


# MIAMI BEACH

## PLANNING DEPARTMENT

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FROM: Thomas R. Mooney, AICP   
Planning Director

TO: Chairman and Members of the Board of Adjustment

DATE: March 1, 2019 Board of Adjustment Meeting

RE: File No. ZBA18-0079  
**Sur-reply to Rebuttal filed by Sunset Land Associates LLC and SH Owner LLC ("Appellants")**

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The City of Miami Beach (the "City") hereby files this Sur-reply to the Rebuttal letter, dated December 20, 2018, filed by Sunset Land Associates LLC and SH Owner LLC ("Appellants"). The City obtained the consent of Appellants and Beach Towing Services, Inc. ("Beach Towing") to file this Sur-reply for the sole purpose of responding to new allegations and evidence introduced for the first time, improperly, in the Appellants' Rebuttal. Specifically, the scope of this memorandum is limited to the Declaration of Jud Kurlancheek, attached to Appellants' Rebuttal as Exhibit "F".

In his declaration, Mr. Kurlancheek now contends that "a Towing Service could only have been permitted as an Accessory Use to one of the listed Permitted or Conditional Uses in the C-6 Zoning District while the Zoning Ordinance was in force." Declaration of Jud Kurlancheek ¶ 14. However, the opinions in Mr. Kurlancheek's declaration directly conflict with positions taken by Mr. Kurlancheek when he served as the City's Planning Director from 1984 to 1990.

In the Administrative Determination that is the subject of this appeal, the Planning Director determined that the Beach Towing operation at 1349 Dade Boulevard is a legal nonconforming use. The towing services operation, which commenced at least as early as 1986, is consistent with the "automobile and truck storage" use permitted at the time in C-5 and C-6 zoning districts. Notwithstanding the declaration, multiple City records authored by Mr. Kurlancheek in 1987 directly contradict his recent conclusions. The following is a summary of these documents:

1. **LTC 81-1987.** The attached Letter to Commission ("LTC"), dated June 8, 1987, and drafted by Mr. Kurlancheek (Exhibit "A"), reflects the clear position of the City that towing services were permitted within the C-5 and C-6 zoning districts. The LTC provides a detailed analysis of different types of towing uses and where they were permitted, and includes a summary of a proposed towing use at 7125 Byron Avenue, which was located in a C-5 district. The LTC confirms that towing services are consistent with and related to the storage of vehicles, which was permitted in the C-5 and C-6 districts. The LTC also

sets forth options to alleviate the negative impact of storage facilities and towing services. One of these recommendations was to amend the Zoning Ordinance to prohibit the towing and storages of vehicles in the C-5 district.

2. **1987 Appeal of the Planning Director's approval of a towing use at 7125 Byron Avenue.** On February 10, 1987, the Planning & Zoning Director approved a storage parking lot for Magnum Towing at 7125 Byron Avenue, which was located in a C-5 zoning district. Subsequently, a building permit and occupational license were issued. In a memo dated September 3, 1987 (attached hereto as Exhibit "B"), Mr. Kurlancheek advised the City Manager that Magnum Towing applied for its occupational license in June of 1987, and that the license was denied "on the grounds that the required on-site office has not been completed." He continues to state that the "construction of the on-site office at 7125 Byron Avenue appears to be nearing completion." The occupational license for towing services at 7125 Byron Avenue was later approved.

The approval of the occupational license was appealed by the neighboring property (residential condominium) at 7135 Byron Avenue. The Board of Adjustment considered the appeal on December 4, 1987. At the appeal hearing, Mr. Kurlancheek testified that, pursuant to the City's ordinance, storage and towing facilities are allowed in the C-6 district, as well as the C-5 district. (Transcript of December 4, 1987 Board of Adjustment hearing, attached hereto as Exhibit "C"). Additionally, in the City Staff Report associated with the appeal (Exhibit "D"), Mr. Kurlancheek recommended that the Board deny the appeal, stating that "the facility is within the permitted category of automobile storage." The Board denied the appeal, and the Planning and Zoning Director's decision to approve a storage parking lot was upheld.

In correspondence dated December 15, 1987 (attached as Exhibit "E"), Mr. Kurlancheek advised the appellant of the decision of the Board of Adjustment. Specifically, Mr. Kurlancheek stated that the Board "denied your appeal of an administrative decision regarding the location of an automobile towing and storage lot at 7135 Byron Avenue."

3. **Ordinance No. 87-2580.** In his declaration, Mr. Kurlancheek stated that he was responsible for making zoning interpretations of Zoning Ordinance No. 1891 and that he authored over "1,000 recommendations" to the City Commission and Land Use Boards. Attached to this sur-reply (Composite Exhibit "F") is one such recommendation that Mr. Kurlancheek made to the Planning Board on July 7, 1987, and to the City Commission, through the City Manager, on September 2, 1987, regarding a proposed amendment to Zoning Ordinance 1891. The amendment, which was adopted by the City Commission on September 16, 1987, removed automobile and truck storage as a permitted use in the C-5 General Business District.

Based upon the record, this amendment arose from resident complaints regarding "a proposed towing service storage location in the 71st Street neighborhood." The

Planning Department analysis for the amendment stated that *“the storage of vehicles towed from private property is currently permitted in the C-5 General Business District and the C-6 Intensive Commercial District.”* The memorandum clearly identifies that the towing and storage of automobiles is an allowable use in the C-5 and C-6 districts, and recommends removing the use from the C-5 district where the use was not as appropriate, due to a greater probability for conflicts with surrounding uses. Based on the statements in the recommendation, it is abundantly clear that the storage of vehicles would have been allowed as of right in the C-5 district and, by extension, the C-6 district, prior to the adoption of this ordinance.

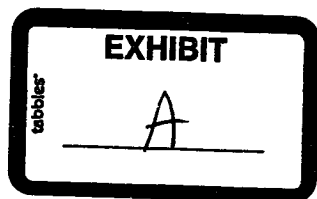
Finally, on June 18, 1987, approximately 16 letters were sent by Mr. Kurlancheek to interested parties, including six (6) towing companies in the City (including Beach Towing), providing an update on the status of the proposed amendment, which was pending review by the Planning Board. In these letters (attached as Exhibit “G”), Mr. Kurlancheek clearly notes that the proposed amendment would “prohibit future vehicle towing and storage lots in the C-5 Business District.” Mr. Kurlancheek also states that, in the event Magnum Towing at 7125 Byron Avenue receives an occupational license for its “towing and storage lot,” and the approval of such license is not appealed to the Board of Adjustment prior to the adoption of the amendment by the City Commission, then the use of the lot for towing and storage would be permitted. These letters further confirm that a towing service was permitted in the C-5 district.

4. **Towing and automobile storage uses under Ordinance 1891.** Below is a list of towing services, and automobile and truck storage yards, that were approved by the City as a main permitted use in the C-5 and C-6 districts throughout Miami Beach from 1986-1988. The list clearly demonstrates that the allowance of auto/truck storage and towing was applied consistently pursuant to the requirements of the C-5 and C-6 districts at the time.

Name	Address	Zoning
Beach Towing Services	1349 Dade Blvd	C-6
Challenger	840 1st St	C-6
Miami Beach Paint & Body Shop & Towing Service	800 1st St	C-6
Tremont Towing Inc	1930 Bay Rd	C-6
Magnum Towing	7125 Byron Ave	C-5

## Conclusion

Despite Mr. Kurlancheek’s contentions in the Appellants’ rebuttal, the overwhelming body of evidence in the public record demonstrates that, at the time the Beach Towing operation commenced, Mr. Kurlancheek agreed that the Beach Towing operation was legally established. Accordingly, the Administration recommends that the Planning Director’s Administrative Determination be **affirmed**.







OFFICE OF THE CITY MANAGER  
ROB W. PARKINS  
CITY MANAGER

TELEPHONE: 673-7010

L.T.C. No. 81-1987

LETTER TO COMMISSION

June 8, 1987

TO: MAYOR AND CITY COMMISSIONERS

FROM: ROB W. PARKINS, CITY MANAGER

SUBJECT: STORAGE PARKING LOTS

In response to the City Commission's May 6, 1987 request, the Planning and Zoning Department has prepared the attached report regarding automobile storage lots, towing services, and the proposed storage location at 7125 Byron Avenue.

The report describes the site and its environs, the zoning history of the area, and provides a chronology of events leading to the Commission's request for the Planning and Zoning Department and Planning Board to consider the elimination of towing services from the neighborhood in the future. Also included in the report is a description of the Zoning and City Code requirements and State Statutes pertaining to the regulation of towing services. Finally, the report presents several considerations regarding revisions to towing requirements. The following is a summary of the report:

I. The Site - 7125 Byron Avenue

- o 50' x 125' lot originally developed as single family home.
- o Used as a paved parking lot since 1971. Construction of a wall surrounding property is underway.
- o Adjacent to 2 paved parking lots. 71st/Byron Condominium overlooks the site. A daycare center is directly across the street.

II. Zoning History

- o Presently zoned C-5 General Business since 1971.
- o Prior to 1971, area was zoned for multifamily apartments and some commercial uses.

III. Chronology of Events

- o 2/10/87 Attorney Phil Brooks requested written confirmation that C-5 district permitted a towing company to use 7125 Byron Avenue for storage of vehicles off private property.
- o 2/13/87 Development Services Division responded that this was a permissible use; however, an office on the site was required.
- o 3/30/87 Daniel Jonas, attorney for 71st/Byron Condominium, indicated that his clients will take legal action if storage area is not totally screened from residents. He intends to file an appeal to the ZBA.
- o 4/15/87 Mark Brooks of Magnum Towing (owner of 7125 Byron) received permit for construction of a 6' wall.
- o 5/19/87 Planning Department approved plans for construction of an office on the site.
- o April/May 1987 Residents complained to Commission about proposed towing service. Attorney Jonas filed an appeal with Board of Adjustment.

- o 5/29/87 Attorney Jonas withdraws his appeal before the Board of Adjustment and advises the City that he will refile at the time Magnum Towing requests an Occupational License.
- o 6/23/87 Planning Board is scheduled to consider zoning amendment to prohibit towing/storage of automobiles in C-5.

#### IV. State and City Towing Requirements

- o There are 3 forms of towing services each with differing requirements:
  1. Wrecker Services: used for disabled vehicles; accessory use to garage or service station.
  2. Police Towing: towing/storing of vehicles Identified by Police as requiring removal from public ways/awarded on a lottery basis; companies must have outside storage for 75 vehicles, 5 vehicles inside; only permitted in C-6 Intensive Commercial District.
  3. Towing from Private Property: for profit towing without owner's consent, must be stored in Miami Beach and 24 hour office must be on-site (City Code). Any towed vehicle must be stored at a site within 5 miles of the point of removal, but if no towing business exists in the area, cars may be stored up to 20 miles away (Florida Statutes).
- o Zoning Ordinance does not directly address towing services, but rather relates to the storage of vehicles. C-5 and C-6 Districts permit storage garages. C-6 allows repair garages.
- o City Commission has requested that the Planning Board consider the elimination of future towing/storage operations in the C-5 District. This will limit storage operations to those licensed and the proposed location at 7125 Byron.
- o If vehicle storage is prohibited in C-5, no other storage areas will exist in the north end of Miami Beach except 7125 Byron. As such, all vehicles towed from private property at the north end will be required to be stored at 7125 Byron as per State Statutes requiring storage within 5 miles.
- o Three options are available to alleviate the conflicting problems of the negative impact of storage facilities and the need for towing services. They are:
  1. Amend the Zoning Ordinance to increase buffering or require the complete enclosure of stored vehicles in the C-5 District.
  2. Amend the Zoning Ordinance to prohibit the storage of towed vehicles in the C-5 zoning district; and,
  3. Eliminate towing services from Miami Beach. State law permits the vehicle to be stored up to 20 miles from the place from which the vehicle was towed.

#### WHAT IS BEING DONE

1. The Planning Board will hold a public hearing on June 23 for purposes of considering the removal of vehicle storage lots in this Zoning District.
2. As per Daniel Jonas (Attorney for 71st Street Byron Condominium) request, we will advise him when Magnum Towing applies for an Occupational License. He has indicated he will appeal the zoning decision that this use is allowed in the C-5 district to the Board of Adjustment at that time.



AN ANALYSIS OF STORAGE PARKING LOTS  
PREPARED BY THE PLANNING DEPARTMENT  
JUNE 8, 1987

On May 6, 1987, the City Commission requested that the Administration investigate the history of the property located at 7125 Byron Avenue, which is the site of a proposed storage area/facility for towed vehicles. The Commission has further requested that the Administration pursue the prohibition of this type of use in the future.

#### I. THE SITE

The property is located at 7125 Byron Avenue (Lot 3, Block 6, Normandy Beach South) and consists of a 50 x 125 foot lot which was originally developed as a single family home in 1926. The house was demolished in 1971 and the site was paved and landscaped as a parking lot in 1972.

At the present time, construction of a 6 foot high CBS wall surrounding the property is underway. Construction of the wall was approved by the City on April 15, 1987 (Building Permit #30184).

The site is situated between two paved parking lots to the north and south. The five story 71st Street/Byron Condominium is adjacent to the southernmost parking lot, and several units overlook 7125 Byron Avenue.

Directly across the street (west) from 7125 Byron is the Stamen Learning Center, a licensed day care facility for infants and young children. To the east of the property are commercial uses including North Beach Cleaners and an automotive repair garage.

#### II. ZONING HISTORY

The six block area bounded by Byron Avenue, 72nd Street, Collins Avenue, and 69th Street has been zoned C-5 (General Business) since 1971, when the City's present Zoning Ordinance #1891 was adopted. Prior to that time, under Zoning Ordinance #289, the area was zoned for business along 71st and on both sides of Abbott Avenue from 71st to 72nd Streets. The remainder of the area was zoned RE, a district which also allowed several commercial uses (such as telephone exchanges, parking lots, and banks) by special permit from the City Council. 7125 Byron Avenue was in the RE Apartment District until 1971. All of the above referenced property was placed in the C-5 Commercial District in 1971.

#### III. CHRONOLOGY OF EVENTS

On February 10, 1987, Attorney Philip Brooks wrote to the City's Development Services Department indicating that his clients, Magnum Towing, Inc., were purchasing the property at 7125 Byron Avenue. The letter stated that his clients "will be using this as a towing company to be used for storage of vehicles towed off private property". He requested written confirmation that this was a permissible use under Section 6-12 (C-5) General Business District (B20) of the City's Zoning Ordinance. Section 6-12, paragraph B20 permits the establishment within the C-5 district of "storage garages, automobile and truck storage within an area enclosed by an opaque masonry wall or structural wood fence not less than 6 feet in height. Such wall or fence shall totally screen garage and work area from public view".

On February 13, 1987, the Development Services Division responded that 7125 Byron Avenue is in a C-5 District and that the use to which Mr. Brooks was inquiring was a permitted use in the district. Mr. Brooks was further informed that his client would be required to provide an office on the site.

On March 30, 1987, Attorney Daniel Jonas, representing the 71st Byron Condominium Association, addressed a letter to the City's Development Services Division in which he cited Section 6-12 paragraph B20 of the Zoning Ordinance, regarding storage garages. He stated that the Ordinance required that a wall or fence be tall enough to totally screen the garage and work area from public view, and that his clients would take legal action if the City approved plans for a wall that did not screen the area from the view of a resident standing in a fifth floor apartment. He intends to file an appeal with the Board of Adjustment pertaining to the Development Services Division decision which will request the Board to find that towing is not allowed on the property.

On April 15, 1987, Mark Brooks of Magnum Towing, the owner of 7125 Byron Avenue, received a building permit for the construction of a six foot high wall surrounding the property, and on May 19, 1987, the Planning Department approved plans for the construction of a 13' x 16' office on the site.

During April and May, 1987, a number of residents expressed their concerns to the City Commissioners and Administrators about the future towing service at 7125 Byron Avenue. On May 6, 1987, the Commission discussed the issue with area residents. The Commission then requested additional information about the situation from the Administration, and directed the Planning Department and Planning Board to consider ways to prevent a similar situation in the future.

To date, the owner of 7125 Byron Avenue has not applied for an occupational license to operate a towing service at 7125 Byron Avenue, nor have plans been received for the construction of a garage. As stated above, we expect Mr. Jonas to appeal the issuance of the Occupational License to the Board of Adjustment.

The Planning Board is scheduled to consider the amendment to the Zoning Ordinance which would prohibit the towing and storage of automobiles on the properties in the C-3 Zoning District at their June 23, 1987 meeting.

#### IV. STATE AND CITY REQUIREMENTS PERTAINING TO TOWING

The operation of towing service businesses is governed by Florida Statutes 715.07, Sections 44-52 through 44-70 of the City Code, and the Rules and Regulations for Police Towing Permits. Although "towing services" per se are not identified or described as uses within Zoning Ordinance 1891, the Ordinance regulations governing the storage of vehicles have historically been used to determine whether towing services are legally permitted within any given zoning district.

##### A. STATE STATUTES AND CITY CODE REQUIREMENTS

There are three distinct forms of towing services, each having different requirements. They are:

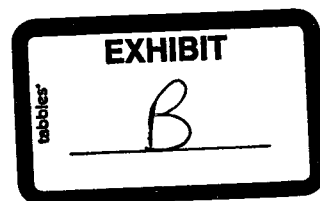
1. **Wrecker Services:** These services are for the removal of disabled vehicles with the owner's consent to locations where the vehicles can be repaired. These services can be provided as accessory uses to mechanical garages or service stations.
2. **Police Towing:** This service involves the towing and storing of vehicles identified by the Police Department as requiring removal from public ways.

Police Towing Services are awarded by the City on a lottery basis to applicants who receive permits in accordance with the City's Rules and Regulations for Police Towing Permits (adopted by the City Commission on September 21, 1983). These rules require that all permittees shall have outside storage for approximately 75 vehicles and inside storage for 5 vehicles. All storage must be within the City of Miami Beach.

Currently, the only locations permitted as police storage sites are in the City's only available C-6, Intensive Commercial District, a six-block area bounded by Dade Boulevard, Purdy Avenue, 20th Street, and Alton Road. The remaining C-6 zoning district is located on Terminal Island and the Coast Guard Station, areas which are 100% developed.

3. **Towing from Private Property (for profit):** This service constitutes towing automobiles from private property without the automobile owner's consent to a storage location. Section 44-66 of the City Code requires that vehicles towed from private property must be stored within the City limits of Miami Beach and that the site be open for the purpose of payment of towing and storage charges and redemption of vehicles twenty-four hours per day. As such, an on-site office is required.

Florida Statutes 715.07 also regulates the towing of vehicles without owner consent from private property. The statutes require that any towed or removed vehicle be stored at a site within 5 miles of the point of removal. If no towing business is located within this 5 mile area, the towed or removed vehicle may be stored at a site within 20 miles of the point of removal.





# CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH FLORIDA 33139



DEPARTMENT OF PLANNING

CITY HALL  
1700 CONVENTION CENTER DRIVE  
TELEPHONE: 673-7550

TO: ROB W. PARKINS  
CITY MANAGER

SEPTEMBER 3, 1987

FROM: JUD KURLANCHEEK   
PLANNING & ZONING DIRECTOR

SUBJECT: TOWING COMPANY

In response to your September 1, 1987 request for a status report on Magnum Towing (7125 Byron Avenue), the following is a summary of actions taken to date:

June, 1987 Mark Brooks, owner of Magnum Towing, applied for an occupational license to operate a towing service at 7125 Byron Avenue. The license was denied on the grounds that the required on-site office had not been completed.

July 7, 1987 Planning Board held public hearing and voted to recommend zoning ordinance amendment eliminating automobile storage from C-5 areas (including 7125 Byron Avenue).

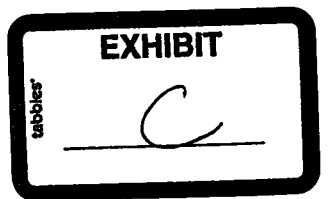
September 2, 1987 City Commission approved above-referenced zoning ordinance amendment on 1st reading. Effective date will be 10 days after 2nd reading.

September 2, 1987 Mark Brooks reapplied for an occupational license, which has not, to date, been issued, since he has not yet received a Certificate of Occupancy on the structure.

At the present time, construction of the on-site office at 7125 Byron Avenue appears to be nearing completion.

Earlier actions taken with regard to this towing issue were included in LTC No. 81-1987 (attached).

JK:SRP:hm  
Attachment  
N.S. II





# 1850

MIAMI BEACH ZONING BOARD OF ADJUSTMENT

1700 Convention Center Drive  
Miami Beach, Florida  
Friday, December 4, 1987  
9:05 o'clock a.m.

MEMBERS PRESENT:

BARTON GOLDBERG, Chairman

DANIEL HOLTZ, Vice Chairman

ROBERT BLUM

LAURENCE FEINGOLD

RUSSELL GALBUT

STAFF PRESENT:

M. LOUISE BARRETT, ESQ.

WOLF FELD

JUD KURLANCHEEK

RONALD RUMBAUGH

CHRIS HEID

APRIL HIRSCH

Fierman Reporting Service  
420 Lincoln Road  
Miami Beach, Florida 33139  
(305) 531-7984

Not to mention, the gas station is right behind the condominium association.

They have windows, and they can see them working on cars over there.

So I just want to put that in the record, that we are not the only business in that area that works on vehicles or stores vehicles because there are vehicles also in the parking lot that have no tags that seem to be junk vehicles, as well.

I just wanted to put that on the record.

Thank you.

MR. GOLDBERG: Thank you.

MR. HOLTZ: Mr. Chairman?

MR. GOLDBERG: Mr. Holtz?

MR. HOLTZ: I have a question for Mr. Kurlancheek.

My question is whether there are any other zoning districts within the City of Miami Beach that specifically provides for towing services?

MR. KURLANCHEEK: We permit towing services in a C-6 area.

MR. HOLTZ: Towing services is specifically mentioned in the language there?

MR. BROOKS: No, sir.

If I may say that the other towing companies that are located on Miami Beach are all in a C-5 area.

They are on Purdy Avenue. They are on Alton Road. They were on 5th Street.

These were the only C-5 areas in the City of Miami Beach.

Now that the City Counsel, in their wisdom, decided

to stop having automobile storage lots in a C-5 area, you cannot have an automobile storage lot any place in Miami Beach, not even in a C-6 area because C-6 indicates that anything that is permissible in C-5 is permissible in C-6.

Now that it is no longer permissible in C-5, it is not permissible in C-6.

In furtherance, every other towing company does not have an enclosed structure.

They are all with six foot fences. The others have barbed wires on them. They are six foot structures in a C-5 area.

There is no towing company in a C-6 area.

MR. GOLDBERG: Thank you, Mr. Brooks.

Mr. Kurlancheek?

MR. KURLANCHEEK: We have interpreted the City's zoning ordinance to allow for storage and towing facilities in the C-6 area.

MR. GOLDBERG: Well, we have also said in the C-5 area.

MR. KURLANCHEEK: As well as the C-5 area.

MR. GOLDBERG: Up to the time of the ordinance.

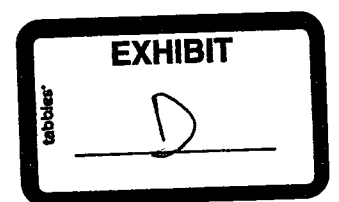
MR. KURLANCHEEK: Up to the time of the ordinance.

MR. GOLDBERG: What would happen now with the new ordinance?

MR. KURLANCHEEK: They would only be permitted in a C-6 area.

MR. GOLDBERG: All right. Thank you.

Does anyone else wish to be heard on this appeal?



# CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH FLORIDA 33139



DEPARTMENT OF PLANNING

CITY HALL  
1700 CONVENTION CENTER DRIVE  
TELEPHONE: 673-7550

TO: CHAIRMAN & BOARD MEMBERS  
ZONING BOARD OF ADJUSTMENT

NOVEMBER 24, 1987

FROM: JUD KURLANCHEE   
PLANNING & ZONING DIRECTOR

SUBJECT: PLANNING & ZONING DEPARTMENT RECOMMENDATION:  
DECEMBER 4, 1987 MEETING

FILE NO. 1850

71ST BYRON CONDOMINIUM ASSOCIATION, INC.  
7135 BYRON AVENUE

The Department recommends that the Board deny the appeal.

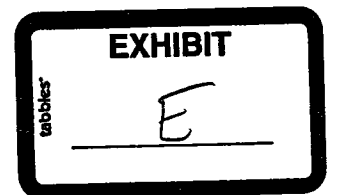
As indicated in the attached correspondence, the City approved the location of a storage parking lot at 7125 Byron Avenue on February 10, 1987 and on subsequent dates, approved a building permit and an occupational license. The approvals were based upon the following findings:

1. The site is located in a C-5 General Business District which is a mixed use zoning classification that permits high density residential, retail and light and heavy service commercial developments (Section 6.12,A of the Zoning Ordinance); and,
2. The C-5 district specifically includes the following listing (Section C-12, B-20): Storage garages, automobile and truck storage within an area enclosed by an opaque masonry wall or structural wood fence not less than 6 feet in height. Such wall or fence shall totally screen garage and work area from public view.

The Department finds that facility is within the permitted category of automobile storage; that falls within the purpose of "light and heavy services commercial development" classification; and that the site is screened by a masonry wall that is 6 feet in height which screens the interior of the property from public view at the pedestrian level.

The applicant argues that the wall should be at a height so that persons in the adjacent apartment building could not see into the storage lot. This would require a wall to be constructed at the same height of the apartment building. This obviously would result in a significant eyesore that would negatively affect the entire community as well as the adjacent apartment building. It would also be difficult to construct a wall this high as the building code would require substantial reinforcing measures. Lastly, the Zoning Ordinance restricts the height of a wall to 7 feet.

JK:hm  
Attachment  
ZBA #3



# CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH FLORIDA 33139



BOARD OF ADJUSTMENT

CITY HALL  
1700 CONVENTION CENTER DRIVE  
TELEPHONE: 673-7550

December 15, 1987

71st Byron Condominium Association, Inc.  
7101 Byron Avenue  
Miami Beach, FL 33141

PROPERTY ADDRESS: 7135 BYRON AVENUE  
FILE NO. 1850

We wish to advise you that on December 4, 1987, the Miami Beach Zoning Board of Adjustment denied your appeal of an Administrative Decision regarding the location of an automobile towing and storage lot at 7135 Byron Avenue.

If we may be of further assistance, please do not hesitate to contact my office.

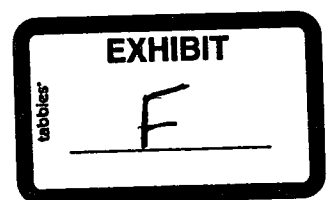
Sincerely,

Jud Kurlancheek  
Planning & Zoning Director

cc: City Attorney's Office  
Daniel E. Jonas  
Magnum Towing

JK/CH/ah  
Z XIII





# CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH FLORIDA 33139



July 7/9

DEPARTMENT OF PLANNING

CITY HALL  
1700 CONVENTION CENTER DRIVE  
TELEPHONE: 673-7550

JUNE 29, 1987

TO: PLANNING BOARD

FROM: JUD KURLANCHEEK  
PLANNING DIRECTOR

SUBJECT: PROPOSED AMENDMENT TO THE ZONING ORDINANCE ELIMINATING  
STORAGE GARAGES, AUTOMOBILE AND TRUCK STORAGE AS A  
PERMITTED USE IN THE C-5 GENERAL BUSINESS DISTRICT  
JULY 7, 1987 MEETING

## THE REQUEST

The City Commission, at its May 6, 1987 meeting, directed the Administration to request that the Planning Board consider a zoning amendment to prohibit automobile storage in the C-5 General Business District bounded by 69th Street, 72nd Street, Byron Avenue and Collins Avenue. The Commission's request was prompted by residents' complaints regarding a proposed towing service storage location in the 71st Street neighborhood. Concerns included the negative visual impact upon the neighborhood of the storage of derelict automobiles, the noise and disturbance from the 24-hour per day operation of tow trucks and potential traffic hazards.

## PLANNING DEPARTMENT ANALYSIS

The storage of vehicles towed from private property is currently permitted in the C-5 General Business District and the C-6 Intensive Commercial District. The storage of vehicles towed from public rights-of-way (Police towing) is not affected by this proposed amendment, since this use is regulated by Police Towing Permit Rules and Regulations and is permitted in the C-6 District only.

The C-5 regulations permitting automobile storage allows the establishment of "Storage garages, automobile and truck storage within an area enclosed by an opaque masonry wall or structural wood fence not less than 6 feet in height. Such wall or fence shall totally screen garage and work area from public view."

The Planning Department recommends that the above-referenced permitted use in the C-5 District be deleted from the Zoning Ordinance. The operation of such facilities does, in fact, severely impact surrounding properties with visual blight, noise and disturbance, and potential traffic hazards. These impacts cannot be mitigated by the construction of a six-foot wall or fence surrounding the storage area.

The C-5 Districts which would be affected by this zoning amendment include the following general locations:

1. A six-block area bounded by 69th Street, Byron Avenue, 72nd Street, and Collins Avenue;
2. The east side of Washington Avenue from 6th to 16th Streets, west side of Washington Avenue from 15th to 16th Streets, and portions of Espanola Way and 15th Street; and,
3. Both sides of Alton Road from 14th Street to Dade Boulevard, excluding certain lots fronting on Lincoln Road.

## PLANNING DEPARTMENT RECOMMENDATION

The Planning Department recommends that the Planning Board approve the attached Ordinance as submitted.

# City of Miami Beach

FLORIDA 33139



"VACATIONLAND U. S. A."

OFFICE OF THE CITY MANAGER  
ROB W. PARKINS  
CITY MANAGER

CITY HALL  
1700 CONVENTION CENTER DRIVE  
TELEPHONE: 673-7010

COMMISSION MEMORANDUM NO. 587-87

DATE: SEPTEMBER 2, 1987

TO: Mayor Alex Daoud and  
Members of the City Commission

FROM: Rob W. Parkins  
City Manager

SUBJECT: PLANNING BOARD RECOMMENDATION: REQUEST BY THE  
ADMINISTRATION TO AMEND THE ZONING ORDINANCE ELIMINATING  
STORAGE GARAGES, AUTOMOBILE AND TRUCK STORAGE AS A  
PERMITTED USE IN THE C-5 GENERAL BUSINESS DISTRICT

## THE REQUEST

The City Commission, at its May 6, 1987 meeting, directed the Administration to request that the Planning Board consider a zoning amendment to prohibit automobile storage in the C-5 General Business District bounded by 69th Street, 72nd Street, Byron Avenue and Collins Avenue. The Commission's request was prompted by residents' complaints regarding a proposed towing service storage location in the 71st Street neighborhood. Concerns included the negative visual impact upon the neighborhood of the storage of derelict automobiles, the noise and disturbance from the 24-hour per day operation of tow trucks and potential traffic hazards.

## PLANNING & ZONING DEPARTMENT ANALYSIS AND RECOMMENDATION

The storage of vehicles towed from private property is currently permitted in the C-5 General Business District and the C-6 Intensive Commercial District. The storage of vehicles towed from public rights-of-way (Police towing) is not affected by this proposed amendment, since this use is regulated by Police Towing Permit Rules and Regulations and is permitted in the C-6 District only.

The C-5 regulations permitting automobile storage allows the establishment of "Storage garages, automobile and truck storage within an area enclosed by an opaque masonry wall or structural wood fence not less than 6 feet in height. Such wall or fence shall totally screen garage and work area from public view."

The Department recommends that garage storage facilities in the C-5 District be deleted from the Zoning Ordinance. The operation of such facilities does severely impact surrounding properties with visual blight, noise and disturbance and potential traffic hazards. These impacts cannot be mitigated by the construction of a six-foot wall or fence surrounding the storage area.

The C-5 Districts which would be affected by this zoning amendment include the following general locations:

1. A six-block area bounded by 69th Street, Byron Avenue, 72nd Street and Collins Avenue;
2. The east side of Washington Avenue from 6th to 16th Streets, west side of Washington Avenue from 15th to 16th Streets, and portions of Espanola Way and 15th Street; and,
3. Both sides of Alton Road from 14th Street to Dade Boulevard, excluding certain lots fronting on Lincoln Road.

AGENDA  
ITEM

R-3-E

DATE

9-16-87

COMMISSION MEMORANDUM  
C-5 GENERAL BUSINESS DISTRICT  
SEPTEMBER 2, 1987  
PAGE 2

PLANNING BOARD RECOMMENDATION

On July 7, 1987, the Planning Board held a public hearing for purposes of considering the request. Following the hearing and in consideration of the Planning & Zoning Department's affirmative recommendation, the Board voted (6 to 1) recommending that the City Commission approve the request.

ADMINISTRATION RECOMMENDATION

The Administration recommends that the City Commission approve the Ordinance as recommended by the Planning Board.

RWP:JK:cmf  
Attachment

CM#10

COMMISSION  
MEETING

SEP 16 1987

CITY OF MIAMI BEACH

Effective: 9-26-87

ORDINANCE NO. 187,255

AN ORDINANCE OF THE CITY OF MIAMI BEACH, FLORIDA  
AMENDING THE COMPREHENSIVE ZONING ORDINANCE NO. 1396;  
PROVIDING FOR AN AMENDMENT TO SECTION 6-12 C-5  
GENERAL BUSINESS DISTRICT BY DELETING SUB-SECTION 6-  
12(B) PARAGRAPH 20, ~~ELIMINATING STORAGE GARAGES,  
AUTOMOBILE AND TRUCK STORAGE AS A PERMITTED USE IN  
THE C-5 GENERAL BUSINESS DISTRICT~~; PROVIDING FOR  
INCLUSION IN THE ZONING ORDINANCE; PROVIDING FOR A  
REPEALER; PROVIDING FOR SEVERABILITY; AND PROVIDING  
FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF MIAMI BEACH,  
FLORIDA:

Dashed Words = Deleted Language

Underlined Words = New Language

Section 1: That Section 6, Subsection 6-12(3), is hereby amended to read as follows:

6-12 C-5 General Business District

B. Uses Permitted

~~20:~~ Storage garages; automobile and truck storage within an area enclosed by  
an opaque masonry wall or structural wood fence not less than 6 feet in  
height. Such wall or fence shall totally screen garage and work area from  
public view.

20. ~~21:~~ Trade expositions or convention halls with capacity in each case limited to  
4,000 persons.

21. ~~22:~~ Retail meat and fish market.

22. ~~24:~~ The following uses may be permitted as a conditional use:

- a. Adult Congregate Living Facilities subject to mandatory  
requirements and review criteria set forth in Section 13, Adult  
Congregate Living Facilities.



- b. Automobile parking lot, open or enclosed, non-commercial provided such use is accessory to a primary use in accordance with the provisions of Section 9-3 of the Ordinance. For the purpose of this Section, a written agreement shall be construed as a Unity of Title and shall be recorded in the Circuit Court.
- c. Bus terminals.
- d. Churches, synagogues and temples.
- e. Colleges, junior colleges, or institutions of higher learning.
- f. Filling stations, or any use which includes the retail sale of gasoline.
- g. Institution, educational or philanthropic, including museum and art gallery.
- h. Municipal buildings and uses.
- i. Private club.
- j. Storage parking lots.
- k. Undertaking establishment or funeral home.
- l. Temporary use for a period not to exceed 15 days.

23. ~~24.~~ Accessory uses for above uses.

- a. Any accessory in the area located between the established Bulkhead Line and the Erosion Control Line shall be in accordance with Section 18-2 Dune Overlay Regulations.

Section 2: INCLUSION IN ZONING ORDINANCE NO. 1891

It is the intention of the City Commission, and it is hereby ordained that the provisions of the Ordinance shall become and be made a part of the City of Miami Beach Zoning Ordinance No. 1891 as amended; that the section 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 3: REPEALER. All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

Section 4: **SEVERABILITY.** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such hold shall not affect the validity of the remaining portions of this Ordinance.

Section 5: **EFFECTIVE DATE.** This Ordinance shall take effect ten (10) days after adoption on September 25, 1987.

PASSED and ADOPTED this 16 day of Sept., 1987.

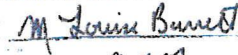
  
MAYOR

ATTEST:

  
CITY CLERK

1st Reading - September 2, 1987  
2nd Reading - September 16, 1987

SM:cm1  
6/3/87  
ZO Prop #2

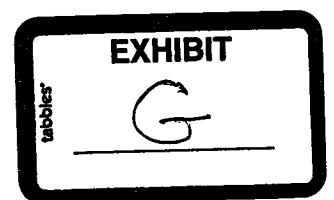
FORM APPROVED  
LEGAL DEPARTMENT  
BY:   
9-11-87



7-10-1991

OPTIONAL NO. 87-2580

(Amending the Comprehensive Zoning Ord.  
No. 1891; providing for an amendment to  
Section 6-12, C-5 General Business Dis-  
trict by deleting sub-section 6-12(b)  
paragraph 20, eliminating storage garages,  
automobile and truck storage as a per-  
mitted use in the C-5 General Business  
District)





# CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH FLORIDA 33139



DEPARTMENT OF PLANNING

CITY HALL  
1700 CONVENTION CENTER DR  
TELEPHONE: 673-7550

June 18, 1987

Mr. Vincent Festa  
Beach Towing Services Inc.  
1349 Dade Boulevard  
Miami Beach, Florida 33139

Dear Mr. Festa:

Please be advised that the Planning Board Public Hearing, originally scheduled for June 23, 1987, to consider an amendment to the Zoning Ordinance to prohibit future vehicle towing and storage lots in the C-5 Business District, has been rescheduled for July 7, 1987 at 3:30 p.m. Please note that if Magnum Towing receives an Occupational License for the towing and storage lot and it is not appealed to the Board of Adjustment prior to the adoption of this amendment by the City Commission, then the use of the lot for this purpose will be permitted.

Should the Planning Board recommend to the City Commission that storage vehicles be prohibited in the C-5 Zoning District, the Commission could consider this item at their July 15, 1987 meeting with public hearings in September.

If you have any further questions, please do not hesitate to contact Shaye Prather of my staff at 673-7550.

Thank you for your interest in maintaining a high quality of life in North Shore and I look forward to meeting you.

Sincerely,

Jud Kurlancheek  
Planning Director

JK:CH:hm  
HM 3

# CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH FLORIDA 33139



DEPARTMENT OF PLANNING

CITY HALL  
1700 CONVENTION CENTER DRIVE  
TELEPHONE: 673-7550

June 18, 1987

Mr. Feliberto Nieves  
Reigosa's Towing Service Inc.  
2780 N.W. 21st Terrace  
Miami, Florida 33142

Dear Mr. Nieves:

Please be advised that the Planning Board Public Hearing, originally scheduled for June 23, 1987, to consider an amendment to the Zoning Ordinance to prohibit future vehicle towing and storage lots in the C-5 Business District, has been rescheduled for July 7, 1987 at 3:30 p.m. Please note that if Magnum Towing receives an Occupational License for the towing and storage lot and it is not appealed to the Board of Adjustment prior to the adoption of this amendment by the City Commission, then the use of the lot for this purpose will be permitted.

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If you have any further questions, please do not hesitate to contact Shaye Prather of my staff at 673-7550.

Thank you for your interest in maintaining a high quality of life in North Shore and I look forward to meeting you.

Sincerely,

A handwritten signature in cursive script, which appears to read "Jud Kurlancheek".

Jud Kurlancheek  
Planning Director

JK:CH:hm  
HM 3

# CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH FLORIDA 33139



DEPARTMENT OF PLANNING

CITY HALL  
1700 CONVENTION CENTER DRIVE  
TELEPHONE: 673-7550

June 18, 1987

Mr. Francisco Carcasses  
MB Paint & Body Shop Inc.  
800 1st Street  
Miami Beach, Florida 33139

Dear Mr. Carcasses:

Please be advised that the Planning Board Public Hearing, originally scheduled for June 23, 1987, to consider an amendment to the Zoning Ordinance to prohibit future vehicle towing and storage lots in the C-5 Business District, has been rescheduled for July 7, 1987 at 3:30 p.m. Please note that if Magnum Towing receives an Occupational License for the towing and storage lot and it is not appealed to the Board of Adjustment prior to the adoption of this amendment by the City Commission, then the use of the lot for this purpose will be permitted.

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Sincerely,

Jud Kurlancheek  
Planning Director

JK:CH:hm  
HM 3



# CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH FLORIDA 33139



DEPARTMENT OF PLANNING

CITY HALL  
1700 CONVENTION CENTER DRIVE  
TELEPHONE: 673-7550

June 18, 1987

Mr. Luis Bermudez  
L. B. Towing Services  
2140 Verdun Drive  
Miami Beach, Florida 33139

Dear Mr. Bermudez:

Please be advised that the Planning Board Public Hearing, originally scheduled for June 23, 1987, to consider an amendment to the Zoning Ordinance to prohibit future vehicle towing and storage lots in the C-5 Business District, has been rescheduled for July 7, 1987 at 3:30 p.m. Please note that if Magnum Towing receives an Occupational License for the towing and storage lot and it is not appealed to the Board of Adjustment prior to the adoption of this amendment by the City Commission, then the use of the lot for this purpose will be permitted.

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Sincerely,

Jud Kurlancheek  
Planning Director

JK:CH:hm  
HM 3

# CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH FLORIDA 33139



DEPARTMENT OF PLANNING

CITY HALL  
1700 CONVENTION CENTER DRIVE  
TELEPHONE: 673-7550

June 18, 1987

Miami Beach Wrecker & Towing Service  
1402 Collins Avenue  
Miami Beach, Florida 33139

Dear Sir:

Please be advised that the Planning Board Public Hearing, originally scheduled for June 23, 1987, to consider an amendment to the Zoning Ordinance to prohibit future vehicle towing and storage lots in the C-5 Business District, has been rescheduled for July 7, 1987 at 3:30 p.m. Please note that if Magnum Towing receives an Occupational License for the towing and storage lot and it is not appealed to the Board of Adjustment prior to the adoption of this amendment by the City Commission, then the use of the lot for this purpose will be permitted.

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If you have any further questions, please do not hesitate to contact Shaye Prather of my staff at 673-7550.

Thank you for your interest in maintaining a high quality of life in North Shore and I look forward to meeting you.

Sincerely,

Jud Kurlancheek  
Planning Director

JK:CH:hm  
HM 3



# CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH FLORIDA 33139



DEPARTMENT OF PLANNING

CITY HALL  
1700 CONVENTION CENTER DRIVE  
TELEPHONE: 673-7550

June 18, 1987

Tremont Towing Inc.  
1930 Bay Road  
Miami Beach, Florida 33139

Dear Sir:

Please be advised that the Planning Board Public Hearing, originally scheduled for June 23, 1987, to consider an amendment to the Zoning Ordinance to prohibit future vehicle towing and storage lots in the C-5 Business District, has been rescheduled for July 7, 1987 at 3:30 p.m. Please note that if Magnum Towing receives an Occupational License for the towing and storage lot and it is not appealed to the Board of Adjustment prior to the adoption of this amendment by the City Commission, then the use of the lot for this purpose will be permitted.

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