

# MIAMI BEACH

## PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: May 21, 2019

FROM: Thomas R. Mooney, AICP  
Planning Director

SUBJECT: **PB 19-0292. Portion of Ocean Terrace and 75th Street rights of way – Comprehensive Plan Amendment.**  
**PB 19-0293. Portion of Ocean Terrace and 75th Street rights of way – Zoning district change.**  
**PB 19-0294. Vacation of Portions of Ocean Terrace, 74th Street and 75th Street.**

### **REQUEST**

**PB 19-0292. Portion of Ocean Terrace and 75th Street rights of way – Comprehensive Plan Amendment.** AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE FUTURE LAND USE MAP OF THE CITY OF MIAMI BEACH 2025 COMPREHENSIVE PLAN BY CHANGING THE FUTURE LAND USE CATEGORY PURSUANT TO SECTION 118-166 OF THE CITY CODE, AND PURSUANT TO SECTIONS 163.3181 AND SECTION 163.3187, FLORIDA STATUTES, BY CHANGING THE FUTURE LAND USE DESIGNATION FOR A PARCEL OF LAND LOCATED IN THE EAST HALF OF THE OCEAN TERRACE RIGHT OF WAY (BETWEEN THE CENTERLINE OF 74th STREET AND THE NORTHERN RIGHT OF WAY LINE OF 75th STREET AS SHOWN ON THE PLAT OF THE TOWNSITE OF HARDING, RECORDED IN PLAT BOOK 34, PAGE 4 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY), AND LOCATED IN THE 75TH STREET RIGHT OF WAY BETWEEN OCEAN TERRACE AND COLLINS AVENUE, AND WHICH IS COMPRISED OF LESS THAN 10 ACRES, FROM THE CURRENT DESIGNATIONS OF PF, "PUBLIC FACILITY," AND ROS, "RECREATION AND OPEN SPACE," TO THE FUTURE LAND USE CATEGORIES OF CD-2, "COMMERCIAL MEDIUM INTENSITY" AND MXE, "MIXED-USE ENTERTAINMENT"; AND PROVIDING FOR INCLUSION IN THE COMPREHENSIVE PLAN, TRANSMITTAL, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

**PB 19-0293. Portion of Ocean Terrace and 75th Street rights of way – Zoning district change.** AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE OFFICIAL ZONING DISTRICT MAP, CONSISTENT WITH THE REQUIREMENTS OF CITY CODE SECTION 142-72, "DISTRICT MAP," AND PURSUANT TO CITY CODE SECTION 118-162, "PETITIONS FOR CHANGES AND AMENDMENTS," BY CHANGING THE ZONING DISTRICT CLASSIFICATION FOR A PARCEL OF LAND LOCATED IN THE EAST HALF OF THE OCEAN TERRACE RIGHT OF WAY (BETWEEN THE CENTERLINE OF 74th STREET AND THE NORTHERN RIGHT OF

WAY LINE OF 75th STREET AS SHOWN ON THE PLAT OF THE TOWNSITE OF HARDING, RECORDED IN PLAT BOOK 34, PAGE 4 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY), AND LOCATED IN THE 75TH STREET RIGHT OF WAY BETWEEN OCEAN TERRACE AND COLLINS AVENUE, AND WHICH IS COMPRISED OF LESS THAN 10 ACRES, FROM THE CURRENT ZONING CLASSIFICATION OF GU, "GOVERNMENT USE DISTRICT," TO CD-2, "COMMERCIAL MEDIUM INTENSITY DISTRICT," AND MXE, "MIXED-USE ENTERTAINMENT" AND EXTENDING THE BOUNDARY OF THE OCEAN TERRACE OVERLAY ZONE TO ENCOMPASS SAID PARCEL OF LAND; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

**PB 19-0294. Vacation of Portions of Ocean Terrace, 74th Street and 75th Street.**

APPROVAL OF THE PLANNING BOARD, BY A 4/7THS 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 VACATION OF THAT PORTION OF (1) OCEAN TERRACE, BETWEEN THE CENTERLINE OF 74th STREET AND THE NORTHERN RIGHT OF WAY LINE OF 75th STREET AS SHOWN ON THE PLAT OF THE TOWNSITE OF HARDING, RECORDED IN PLAT BOOK 34, PAGE 4 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY (THE "HARDING TOWNSITE PLAT"), WHICH CONSISTS OF A 60-FOOT WIDE RIGHT OF WAY CONTAINING APPROXIMATELY 25,205 SQUARE FEET IN TOTAL LOT AREA; (2) THE NORTH HALF OF 74th STREET, BETWEEN OCEAN TERRACE AND COLLINS AVENUE, WHICH CONSISTS OF A 30-FOOT WIDE RIGHT OF WAY CONTAINING APPROXIMATELY 8,880 SQUARE FEET IN TOTAL LOT AREA; AND (3) A PORTION OF 75th STREET, BETWEEN OCEAN TERRACE AND COLLINS AVENUE, WHICH CONSISTS OF A 40-FOOT WIDE RIGHT-OF-WAY (ROW) CONTAINING APPROXIMATELY 11,840 SQUARE FEET IN TOTAL LOT AREA (COLLECTIVELY, THE "CITY RIGHT OF WAY AREAS"), AS SHOWN ON THE HARDING TOWNSITE PLAT, IN FAVOR OF THE ABUTTING PROPERTY OWNERS, G & V REALTY, LLC, 7400 OCEAN TERRACE, LLC, 7410 OCEAN TERRACE, LLC, 7420 OCEAN TERRACE INVESTMENT, LLC, 7436 OCEAN TERRACE, LLC, 7450 OCEAN TERRACE, LLC, AND 7441 COLLINS AVENUE INVESTMENT, LLC (COLLECTIVELY, THE "APPLICANT" ); FURTHER, PROVIDING THAT THE FOREGOING VACATION OF THE CITY RIGHT OF WAY AREAS SHALL BE SUBJECT TO AND CONTINGENT UPON THE APPLICANT'S SATISFACTION OF CERTAIN CONDITIONS, TO BE SET FORTH IN A DEVELOPMENT AGREEMENT BETWEEN THE CITY AND THE APPLICANT, WHICH CONDITIONS SHALL, AMONG OTHER TERMS, REQUIRE THE APPLICANT TO (1) GRANT TO THE CITY A PERPETUAL UTILITY, ROADWAY AND PEDESTRIAN ACCESS EASEMENT OVER, ACROSS AND UNDER THE CITY RIGHT OF WAY AREAS; AND (2) OBLIGATE THE APPLICANT TO DEVELOP, DESIGN, AND CONSTRUCT, AT THE APPLICANT'S SOLE COST AND EXPENSE, CERTAIN PUBLIC PARK AND STREETScape IMPROVEMENTS IN THE VICINITY OF OCEAN TERRACE, BETWEEN 73RD STREET AND 75TH STREET, WITH SUCH PUBLIC IMPROVEMENTS HAVING A VALUE OF NOT LESS THAN FIFTEEN MILLION DOLLARS (\$15,000,000).

**RECOMMENDATION**

Transmit the proposed future land use map amendment, zoning district map amendment, and right of way vacation to the City Commission with a favorable recommendation.

**HISTORY**

On December 12, 2018, the City Commission unanimously adopted the Ocean Terrace

Neighborhood Urban Design Plan that was produced by The Corradino Group and Garcia-Pons + Associates. The Finance and Citywide Projects Committee ("FCWPC") discussed how to implement the plan at its February 22, 2019 meeting. The FCWPC directed staff to explore ways to prioritize and fund the proposed public improvement project. During the February 22, 2019 FCWPC, staff reported that after review of funding alternatives for the approximate \$15M that would be required to bring the Ocean Terrace Park Plan to fruition, the administration recommended the City explore entering into a public-private partnership through a development agreement. The Administration requested the opportunity to solicit potential public/private partnership options to fund the Ocean Terrace Neighborhood Urban Design Plan. The FCWPC agreed and ask the Administration to return with potential partners.

At the March 22, 2019 FCWPC meeting, the administration returned with a potential public/private partnership with Ocean Terrace Holdings, LLC, one owner fo adjacent lots on the west side of Ocean Terrace. The FCWPC reviewed the conceptual plans and recommended that the City Commission refer a discussion to consider the vacation of portions of Ocean Terrace, 74th Street and 75th Street in favor of Ocean Terrace Holding, LLC and to determine whether the City should negotiate a development agreement that provides for a public benefit. The development agreement could generally involve the vacation of certain rights-of-way on and adjacent to Ocean Terrace in exchange for a public benefit to fund and/or construct the Park Plan. The FCWPC recommended that the Administration retain a consultant to assess the economic benefits that the proposed project would provide and to proceed with discussions with Ocean Terrace Holding, LLC and to return to the FCWPC with the terms and conditions, including the public benefits and economic impact. The FCWPC further recommended that the item be referred to the Land Use and Development Committee, as well as the Planning Board.

On April 10, 2019, at the request of Commissioner Ricky Arriola, the City Commission referred the proposed ordinances to the Land Use and Development Review Committee and the Planning Board (Item C7 I).

#### **BACKGROUND**

The administration has retained consultants at the developer's expense to assess the economic benefits that the proposed project would provide and to conduct an appraisal. The administration has also been authorized on to negotiate a Development Agreement with Ocean Terrace Holding, LLC (and affiliates/Ocean Terrace property owners), to evaluate the public benefit of such an agreement, including but not limited to the vacation of portions of the Ocean Terrace and 74th / 75th Street rights of way, and to evaluate the impact of such a development agreement will have on the City and the Ocean Terrace/North Beach corridor.

#### **REVIEW CRITERIA**

Pursuant to Section 118-163 of the City Code, in reviewing a request for an amendment to these land development regulations, the board shall consider the following when applicable:

- 1. Whether the proposed change is consistent and compatible with the comprehensive plan and any applicable neighborhood or redevelopment plans.**

**Consistent** – The proposed LDR ordinance is consistent with the goals, objectives, and

policies of the Comprehensive Plan as proposed to be amended.

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

**Consistent** – The proposed amendment provides for an extension of existing district boundaries.

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

**Consistent** - The proposed ordinance amendment is not out of scale with the surrounding neighborhood.

4. **Whether the proposed change would tax the existing load on public facilities and infrastructure.**

**Consistent** – The proposed ordinance will not affect the load on public facilities and infrastructure.

5. **Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.**

**Consistent** – The existing district boundaries do not extend to the centerline of the roadways. The proposed change would provide for more logically drawn boundaries for the affected areas.

6. **Whether changed or changing conditions make the passage of the proposed change necessary.**

**Consistent** – The need to encourage redevelopment in the Ocean Terrace area and implement the Ocean Terrace Neighborhood Plan makes passage of the proposed change necessary.

7. **Whether the proposed change will adversely influence living conditions in the neighborhood.**

**Consistent** – The proposed ordinance amendment will not adversely affect living conditions in the neighborhood.

8. **Whether the proposed change will create or excessively increase traffic congestion beyond the levels of service as set forth in the comprehensive plan or otherwise affect public safety.**

**Consistent** – The proposed change will not create or increase traffic congestion from what is currently permitted.

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

**Consistent** – The proposed change will not reduce light and air to adjacent areas.

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

**Consistent** – The proposed change should not adversely affect property values in the adjacent areas.

**11. Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.**

**Consistent** – The proposed change should not be a deterrent to the improvement or development of properties in the City.

**12. Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.**

**Not applicable.**

**13. Whether it is impossible to find other adequate sites in the city for the proposed use in a district already permitting such use.**

**Not applicable.**

**COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA**

Section 133-50(b) of the Land Development Regulations establishes the following review criteria when considering ordinances, adopting resolutions, or making recommendations:

**(1) Whether the proposal affects an area that is vulnerable to the impacts of sea level rise, pursuant to adopted projections.**

**Consistent** – The proposal affects an area with an elevation above the City's long-term sea level rise projections, therefore it does not affect areas that is directly vulnerable to the impacts of sea level rise.

**(2) Whether the proposal will increase the resiliency of the City with respect to sea level rise.**

**Consistent** – The proposal will allow for the rebuilding of Ocean Terrace with additional open spaces that will improve the resiliency of the City.

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

**Consistent** – The proposal does not diminish and is compatible with the City's sea level rise mitigation and resiliency efforts.

## **PLANNING ANALYSIS**

### **Zoning / Site Data**

Site Area:	15,045 SF / 0.345 AC
Existing FLUM Category:	Recreation and Open Space (ROS) Public Facilities (PF)
Proposed FLUM Category:	Mixed Use Entertainment Category (MXE) Medium Intensity Commercial Category (CD-2)
Existing Zoning Designation:	GU, Government Use District
Proposed Zoning Designation:	MXE, Mixed Use Entertainment District CD-2, Commercial, Medium Intensity District
Existing Land Uses:	
North:	Public Library & Public Parking Lot
East:	Dunes & Beach
South:	Residential Buildings
West:	Commercial Buildings

### **The Proposal**

The proposal is to change the future land use and zoning designations of portions of the Ocean Terrace Right of Way (ROW) northeast of the midpoint of 74<sup>th</sup> Street and of the southern portion of the 75<sup>th</sup> Street ROW east of Collins Avenue, to be consistent with the abutting private property. Portions of the ROW will then be vacated with a perpetual access easement being granted to the City. This will allow the developers of the abutting property to utilize the FAR from the vacated ROW, in exchange for making improvements to Ocean Terrace and side streets between 73<sup>rd</sup> and 75<sup>th</sup> Streets, consistent with the adopted Ocean Terrace Neighborhood Plan. A development agreement is proposed as well, which will provide the details and enforcement mechanisms of the proposal.

Currently, the affected ROW area located along Ocean Terrace and the eastern half of the affected part of 75<sup>th</sup> Street has a Future Land Use Map (FLUM) designation of ROS. The western half of the affected part of 75<sup>th</sup> Street has a FLUM designation of PF. See attached map. The proposal is to change the FLUM designation of the affected portion of Ocean Terrace and the eastern portion of the affected part of 75<sup>th</sup> Street to MXE, to be consistent with the abutting parcels. The western portion of the affected part of 75<sup>th</sup> Street is proposed to change to CD-2, to be consistent with the abutting parcels.

The affected ROW areas have a zoning designation of GU. It is proposed that the zoning be changed to MXE and CD-2, consistent with the aforementioned FLUM amendments.

### **Comprehensive Plan Process**

The total land area involved in this application is 0.345 acres (15,045 SF). Under Section 163.3187 F.S., land use map amendments of less than 10 acres in size may be considered "small-scale" amendments, which require only one public hearing before the City Commission, which shall be an adoption hearing. Upon adoption, the local government shall send a copy of the adopted small-scale amendment to the State Land Planning Agency so that the Agency can maintain a complete and up-to-date copy of the City's Comprehensive Plan.

### **Interlocal Agreement for Public School Facility Planning**

The 2005 Florida Legislature adopted laws which are incorporated in the Florida Statutes, requiring each local government to adopt an intergovernmental coordination element as part of their comprehensive plan, as well as a statutory mandate to implement public school concurrency.

Currently there is a proposal to change the use of the site to a hotel. If there were a modification that established residential units, final site plan approval is contingent upon meeting Public School Concurrency requirements and the applicant will be required to obtain a valid School Concurrency Determination Certificate (Certificate) issued by the Miami-Dade County Public Schools. Such Certificate will state the number of seats reserved at each school level. In the event sufficient seats are not available, a proportionate share mitigation plan shall be incorporated into a tri-party development agreement and duly executed prior to the issuance of a Building Permit.

### **Summary**

The proposed amendment to the FLUM of the City's Comprehensive Plan and the change to the Zoning Map require that these amendments be processed together, as they are interrelated to one another; however, separate motions must be made for each application. The amendments will provide for consistency between the FLUM and the Zoning Atlas. The change will allow for the implementation of the Ocean Terrace Neighborhood Plan.

### **ROW VACATION ANALYSIS**

Section 82-38 of the Code of the City of Miami Beach requires that any proposed sale or lease of City-owned land be analyzed from a planning perspective so that the City Commission and the public are fully apprised of all conditions relating to the proposed sale or lease.

The proposal is to vacate the western half of Ocean Terrace between 74<sup>th</sup> and 75<sup>th</sup> Streets, the southern half of 75<sup>th</sup> Street east of Collins Avenue, and the northeastern portion of 74<sup>th</sup> Street east of Collins Avenue (See the "Right of Way Vacation Area" map at the end of this report). The right of way contains approximately 45,920 SF/1.054 AC in total lot area. A perpetual public access easement will be provided, allowing for the area to continue to function for vehicular and pedestrian access. In exchange for the vacation, the developer of the adjacent Ocean Terrace properties will build out the proposals in the Ocean Terrace Neighborhood Plan for the portions located along Ocean Terrace and side streets between 73<sup>rd</sup> and 75<sup>th</sup> Streets. The Ocean Terrace Neighborhood Plan calls for turning Ocean Terrace into a pedestrian oriented street with park areas. (See the attached summary of the vacation agreement and related exhibits)

The following is an analysis based on the criteria delineated in the Code:

**1. Whether or not the proposed use is in keeping with city goals and objectives and conforms to the city comprehensive plan.**

**Consistent** – The vacated ROW will continue to be used for public purposes. Vehicular access and limited parking will remain on side streets, while Ocean Terrace will become a pedestrian area. It will continue to provide public access to the beach and pedestrian facilities will be greatly enhanced. Additional park spaces will be created and access to

the beach will be improved. 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.*

Since the developer will be contributing to the development of recreation facilities and enhancement of adjacent recreation areas and open space, the proposal is also consistent with Recreation and Open Space Element Policy 3.5, which states the following:

*Policy 3.5*

*The City of Miami Beach shall continue to use the Land Development Regulations of the City Code as standards and incentives which encourage private sector development projects to landscape required open space, develop private recreation facilities on site, and through the impact fee requirement, contribute to the enhancement of adjacent public recreation and open space.*

2. **The impact on adjacent property, including the potential positive or negative impacts such as diminution of open space, increased traffic, noise level or enhanced property values, improved development patterns and provision of necessary services. Based on the proposed use of the property, the city shall determine the potential impact of the project on city utilities and other infrastructure needs and the magnitude of costs associated with needed infrastructure improvements. Should it become apparent that further evaluation of traffic impact is needed, the proponent shall be responsible for obtaining a traffic impact analysis from a reputable traffic engineer.**

**Consistent** – No negative impacts are anticipated by the proposal. The ROW being vacated by the City is proposed to be within the Mixed-Use Entertainment Category (MXE) and Medium Intensity Commercial Category (CD-2) future land use category. These categories allow for a maximum floor area ratio (FAR) of 2.0. Vacation of the 45,920 SF of ROW will allow approximately 91,840 additional square feet to be developed within a unified development site with the adjacent parcels.

- 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. The vacated area will be rebuilt consistent with the Ocean Terrace Neighborhood Plan which will provide for additional open spaces.
- Vacation of the ROW will not affect the transportation network, as vehicular access will be maintained. The use of the floor area that is made available from the vacation of the ROW could potentially generate up to approximately 34 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 Collins Avenue, Harding/Abbott Avenue, and Indian Creek Drive Sub-Area within the North Beach Transportation Concurrency Management Area.

- No noise level impacts are anticipated from the vacation, as the use of the property will remain open and the use will be similar in nature.
- The appearance of the property will improve with the proposed vacation, as the approved development proposal includes open space, pavers, landscaping, wider pedestrian paths, and other enhancements consistent with the Ocean Terrace Neighborhood Plan. These improvements should enhance surrounding property values.
- Vacation of the ROW will allow for improved utilization of the adjacent parcel, and lead to improved development patterns throughout Ocean Terrace and the North Beach area, which is in need of economic redevelopment.
- Vacation of the ROW way will not impact adopted levels of service for public infrastructure. Compliance with parks and transportation concurrency for utilization of the floor area that maybe utilized within a unified development site will be determined and mitigated in conjunction with the building permit process; however, no additional utilities or infrastructure are expected to be necessary.

3. **A determination as to whether or not the proposed use is in keeping with a public purpose and community needs, such as expanding the city's revenue base, creating jobs, creating a significant revenue stream, 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 property will improve the viability of a new development and create additional taxable value. In addition, the agreement will allow for the implementation of the Ocean Terrace Neighborhood Plan which will beautify the street and create larger public spaces and enhance the surrounding community.

4. **A determination as to whether or not the development is in keeping with the surrounding neighborhood, will block views or create environmental intrusions, and evaluation of the design and aesthetic considerations of the project.**

**Consistent** - The surrounding neighborhood will not be negatively affected. The ROW area will remain undeveloped and a public access easement will be provided. As a result, it will not lead to the blocking of views. No environmental intrusions will be created by the proposed ROW vacation.

5. **The impact on adjacent properties, whether or not there is adequate parking, street and infrastructure needs.**

**Consistent** – Vacation of this ROW will not affect the parking or infrastructure needs of adjacent properties. Surrounding properties are not dependent on the parking provided within this ROW should it be removed in the future. It is expected that public parking will be provided immediately to the north and to the southwest of the proposed vacation.

6. **Such other issues as the city manager or his authorized designee, who shall be**

Planning Board

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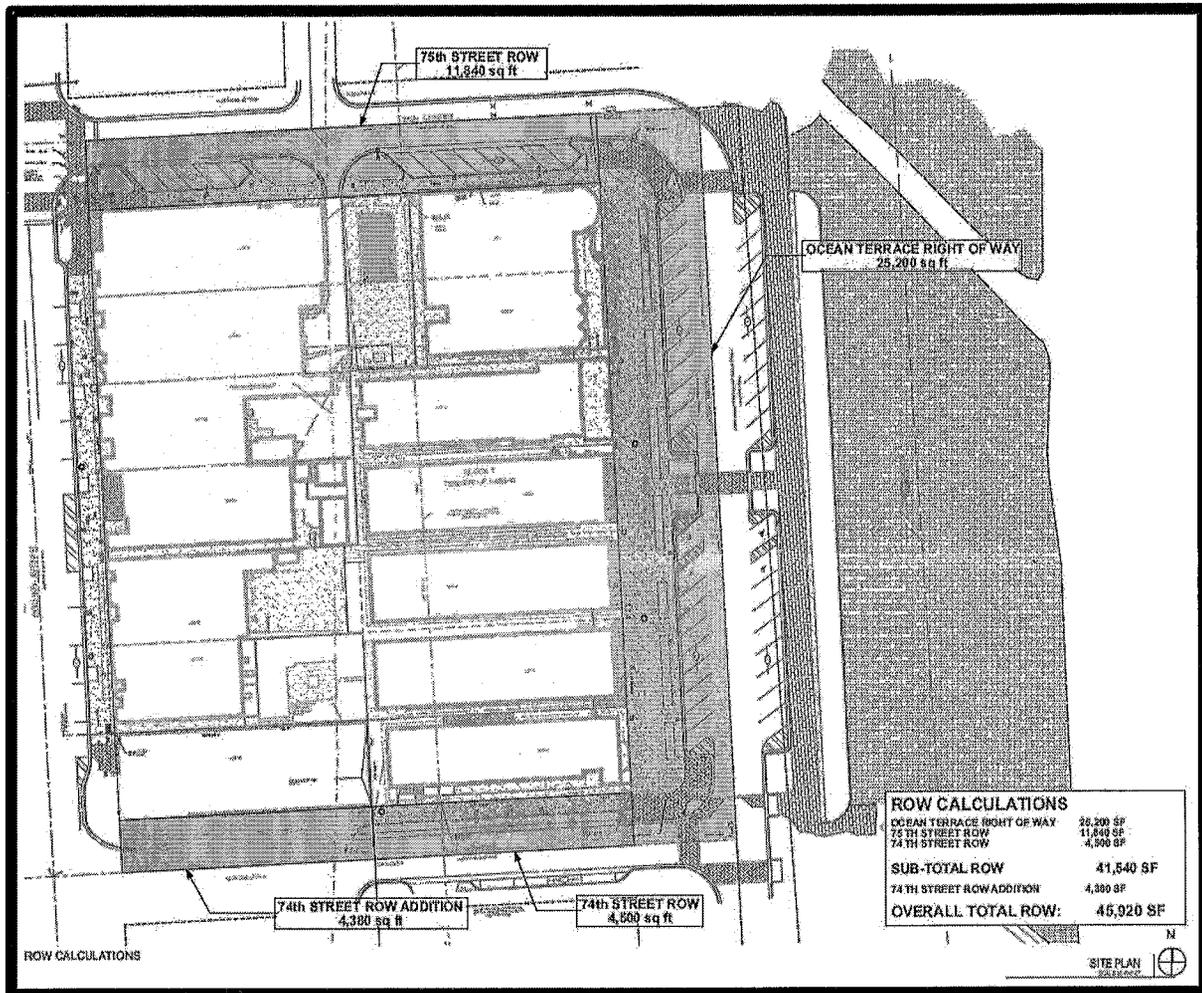
**the city's planning director, may deem appropriate in analysis of the proposed disposition.**

**Not applicable** - The Planning Department has no other issues it deems appropriate to analyze for this proposal.

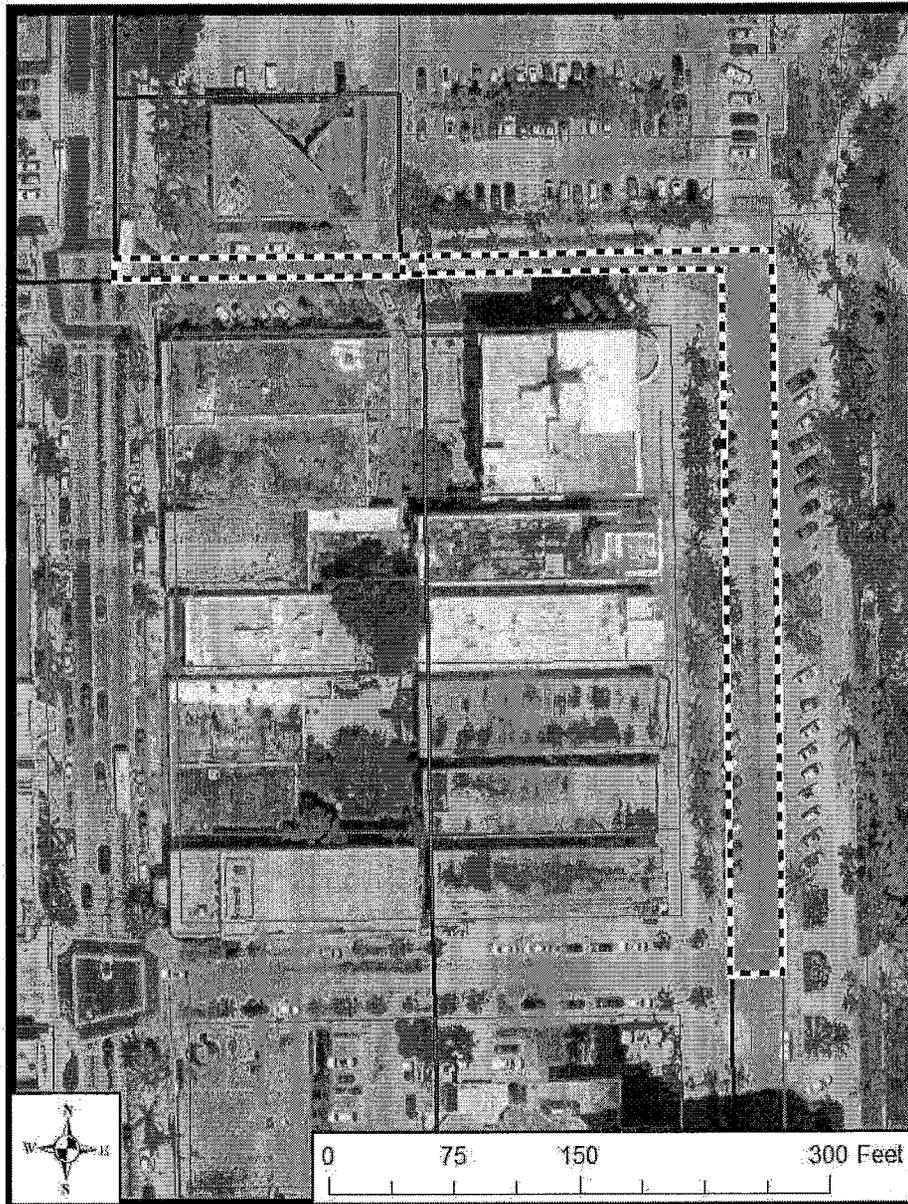
**RECOMMENDATION**

In view of the foregoing analysis, staff recommends that the Planning Board transmit the proposed future land use map amendment, zoning district map amendment, and right of way vacation to the City Commission with a favorable recommendation.

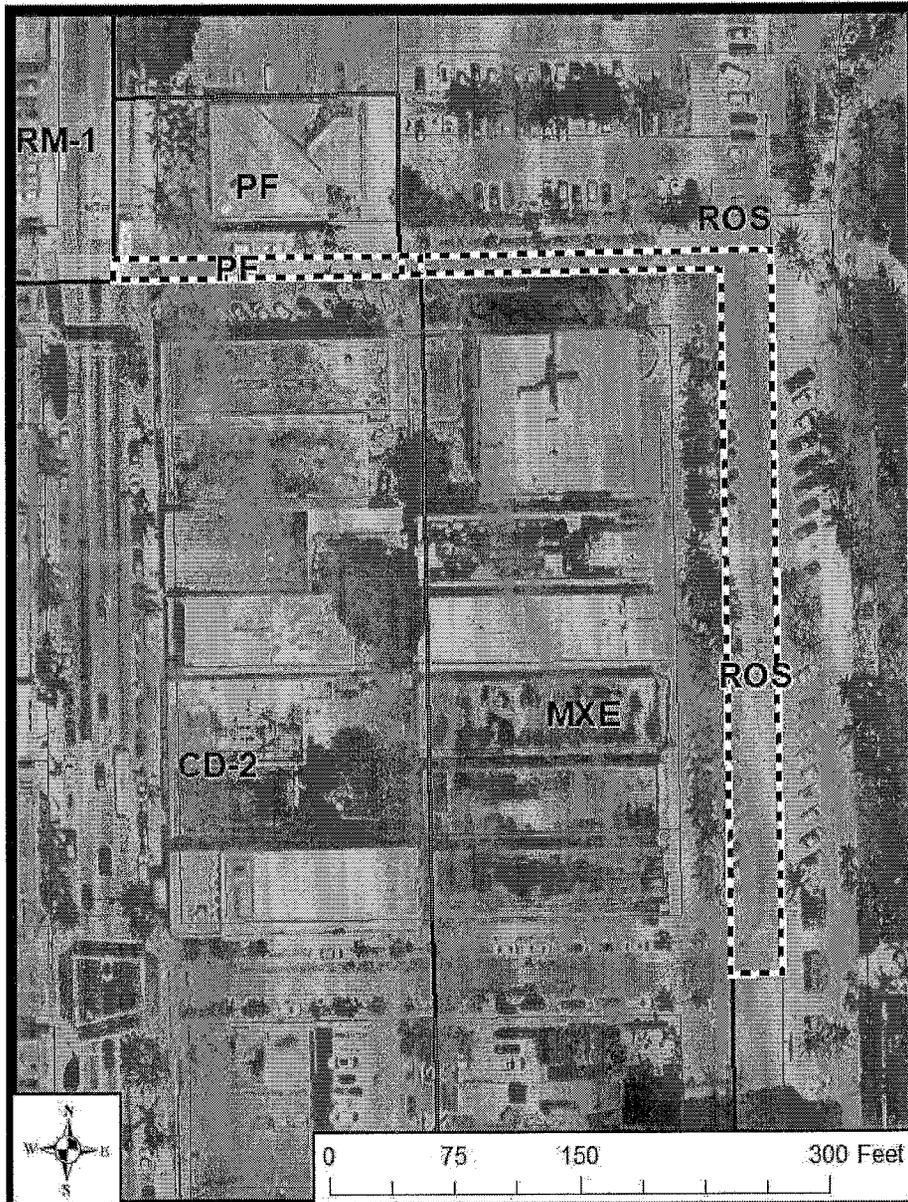
## Right of Way Vacation Area



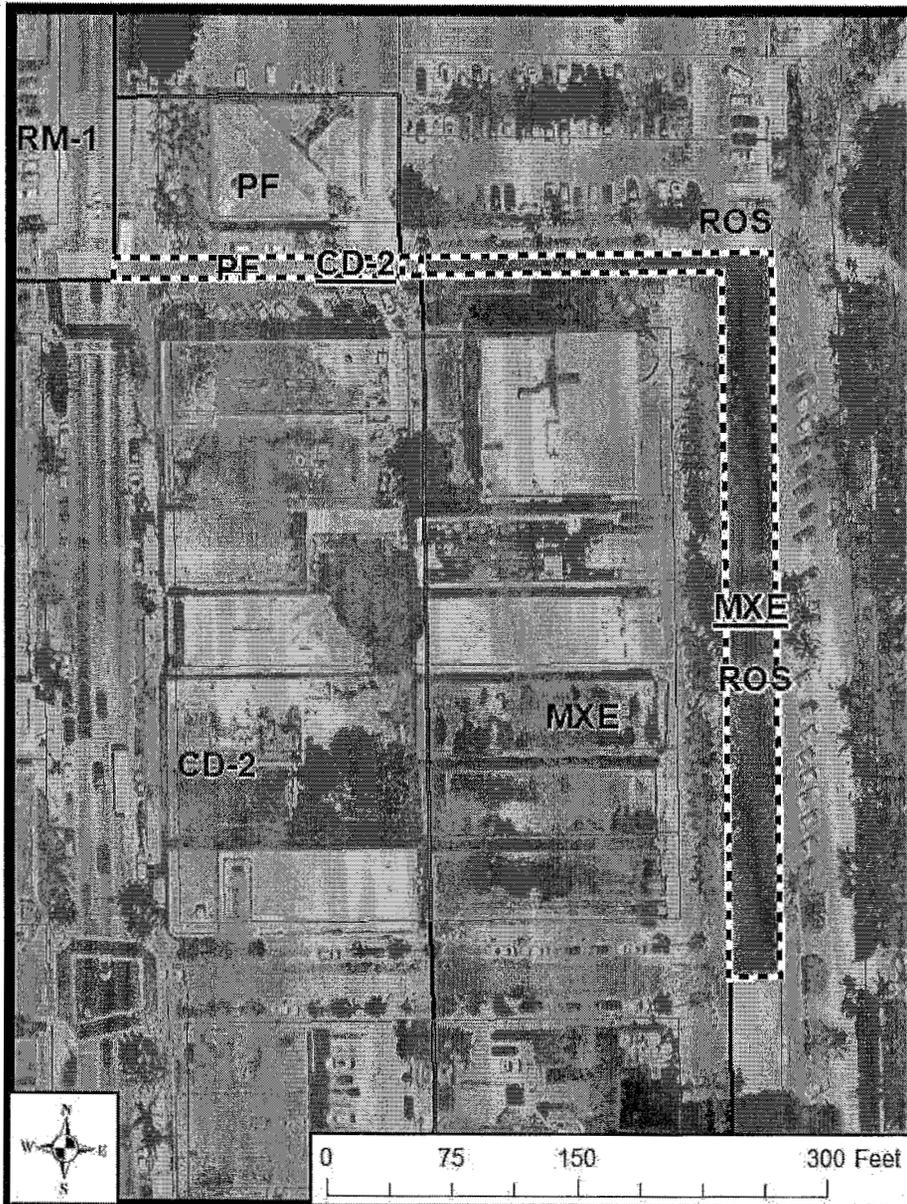
## Aerial



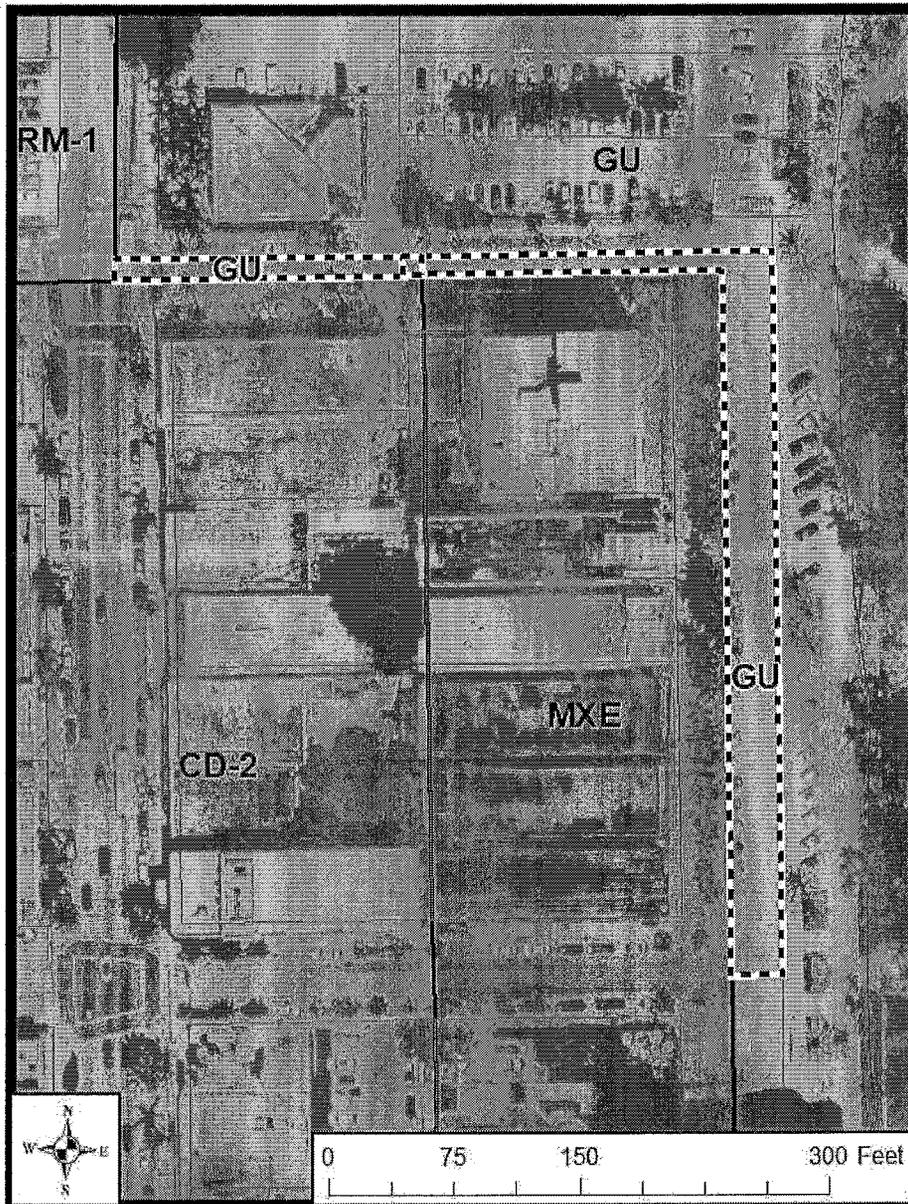
## Existing Future Land Use



## Proposed Future Land Use



## Existing Zoning



## Proposed Zoning

