Consistent – The vacated ROW will continue to be used in a similar fashion as it is used today. As part of the overall development of the area that will incorporate the ROW, improvements will be made for pedestrians and bicyclists in the vicinity. This is

consistent with Comprehensive Plan Transportation Element Objective 5, which states the following:

Objective 5: Pedestrian and Bicycle Circulation

The City shall strive to increase and promote the safe and convenient use of its bicycle and pedestrian networks including the creation, extension, and improvements of bicycle and pedestrian facilities between and among present and potential major generators of bicycle and pedestrian traffic.

Additionally, the proposal will allow for improved access the Biscayne Bay Baywalk. This is consistent with the Comprehensive Plan Conservation/Coastal Zone Management Element Objective 10, which states the following:

Objective 10: PUBLIC SHORELINE ACCESS

Increase the amount of public access to the beach or shoreline consistent with the estimated public need.

- b. **If a sale, a determination as to whether or not alternatives are available for the acquisition of private property as an alternative to the proposed disposition or sale of city-owned properties, including assembly of adjacent properties, and impact of such assemblage on the adjacent neighborhood and the city in general.**

Consistent – There are no other alternatives available for the acquisition of private property, as the acquisition of 6th Street is required in order to create a Unified Development Site.

- c. **The impact on adjacent properties, including the potential positive or negative impacts such as diminution of open space, increased traffic, adequate parking, noise level, enhanced property values, improved development patterns, and provision of necessary services.**

Consistent – No negative impacts are anticipated by the proposal. The property being vacated by the City is within the CD-2 and CPS-2 future land use categories. These categories each allow for a maximum floor area ratio (FAR) of 2.0. The proposed vacation of the ROW will allow approximately 28,260 additional square feet to be developed within a unified development site when combined with the abutting parcels to the north and south.

- Though a ROW is proposed to be vacated, no construction is being proposed within the vacated ROW; therefore there will be no diminution of open space.
- Vehicular and pedestrian access will be maintained, with no change in pedestrian or vehicular circulation as a result of the vacation. The use of the floor area that is made available from the vacation of the ROW could be used for up to 28,260 SF of floor area or up to approximately 25 residential units. If the floor area is utilized for high rise residential development, there is the potential to generate approximately 19 peak hour trips if used for residential purposes. This does not represent a significant increase in peak hour volumes, and the level of service adopted in the Comprehensive Plan will continue to be maintained along Alton Road/Washington Avenue Sub Area within the South Beach Transportation Concurrency Management Area (TCMA). No noise level impacts are anticipated from the vacation, as the use of the property will remain similar in

nature.

- The appearance of the property will improve with the proposed vacation, as it is expected that a future development will be providing landscaping, pavers, improved pedestrian paths, and other enhancements. These improvements should enhance surrounding property values.
- Vacation of the ROW will allow for improved utilization of the adjacent parcels by allowing for the creation of a unified development site and the movement of floor area between the 500 and 700 blocks and lead to the development of a public park on the adjacent site.
- Vacation of the ROW way will not impact adopted levels of service for public infrastructure. Compliance with water, sewer, stormwater, parks, and transportation concurrency for utilization of the ROW's floor area if utilized, along with the impact of any related development, will be determined and mitigated in conjunction with the building permit process; however no additional utilities or infrastructure are expected to be necessary specifically as result of the ROW vacation.
- Vacation of the ROW will not impact utilities; such as electric, water, sewer, and stormwater transmission, because a utility easement will be provided to the City.

d. Determination as to whether or not the proposed use is in keeping with the surrounding neighborhood, blocks views or creates other environmental intrusions, and evaluation of design and aesthetic considerations of the project.

Consistent - The surrounding neighborhood is not expected to be negatively affected. The proposed ROW vacation will result in lower scale development throughout much of the unified site, while allowing the residential floor area to be within a limited area of the site, and in a manner that will minimize impacts to views. No environmental intrusions will be created by the proposed ROW vacation. The proposed public park that will be developed as a result of the vacation can be utilized to improve long-standing environmental issues.

e. A traffic circulation analysis and plan that details the impact of projected traffic on the immediate neighborhood and how this impact is to be mitigated.

Consistent - Vehicular and pedestrian access will be maintained, with no change in pedestrian or vehicular circulation as a result of the vacation. The use of the floor area that is made available from the vacation of the ROW could be used for up to 28,260 SF of floor area or up to approximately 25 residential units. If the floor area is utilized for high rise residential development, there is the potential to generate approximately 19 peak hour trips if used for residential purposes. This does not represent a significant increase in peak hour volumes, and the level of service adopted in the Comprehensive Plan will continue to be maintained along Alton Road/Washington Avenue Sub Area within the South Beach Transportation Concurrency Management Area (TCMA).

f. Determination as to whether or not the proposed use is in keeping with a public purpose and community needs, and improving the community's overall quality of life.

Consistent - This proposal expands the City's revenue base by adding untaxed public property to the tax rolls. The additional floor area that is made available to the adjacent properties will create additional taxable value. In addition, the vacation will result in the development of a public park on the site to the north of the ROW that will be paid for by the property owner and improvements will be made to the ROW area while maintaining vehicular, pedestrian, and utility access.

- g. If a lease is proposed, the duration and other nonfinancial terms of the lease.**
Not Applicable

CONCLUSION

The vacation of the subject public ROW is consistent with the aforesated criteria, based on the submitted proposals for the Unified Development Site. The vacation of the 6th Street public ROW will generate no negative impacts for the surrounding area. The property would continue to serve in much the same manner; as utility, vehicular, and pedestrian access will continue to be provided. As such, staff recommends that the Planning Board approve the vacation in accordance with the provisions and requirements of the attached resolution.

TRM/RAM/AG

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RESOLUTION NO.

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, PURSUANT TO SECTION 82-37(a)(2) OF THE CITY CODE, APPROVING, ON FIRST READING, THE VACATION OF 6TH STREET, A 50 FOOT RIGHT OF WAY ("CITY ROW") EAST OF ALTON ROAD AND WEST OF WEST AVENUE, CONTAINING APPROXIMATELY 13,902 SQUARE FEET IN TOTAL LOT AREA, SAID VACATION IN FAVOR OF SOUTH BEACH HEIGHTS I, LLC, 500 ALTON ROAD VENTURES, LLC, AND 1220 SIXTH, LLC (COLLECTIVELY, THE "APPLICANTS"); SETTING A PUBLIC HEARING FOR SECOND READING FOR DECEMBER 12, 2018; FURTHER, PURSUANT TO SECTION 82-39(a) OF THE CITY CODE, WAIVING BY A 5/7THS VOTE, THE COMPETITIVE BIDDING REQUIREMENTS OF THE CITY CODE, AS THE CITY COMMISSION FINDS THAT THE PUBLIC INTEREST WOULD BE SERVED BY WAVING SUCH CONDITION; ADDITIONALLY, PURSUANT TO SECTION 82-38 OF THE CITY CODE, ACCEPTING THE CITY'S PLANNING DEPARTMENT'S PLANNING ANALYSIS RELATED TO THE PROPOSED VACATION; AND FURTHER SUBJECT TO AND CONDITIONED UPON APPLICANT'S EXECUTION OF A DEVELOPMENT AGREEMENT THAT AMONGST OTHER THINGS (1) GRANTS TO THE CITY OF A 50 FOOT WIDE PERPETUAL UTILITY, ROADWAY AND PEDESTRIAN ACCESS EASEMENT ACROSS THE VACATED CITY ROW; AND (2) ENSURES APPLICANT'S TRANSFER TO THE CITY OF AT A MINIMUM , A 3.0 ACRES PARK, CONSTRUCTED BY THE APPLICANT WITHIN THE 6 & 7TH STREET BLOCKS, BETWEEN WEST AVENUE AND ALTON ROAD; AND, FINALLY, WITH SUCH VACATION SUBJECT TO AND CONTINGENT UPON APPLICANT'S SATISFACTION .OF THE CONDITIONS SET FORTH IN THIS RESOLUTION.

WHEREAS, the City holds a right of way dedication to a fifty (50) foot wide right-of-way, known as 6th Street, running from West Avenue to Alton Road, as set forth in the sketch attached as Exhibit "A" hereto, consisting of approximately 13,902 square feet in total lot area, as shown on (a) the Amended Plat of the Fleetwood Subdivision, recorded in Plat Book 28, page 34 of the Public Records of Miami-Dade County (the "Fleetwood Plat") and (b) the Amended Plat of Aquarium Site, recorded in Plat Book 21, Page 83 of the Public Records of Miami-Dade County, and approved by the City (the aforesated property is hereinafter referred to as the "City Right of Way" or "City ROW"); and

WHEREAS, South Beach Heights I, LLC, 500 Alton Road Ventures, LLC, 1220 Sixth, LLC, and KGM Equities, LLC (collectively, Developers) own the property to the south of, north of, and adjacent to, the City Right of Way; which parcels are known as 500, 630 and 650 Alton Road, 1220 6th Street, and 659, 701, 703, 711, 721, 723, 727 and 737 West Avenue, and they

intend to develop the property with a mixed-use residential and commercial development (collectively, the "Proposed Development") pursuant to a Florida Statute Chapter 163 development agreement to be negotiated between the City and the four entities identified above (the "**Development Agreement**"), and to provide to the City a dedicated, constructed, world-class park, consisting of no less than 3.0 acres; and

WHEREAS, the Proposed Development shall be developed as a unified development site; and

WHEREAS, two of the Developers (500 Alton Road Ventures and 1220 Sixth, LLC) are the owners of the property adjacent to the south side of 6th Street; and a third of the Developers, South Beach Heights I, LLC, is the owner of the property adjacent to the north side of 6th Street (collectively these three entities shall be the "Applicants"); and

WHEREAS, in conjunction with Proposed Development on the Property, Applicants are requesting that the City vacate the City right-of-way, and have submitted their application to the City's Public Works Department with respect thereto; and

WHEREAS, pursuant to the City's existing administrative policies and procedures to consider the vacation of the City streets, alleys, and/or rights of way, which also require compliance with Article II, Sections 82-36 through 82-40, of the City Code (which establish the procedures governing the sale or lease of public property), in addition to the above referenced application, prior to considering a request for vacation, the following requirements must be satisfied:

(A) The title of the Resolution approving the proposed vacation shall be heard by the City Commission on two separate meeting dates, with the second reading to be accompanied by a duly noticed public hearing, in order to obtain citizen input into the proposed vacation (Note: Second Reading Proposed for November 14, 2018);

(B) The proposed vacation shall be transmitted to the Finance and Citywide Projects Committee ("Committee") for its review (Note: The Committee reviewed the proposed vacation at its July 27th, 2018 meeting and recommended a term sheet of conditions to be placed in the proposed Development Agreement);

(C) In order for the City Commission and the public to be fully appraised of all conditions relating to the proposed vacation, the City's Planning Department shall prepare a written planning analysis, to be submitted to the City Commission concurrent with its consideration of the proposed vacation (Note: The Planning Department analysis of the vacation pursuant to Section 82-38, of the City Code is attached hereto and was approved by the Planning Board (7-0) on October 23, 2018); and

(D) The City shall obtain an independent appraisal of the fair market value of the property proposed to be vacated, which shall include a definition of the property based on proposed and possible issues including, without limitation, the highest and best use of the property by the Applicants (Note: An appraisal was obtained by the City's Public Works Department on June 24, 2018 and 5th Street was valued at \$7,600,000); and

WHEREAS, on July 27, 2018, the Finance and Citywide Projects Committee recommended to proceed with the vacation process and associated development agreement that would require, amongst other things:

1. The parties come to final terms to provide the City with: Developers' conveyance to the City in fee simple, free and clear of all liens and encumbrances, by special warranty deed, of approximately 3.0 acres located within the Development Site (the "**Park Site**"), on which Park Site Developers shall design, permit and construct, at its sole cost and expense, a public City park (the "**Park**") which, following completion of construction by Developers and acceptance by the City, shall be operated, maintained and programmed by the City. Developers shall design and construct the Park for the City in accordance with the Park concept plan design, which will be attached as an exhibit to the Development Agreement (and is also, therefore, subject to City Commission review and approval at that time). The concept plan design shall provide for the Park to be of first rate, or "world class," design, quality, and functionality. The various components of the Park design (which may, among other elements, potentially include an area for limited retail activation along Alton Road), shall be delineated and defined in the Development Agreement.

2. A perpetual, non-revocable utility, roadway and pedestrian access easement granted by Developers in favor of the City against a 50 foot wide strip of land located within the Development Site at the existing location of current 6th Street right of way, to provide a through street on 6th Street as a connector between West Avenue and Alton Road (the "**Future 6th Street**") for public vehicular and pedestrian use and access, which easement will provide that the City will be responsible for the maintenance, repair, safety and security of the Future 6th Street and all improvements thereon including permitting the use of that easement to all entities including the Developer.

3. Consistent with state law, the City's conveyance to Developers by quit claim deed, of the City Parcel pursuant to and subject to the terms of the Vacation Resolution to 500 Alton Road Ventures, 1220 Sixth, LLC, and South Beach Heights I, LLC, as the adjacent property owners to 6th Street.

4. A perpetual, non-revocable public access easement granted by Developers in favor of the City against an up to 10 foot wide strip of land located within the Development Site, to provide for public pedestrian walkway connecting the baywalk south of 5th Street across 5th Street onto the Development Site terminating on the south side of Future 6th Street (the "**Future Baywalk**"), which easement will provide that the City will be responsible for the design, construction, maintenance, repair, safety and security of the Future Baywalk and all improvements thereon, and provided, however, that Developers shall design and construct, at Developers' cost and expense, an elevated terminus/platform (approximately 14-15 feet above grade) to accommodate the City's development of the Future Baywalk.

5. A perpetual, non-revocable roadway easement granted by Developers in favor of the City against an up to 10 foot wide strip of land located within the Development Site, to provide an additional lane on 5th Street from Interstate 395 (the "**Future 5th Street**") for public vehicular and pedestrian use and access, which easement will provide that the City will be responsible for the design, construction,

maintenance, repair, safety and security of the Future 5th Street and all improvements thereon.

6. Developers shall complete the construction of the unfinished baywalks along the following bayside locations:

(A) Mirador 1000 Condo ("Mirador 1")
1000 West Avenue
Miami Beach, FL

(B) Mondrian Hotel ("Mondrian")
1100 West Avenue
Miami Beach, FL

(C) Mirador 1200 Condo ("Mirador 2")
1200 West Avenue
Miami Beach, FL

(collectively, the "Baywalks").

City shall be responsible for obtaining the necessary permits for the Baywalks based on the existing completed designs for the Baywalks. City shall return to the Developers amounts currently held by the City in escrow for the Baywalks (\$452,682.58), and shall pay the Developers the total amount of \$310,000 previously appropriated for the construction of the Baywalks. Except as provided in this Section, Developers shall be responsible, at Developers' sole cost and expense, to complete the construction of the Baywalks; and

WHEREAS, Section 82-39(a) of the City Code provides that the lease or sale of public property also requires an advertised public bidding process, which requirement may be waived by 5/7th vote of the City Commission; and

WHEREAS, as Section 177.085, Florida Statutes, requires, upon vacation, that the right-of-way is divided between the adjacent property owners to the east and west of the right-of-way; and

WHEREAS, as the only person entitled to the vacated land are the Applicants, the City Administration recommends that the Mayor and City Commission waive the competitive bidding requirement, finding that the public interest is served by waiving such condition; and

WHEREAS, pursuant to the requirements of Section 1.03((b)(4) of the City Charter, the Planning Board at its October 23, 2018 meeting, approved by a 7/7 vote (4/7th vote required under the Charter) to approve the proposed vacation; and

WHEREAS, the Administration, based upon the planning analysis and recommendation of the Planning Board, recommend approval of the vacation at first reading, and recommends scheduling second reading, public hearing.

NOW THEREFORE BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby, pursuant to Section 82-37(a)(2) of the City Code, approve, on first reading, the vacation of 6th Street, a 50 foot right of way ("City ROW") east of Alton Road and west of West Avenue, containing approximately 13,902 square feet in total lot area, said vacation in favor of South Beach Heights I, LLC, 500 Alton Road Ventures, LLC, and 1220 Sixth, LLC (collectively, the "Applicants"); further, pursuant to Section 82-39(a) of the City Code, the City Commission waives by a 5/7^{ths} vote, the competitive bidding requirements of the City Code, as the City Commission finds that the public interest would be served by waving such condition; additionally, pursuant to Section 82-38 of the City Code, the City Commission accepts the City's Planning Department's planning analysis related to the proposed vacation; and further subject to and conditioned upon Applicant's execution of a development agreement that amongst other things (1) grants to the City of a 50 foot wide perpetual utility, roadway and pedestrian access easement across the vacated City ROW; and (2) ensures Applicant's transfer to the City of a 3.2 acres park, constructed by the Applicant within the 6 & 7th Street blocks, between West Avenue and Alton Road; and, finally, with such vacation subject to and contingent upon Applicant's satisfaction .of the conditions set forth in this resolution.

PASSED and ADOPTED this _____ day of _____, 2018.

ATTEST:

Dan Gelber, Mayor

Rafael G. Granado, City Clerk
(Sponsor: Mayor Dan Gelber)




City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

MEMORANDUM

TO: Chairperson and Members
Planning Board

DATE: October 23, 2018

FROM: Raul J. Aguila, City Attorney 

SUBJECT: **500-700 Alton Road – 6th Street Vacation.**

Members of the community requested that the term sheet approved by the Finance and Citywide Projects Committee (FCWPC) on July 27, 2018, for the deal terms to the underlying Development Agreement, be included as an attachment to this agenda item relating to the vacation of 6th Street. Accordingly, we include the following documents:

1. The enabling Resolution of the City Commission (Resolution No. 2018-30423), which referred the item to the FWPC and authorized the City Attorney and City Manager's respective offices to negotiate the Development Agreement.
2. The Road Vacation Term Sheet approved by FWPC at its meeting on July 27, 2018.

Notwithstanding the above, and in full transparency, while the term sheet forms the basis for the ongoing negotiations with the Developer. The terms contained therein may not be final. The final negotiated Development Agreement, as well as the resolution approving the vacation of 6th Street, and the Comprehensive Plan and Land Development Regulation Amendments will all be heard at the same time by the City Commission, in two readings (two separate City Commission meetings). The Development Agreement is subject to two separate public hearings. The Vacation Resolution calls for one public hearing, and the Code Amendments are also subject to two readings, and a public hearing.

Therefore, the attached term sheet is provided for information purposes only; the final terms will be set forth in the negotiated Development Agreement, which will be presented to the City Commission at a future date.

RESOLUTION NO. 2018-30423

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE ADMINISTRATION AND THE CITY ATTORNEY TO INITIATE NEGOTIATIONS WITH SOUTH BEACH HEIGHTS I, LLC, 500 ALTON ROAD VENTURES, LLC, 1220 SIXTH, LLC, AND KGM EQUITIES, LLC (COLLECTIVELY, THE "DEVELOPER"); WHO IS THE OWNER OF THE PROPERTY LOCATED AT 500, 630 AND 650 ALTON ROAD, 1220 6TH STREET, AND 659, 701, 703, 711, 721, 723, 727 AND 737 WEST AVENUE; IN ORDER TO DRAFT A PROPOSED DEVELOPMENT AGREEMENT THAT WOULD (1) PROVIDE THE CITY WITH PARK LAND, (2) PROPOSE A SCHEDULE; AND (3) TO DELINEATE CERTAIN DEVELOPMENT RIGHTS ATTRIBUTABLE TO THE DEVELOPER AND THE CITY; FURTHER AUTHORIZING THE REFERRAL OF A FINAL NEGOTIATED TERM SHEET TO BE SENT TO THE FINANCE AND CITYWIDE PROJECTS COMMITTEE; AND AUTHORIZING A REFERRAL TO THE LAND USE AND DEVELOPMENT COMMITTEE OF APPLICABLE DRAFT ORDINANCES TO EFFECTUATE THE DEVELOPMENT.

WHEREAS, South Beach Heights I, LLC, 500 Alton Road Ventures, LLC, 1220 Sixth, LLC, and KGM Equities, LLC (collectively, the "Developer") are owners of the property located at 500, 630 and 650 Alton Road, 1220 6th Street, and 659, 701, 703, 711, 721, 723, 727 and 737 West Avenue (collectively, the "Development Site"); and

WHEREAS, the City of Miami Beach (the "City") holds a right-of-way dedication to a 50 foot wide right of way known as 6th Street, running from West Avenue to Alton Road (the "City Parcel"); and

WHEREAS, Developer is the owner of the Development Site, which Development Site fronts both sides of the City Parcel, to wit: 500 Alton Road, and 630 Alton Road, 650 Alton Road, and 1220 6th Street; and

WHEREAS, the Developer intends to develop the Development Site with a mixed-use residential and commercial development (the "Project") pursuant to: (a) a Florida Statute Chapter 163 development agreement to be negotiated between the City and the Developer (the "Development Agreement"); (b) applicable final, non-appealable land use approvals to be obtained by the Developer; and subject to and contingent upon the vacation of the City Parcel in favor of Developer; and

WHEREAS, as part of the Development Agreement, the City may proceed with the vacation of 6th Street between Alton Road and West Avenue; obtain from Developer a perpetual non-revocable easement over the vacated area, and the construction of a City Park along West Avenue and 6th Street; and

WHEREAS, the Mayor and City Commission authorize the City Manager, and the City Attorney to commence negotiations of a development agreement, with respect to certain vacations, dedications and development rights to be made and granted with respect to the Development Site and Project, as well as the rights of the City relating to easements and a constructed Park along 6th Street and West Avenue; and

WHEREAS, the Mayor and City Commission further authorize the City Manager to refer the final term sheet to the Finance and Citywide Projects Committee (FCWPC); and

WHEREAS, notwithstanding the referral to FCWPC, the final term sheet, as well as the Development Agreement will be brought before the City Commission for final approval; and

WHEREAS, the Mayor and City Commission additionally refer to the Land Use and Development Committee of any applicable draft ordinances that would be needed to effectuate the Development contemplated under the draft Term Sheet being sent to FCWPC.

NOW THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby authorize the City Manager and the City Attorney to initiate negotiations with South Beach Heights I, LLC, 500 Alton Road Ventures, LLC, 1220 Sixth, LLC, and KGM Equities, LLC (collectively, the "Developer"); who is the owner of the property located at 500, 630 and 650 Alton Road, 1220 6th Street, and 659, 701, 703, 711, 721, 723, 727 and 737 West Avenue; in order to draft a proposed term sheet and development agreement that would (1) provide the City with park land along 6th Street and West Avenue, (3) propose a schedule for the development agreement and construction; and (3) to delineate certain development rights attributable to the Developer and to the City; to further authorize the referral of a final negotiated term sheet to be sent to the Finance and Citywide Projects Committee; and to authorize a referral to the Land Use and Development Committee of applicable draft ordinances to effectuate the development.

PASSED and ADOPTED this 25th day of July, 2018.



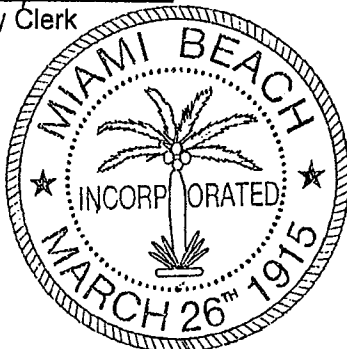
Dan Gelber, Mayor

ATTEST:



AUG 6, 2018

Rafael E. Granado, City Clerk



APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

7/19/18

Date

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MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Raul J. Aguila, City Attorney
DATE: July 25, 2018

SUBJECT: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE ADMINISTRATION AND THE CITY ATTORNEY TO INITIATE NEGOTIATIONS WITH SOUTH BEACH HEIGHTS I, LLC, 500 ALTON ROAD VENTURES, LLC, 1220 SIXTH, LLC, AND KGM EQUITIES, LLC (COLLECTIVELY, THE "DEVELOPER"); WHO IS THE OWNER OF THE PROPERTY LOCATED AT 500, 630 AND 650 ALTON ROAD, 1220 6TH STREET, AND 659, 701, 703, 711, 721, 723, 727 AND 737 WEST AVENUE; IN ORDER TO DRAFT A PROPOSED DEVELOPMENT AGREEMENT THAT WOULD (1) PROVIDE THE CITY WITH PARK LAND, (2) PROPOSE A SCHEDULE; AND (3) TO DELINEATE CERTAIN DEVELOPMENT RIGHTS ATTRIBUTABLE TO THE DEVELOPER AND THE CITY; FURTHER AUTHORIZING THE REFERRAL OF A FINAL NEGOTIATED TERM SHEET TO BE SENT TO THE FINANCE AND CITYWIDE PROJECTS COMMITTEE; AND AUTHORIZING A REFERRAL TO THE LAND USE AND DEVELOPMENT COMMITTEE OF APPLICABLE DRAFT ORDINANCES TO EFFECTUATE THE DEVELOPMENT.

ANALYSIS

Pursuant to the request of Mayor Dan Gelber, the attached Resolution is submitted for consideration by the City Commission.

Legislative Tracking

Office of the City Attorney

Sponsor

Mayor Dan Gelber

ATTACHMENTS:

	Description
a	Resolution

500-700 Alton Development

Development Agreement and Road Vacation Term Sheet Approved by Finance and Citywide Projects Committee on July 27, 2018

I. Recitals.

- A. South Beach Heights I, LLC, 500 Alton Road Ventures, LLC, 1220 Sixth, LLC and KGM Equities, LLC (collectively, the “**Developer**”) are owners of the properties located at 500, 630 and 650 Alton Road, 1220 6th Street, and 659, 701, 703, 711, 721, 723, 727 and 737 West Avenue (collectively, the “**Development Site**”).
- B. The City of Miami Beach (the “**City**”) holds a right-of-way dedication to a 50 foot wide right of way known as 6th Street, running from West Avenue to Alton Road (the “**City Parcel**”).
- C. Developer is the owner of the Development Site, which Development Site fronts both sides of the City Parcel, to wit: 500 Alton Road, and 630 Alton Road, 650 Alton Road, and 1220 6th Street.
- D. The Developer intends to develop the Development Site with a mixed-use residential and commercial development (the “**Project**”) pursuant to a Florida Statute Chapter 163 development agreement to be negotiated between the City and the Developer (the “**Development Agreement**”), subject to and contingent upon: (a) Developer obtaining all applicable final, non-appealable land use approvals for the Project and the “**Park**” (as hereinafter defined); (b) the vacation of the City Parcel in favor of Developer; and (c) City’s approval of the “Land Development Regulation Amendments” (as hereinafter defined).
- E. This Term Sheet outlines the general terms agreed to by the Developer and the City with respect to the Development Site, the Project and the Park.

II. Vacation and Dedications.

- A. Concurrent with the submittal of the Development Agreement to the City Commission for its approval, the City shall prepare and submit a resolution for the vacation of the City Parcel to the City Commission (the “**Vacation Resolution**”), for its consideration and approval (which approval shall be at the City Commission’s sole discretion). Upon the effective date of the vacation of the City Parcel, as set forth in the Vacation Resolution, and subject to satisfaction of the conditions in subsection (B)(1)-(6) below, the City shall convey title to the City Parcel, by quitclaim deed, to Developer, and the City Parcel shall be incorporated into and made a part of the Development Site.
- B. After (a) the Development Agreement has been approved by the City Commission (and executed by the Developer and the City); (b) the Vacation Resolution has been approved by the City Commission; (c) the Land

Development Regulation Amendments have been adopted; (d) the Developer has obtained all required final, non-appealable land use board approvals for the Project and the Park; and (e) the City is ready to issue the foundation permit for the Project and the Park, pursuant to a phased permit process (the "Foundation Permit"), Developer and City shall execute, deliver, convey and record the following documents:

[Note: City's standard requirements for phased permitting includes a hold harmless agreement in favor of City.]]

Developer's conveyance to the City in fee simple, free and clear of all liens and encumbrances, by special warranty deed, of approximately 3.0 acres located within the Development Site (the "**Park Site**"), on which Park Site Developer shall design, permit and construct, at its sole cost and expense, a public City park (the "**Park**") which, following completion of construction by Developer and acceptance by the City, shall be operated, maintained and programmed by the City. Developer shall design and construct the Park for the City in accordance with the Park concept plan design, which will be attached as an exhibit to the Development Agreement (and is also, therefore, subject to City Commission review and approval at that time). The concept plan design shall provide for the Park to be of first rate, or "world class," design, quality, and functionality. The various components of the Park design (which may, among other elements, potentially include an area for limited retail activation along Alton Road), shall be delineated and defined in the Development Agreement.

[Note: Concurrent with the conveyance of the Park Site to the City, Developer shall provide the City reasonable evidence and confirm, after due diligence, that: (a) the Park Site does not contain any "hazardous substances" (as defined by CERCLA, RCRA, the Clean Water Act, the Clean Air Act, and Florida law) in violation of any applicable environmental law, rule or regulation which requires environmental remediation; and (b) no environmental remediation for the Park Site). is required under any applicable environmental law, rule or regulation at the time the Park Site is conveyed to the City.]

(2) A perpetual, non-revocable roadway easement granted by Developer in favor of the City against a 50 foot wide strip of land located within the Development Site, to provide a through street on 6th Street as a connector between West Avenue and Alton Road (the "**Future 6th Street**") for public vehicular and pedestrian use and access, which easement will provide that the City will be responsible for the maintenance, repair, safety and security of the Future 6th Street and all improvements thereon.

(3) A perpetual, non-revocable roadway easement granted by Developer in favor of the City against a 24 foot wide strip of land located within the Development Site, to provide a through street on 7th Street as an additional connector between West Avenue and Alton Road (the "**Future 7th Street**") for pedestrian use and access, and as a one-way eastbound street for public vehicular access (with no vehicles exiting onto West Avenue), which easement will provide that the City will be responsible for the

maintenance, repair, safety and security of the Future 7th Street and all improvements thereon.

(4) The City's conveyance to Developer by quit claim deed, of the City Parcel pursuant to and subject to the terms of the Vacation Resolution.

(5) A perpetual, non-revocable public access easement granted by Developer in favor of the City against an up to 10 foot wide strip of land located within the Development Site, to provide for public pedestrian walkway connecting the baywalk south of 5th Street across 5th Street onto the Development Site terminating on the south side of Future 6th Street (the "**Future Baywalk**"), which easement will provide that the City will be responsible for the design, construction, maintenance, repair, safety and security of the Future Baywalk and all improvements thereon, and provided, however, that Developer shall design and construct, at Developer's cost and expense, an elevated terminus/platform (approximately 14-15 feet above grade) to accommodate the City's development of the Future Baywalk.

(6) A perpetual, non-revocable roadway easement granted by Developer in favor of the City against an up to 10 foot wide strip of land located within the Development Site, to provide an additional lane on 5th Street from Interstate 395 (the "**Future 5th Street**") for public vehicular and pedestrian use and access, which easement will provide that the City will be responsible for the design, construction, maintenance, repair, safety and security of the Future 5th Street and all improvements thereon.

The execution delivery, conveyance and recordation of the documents set forth in (1) through (6) above shall occur prior to, and shall be a condition precedent to, the City's issuance of the Foundation Permit to Developer for the Project and the Park.

III. Development Agreement.

A. The terms set forth in Section II above, as well as other matters concerning the Development Site, the Project and the Park will be incorporated into the Development Agreement. The Developer shall develop and construct the Project substantially consistent with the plans as delineated in the Development Agreement, including without limitation, the Development Agreement shall also include the following additional terms:

1. The Development Site shall be limited to a maximum of: (a) 571,000 square feet of floor area ratio (of which there shall be a maximum of 15,000 square feet of retail floor-area ratio, and a maximum F.A.R. floorplate of 13,800 square feet, which calculations shall exclude balconies, in accordance with City's Land Development Regulations); and (b) 410 residential units.
2. The Development Site shall require any residential tower constructed within the 500 block of Alton Road be: (a) located within the northeast quadrant of the 500 block of Alton Road; and (b) limited to 44 stories.

3. No parking related to the Project will be constructed underneath the Park Site.
4. The City shall process the following amendments to its Land Development Regulations (collectively, the "**Land Development Regulation Amendments**") (a) an amendment to the Comprehensive Plan and Zoning Code to rezone Developer's CPS-2 and RM-2 zoned parcels to CD-2; and (b) a text amendment to authorize up to 44 stories within the CD-2 zoning district, and to also provide for modified setback provisions. The Developer acknowledges and agrees that any such amendments are subject to, and conditioned upon, approval by the City Commission, at its sole discretion.
5. The Developer will be responsible for submitting any required applications for development approvals for the Project and the Park (e.g., Design Review Board, Planning Board, Board of Adjustment, etc.) prior to issuance of the Foundation Permit for the Project and the Park. The Developer acknowledges and agrees that any such development approvals are subject to, and conditioned upon, approval by the applicable development boards.
6. The Developer shall demolish, at its sole cost and expense, the South Shore Hospital within twelve (12) months after the issuance of the Foundation Permit for the Project and the Park.

IV. Developer's Contributions.

In addition to those terms in Sections II and III, and as additional consideration for the City's vacation of the City Parcel, the Developer has voluntarily proffered the following other contributions:

- A. The completion of the Park by the Developer, and acceptance of the same by the City, shall be a condition precedent to the City's issuance of a temporary certificate of occupancy (TCO) or certificate of occupancy (CO) (whichever comes first) for the Project.
- B. Developer shall complete the construction of the unfinished baywalks along the following bayside locations:
 - (1) Mirador 1000 Condo ("Mirador 1")
1000 West Avenue
Miami Beach, FL
 - (2) Mondrian Hotel ("Mondrian")
1100 West Avenue
Miami Beach, FL
 - (3) Mirador 1200 Condo ("Mirador 2")
1200 West Avenue
Miami Beach, FL

(collectively, Section IV.B (1) through (3) above, the "Baywalks").

- C. City shall be responsible for obtaining the necessary permits for the Baywalks based on the existing completed designs for the Baywalks. City shall return to the Developer amounts currently held by the City in escrow for the Baywalks (\$452,682.58), and shall pay the Developer the total amount of \$350,000 previously appropriated for the construction of the Baywalks. Except as provided in this Section IV.C, Developer shall be responsible, at Developer's sole cost and expense, to complete the construction of the Baywalks.
- D. Developer shall complete the construction of the Baywalks within one year following the issuance of the permits for the Baywalks.

V. Miscellaneous Provisions.

- A. Developer will be responsible for submitting and obtaining any and all final, non-appealable development approvals for the Project and the Park (i.e. Design Review Board, Planning Board, Board of Adjustment). Developer agrees and acknowledges that any such development approvals are subject to, and conditioned upon, approval by applicable development boards, in their sole and reasonable discretion.
- B. Except as to involuntary transfers (as shall be defined in the Development Agreement and which will include, without limitation, foreclosure transfers and transfers in lieu of foreclosure), Developer shall not be entitled to assign or transfer its rights under the Development Agreement until after the (i) issuance of a TCO or CO, whichever comes first, for the Project and Park.
- C. Time periods in the Development Agreement will be tolled due to force majeure (strikes, lockouts, acts of God, and other causes beyond the control of either party); and, appeals or other judicial or administrative challenges to project approvals.
- D. In the event that a third party (unrelated or unaffiliated with the City or Developer) institutes a legal proceeding in a court of competent jurisdiction challenging the validity of the Vacation Resolution or the Development Agreement (a "**Lawsuit**"), then the City shall not be required to effectuate the vacation of the City Parcel until thirty (30) days after the Lawsuit has been completed and finally disposed of; provided, however, if the Lawsuit is still pending more than sixty (60) months after approval of the Vacation Resolution and/or Development Agreement (as applicable), then either party at its option may, from and after the expiration of such sixty (60) month period and while the Lawsuit remains outstanding, elect to terminate the transaction contemplated by the Development Agreement by delivering a written notice of termination to the other party, whereupon the Vacation Resolution shall be rescinded and the Development Agreement shall be terminated, and the City and Developer shall have no further obligation and/or liability to each other.

- D. Notwithstanding the foregoing, Developer shall defend, indemnify, and hold the City harmless should any Lawsuit be filed.
- E. Developer agrees to reimburse the City up to \$150,000.00, for any attorney's fees incurred by the City for outside counsel's review and negotiation of the Development Agreement and related agreements pursuant to the terms of that certain Reimbursement and Indemnity Agreement dated July 13, 2018 executed by Developer and City.
- F. Developer agrees to reimburse the City for any appraisal costs incurred by the City with respect to this transaction.