

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: September 24, 2019

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: **PB 19-0297. Common Variance Requests  
Rooftop additions, setbacks (including mixed-use), room sizes.**

#### **REQUEST**

**PB 19-0297. Rooftop Additions, setbacks (including mixed-use), room sizes. AN ORDINANCE** OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 142, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, ENTITLED "DISTRICT REGULATIONS," DIVISION 3, ENTITLED "RESIDENTIAL MULTIFAMILY DISTRICTS," SUBDIVISION II, ENTITLED "RM-1 RESIDENTIAL MULTIFAMILY LOW INTENSITY," AT SECTIONS 142-155 AND 142-156, SUBDIVISION IV, ENTITLED "RM-2 RESIDENTIAL MULTIFAMILY, MEDIUM INTENSITY," AT SECTIONS 142-217 AND 142-218, AND SUBDIVISION V, ENTITLED "RM-3 RESIDENTIAL MULTIFAMILY, HIGH INTENSITY," AT SECTIONS 142-246 AND 142-247, TO MODIFY SETBACK AND UNIT SIZE REQUIREMENTS FOR ROOFTOP ADDITIONS TO CONTRIBUTING STRUCTURES IN HISTORIC DISTRICTS AND INDIVIDUALLY DESIGNATED HISTORIC BUILDINGS; DIVISION 4, ENTITLED "CD-1 COMMERCIAL, LOW INTENSITY DISTRICT," AT SECTIONS 142-276 AND 142-277, DIVISION 5, ENTITLED "CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT," AT SECTIONS 142-306 AND 142-307, AND DIVISION 6, ENTITLED "CD-3 COMMERCIAL, HIGH INTENSITY DISTRICT," AT SECTIONS 142-337 AND 142-338, TO MODIFY SETBACK AND UNIT SIZE REQUIREMENTS FOR RESIDENTIAL USES AND ROOFTOP ADDITIONS TO CONTRIBUTING STRUCTURES IN HISTORIC DISTRICTS AND INDIVIDUALLY DESIGNATED HISTORIC BUILDINGS, AND TO MODIFY THE MAXIMUM ALLOWABLE HEIGHT FOR ALL USES; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

#### **RECOMMENDATION**

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

#### **HISTORY**

On January 16, 2019, at the request of Commissioner John Elizabeth Aleman, the City Commission referred the discussion item to the Land Use and Development Committee (Item R9 T – 2.b).

On April 3, 2019, the Land Use and Development Committee (LUDC) discussed the item recommended that a comprehensive ordinance be drafted by the administration, pursuant to the recommendations in the LUDC report, in an effort to streamline the code and development processes, and that the City Commission refer the proposed ordinances to the Planning Board.

On May 8, 2019, the City Commission referred the proposed ordinances to the Planning Board (item C4 Q).

### **REVIEW CRITERIA**

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

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

**Consistent** – The proposed ordinance is consistent with the goals, objectives, and policies of the Comprehensive Plan.

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

**Not applicable** – The proposed amendment does not modify 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.**

**Not applicable.** – The proposed amendment does not modify district boundaries.

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

**Consistent** – The need to streamline development processes 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 should not seriously 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.**

**Partially Consistent** – The proposal does affect areas that are vulnerable to the impacts of sea level rise in the long term.

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

**Consistent** – The proposal will allow for more streamlined development review and additional resiliency height incentives, which encourage development that is more resilient with respect to sea level rise due to new code requirements.

**(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.

**ANALYSIS**

This ordinance is a companion to two other items on the agenda related to common variances for "allowable encroachments" and "signage." Per Section 118-353 (d) of the land development regulations of the city code, in order to authorize any variance from the terms of the land development regulations, the applicable land use board must determine that there are "special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district." There are certain variances which are regularly requested and granted by the board of adjustment, design review board, and historic preservation board. Rather than being the exception to the rule, variance requests accompany most development proposals that are presented before the aforementioned boards. Several of the requests are quite common and usually granted by the applicable board.

The attached ordinance addresses the following commonly issued variances:

- 1) **Variance of minimum required side and rear setbacks for roof-top additions to historic buildings to follow existing non-conforming side setbacks.** Rooftop additions to historic buildings must conform to new required setbacks. These variances are typically granted due to the structural gymnastics that are required to setback a roof-top addition from the existing building walls. The variances allow the additions to utilize existing structural supports of the historic building.

***The ordinance amends the RM-1, RM-2, RM-3, CD-1, CD-2, and CD-3 districts side and rear setback requirements for rooftop additions to allow them to follow existing non-conforming pedestal setbacks for contributing structures in a historic district and individually designated historic building, subject to the certificate of appropriateness and rooftop addition criteria.***

- 2) **Variance for minimum and average unit size for rooftop additions to historic buildings.** Historic buildings may often have non-conforming units that are smaller than what can be built in a new building. Variances are often sought for additions to historic buildings so that the size of new units matches those of the original historic building in order to allow for continuation of historic building lines in the new addition.

***The ordinance amends the RM-1, RM-2, RM-3, CD-1, CD-2, and CD-3 districts minimum hotel unit size requirements for rooftop additions to historic buildings so that they are able to match the size of the existing non-conforming building, provided it complies with the maximum density requirements of the Comprehensive Plan.***

- 3) **Variance for setbacks of residential portions of mixed-use buildings in commercial districts.** Residential and hotel portions of mixed-use buildings in the CD-1, CD-2, and CD-3 districts are required to follow the setbacks of the RM-1, RM-2, or RM-3 district, as

applicable. Often these setbacks are impractical in commercial districts, requiring desirable mixed-use buildings to seek variances that a fully commercial building would not need.

***The proposed ordinance removes the differing setback requirement for mixed-use buildings in the CD-1, CD-2, and CD-3 districts. Mixed-use buildings would instead be required to follow the existing setbacks for fully commercial buildings.***

- 4) **Variance for exceeding the maximum allowable height by a maximum of three feet for commercial properties in historic districts.** Within all commercial districts, the design review board may allow up to an additional five feet of height, as measured from the base flood elevation plus maximum freeboard, to the top of the second-floor slab. This section of the code is designed to provide the Design Review Board (DRB) with the flexibility to allow for higher first floor heights in order to accommodate future street and sidewalk elevations, as well as the required slopes for ramps accessing upper level parking areas. However, this provision does not apply to historic districts or overlay districts, nor to commercial buildings immediately adjacent to a residential district not separated by a street. However, an applicant may seek a height variance of not more than three feet from the historic preservation board. As a result, new commercial construction seeking to elevate the first floor, and or provide parking at upper levels, often request up to three-foot height variances, so that the project can maximize resiliency.

***The proposed ordinance modifies height limits for CD-1, CD-2, and CD-3 districts to remove the prohibition for five-foot increase in height at the first floor, currently permitted outside of historic and overlay districts, so that such increases are permitted in commercial districts citywide, including properties immediately adjacent to residential districts.***

#### **RECOMMENDATION**

In view of the foregoing analysis, staff recommends that the Planning Board transmit the proposed ordinance amendment to the City Commission with a favorable recommendation.

**ADDRESS COMMON VARIANCES FOR ROOFTOP ADDITIONS, SETBACKS  
(INCLUDING FOR MIXED-USE DEVELOPMENT), ROOM SIZES**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 142, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, ENTITLED "DISTRICT REGULATIONS," DIVISION 3, ENTITLED "RESIDENTIAL MULTIFAMILY DISTRICTS," SUBDIVISION II, ENTITLED "RM-1 RESIDENTIAL MULTIFAMILY LOW INTENSITY," AT SECTIONS 142-155 AND 142-156, SUBDIVISION IV, ENTITLED "RM-2 RESIDENTIAL MULTIFAMILY, MEDIUM INTENSITY," AT SECTIONS 142-217 AND 142-218, AND SUBDIVISION V, ENTITLED "RM-3 RESIDENTIAL MULTIFAMILY, HIGH INTENSITY," AT SECTIONS 142-246 AND 142-247, TO MODIFY SETBACK AND UNIT SIZE REQUIREMENTS FOR ROOFTOP ADDITIONS TO CONTRIBUTING STRUCTURES IN HISTORIC DISTRICTS AND INDIVIDUALLY DESIGNATED HISTORIC BUILDINGS; DIVISION 4, ENTITLED "CD-1 COMMERCIAL, LOW INTENSITY DISTRICT," AT SECTIONS 142-276 AND 142-277, DIVISION 5, ENTITLED "CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT," AT SECTIONS 142-306 AND 142-307, AND DIVISION 6, ENTITLED "CD-3 COMMERCIAL, HIGH INTENSITY DISTRICT," AT SECTIONS 142-337 AND 142-338, TO MODIFY SETBACK AND UNIT SIZE REQUIREMENTS FOR RESIDENTIAL USES AND ROOFTOP ADDITIONS TO CONTRIBUTING STRUCTURES IN HISTORIC DISTRICTS AND INDIVIDUALLY DESIGNATED HISTORIC BUILDINGS, AND TO MODIFY THE MAXIMUM ALLOWABLE HEIGHT FOR ALL USES; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Miami Beach (the "City") has the authority to enact laws which promote the public health, safety, and general welfare of its citizens; and

**WHEREAS**, there City has observed that a large number of variances from certain code sections are routinely sought as part of land development applications; and

**WHEREAS**, the City has analyzed these variance applications, which are frequently sought and granted; and

**WHEREAS**, the granting of such variances has no negative impact on surrounding areas; and

**WHEREAS**, the City has determined that amendments to the land development regulations to reduce the need for such variances is warranted; and

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

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

**Section 1.** Chapter 142, entitled “Zoning Districts and Regulations,” Article II, entitled “District Regulations,” at Division 3, entitled “Residential Multifamily Districts,” is hereby amended as follows:

## CHAPTER 142 - ZONING DISTRICTS AND REGULATIONS

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### ARTICLE II. - DISTRICT REGULATIONS

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#### DIVISION 3. - RESIDENTIAL MULTIFAMILY DISTRICTS

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##### Subdivision II. - RM-1 Residential Multifamily Low Intensity

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#### Sec. 142-155. - Development regulations and area requirements.

(a) The development regulations in the RM-1 residential multifamily, low density district are as follows:

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(b) The lot area, lot width, unit size and building height requirements for the RM-1 residential multifamily, low density district are as follows:

Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)	Minimum Unit Size (Square Feet)	Average Unit Size (Square Feet)	Maximum Building Height (Feet)
5,600	50	<p>New construction—550  Non-elderly and elderly low and moderate income housing—400  Workforce housing—400  Rehabilitated buildings—400  Hotel units:  15%: 300—335  85%: 335+  For contributing hotel structures, located within an individual historic site, a local historic district or a national register district, which are renovated in accordance with the Secretary of the Interior Standards and</p>	<p>New construction—800  Non-elderly and elderly low and moderate income housing—400  Workforce housing—400  Rehabilitated buildings—550.  <u>The number of units may not exceed maximum density set forth in</u></p>	<p>Historic district—40  Flamingo Park Local Historic District—35 (except as provided in section 142-1161)  Otherwise—50  For properties outside a local historic district with a ground level consisting of non-habitable parking</p>

		<p>Guidelines for the Rehabilitation of Historic Structures as amended, retaining the existing room configuration and sizes of at least 200 square feet shall be permitted. Additionally, the existing room configurations for the above described hotel structures may be modified to address applicable life-safety and accessibility regulations, provided the 200 square feet minimum unit size is maintained, and provided the maximum occupancy per hotel room does not exceed 4 persons.</p> <p><u>Hotel units within rooftop additions to contributing structures in a historic district and individually designated historic buildings— 200.</u></p>	<u>the comprehensive plan.</u>	and/or amenity uses—55
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**Sec. 142-156. - Setback requirements.**

- (a) The setback requirements for the RM-1 residential multifamily, low density district are as follows:

	Front	Side, Interior	Side, Facing a Street	Rear
At-grade parking lot on the same lot except where (c) below is applicable	20 feet	Single lots less than 65 feet in width: 5 feet, otherwise 10 feet, or 8% of lot width, whichever is greater	Single lots less than 65 feet in width: 5 feet, otherwise 10 feet, or 8% of lot width, whichever is greater	5 feet abutting an alley, otherwise 10% of the lot depth
Subterranean and pedestal	20 feet Except lots A and 1—30 of the Amended Plat Indian Beach Corporation Subdivision and lots 231-237 of the Amended	Single lots less than 65 feet in width: 7.5 feet. Lots equal or greater than 65 feet in width: Minimum 10 feet or 8% of lot width, whichever is greater, and sum of the side	Single lots less than 65 feet in width: 7.5 feet. Lots equal or greater than 65 feet in width: Minimum 10	10% of lot depth . <u>Notwithstanding the foregoing, rooftop additions to non-oceanfront contributing structures in a historic district and individually</u>



	Plat of First Ocean Front Subdivision—50 feet	yards shall equal 16% of lot width. <u>Notwithstanding the foregoing, rooftop additions to contributing structures in a historic district and individually designated historic buildings may follow existing non-conforming side, interior pedestal setbacks.</u>	feet or 8% of lot width, whichever is greater, and sum of the side yards shall equal 16% of lot width	<u>designated historic buildings may follow existing non-conforming rear pedestal setbacks.</u>
Tower	20 feet + 1 foot for every 1 foot increase in height above 50 feet, to a maximum of 50 feet, then shall remain constant. Except lots A and 1—30 of the Amended Plat Indian Beach Corporation Subdivision and lots 231—237 of the Amended Plat of First Ocean Front Subdivision—50 feet	The required pedestal setback plus 10% of the height of the tower portion of the building. The total required setback shall not exceed 50 feet. <u>Notwithstanding the foregoing, rooftop additions to contributing structures in a historic district and individually designated historic buildings may follow existing non-conforming side, interior pedestal setbacks.</u>	Sum of the side yards shall equal 16% of the lot width Minimum—10 feet or 8% of lot width, whichever is greater	15% of lot depth . <u>Notwithstanding the foregoing, rooftop additions to non-oceanfront contributing structures in a historic district and individually designated historic buildings may follow existing non-conforming rear pedestal setbacks.</u>

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#### Subdivision IV. - RM-2 Residential Multifamily, Medium Intensity

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#### Sec. 142-217. - Area requirements.

The area requirements in the RM-2 residential multifamily, medium intensity district are as follows:

Minimum Lot Area	Minimum Lot	Minimum Unit Size (Square Feet)	Average Unit Size (Square Feet)	Maximum Building
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(Square Feet)	Width (Feet)			Height (Feet)
7,000	50	<p>New construction—550  Non-elderly and elderly low and moderate income housing—400  Workforce housing—400  Rehabilitated buildings—400  Hotel units:  15%: 300—335  85%: 335+</p> <p>For contributing hotel structures, located within an individual historic site, a local historic district or a national register district, which are renovated in accordance with the Secretary of the Interior Standards and Guidelines for the Rehabilitation of Historic Structures as amended, retaining the existing room configuration and sizes of at least 200 square feet shall be permitted. Additionally, the existing room configurations for the above described hotel structures may be modified to address applicable life-safety and accessibility regulations, provided the 200 square feet minimum unit size is maintained, and provided the maximum occupancy per hotel room does not exceed 4 persons.</p> <p><u>Hotel units within rooftop additions to contributing structures in a historic district and individually designated historic buildings— 200.</u></p>	<p>New construction—800  Non-elderly and elderly low and moderate income housing—400  Workforce housing—400  Rehabilitated buildings—550  Hotel units—N/A.  <u>The number of units may not exceed maximum density set forth in the comprehensive plan.</u></p>	<p>Historic district—50 (except as provided in section 142-1161)  Area bounded by Indian Creek Dr., Collins Ave., 26th St., and 44th St.—75  Area fronting west side of Collins Ave. btwn. 76th St. and 79th St.—75  Area fronting west side of Alton Rd. between Arthur Godfrey Rd. and W. 34th St.—85  Otherwise—60  For properties outside a local historic district with a ground level consisting of non-habitable parking and/or amenity uses—65  Lots fronting Biscayne Bay less than 45,000 sq. ft.—100  Lots fronting Biscayne Bay over 45,000 sq. ft.—140  Lots fronting Atlantic Ocean over 100,000 sq. ft.—140  Lots fronting Atlantic Ocean with a property line within 250 feet of North Shore Open Space Park Boundary—200</p>

**Sec. 142-218. - Setback requirements.**

The setback requirements in the RM-2 residential multifamily, medium intensity district are as follows:

	Front	Side, Interior	Side, Facing a Street	Rear
At-grade parking lot on the same lot except where (b) below is applicable	20 feet	Single lots less than 65 feet in width: 5 feet, otherwise 10 feet, or 8% of lot width, whichever is greater	Single lots less than 65 feet in width: 5 feet, otherwise 10 feet, or 8% of lot width, whichever is greater	Abutting an alley—5 feet Oceanfront lots—50 feet from bulkhead line
Subterranean and pedestal	20 feet Except lots A and 1—30 of the Amended Plat Indian Beach Corporation Subdivision and lots 231-237 of the Amended Plat of First Ocean Front Subdivision—50 feet	Single lots less than 65 feet: 7.5 feet Lots equal or greater than 65 feet in width: Minimum 10 feet or 8% of lot width, whichever is greater, and sum of the side yards shall equal 16% of lot width. <u>Notwithstanding the foregoing, rooftop additions to contributing structures in a historic district and individually designated historic buildings may follow existing non-conforming side, interior pedestal setbacks.</u>	Lots equal or greater than 65 feet in width: Minimum 10 feet or 8% of lot width, whichever is greater, and sum of the side yards shall equal 16% of lot width	Non-oceanfront lots—10% of lot depth Oceanfront lots—20% of lot depth, 50 feet from the bulkhead line whichever is greater. <u>Notwithstanding the foregoing, rooftop additions to non-oceanfront contributing structures in a historic district and individually designated historic buildings may follow existing non-conforming rear pedestal setbacks.</u>
Tower	20 feet + 1 foot for every 1 foot increase in height above 50 feet, to a maximum of 50 feet, then shall remain constant. Except lots A and 1—30 of the Amended Plat Indian Beach	Same as pedestal for structures with a total height of 60 feet or less. The required pedestal setback plus 10% of the height of the tower portion of the building. The total required setback shall not exceed 50 feet. <u>Notwithstanding the</u>	Sum of the side yards shall equal 16% of the lot width Minimum—10 feet or 8% of lot width, whichever is greater	Non-oceanfront lots—15% of lot depth Oceanfront lots—25% of lot depth, 75 feet minimum from the bulkhead line whichever is greater. <u>Notwithstanding the foregoing, rooftop additions to non-oceanfront</u>

	Corporation Subdivision and lots 231—237 of the Amended Plat of First Ocean Front Subdivision—50 feet	<u>foregoing, rooftop additions to contributing structures in a historic district and individually designated historic buildings may follow existing non-conforming side, interior pedestal setbacks.</u>		<u>contributing structures in a historic district and individually designated historic buildings may follow existing non-conforming rear pedestal setbacks.</u>
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### Subdivision V. - RM-3 Residential Multifamily, High Intensity

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#### Sec. 142-246. - Development regulations and area requirements.

- (a) The development regulations in the RM-3 residential multifamily, high intensity district are as follows:

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- (b) The lot area, lot width, unit size and building height requirements for the RM-3 residential multifamily, high intensity district are as follows:

Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)	Minimum Unit Size (Square Feet)	Average Unit Size (Square Feet)	Maximum Building Height (Feet)
7,000	50	<p>New construction—550 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Rehabilitated buildings—400 Hotel units: 15%: 300—335 85%: 335+ For contributing hotel structures, located within an individual historic site, a local historic district or a national register district, which are renovated in accordance with the Secretary of the Interior Standards and Guidelines for the Rehabilitation of Historic</p>	<p>New construction—800 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Rehabilitated buildings—550 Hotel units—N/A. <u>The number of units may not exceed maximum density set forth in the comprehensive plan.</u></p>	<p>150  Oceanfront lots—200 Architectural dist.: New construction—120; ground floor additions (whether attached or detached) to existing structures on oceanfront lots—50 (except as provided in section 142-1161)</p>

		Structures as amended, retaining the existing room configuration and sizes of at least 200 square feet shall be permitted. Additionally, the existing room configurations for the above described hotel structures may be modified to address applicable life-safety and accessibility regulations, provided the 200 square feet minimum unit size is maintained, and provided the maximum occupancy per hotel room does not exceed 4 persons. <u>Hotel units within rooftop additions to contributing structures in a historic district and individually designated historic buildings— 200.</u>		
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**Sec. 142-247. - Setback requirements.**

- (a) The setback requirements for the RM-3 residential multifamily, high intensity district are as follows:

	Front	Side, Interior	Side, Facing a Street	Rear
At-grade parking lot on the same lot	20 feet	5 feet, or 5% of lot width, whichever is greater	5 feet, or 5% of lot width, whichever is greater	Non-oceanfront lots— 5 feet Oceanfront lots—50 feet from bulkhead line
Subterranean and pedestal	20 feet Except lots A and 1—30 of the Amended Plat Indian Beach Corporation Subdivision and lots 231—237 of the Amended Plat of First Ocean Front Subdivision—50 feet	Sum of the side yards shall equal 16% of lot width Minimum—7.5 feet or 8% of lot width, whichever is greater, <u>Notwithstanding the foregoing, rooftop additions to contributing structures in a historic district and individually designated historic buildings may</u>	Sum of the side yards shall equal 16% of lot width Minimum—7.5 feet or 8% of lot width, whichever is greater	Non-oceanfront lots— 10% of lot depth Oceanfront lots—20% of lot depth, 50 feet from the bulkhead line whichever is greater, <u>Notwithstanding the foregoing, rooftop additions to non-oceanfront contributing structures in a historic district and individually</u>

		<u>follow existing non-conforming side, interior pedestal setbacks.</u>		<u>designated historic buildings may follow existing non-conforming rear pedestal setbacks.</u>
Tower	20 feet + 1 foot for every 1 foot increase in height above 50 feet, to a maximum of 50 feet, then shall remain constant. Except lots A and 1—30 of the Amended Plat Indian Beach Corporation Subdivision and lots 231—237 of the Amended Plat of First Ocean Front Subdivision—50 feet	The required pedestal setback plus 10% of the height of the tower portion of the building. The total required setback shall not exceed 50 feet. <u>Notwithstanding the foregoing, rooftop additions to contributing structures in a historic district and individually designated historic buildings may follow existing non-conforming side, interior pedestal setbacks.</u>	Sum of the side yards shall equal 16% of the lot width Minimum—7.5 feet or 8% of lot width, whichever is greater	Non-oceanfront lots—15% of lot depth Oceanfront lots—25% of lot depth, 75 feet minimum from the bulkhead line whichever is greater. <u>Notwithstanding the foregoing, rooftop additions to non-oceanfront contributing structures in a historic district and individually designated historic buildings may follow existing non-conforming rear pedestal setbacks.</u>

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**Section 2.** Chapter 142, entitled “Zoning Districts and Regulations,” Article II, entitled “District Regulations,” at Division 4, entitled “CD-1 Commercial, Low Intensity District,” is hereby amended as follows:

## CHAPTER 142 - ZONING DISTRICTS AND REGULATIONS

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### ARTICLE II. - DISTRICT REGULATIONS

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### DIVISION 4. - CD-1 COMMERCIAL, LOW INTENSITY DISTRICT

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#### **Sec. 142-276. - Development regulations.**

The development regulations in the CD-1 commercial, low intensity district are as follows:

Maximum Floor Area Ratio	Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)	Minimum Apartment Unit Size (Square Feet)	Average Apartment Unit Size (Square Feet)	Maximum Building Height (Feet)
1.0	<del>Commercial— None Residential— 5,600</del>	<del>Commercial— None Residential— 50</del>	<p><del>Commercial— N/A New construction— 550 Rehabilitated buildings—400 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Hotel unit: 15%: 300— 335 85%: 335+ Hotel units within rooftop additions to contributing structures in a historic district and individually designated historic buildings— 200.</del></p>	<p><del>Commercial— N/A New construction— 800 Rehabilitated buildings—550 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Hotel units—N/ The number of units may not exceed maximum density set forth in the comprehensive plan.</del></p>	<p>40 (except as provided in section 142-1161) Notwithstanding the above, the design review board or historic preservation board, in accordance with the applicable review criteria, may allow up to an additional five feet of height, as measured from the base flood elevation plus maximum freeboard, to the top of the second floor slab. This provision shall not apply to existing historic districts or existing overlay districts (existing as of 7/26/2017), or commercial buildings immediately adjacent to residential district not separated by a street. However, an applicant may seek approval from the historic preservation board or design review board, as may be applicable, to increase height in accordance with the foregoing</p>

					within any historic district or overlay district created after 7/26/2017
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**Sec. 142-277. - Setback requirements.**

(a) The setback requirements for the CD-1 commercial, low intensity district are as follows:

	Front	Side, Interior	Side, Facing a Street	Rear
At-grade parking lot on the same lot	5 feet	5 feet	5 feet	5 feet If abutting an alley— 0 feet
Subterranean, pedestal and tower (non-oceanfront)	0 feet <del>Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)</del>	10 feet when abutting a residential district, otherwise none <del>Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)</del>	10 feet when abutting a residential district, unless separated by a street or waterway otherwise none <del>Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)</del>	5 feet 10 feet when abutting a residential district unless separated by a street or waterway in which case it shall be 0 feet. <del>Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)</del>
Pedestal and tower (oceanfront)	Pedestal—15 feet Tower—20 feet + 1 foot for every 1 foot increase in height above 50 feet, to a maximum of 50 feet, then shall remain constant. <del>Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)</del>	<del>Commercial uses—10 feet</del> <del>Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)</del>	<del>Commercial uses—10 feet</del> <del>Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)</del>	25% of lot depth, 75 feet minimum from the bulkhead line whichever is greater <del>Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)</del>

(b) The tower setback shall not be less than the pedestal setback.



- (c) Parking lots and garages: If located on the same lot as the main structure the above setbacks shall apply. If primary use the setbacks are listed in subsection 142-1132(n).
- (d) Mixed use buildings: Calculation of setbacks and floor area ratio:
- (1) ~~Setbacks. When more than 25 percent of the total area of a building is used for residential or hotel units, any floor containing such units shall follow the RM-1, 2, 3 setback regulations:~~
- (2) ~~Floor area ratio. When more than 25 percent of the total area of a building is used for residential or hotel units, the floor area ratio range shall be as set forth in the RM-1 district.~~

**Section 3.** Chapter 142, entitled "Zoning Districts and Regulations," Article II, entitled "District Regulations," at Division 5, entitled "CD-2 Commercial, Medium Intensity District," is hereby amended as follows:

## CHAPTER 142 - ZONING DISTRICTS AND REGULATIONS

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### ARTICLE II. - DISTRICT REGULATIONS

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### DIVISION 5. - CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT

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#### **Sec. 142-306. - Development regulations.**

The development regulations in the CD-2 commercial, medium intensity district are as follows:

Maximum Floor Area Ratio	Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)	Minimum Apartment Unit Size (Square Feet)	Average Apartment Unit Size (Square Feet)	Maximum Building Height (Feet)
1.5	<del>Commercial— None Residential— 7,000</del>	<del>Commercial— None Residential— 50</del>	<del>Commercial— N/A New construction— 550 Rehabilitated buildings— 400 Non-elderly and elderly low and moderate income housing— 400</del>	<del>Commercial— N/A New construction— 800 Rehabilitated buildings— 550 Non-elderly and elderly low and moderate income housing— 400</del>	50 (except as provided in section 142-1161). Notwithstanding the above, the design review board or historic preservation board, in accordance with the applicable

			<p>Workforce housing—400 Hotel unit: 15%: 300—335 85%: 335+</p> <p>For contributing hotel structures, located within an individual historic site, a local historic district or a national register district, which are being renovated in accordance with the Secretary of the Interior Standards and Guidelines for the Rehabilitation of Historic Structures as amended, retaining the existing room configuration shall be permitted, provided all rooms are a minimum of 200 square feet. Additionally, existing room configurations for the above described hotel structures may be modified to address applicable life-safety and accessibility regulations, provided the</p>	<p>Workforce housing—400 Hotel units—N/A. <u>The number of units may not exceed maximum density set forth in the comprehensive plan.</u></p>	<p>review criteria, may allow up to an additional five feet of height, as measured from the base flood elevation plus maximum freeboard, to the top of the second floor slab. This provision shall not apply to existing historic districts or existing overlay districts (existing as of 7/26/2017), or commercial buildings immediately adjacent to residential district not separated by a street. However, an applicant may seek approval from the historic preservation board or design review board, as may be applicable, to increase height in accordance with the foregoing within any historic district or overlay district created after 7/26/2017. Self-storage warehouse - 40 feet, except that the building height shall be limited to 25 feet within 50 feet from the rear property line for</p>
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			200 square feet minimum unit size is maintained, and provided the maximum occupancy per hotel room does not exceed 4 persons. <u>Hotel units within rooftop additions to contributing structures in a historic district and individually designated historic buildings— 200.</u>		lots abutting an alley; and within 60 feet from a residential district for blocks with no alley
					Mixed-use and commercial buildings that include structured parking for properties on the west side of Alton Road from 6th Street to Collins Canal - 60 feet.

Notwithstanding the above regulations, the maximum floor area ratio (FAR) for self-storage warehouses shall be 1.5. The floor area ratio provision for mixed use buildings in section 142-307(d)(2) shall not apply to self-storage warehouse development.

**Sec. 142-307. - Setback requirements.**

(a) The setback requirements for the CD-2 commercial, medium intensity district are as follows:

	Front	Side, Interior	Side, Facing a Street	Rear
At-grade parking lot on the same lot	5 feet	5 feet	5 feet	5 feet If abutting an alley—0 feet

Subterranean, pedestal and tower (non-oceanfront)	0 feet Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)	10 feet when abutting a residential district, otherwise none <del>Residential uses shall follow the RM-1, 2, 3 setbacks</del> (See sections 142-156, 142-218 and 142-247). <u>Notwithstanding the foregoing, rooftop additions to contributing structures in a historic district and individually designated historic buildings may follow existing non-conforming side, interior pedestal setbacks.</u>	10 feet when abutting a residential district, unless separated by a street or waterway otherwise none Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)	5 feet 10 feet when abutting a residential district unless separated by a street or waterway in which case it shall be 0 feet. Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247) <u>Notwithstanding the foregoing, rooftop additions to non-oceanfront contributing structures in a historic district and individually designated historic buildings may follow existing non-conforming rear pedestal setbacks.</u>
Subterranean, pedestal and tower (oceanfront)	Pedestal—15 feet Tower—20 feet + 1 foot for every 1 foot increase in height above 50 feet, to a maximum of 50 feet, then shall remain constant. Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)	Commercial uses—10 feet <del>Residential uses shall follow the RM-1, 2, 3 setbacks</del> (See sections 142-156, 142-218 and 142-247) <u>Notwithstanding the foregoing, rooftop additions to contributing structures in a historic district and individually designated historic buildings may follow existing non-conforming side, interior pedestal setbacks.</u>	Commercial uses—10 feet Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)	25% of lot depth, 75 feet minimum from the bulkhead line whichever is greater <del>Residential uses shall follow the RM-1, 2, 3 setbacks</del> (See sections 142-156, 142-218 and 142-247)

(b) The tower setback shall not be less than the pedestal setback.

- (c) Parking lots and garages: If located on the same lot as the main structure the above setbacks shall apply. If primary use the setbacks are listed in subsection 142-1132(n).
- (d) Mixed use buildings: Calculation of setbacks and floor area ratio:
  - (1) ~~Setbacks. When more than 25 percent of the total area of a building is used for residential or hotel units, any floor containing such units shall follow the RM-1, 2, 3 setback regulations.~~
  - (2) Floor area ratio. When more than 25 percent of the total area of a building is used for residential or hotel units, the floor area ratio range shall be as set forth in the RM-2 district.
  - (23) The maximum floor area ratio (FAR) for self-storage warehouses shall be 1.5. The floor area ratio provision for mixed use buildings in section 142-307(d)(2) above shall not apply to self-storage warehouse development.
- (e) Notwithstanding the above setback regulations, "self-storage warehouse" in this district shall have the following setbacks:
  - (1) Front—Five feet;
  - (2) Side facing a street—Five feet;
  - (3) Interior side—Seven and one-half feet or eight percent of the lot width, whichever is greater;
  - (4) Rear—For lots with a rear property line abutting a residential district the rear yard setback shall be a minimum of 25 feet; for lots with a rear property line abutting an alley the rear setback shall be a minimum of seven and one-half feet.

**Section 4.** Chapter 142, entitled "Zoning Districts and Regulations," Article II, entitled "District Regulations," at Division 6, entitled "CD-3 Commercial, High Intensity District," is hereby amended as follows:

## CHAPTER 142 - ZONING DISTRICTS AND REGULATIONS

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### ARTICLE II. - DISTRICT REGULATIONS

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#### DIVISION 6. - CD-3 COMMERCIAL, MEDIUM INTENSITY DISTRICT

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##### **Sec. 142-337. - Development regulations and area requirements.**

- (a) The development regulations in the CD-3 commercial, high intensity district are as follows:
  - (1) Max FAR: Lot area equal to or less than 45,000 square feet—2.25; lot area greater than 45,000 square feet—2.75; oceanfront lots with lot area greater than 45,000 square feet—3.0.

- (2) Notwithstanding the above, oceanfront lots in architectural district shall have a maximum FAR of 2.0.
- (3) Notwithstanding the above, lots located between Drexel Avenue and Collins Avenue and between 16th Street and 17th Street shall have a maximum FAR of 2.75.
- (4) Notwithstanding the above, lots which, as of the effective date of this ordinance (November 14, 1998), are oceanfront lots with a lot area greater than 100,000 square feet with an existing building, shall have a maximum FAR of 3.0; however, additional FAR shall be available for the sole purpose of providing hotel amenities as follows: the lesser of 0.15 FAR or 20,000 square feet.
- (b) However, the floor area ratio maximum for residential development, inclusive of hotels, in the architectural district shall be 2.50.
- (c) The lot area, lot width, unit size and building height requirements for the CD-3 commercial, high intensity district are as follows:

Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)	Minimum Unit Size (Square Feet)	Average Unit Size (Square Feet)	Maximum Building Height (Feet)
Commercial—None Residential—7,000	Commercial—None Residential—50	Commercial—N/A New construction—550 Rehabilitated buildings—400 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Hotel unit: 15%: 300—335 85%: 335+ For contributing hotel structures, located within an individual historic site, a local historic district or a national register district, which are being renovated in accordance with the Secretary of the Interior Standards and Guidelines for the Rehabilitation of Historic Structures as amended,	Commercial—N/A New construction—800 Rehabilitated buildings—550 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Hotel units—N/A <u>The number of units may not exceed maximum density set forth in the comprehensive plan.</u>	75 feet. Lots within the architectural district: 50 feet. Lots fronting on 17th Street: 80 feet. City Center Area (bounded by Drexel Avenue, 16th Street, Collins Avenue and the south property line of those lots fronting on the south side of Lincoln Road): 100 feet. Notwithstanding the above, the design review board or historic preservation board, in accordance with the applicable review criteria, may allow up to an additional five feet of height, as measured from the base flood elevation plus maximum freeboard, to the top of the second floor slab. This

		<p>retaining the existing room configuration shall be permitted, provided all rooms are a minimum of 200 square feet. Additionally, existing room configurations for the above described hotel structures may be modified to address applicable life-safety and accessibility regulations, provided the 200 square foot minimum unit size is maintained, and provided the maximum occupancy per hotel room does not exceed 4 persons. <u>Hotel units within rooftop additions to contributing structures in a historic district and individually designated historic buildings— 200.</u></p>		<p><del>provision shall not apply to existing historic districts or existing overlay districts (existing as of 7/26/2017), or commercial buildings immediately adjacent to residential district not separated by a street. However, an applicant may seek approval from the historic preservation board or design review board, as may be applicable, to increase height in accordance with the foregoing within any historic district or overlay district created after 7/26/2017.</del></p> <p>Notwithstanding the foregoing requirement for City Center Area, the following additional shall apply:</p> <p>The height for lots fronting on Lincoln Road and 16th Street between Drexel Avenue and Washington Avenue are limited to 50 feet for the first 50' of lot depth.</p> <p>The height for lots fronting on Drexel Avenue is limited to 50 feet for the first 25' of lot depth (except as provided in section 142-1161).</p>
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**Sec. 142-338. - Setback requirements.**

- (a) The setback requirements for the CD-3 commercial, high intensity district are as follows:

	Front	Side, Interior	Side, Facing a Street	Rear
At-grade parking lot on the same lot	5 feet	5 feet	5 feet	5 feet If abutting an alley—0 feet
Subterranean, pedestal and tower (non- oceanfront)	0 feet <del>Residential uses shall follow the RM- 1, 2, 3 setbacks (See sections 142-156, 142- 218 and 142- 247)</del>	10 feet when abutting a residential district, otherwise none <del>Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142- 156, 142-218 and 142-247)</del> <u>Notwithstanding the foregoing, rooftop additions to contributing structures in a historic district and individually designated historic buildings may follow existing non- conforming side, interior pedestal setbacks.</u>	10 feet when abutting a residential district, unless separated by a street or waterway otherwise none <del>Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142- 218 and 142- 247)</del>	5 feet 10 feet when abutting a residential district unless separated by a street or waterway in which case it shall be 0 feet. <del>Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142- 218 and 142-247)</del> <u>Notwithstanding the foregoing, rooftop additions to non- oceanfront contributing structures in a historic district and individually designated historic buildings may follow existing non- conforming rear pedestal setbacks.</u>
Subterranean, pedestal and tower (oceanfront)	Pedestal—15 feet Tower—20 feet + 1 foot for every 1 foot increase in height above 50 feet, to a maximum of 50 feet, then shall remain constant. <del>Residential uses shall follow the RM- 1, 2, 3 setbacks (See sections 142-156, 142- 218 and 142- 247)</del>	Commercial uses— 10 feet <del>Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142- 156, 142-218 and 142-247)</del> <u>Notwithstanding the foregoing, rooftop additions to contributing structures in a historic district and individually designated historic buildings may follow existing non- conforming side, interior pedestal setbacks.</u>	Commercial uses—10 feet <del>Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142- 218 and 142- 247)</del>	25% of lot depth, 75 feet minimum from the bulkhead line whichever is greater <del>Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)</del>



- (b) The tower setback shall not be less than the pedestal setback.
- (c) Parking lots and garages: If located on the same lot as the main structure the above setbacks shall apply. If primary use the setbacks are listed in subsection 142-1132(n).
- (d) Mixed use buildings: Calculation of setbacks and floor area ratio:
  - (1) ~~Setbacks. When more than 25 percent of the total area of a building is used for residential or hotel units, any floor containing such units shall follow the RM-1, 2, 3 setback regulations.~~
  - (2) Floor area ratio. When more than 25 percent of the total area of a building is used for residential or hotel units, the floor area ratio range shall be as set forth in the RM-3 district.

**SECTION 5. Repealer.**

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith are hereby repealed.

**SECTION 6. Codification.**

It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

**SECTION 7. Severability.**

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

**SECTION 8. Effective Date.**

This Ordinance shall take effect ten days following adoption.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Dan Gelber, Mayor

ATTEST:

\_\_\_\_\_  
Rafael E. Granado, City Clerk

APPROVED AS TO FORM  
AND LANGUAGE  
AND FOR EXECUTION

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date

First Reading: \_\_\_\_\_, 2019

Second Reading: \_\_\_\_\_, 2019

Verified By: \_\_\_\_\_  
Thomas R. Mooney, AICP  
Planning Director