

MIAMI BEACH

Land Use and Development Committee Meeting
City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive
December 2, 2019 - 9:00 AM

Commissioner Micky Steinberg, Vice-Chair
Commissioner Ricky Arriola, Member
Commissioner Michael Gongora, Alternate

Thomas Mooney, Liaison
Naima De Pinedo, Support Staff

LAND USE AND DEVELOPMENT COMMITTEE MEETING AGENDA COMMISSION CHAMBERS 1700 CONVENTION CENTER DRIVE 3RD FL. Monday, December 2, 2019, 9:00 AM

DISCUSSION ITEMS

1. Discussion: Limiting Big Box Formula Retail And Formula Restaurants In Sunset Harbour.

Commissioner Ricky Arriola
June 5, 2019 C4 Q (Continued from October 30, 2019)
2. Discussion: Ordinance Amendment Excepting Office Uses Not Also Operating As An Entertainment Establishment Or Dance Hall From The Definition Of Neighborhood Impact Establishment (NIE)

Commissioner Michael Gongora
June 5, 2019 C4 S (Deferred from September 18, 2019)
3. Discussion: Establishment Of Penalties For Property Owners Engaging In Demolition By Neglect.

Commissioner Ricky Arriola
July 17, 2019 C4 O (Continued from October 30, 2019)
4. Discussion: Ordinance Pertaining to Adaptive Re-Use and Accessory Uses in the Tatum Waterway Areas.

Commissioner Ricky Arriola
October 16, 2019 R5 E (Continued from October 30, 2019)

VERBAL REPORTS

5. Discussion Regarding Incentivizing New Development To Include Units For Workforce And Affordable Housing Within New Developments That Seek Development, Height, And/Or Zoning Amendments From The City Of Miami Beach.

Commissioner Michael Gongora
May 8, 2019, C4 M (Deferred from September 18, 2019)
6. Discuss Prohibiting Banks Located On First-Floor Retail Spaces.

Vice-Mayor Ricky Arriola
October 16, 2019 C4 S (Deferred from November 20, 2019)

7. Discuss RM-2 Zoning At The West End Of Arthur Godfrey Road/41st Street And Potential For Public Benefits.

Commissioner Michael Gongora Co-Sponsored by Vice-Mayor Ricky Arriola
October 16, 2019 C4 T (Deferred from November 20, 2019)

DEFERRED ITEMS

8. Discussion Pertaining To A Transfer Of Development Rights (TDR) Along The Tatum Waterway Area.

Commissioner Ricky Arriola
July 17, 2019, C4 R

9. Development Regulations For Hotels On Lincoln Road – 500 Block Addition.

Commissioner Ricky Arriola
September 11, 2019 R5 L

10. Matrix Recommendations – Simplification Of Single Family Home Regulations And DRB Administrative Review Procedures.

No Sponsor
October 16, 2019, R5 V



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

Item 1.
COMMITTEE MEMORANDUM

TO: Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager

DATE: December 2, 2019

TITLE: DISCUSSION: LIMITING BIG BOX FORMULA RETAIL AND FORMULA RESTAURANTS IN SUNSET HARBOUR.

HISTORY:

On June 5, 2019, at the request of Commissioner Ricky Arriola, the City Commission referred the discussion item to the Land Use and Development Committee (Item C4 Q). The item was discussed at the September 18, 2019 LUDC meeting, and continued to the October 30, 2019 meeting with direction to include copies of existing formula establishment regulations for reference.

On October 30, 2019, the item was discussed and continued to the December 2, 2019 LUDC, with the following direction:

1. The City Attorney will draft an ordinance for review by the LUDC.
2. The Administration will place a C4 referral item on the December 11, 2019 City Commission agenda, as a place holder, in anticipation of a recommendation for referral to the Planning Board.

ANALYSIS:

On October 28, 2019, a town hall meeting was held in Sunset Harbour to discuss the above proposal. The discussion, led by Commissioner Arriola, focused on (i) the current mix of restaurants and retailers that primarily serve residents in the Sunset Harbour neighborhood, and (ii) the appropriateness of adopting regulations on formula commercial establishments. Sixteen residents attended the meeting, and a consensus of the residents present expressed support for placing restrictions on formula commercial establishments in the neighborhood, in order to ensure that restaurants and retailers in Sunset Harbour continue to serve the needs of local residents.

The following is a summary of additional issues raised at the meeting:

- The need to achieve a balance between zoning restrictions vs incentives to businesses and property owners;
- The need for a diversity of uses;
- The high rents in the area; and

- The need to ensure a proper mix of retail and restaurant uses around a vision for the area.

The following additional suggestions were proposed:

- Consider hosting a focus group with restaurateurs;
- Consider additional activation of the area through special events; and
- Conduct a survey of residents on what they would like to see in their community;

The administration and the City Attorney's office have met with, and intend to retain, a land use consultant to study the appropriateness of regulations on formula commercial establishments in Sunset Harbour. The attached draft ordinance reflects a preliminary outline of the regulations proposed. A referral of the proposed ordinance to the Planning Board has been placed on the December 11, 2019 City Commission agenda.

Prior to review by the Planning Board, the administration and the City Attorney's Office, in consultation with the City's land use consultant, will continue to develop the legislation, and prepare a planning analysis.

CONCLUSION:

The Administration recommends the following:

1. The Land Use and Development Committee endorse the attached draft ordinance and recommend the City Commission refer the item to the Planning Board.
2. Continue discussion of the item to the January 2020 LUDC meeting.

Applicable Area

South Beach

Is this a Resident Right to Know item?

Yes

Does this item utilize G.O. Bond Funds?

No

ATTACHMENTS:

Description	Type
 Draft ORD	Memo

SUNSET HARBOUR MIXED-USE NEIGHBORHOOD OVERLAY DISTRICT

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 142 OF THE CITY CODE, ENTITLED "ZONING DISTRICTS AND REGULATIONS," AT ARTICLE III, ENTITLED "OVERLAY DISTRICTS," TO ESTABLISH DIVISION 14, ENTITLED "SUNSET HARBOUR MIXED-USE NEIGHBORHOOD OVERLAY DISTRICT," TO PROVIDE REGULATIONS ON FORMULA RESTAURANT AND FORMULA COMMERCIAL ESTABLISHMENTS; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the Sunset Harbour neighborhood is generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south; and

WHEREAS, Sunset Harbour has evolved, and continues to evolve, from a primarily industrial and commercial neighborhood into a vibrant mixed-use residential neighborhood that provides area residents with a unique retail and dining experience; and

WHEREAS, formula commercial establishments and formula restaurants are establishments with multiple locations and standardized features or a recognizable appearance, where recognition is dependent upon the repetition of the same characteristics of one store or restaurant in multiple locations; and

WHEREAS, formula commercial establishments and formula restaurants are increasing in number in the City of Miami Beach; and

WHEREAS, the uniformity of formula commercial establishments, while providing clear branding for retailers, is inconsistent with the City's Vision Statement which includes creating "A Unique Urban and Historic Environment"; and

WHEREAS, notwithstanding the marketability of a retailer's goods or services or the visual attractiveness of the storefront, the standardized architecture, color schemes, decor and signage of many formula commercial establishments detract from the distinctive character and aesthetics of unique mixed-use residential neighborhoods; and

WHEREAS, specifically, the proliferation of formula commercial establishments may unduly limit or eliminate business establishment opportunities for independent or unique businesses, thereby decreasing the diversity of retail activity and dining options available to local residents; and

WHEREAS, the increased level of homogeneity detracts from the uniqueness of residential and mixed-use neighborhoods, which thrive on a high level of interest maintained by a mix of retail and dining experiences that are not found elsewhere in the city, state, or country; and

WHEREAS, sidewalk cafes are central to the economy of Sunset Harbour and enhance the pedestrian experience and dining amenities available to neighborhood residents; and

WHEREAS, the Mayor and City Commission desire to promote a mix of unique restaurants and retail uses that primarily serve residents in the Sunset Harbour neighborhood; and

WHEREAS, it is the intent of the City that if an establishment that has multiple locations and standardized features or a recognizable appearance seeks to locate within Sunset Harbour, that such establishment provide a distinct array of merchandise, façade, décor, color scheme, uniform apparel, signs, logos, trademarks, and service marks; and

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

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

SECTION 1. The following provisions of Chapter 114 of the City Code, entitled "General Provisions," are hereby provided for reference purposes:

**CHAPTER 114
GENERAL PROVISIONS**

Sec. 114-1. Definitions.

The following words, terms and phrases when used in this subpart B, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

* * *

Establishment, as used in the definitions of Formula restaurant and Formula commercial establishment, means a place of business with a specific store name or specific brand. Establishment refers to the named store or brand and not to the owner or manager of the store or brand. As an example, if a clothing store company owns four (4) brands under its ownership umbrella and each branded store has 10 locations, the term "Establishment" would refer only to those stores that have the same name or brand.

* * *

Formula restaurant means (i) a restaurant with 75 or more establishments in operation or with approved development orders in the United States or a restaurant with more than five (5) establishments in operation or with approved development orders in Miami Beach. With respect to the preceding sentence, in addition to the numerical thresholds the establishments maintain two (2) or more of the following features: a standardized (formula) array of merchandise; a standardized façade; a standardized decor or color scheme; uniform apparel for service providers, food, beverages or uniforms; standardized signs, logos, trademarks or service marks. For the purpose of this definition, the following shall apply:

- (1) *Standardized (formula) array of merchandise or food* means that 50 percent or more of in-

stock merchandise or food is from a single distributor and bears uniform markings.

- (2) *Trademark* means any word, name, symbol, or device, or any combination thereof, used by a person to identify and distinguish the goods of such person, including a unique product, from those manufactured or sold by others, and to indicate the source of the goods, even if the source is unknown. A trademark may be registered with the U.S. Patent and Trademark Office and/or the Florida Department of State. However, an unregistered trademark may also be protected under common law.
- (3) *Service mark* means any word, name, symbol, or device, or any combination thereof, used by a person to identify and distinguish the services of such person, including a unique service, from the services of others, and to indicate the source of the services, even if that source is unknown. Titles, character names, and other distinctive features of radio or television programs may be registered as service marks notwithstanding that the person or the programs may advertise the goods of the sponsor. A service mark may be registered with the U.S. Patent and Trademark Office and/or the Florida Department of State. However, an unregistered service mark may also be protected under common law.
- (4) *Decor* means the style of interior or exterior furnishings, which may include but is not limited to, style of furniture, wall coverings or permanent fixtures.
- (5) *Color scheme* means the selection of colors used throughout, such as on the furnishings, permanent fixtures, and wall coverings, or as used on the facade.
- (6) *Facade* means a face (usually the front) of a building, including awnings, that looks onto a street or an open space.
- (7) *Uniform food, beverages or apparel/uniforms* means standardized items of clothing including but not limited to standardized aprons, pants, shirts, smocks or dresses, hats, and pins (other than name tags) as well as standardized colors of clothing, food or beverages listed on the menus of such establishments or standardized uniforms worn by employees.

*

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*

Formula commercial establishment means a commercial use, excluding office, restaurant and hotel use, that has ten (10) or more retail sales establishments in operation or with approved development orders in the United States of America; provided, however, for those businesses located in a building that is two (2) stories or less with frontage on Ocean Drive, *formula commercial establishment* means a commercial use, excluding office, restaurant and hotel, which has five (5) or more other establishments in operation or with approved development orders in Miami Beach. In addition to meeting or exceeding the numerical thresholds in the preceding sentence, the definition of formula commercial establishment also means an establishment that maintains two or more of the following features: a standardized (formula) array of merchandise; a standardized façade; a standardized decor or color scheme; uniform apparel; standardized signs, logos, trademarks or service marks. For the purpose of this definition, the following shall apply:

- (1) *Standardized (formula) array of merchandise* means that 50 percent or more of in-stock merchandise is from a single distributor and bears uniform markings.

- (2) *Trademark* means any word, name, symbol, or device, or any combination thereof, used by a person to identify and distinguish the goods of such person, including a unique product, from those manufactured or sold by others, and to indicate the source of the goods, even if the source is unknown. A trademark may be registered with the U.S. Patent and Trademark Office and/or the Florida Department of State. However, an unregistered trademark may also be protected under common law.
- (3) *Service mark* means any word, name, symbol, or device, or any combination thereof, used by a person to identify and distinguish the services of such person, including a unique service, from the services of others, and to indicate the source of the services, even if that source is unknown. Titles, character names, and other distinctive features of radio or television programs may be registered as service marks notwithstanding that the person or the programs may advertise the goods of the sponsor. A service mark may be registered with the U.S. Patent and Trademark Office and/or the Florida Department of State. However, an unregistered service mark may also be protected under common law.
- (4) *Decor* means the style of interior or exterior furnishings, which may include but is not limited to, style of furniture, wall coverings or permanent fixtures.
- (5) *Color scheme* means the selection of colors used throughout, such as on the furnishings, permanent fixtures, and wall coverings, or as used on the facade.
- (6) *Facade* means a face (usually the front) of a building, including awnings, that looks onto a street or an open space.
- (7) *Uniform apparel* means standardized items of clothing including but not limited to standardized aprons, pants, shirts, smocks or dresses, hats, and pins (other than name tags) as well as standardized colors of clothing.

* * *

Section 2. Chapter 142 of the City Code, entitled "Zoning Districts and Regulations," at Article III, entitled "Overlay Districts," is hereby amended as follows:

**CHAPTER 142
ZONING DISTRICTS AND REGULATIONS**

* * *

ARTICLE III. – OVERLAY DISTRICTS

* * *

DIVISION 14 – SUNSET HARBOUR MIXED-USE NEIGHBORHOOD OVERLAY DISTRICT

Sec. 142-870.19. – Location and purpose.

- (a) There is hereby created the Sunset Harbour Mixed-Use Neighborhood Overlay District (the "Overlay District"). The Overlay District consists of the properties in the Sunset Harbour Area, which is generally bounded by Purdy Avenue to the west, 20th Street and the

waterway to the north, Alton Road to the east, and Dade Boulevard to the south, as further identified in the map below:

[MAP]

- (b) The purpose of this Overlay District is to limit the proliferation of uses which may diminish the character of a unique mixed-use residential neighborhood within the City. This Overlay District is designed based on and intended to achieve the following facts and intents:
- a. Sunset Harbour has evolved, and continues to evolve, from a primarily industrial and commercial neighborhood into a vibrant mixed-use residential neighborhood that provides area residents with a unique retail and dining experience;
 - b. Formula commercial establishments and formula restaurants are establishments with multiple locations and standardized features or a recognizable appearance, where recognition is dependent upon the repetition of the same characteristics of one store or restaurant in multiple locations;
 - c. Formula commercial establishments and formula restaurants are increasing in number in mixed-use and commercial districts within the City;
 - d. The sameness of formula commercial establishments, while providing clear branding for retailers, counters the City's Vision Statement which includes creating "A Unique Urban and Historic Environment";
 - e. Notwithstanding the marketability of a retailer's goods or services or the visual attractiveness of the storefront, the standardized architecture, color schemes, decor and signage of many formula commercial establishments detract from the distinctive character and aesthetics of unique mixed-use residential neighborhoods; and
 - f. Specifically, the proliferation of formula commercial establishments may unduly limit or eliminate business establishment opportunities for independent or unique businesses, thereby decreasing the diversity of retail activity and dining options available to local residents; and
 - g. The increased level of homogeneity detracts from the uniqueness of residential and mixed-use neighborhoods, which thrive on a high level of interest maintained by a mix of retail and dining experiences that are not found elsewhere in the city, state, or country;
 - h. Sidewalk cafes are central to the economy of Sunset Harbour and enhance the pedestrian experience and dining amenities available to neighborhood residents; and
 - i. It is the intent of the City that if an establishment that has multiple locations and standardized features or a recognizable appearance seeks to locate within certain areas affected by this ordinance that such establishment provide a distinct array of merchandise, façade, décor, color scheme, uniform apparel, signs, logos, trademarks, and service marks.

Sec. 142-870.20. – Compliance with regulations.

The following regulations shall apply to the Overlay District. There shall be no variances allowed from these regulations. All development regulations in the underlying zoning district and any other applicable overlay regulations shall apply, except as follows:

(a) The following limitations shall apply to the commercial uses listed below:

(1) Formula commercial establishments and formula restaurants shall be prohibited in the Overlay District.

(b) Review procedures.

(1) Commercial establishments in the Overlay District that are not identified in section 142-870.20(a) shall comply with the following regulations:

a. A signed affidavit indicating that they are not an establishment that is regulated by section 142-870.20(a) shall be provided to the city as part of the application for obtaining a business tax receipt, certificate of use, and/or building permit, as applicable.

b. If the establishment is found not to be in compliance with the applicable requirements of the signed affidavit, the business tax receipt will be revoked, and the establishment shall immediately cease operation.

SECTION 3. Repealer.

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

SECTION 4. 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 5. Severability.

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

SECTION 6. Effective Date.

This Ordinance shall take effect ten days following adoption.

PASSED and ADOPTED this _____ day of _____, 2020.

ATTEST:

Dan Gelber, Mayor

Rafael E. Granado, City Clerk

First Reading:

Second Reading:

Verified by: _____
Thomas R. Mooney, AICP
Planning Director

Sponsored by Commissioner Ricky Arriola

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Item 2.
COMMITTEE MEMORANDUM

TO: Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager

DATE: December 2, 2019

TITLE: DISCUSSION: ORDINANCE AMENDMENT EXCEPTING OFFICE USES NOT ALSO OPERATING AS AN ENTERTAINMENT ESTABLISHMENT OR DANCE HALL FROM THE DEFINITION OF NEIGHBORHOOD IMPACT ESTABLISHMENT (NIE)

HISTORY:

On June 5, 2019, at the request of Commissioner Michael Gongora, the City Commission referred the subject item to the Land Use and Development Committee for discussion (item C4S). On July 24, 2019 the item was deferred to the September 18, 2019 LUDC meeting. On September 18, 2019 the item was deferred to the December 2, 2019 LUDC meeting.

ANALYSIS:

BACKGROUND

We Work Offices, which have two locations in the City, seek to provide free beer and wine for their office tenants; each of these locations have an occupant content that exceeds 300 persons. Additionally, by serving beer and wine, this office use also meets the technical definition of an alcoholic beverage establishment.

Under section 142-1361 of the city code, an alcoholic beverage establishment that has an occupant content exceeding 300 persons is considered a neighborhood impact establishment (NIE). Establishments meeting NIE thresholds require Planning Board approval for a CUP.

PLANNING ANALYSIS

The NIE regulations in section 142-1361 were designed to address alcohol uses such as destination restaurants, bars, nightclubs and entertainment establishments. These regulations were not intended to apply to office uses that provide free beer and wine to tenants on occasion.

The following is a potential amendment to Chapter 142, Article V, Divisions 6 of the LDR's, to create an exception from the definition of an NIE, for office uses only, which are not operating as an entertainment establishment or dance hall, from the definition of neighborhood impact establishment (NIE):

DIVISION 6. – ALCOHOLIC BEVERAGE AND ENTERTAINMENT ESTABLISHMENTS

Sec. 142-1361. - Definitions.

For the purpose of this division, the following terms, phrases and words shall have the meaning given in this section:

After-hours dance hall means a commercial establishment where dancing by patrons is allowed, including, but not limited to, restaurants and entertainment establishments, which by its nature as an establishment not licensed or operating as an alcoholic beverage establishment, is not subject to the regulations on hours of sale for alcoholic beverage establishments contained in section 6-3 of this Code.

Entertainment means any live show or live performance or music amplified or nonamplified. Exceptions: Indoor movie theater; big screen television and/or background music, amplified or nonamplified, played at a volume that does not interfere with normal conversation.

Neighborhood impact establishment means:

- (1) An alcoholic beverage establishment or restaurant, not also operating as an entertainment establishment or dance hall (as defined in section 114-1), with an occupant content of 300 or more persons as determined by the chief fire marshal; or
- (2) An alcoholic beverage establishment or restaurant, which is also operating as an entertainment establishment or dance hall (as defined in section 114-1), with an occupant content of 200 or more persons as determined by the chief fire marshal.

Notwithstanding the above, an office use, not also operating as an entertainment establishment, where the self-service of beer and/or wine is offered for consumption on the premises only, and only for office employees and office clients, shall not be considered a neighborhood impact establishment, regardless of occupant content.

Open air entertainment establishment means a commercial establishment which provides entertainment, as defined in this section, indoors or in an enclosed courtyard or area which by its design is open to the outside, thereby enabling the entertainment to be audible outdoors.

Outdoor entertainment establishment means a commercial establishment which provides outdoor entertainment as defined in this section.

The aforementioned modification is not expected to have an adverse impact on surrounding properties, as large offices are primarily located in commercial districts. Additionally, the serving of alcohol would be limited to existing office occupants only.

CONCLUSION:

The Administration recommends that the Land Use and Development Committee transmit the aforementioned ordinance amendment to the full City Commission for referral to the Planning Board.

Applicable Area

Citywide

Is this a Resident Right to Know item?

Yes

Does this item utilize G.O. Bond Funds?

No



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Item 3.
COMMITTEE MEMORANDUM

TO: Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager

DATE: December 2, 2019

**TITLE: DISCUSSION: ESTABLISHMENT OF PENALTIES FOR PROPERTY OWNERS
ENGAGING IN DEMOLITION BY NEGLIGENCE**

HISTORY:

On July 17, 2019, at the request of Commissioner Ricky Arriola, the City Commission referred the discussion item to the Land Use and Development Committee (Item C4 O). The item was discussed at the September 18, 2019 LUDC meeting, and continued to the October 30, 2019 meeting with the following direction:

1. The administration and City Attorney's office will research and provide recommendations regarding a process for imposing proportional fines, development and use reductions, and building registrations.
2. The administration will bring a discussion item to the October 8, 2019 meeting of the Historic Preservation Board for recommendations on posting unsafe structures on the city's website.

On October 30, 2019, the item was discussed and continued to the December 2, 2019 LUDC, with the following direction:

1. The administration and the City Attorney will further evaluate the recommendations noted in the LUDC memo regarding proportional fines and building registry, as well as creating a process for as-built drawings of contributing structures.
2. Recommend that the City Commission refer the proposed amendment to chapter 118, article X, pertaining to a presumption clause, to the Planning Board.
3. The addresses of properties that have both an active unsafe structures violation and have been referred to the Miami-Dade County Unsafe Structures Board by the Building Official will be posted on the City website. This list shall be posted within the Building Department webpage, and the Planning Department webpage shall contain a direct link.

ANALYSIS:

PLANNING AND LEGAL ANALYSIS

On October 8, 2019, the Historic Preservation Board discussed the matter and recommended that the City begin the process of posting the addresses of properties that have an active unsafe structures violation and have been referred to the Miami-Dade County Unsafe Structures Board by the Building Official on the City website. The Board also recommended that this information be available on either the Building Department or Planning Department page.

As indicated on October 30, 2019, planning staff and the City Attorney's office have researched and discussed other options to address demolition by neglect in historic districts. The following is an update and summary of these efforts:

1. Fines. The way properties are currently fined is general and not specific to the size of the building. The administration and the City Attorney's office have researched the concept of proportional fines and it appears that it is not pre-empted under State law. The administration and the City Attorney are exploring potential amendments that would result in more proportional fines for larger buildings.

2. Building Registry. The Building Department is researching and evaluating a method to establish a building registry process.

UPDATE

Attached is a model building registry ordinance from the City of Riviera Beach, as well as an updated list of abandoned commercial properties, which is color coded based on priority. Also included in the list of properties is the number of stories and the square footage to assist with determining appropriate, proportional fees.

In order to develop an ordinance specific to Miami Beach, as well as a potential process for as-built drawings of contributing structures, it is recommended that the item be discussed and continued to the January 2020 meeting of the LUDC.

CONCLUSION:

The administration recommends that the item be continued to the January 2020 LUDC meeting, in order for the administration to provide the following:

1. A draft ordinance specific to Miami Beach, creating a vacant building registry process, inclusive of appropriate, proportional fees.
2. A potential process for requiring as-built drawings of contributing structures.

Applicable Area

Citywide

Is this a Resident Right to Know item?

Yes

Does this item utilize G.O. Bond Funds?

No

ATTACHMENTS:

Description

Type

- Model ORD - Riviera Beach
- CMB Commercial Property List

Memo

Memo

ORDINANCE NO. 4024

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 11, BY CREATING ARTICLE VI ENTITLED "REGISTRATION OF FORECLOSED AND MORTGAGED REAL PROPERTY" OF THE CITY'S CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY, CONFLICTS AND CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Riviera Beach has a vested interest in protecting the City against the decay caused by vacant and abandoned properties; and

WHEREAS, vacant and abandoned properties present a serious threat to the public health and safety of the community; and

WHEREAS, the presence of vacant and abandoned properties can lead to a decline in property value, create attractive nuisances, and lead to general decrease in neighborhood and community aesthetics; and

WHEREAS, the increase in foreclosures has caused many properties to become vacant and abandoned during the lengthy foreclosure process; and

WHEREAS, to assist the City in identifying properties that may become or are vacant and abandoned due to foreclosure, the City seeks to impose registration requirements on such properties located within the City; and

WHEREAS, the City Council of the City of Riviera Beach believes that imposing such a foreclosure registration requirement is necessary to protect the residents of the City from nuisances to the fullest extent permissible under state law and to be in the best interest of the health, safety and welfare of the residents of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. That Chapter 11, entitled "Nuisances" of the City's Code of Ordinances, is hereby amended by creating Article VI, entitled "Registration of Foreclosed and Mortgaged Real Property" to read as follows:

Sec. 11-201. Purpose.

It is the purpose and intent of this ordinance to establish a process to limit and reduce the deterioration of property located within the City of Riviera Beach, which property is in foreclosure, or where ownership has been transferred to lender or mortgagee by any legal method or where property is deemed vacant or abandoned. It is further intended to establish a registration program as a mechanism to protect neighborhoods from becoming blighted through the lack of inadequate maintenance of abandoned and/or vacated properties subject to a mortgage or properties subject to mortgages that are in default. The registration process will require mortgagees to provide the City with the most up to date accurate data and information for contacting a responsible party to bring the property into compliance with this ordinance.

Sec. 11-202. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning. Where the context will permit and no definitions are provided herein, the definitions provided in the Florida Building Code or the City of Riviera Beach Code of Ordinances shall apply.

"Abandoned" means any real property that is vacant and/or is under a public notice of default, notice of mortgagee's sale, pending tax assessor's lien sale and/or properties that have been the subject of a foreclosure sale where title is retained by the mortgagee including, any properties transferred under a deed-in-lieu of foreclosure sale, a short sale or any other legal means to the mortgagee.

"Accessible" means a property, structure, or building that is unsecured and/or breached in such a way as to allow access by trespassers, criminals, or other unauthorized persons.

"Default" means that the mortgagee files a foreclosure action or public notice of default on the mortgage. A mortgage shall be considered in default at such time as the mortgagee declares said mortgage to be in default either in writing, by recording a lis pendens, or by its actions, or commences foreclosure proceedings.

"Enforcement officer" means any law enforcement officer, building inspector, building official, fire inspector or code enforcement officer employed by the City Riviera Beach.

"Evidence of vacancy" means any condition that on its own, or combined with other conditions present would lead a reasonable person to believe that the property is vacant. Such conditions may include, but are not limited to:

overgrown and/or dead vegetation; electricity, water or other utilities turned off; stagnant swimming pool; statements by neighbors, passers-by, delivery agents or government agents; accumulation of abandoned personal property; and/or readily accessible residence, structures and buildings on the property.

"Foreclosure" means the judicial process by which a property, placed as security for a mortgage loan, after a judicial process, is to be sold at an auction to satisfy a debt upon which the borrower has defaulted.

"Mortgage" means a lien on property conveyed by its owner to a mortgagee as security for an underlying debt or other obligation owed the mortgagee. The term includes all conveyances, conditioned or defensible obligations, bills of sale or other written instruments that convey or sell property for the purpose, or with the intention of, securing the payment of money

"Mortgagee" means the creditor, including, but not limited to, service companies, lenders in a mortgage agreement, and any agent, servant, or employee of the of the mortgagee, or any successor in interest and/or assignee of the mortgagee's rights, interests, or obligations under the mortgage agreement. For the purpose of this article, real estate brokers and agents, solely marketing and/or selling real property on behalf of a mortgagee, shall not be considered an agent, servant, or employee of the mortgagee.

"Nuisance" means any condition, including, but not limited to, an abandoned, unsafe, accessible residence, building, structure, or real property with code violations that constitute a menace to life, property, public health, or the public welfare, or create a fire hazard; any conditions which may be injurious to the health, safety, and welfare of the public; or any conditions that constitute and attractive nuisance or otherwise endanger the public's safety while in the vicinity thereof.

"Owner" means any person, persons, or entity having legal or equitable title, or any real or contingent interests in any real property; being shown to be the property owner in the records of the Palm Beach County Property Appraiser's Office; being identified on the abandoned/vacant real property registration form created pursuant to this article; or being a mortgagee in possession of real property. Any such person, persons, or entity shall have joint and several obligations for compliance with the provisions of this article.

"Property Management Company" means a local property manager, property maintenance company, or similar person or entity responsible for the maintenance and security of abandoned real property.

"Vacant" means any real property, including any building or structure thereon that is not lawfully occupied or inhabited by human beings as evidenced by the conditions set forth in the definition of "evidence of vacancy" above.

Sec. 11-203. Public nuisance.

All abandoned and vacant real property, which is unmaintained or unsecured, is hereby declared to be a public nuisance, the abatement of which pursuant to the police power is hereby declared to be necessary for the health, safety, and welfare of the residents of the City of Riviera Beach.

Sec. 11-204. Applicability.

This article applies to abandoned or real property, whether occupied or vacant, within the City of Riviera Beach.

Sec. 11-205. Administration and enforcement.

- (a) Failure of the mortgagee to properly register or to modify the registration from time to time to reflect a change of circumstances as required by this article is a violation of this article and shall be subject to enforcement by any of the enforcement means available to the City.
- (b) Pursuant to any judicial finding and determination, including any administrative proceeding that a property is in violation of this article, the City may take the necessary action to ensure compliance and may place a lien on the property for the cost of the work performed, including an administrative fee, to benefit the property and to bring it into compliance.
- (c) Failure of the mortgagee and/or property owner of record to properly inspect and secure a property subject to this article and other requirements of this code, and post and maintain the signage as required in this article, is a violation of this article and shall be subject to enforcement by any means available to the City. Pursuant to a finding and determination, the City may take the necessary action to ensure compliance with this article, and recover costs and expenses in support thereof.

Sec. 11-206. Inspection and registration of real property by mortgagee holding mortgages in default.

- (a) Within fourteen (14) days of the date any mortgagee declares its mortgage to be in default, the mortgagee shall register the real property with the City's Community Development Department, or its designee, or the City's authorized representative. At the time of registration, a local property manager shall be designated to inspect, maintain and secure the real property subject to the mortgage in default. A registration is required for each property.
- (b) Any mortgagee who holds a mortgage on real property located within the City of Riviera Beach shall perform an inspection of the property within five (5)

days of the registration pursuant to subsection (a) above.

- (c) Property inspected pursuant to subsection (b) above that is occupied but remains in default, shall be inspected quarterly by the mortgagee or mortgagee's designee.
- (d) Property which is found to be vacant, or which shows evidence of vacancy shall be inspected at least every thirty (30) days by the mortgagee or mortgagee's designee.
- (e) Registration pursuant to this section shall contain at a minimum the name of the mortgagee, the mailing address of the mortgagee, the e-mail address and telephone number of the mortgagee, the name of the local property manager and said person's address, e-mail address, and telephone number. The local property manager shall be responsible for inspecting, securing and maintaining the property. The property manager named in the registration shall be located within Palm Beach County and available to be contacted by the City, Monday through Friday between 9:00 a.m. and 5:00 p.m., holidays and lunch hours excepted.
- (f) This section shall also apply to properties that have been the subject of a foreclosure sale where title is transferred to the mortgagee as well as any properties transferred to the mortgagee under a deed in lieu of foreclosure.
- (g) Properties subject to this section shall remain under the registration requirement, and the inspection, security, and maintenance standards of this article as long as they remain vacant or subject to having been declared by a mortgagee to be in default.
- (h) Any person or other legal entity that has registered a property under this article must report any change of information contained in the registration within ten (10) day of the change

Sec. 11-207. Annual registration fee.

A nonrefundable annual registration fee in the amount of two hundred Dollars (\$200) per property shall accompany registration. The annual registration fee shall correspond to the fiscal year of the City and the renewal of the registration, along with the payment of the annual fee, shall be completed prior to October 1st of any year. The renewal of the registration with its accompanying fee, shall be the responsibility of the mortgagee and a failure to do so in a timely manner shall subject the mortgagee to code enforcement action pursuant to the City of Riviera Beach Code of Ordinances. The annual registration fee may subsequently be amended from time to time by resolution.

Sec. 11-208. Maintenance requirements.

- (a) Properties subject to this article shall be kept in conformance with all code requirements, including, but not limited to, being kept free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state, or local law, discarded personal items including, but not limited to, furniture, clothing, large and small appliances, printed materials, or any other items that give the appearance that the property is abandoned.
- (b) The properties shall be maintained free of graffiti or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior structure.
- (c) Front, side, and rear yard landscaping of properties subject to this article shall be maintained in accordance with the City's code, and in accordance with the following standards at all times.
 - (1) Landscaping shall include, but not be limited to, grass, ground cover, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for installation.
 - (2) Landscaping shall not show evidence of gravel, broken concrete, asphalt or similar material unless xeriscape plan incorporating same have been approved by the city.
 - (3) Landscaping maintenance shall include, but not be limited to, watering irrigation, cutting, and mowing of required landscaped and removal of all trimmings.
- (d) Pools and spas shall be maintained so that the water remains free and clear of pollutants and debris, and free of mosquito breeding or vermin infestation. Pools and spas shall comply with the enclosure requirements of the City's Code and the Florida Building Code, as they may be amended from time to time.
- (e) In the event that the National Weather Service, National Hurricane Center, or other appropriate weather agency declares a hurricane warning for any portion of Riviera Beach, all materials, furnishings, and equipment at the property shall be secured, stored, or removed so as to not create a safety hazard due to hurricane force winds.

Sec. 11-209. Security requirements.

- (a) Properties subject to this article shall be maintained in a secure manner so as to not be accessible to unauthorized persons.

- (b) A "secure manner" shall include, but not be limited to, the closure and locking of windows, doors, gates, and any other openings of such size that may allow a child to access the interior of the property and/or structure. Broken windows shall be secured by replacement, reglazing, or boarding of the windows so as to meet all applicable laws, codes and regulations.
- (c) If the owner of the property is a corporation, partnership, and/or out-of-area mortgagee, a local property management company shall be contracted by the owner to perform monthly inspections to verify compliance and the requirements of this article, and any other applicable laws.
- (d) Properties subject to the provisions of this article shall be posted with the name, address, and 24-hour contact phone number of the local property management company. The posted sign shall be no less than eighteen (18) inches by twenty-four (24) inches, and shall be of a font that is legible from a distance of forty-five (45) feet. The posting shall contain, along with the name, address, and 24-hour contact phone number, the language "THIS PROPERTY IS MANAGED BY" and "TO REPORT PROBLEMS OR CONCERNS" with the applicable contact information. All information thereupon shall be clear, legible, and updated as required.

The posted sign shall be placed on the interior of a window facing the street to the front of the property so it is visible from the street; secured to the exterior of the building/structure facing the street to the front of the property so it is visible from the street; or, if no such area exists, on a stake of sufficient size to support the posting in a location that is visual from the street to the front of the property. Exterior posting shall be constructed of and printed with weather-resistant materials.

- (e) The local property management company shall inspect the property as required herein to ensure that the property is in compliance with this article and shall keep a log of the inspection results. Upon request of the City, the local property management company shall provide a copy of the inspection log to the City.

Sec. 11-210. Responsibility for compliance.

- (a) It is the responsibility of the owner to maintain the owner's property in accordance with the provisions of this article. A mortgagee of any mortgage agreement which exists on abandoned real property that is in violation of this article shall be a responsible party for compliance

with this article upon the filing of a lis pendens and/or action, the purpose of which is to foreclose upon the mortgage or similar instrument that secures debt upon the residential real property. The mortgagee's responsibility for compliance with the provisions of this article shall only be effective during periods of time that the property shall be vacant and in foreclosure. The responsibility of the mortgagee shall remain until such time as the subject property is sold or transferred to a new owner, or the foreclosure action described herein is dismissed.

Sec. 11-211. Additional authority.

- (a) If an appropriate enforcement officer has reason to believe that a property subject to the provisions of this article is posing a serious threat to the public health, safety and welfare, the enforcement officer may bring the violation before the code enforcement special magistrate, or a court of competent jurisdiction as soon as possible to address the conditions of the property.
- (b) If there is a finding that the condition of the property is posing a serious threat to the public health, safety and welfare, then the code enforcement special magistrate or a court of competent jurisdiction may direct the City to abate the violation and charge the mortgagee with the cost of abatement.
- (c) If the mortgagee does not reimburse the City for the cost of abatement within thirty (30) days of the City sending the mortgagee the invoice, then the City may lien the property with the cost of abatement, along with any and all administrative fees allowed by law to recover the administrative personnel services.

Sec. 11-212. Adoption of rules and regulations.

The City Manager, or designee, is authorized and empowered to adopt rules and regulations as may be reasonable necessary and available to carry out the terms of this article.

Sec. 11-213. Provisions supplemental.

Nothing contained in this article shall prohibit the City from enforcing its codes by any other means, including, but not limited to injunction, abatement or as otherwise provided by law or ordinance.

SECTION 2. It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances

ORDINANCE NO: 4024
PAGE 9

of the City of Riviera Beach, and the sections of this Ordinance may be renumbered to accomplish such intentions.

SECTION 3. If any word, phrase, clause, subsection or section of this Ordinance is for any reason held invalid, the invalidity thereof shall not affect the validity of any remaining portions of this Ordinance.

SECTION 4. That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

SECTION 5. Specific authority is hereby granted to codify this Ordinance.

SECTION 6. That this Ordinance shall become effective immediately upon its passage on second and final reading.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

ORDINANCE NO: 4024
PAGE 10

PASSED AND APPROVED on first reading this 5th day of
JUNE, 2013.

PASSED AND ADOPTED on second and final reading this 17TH day of
JULY, 2013.

APPROVED:



THOMAS A. MASTERS
MAYOR



CEDRICK A. THOMAS
CHAIRPERSON

ATTEST:



CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK



DAWN S. PARDO
CHAIR PRO TEM



BRUCE A. GUYTON
COUNCILPERSON



JUDY L. DAVIS
COUNCILPERSON



TERENCE D. DAVIS
COUNCILPERSON

ABANDONED PROPERTIES LIST UPDATE 2019

Address Number	Street	Folio Number	Adjusted Area	Number of floors	Status in 2019
425	20TH ST	0232340160050	7,524 Sq. Ft	1 FLOOR, 14 UNITS	LOW PRIORITY
430	21ST STREET	0232340160040	20,161 Sq. Ft	3 FLOORS, 50 UNITS	LOW PRIORITY
435	20TH ST	0232340160060	6,553 Sq. Ft.	2 FLOORS, 12 UNITS	LOW PRIORITY
2000	PARK AVE.	0232340160030	20,153 Sq. Ft	3 FLOORS, 58 UNITS	LOW PRIORITY
2030	PARK AVE.	0232340160010	23,765 Sq. Ft	3 FLOORS, 67 UNITS	LOW PRIORITY
2035	WASHINGTON AV	0232340160070	19,375 Sq. Ft	2 FLOORS, 30 UNITS	LOW PRIORITY
2160	PARK AVE.	0232270130050	9,734 Sq. Ft	2 FLOORS, 19 UNITS	LOW PRIORITY
7420	Ocean Terrace	0232020030040	10,512 Sq. Ft	2 FLOORS, 20 UNITS	HIGH PRIOPRITY
6979	Collins av	0232110020710	21,058 Sq Ft	4 FLOORS, 63 UNITS	HIGH PRIOPRITY
2814	Collins av	0232260010940	22,705 Sq Ft	4 FLOORS, 25 UNITS	HIGH PRIOPRITY
2901	INDIAN CREEK DR	0232260011180	8,968 Sq Ft	2 FLOORS, 15 UNITS	HIGH PRIOPRITY
2911	INDIAN CREEK DR	0232260011170	6,796 Sq. Ft	2 FLORS, 16 UNITS	HIGH PRIOPRITY
6701	Collins av	0232110070420	595,788 Sq Ft	9 FLOORS, 540 UNITS	HIGH PRIOPRITY
3425	Collins av	0232260011440	70,958 Sq Ft	14 FLOORS,	HIGH PRIOPRITY
1529	Jefferson Ave	0232340021350	753 Sq Ft	2 FLOORS, UNIT 1	HIGH PRIOPRITY
1529	Jefferson Ave	0232340021351	753 Sq Ft	2 FLOORS, UNIT 2	HIGH PRIOPRITY
1529	Jefferson Ave	0232340021352	753 Sq Ft	2 FLOORS, UNIT 3	HIGH PRIOPRITY
1529	Jefferson Ave	0232334002135	753 Sq Ft	2 FLOORS, UNIT 4	HIGH PRIOPRITY
2203	Calais Dr	0232100100390	2,853 Sq Ft	1 FLOOR, 4 UNITS	HIGH PRIOPRITY
3621	Collins av	0232260080001	NO INFO AVAIL	7 FLOORS, 106 UNITS	MEDIUM PRIORITY
310	Meridian Ave	0242030095190	7,013 Sq. Ft	2 FLOORS, 17 UNITS	MEDIUM PRIORITY
911	79 Terr	0232020080360	2,182 Sq. Ft.	1 FLOOR, 3 UNITS	MEDIUM PRIORITY
956	WASHINGTON AVE	0242030090130	23,047 Sq Ft.	3 FLOORS, 40 UNITS	MEDIUM PRIORITY
1414	WEST AVE	0232330160470	VACANT LOT	VACANT, LOT SIZE 11,000 SQ FT	MEDIUM PRIORITY



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

Item 4.
COMMITTEE MEMORANDUM

TO: Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager

DATE: December 2, 2019

TITLE: DISCUSSION: ORDINANCE PERTAINING TO ADAPTIVE RE-USE AND ACCESSORY USES IN THE TATUM WATERWAY AREAS.

HISTORY:

On October 16, 2019, at the request of Commissioner Ricky Arriola, the City Commission referred the discussion item to the Land Use and Development Committee (Item R5E). The item was approved at first reading on October 16, 2019, in accordance with the following:

1. The applicable area for non-residential accessory uses shall be limited to properties along the Tatum Waterway.
2. Hotel uses must include compliance with minimum seawall requirements and a specific timeline for allowing hotel uses shall be included.
3. The uses not requiring conditional use approval shall be clearly delineated. Permit paradigm list to know what is bypassed by Planning Board.

Second reading of the ordinance was set for December 11, 2019 and the item was referred to the October 30, 2019 Land Use and Development Committee meeting to discuss the expanded areas beyond Tatum Waterway, including conditional use for hotels.

On October 30, 2019, the item was discussed and continued to the December 2, 2019 LUDC, with the following direction:

1. Include a map of eligible buildings for hotels along the Tatum Waterway.
2. Further modify the benchmarks and timeframes for required seawalls on eligible hotel sites.
3. Provide available data on the number of residential to hotel conversions that have taken place over the last 10 years.
4. Provide available data on the number of new hotel units over the last 10 years.

ANALYSIS:

On October 30, 2019, a revised ordinance, which reflected the action of the City Commission at first reading on October 16, 2019, was presented to the LUDC for discussion. The revised ordinance included the following:

- The applicable area for the legislation has now been limited to properties along the Tatum Waterway.
- Hotel uses are required to meet minimum seawall standards, and must be operational within a two year timeframe, with the ability of the planning board to allow for up to an additional year. This two year window (up to three years with an extension) is a reasonable amount of time for a property owner to receive conditional use approval, as well as substantially complete any required seawall upgrades.

With regard to the listing of specific uses that do not require a CUP, these are included under section 142-902. Specifically, the following accessory uses may be permitted without a CUP, subject to all applicable regulations:

1. Café.
2. Retail.
3. Office.
4. Personal service uses.

Additionally, the following uses are prohibited:

1. Tobacco and vape dealers.
2. Package liquor stores.
3. Check cashing stores.
4. Occult science establishments.
5. Tattoo studios.

UPDATE

The following is a summary of the responses to the direction provided at the October 30, 2019 LUDC meeting:

1. Attached is a map of buildings along the Tatum Waterway that would be eligible for hotels. There are 66 contributing buildings along Tatum Waterway and, according to the Miami-Dade County Property Appraiser, 555 units within these buildings.

2. The subject ordinance has been modified with regard to the benchmarks and timeframes for seawalls on hotel sites. Specifically, for existing buildings on lots fronting the Tatum Waterway and classified as 'contributing' within the North Shore Local Historic District, hotels may be permitted as a conditional use, in accordance with the following provisions:

(1) The entire property shall be required to make all necessary improvements to comply with minimum applicable seawall standards, as specified in this Code or in the public works manual, prior to the issuance of a business tax receipt (BTR) for a hotel. At a minimum, seawalls shall be raised to a minimum elevation of 4.0 feet NAVD with the ability to raise it to 5.7 feet NAVD.

(2) A completed application to comply with the minimum applicable seawall standards, as specified in this Code or in the public works manual, shall be filed no later than June 30, 2020, and prior to a request for conditional use approval from the planning board. Such application shall include, but not be limited to, all seawall permit documents required by the City and all outside agencies, as well as proof of submittal of such documents to all outside agencies. Failure to meet this deadline shall result in the subject property not being eligible to make application for conditional use approval.

(3) A BTR for the hotel use shall be issued no later than June 30, 2022.

(4) In the event that the permit for seawall improvements is issued by June 30, 2022, but construction of the seawall improvements encounters unforeseen delays, the planning board may grant an extension of the June 30, 2022 deadline to complete the construction of the seawall and obtain a BTR for a hotel use. In no instance shall such extension of time exceed one year, or June 30, 2023.

3. There was no readily available data on the number of residential to hotel conversions that have taken place over the last 10 years. Neither the GMCVB nor their consultant, STR, track or have any data on such conversions. City staff checked with Costar and they don't track this information either.

4. Per the GMCVB there have been a total of 7,742 new hotel rooms in Miami Beach since 2008.

CONCLUSION:

The administration recommends that the LUDC endorse the revisions contained in the attached draft ordinance and recommend approval at second reading.

Applicable Area

North Beach

Is this a Resident Right to Know item?

Yes

Does this item utilize G.O. Bond Funds?

No

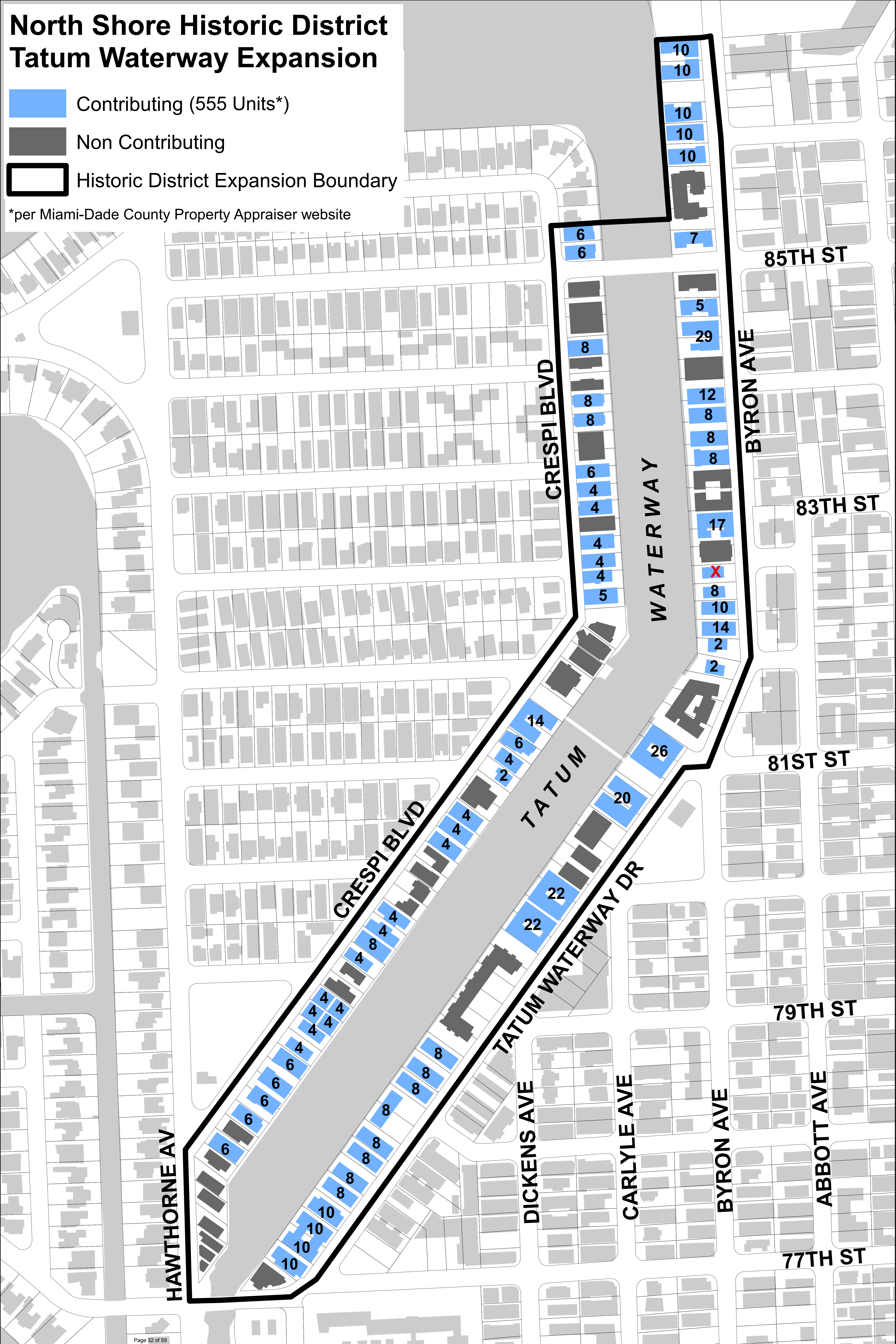
ATTACHMENTS:

Description	Type
<input type="checkbox"/> Tatum Waterway - Hotel Eligibility Building MAP	Memo
<input type="checkbox"/> REVISED Draft ORD	Memo

North Shore Historic District Tatum Waterway Expansion

- Contributing (555 Units*)
- Non Contributing
- Historic District Expansion Boundary

*per Miami-Dade County Property Appraiser website



**Adaptive Re-use and Accessory Uses in the ~~North Shore~~ and Tatum Waterway Areas
(Revised in accordance with the direction of the City Commission at first reading on
October 16, 2019 and the LUDC recommendations of December 2, 2019)**

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, SUBPART B, ENTITLED "LAND DEVELOPMENT REGULATIONS," BY AMENDING CHAPTER 142 OF THE CITY CODE, 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," SECTION 142-152, ENTITLED "MAIN PERMITTED AND PROHIBITED USES," AND SECTION 142-153, ENTITLED "CONDITIONAL USES," TO MODIFY USE REGULATIONS AND AMEND THE LIST OF CONDITIONAL USES FOR RM-1 PROPERTIES WITHIN THE NORTH SHORE NATIONAL REGISTER HISTORIC DISTRICT, TO INCLUDE ACCESSORY ALCOHOLIC BEVERAGE ESTABLISHMENTS AND HOTEL USES; BY AMENDING ARTICLE IV, ENTITLED "SUPPLEMENTARY DISTRICT REGULATIONS," DIVISION 2, ENTITLED "ACCESSORY USES," SECTION 142-902, ENTITLED "PERMITTED ACCESSORY USES," TO MODIFY THE ACCESSORY USES FOR HOTELS IN THE NORTH SHORE LOCAL HISTORIC DISTRICT AND EXPAND THE ALLOWABLE ACCESSORY USES FOR EXISTING APARTMENT BUILDINGS IN THE NORTH SHORE NATIONAL REGISTER DISTRICT TO ALLOW FOR ACCESSORY CAFÉ, OFFICE, RETAIL, PERSONAL SERVICE, AND NON-MOTORIZED WATERCRAFT RENTAL USES; AND BY AMENDING CHAPTER 130, ENTITLED "OFF-STREET PARKING," ARTICLE II, ENTITLED "DISTRICTS; REQUIREMENTS," SECTION 130-31, ENTITLED "PARKING DISTRICTS ESTABLISHED," TO PROVIDE FOR AN EXCEPTION TO OFF-STREET PARKING REQUIREMENTS FOR CERTAIN ACCESSORY AND CONDITIONAL USES ON RM-1 PROPERTIES IN THE NORTH SHORE NATIONAL REGISTER HISTORIC DISTRICT; AND 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, the City seeks to encourage and incentivize the retention and restoration of contributing historic waterfront structures within the North Shore National Register District in the North Beach area; and

WHEREAS, the City seeks to enhance the pedestrian-friendly allure, and promote the unique sense of place and community culture, along North Beach's historic Tatum Waterway through low-intensity and compatible mixed-uses, while providing greater accessibility to neighborhood amenities for residents; 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, "Zoning Districts and Regulations," Article II "District Regulations," Division 3, "Residential Multifamily Districts," Subdivision II, "RM-1 Residential Multifamily Low Intensity", is hereby amended as follows:

CHAPTER 142 – ZONING DISTRICTS AND REGULATIONS

* * *

ARTICLE II. – DISTRICT REGULATIONS

* * *

DIVISION 3. – RESIDENTIAL MULTIFAMILY DISTRICTS

* * *

Subdivision II. – RM-1 Residential Multifamily, Low Intensity

* * *

Sec. 142-152. - Main permitted and prohibited uses.

- (a) Main permitted uses. The main permitted uses in the RM-1 residential multifamily, low density district are:
- (1) single-family detached dwelling;
 - (2) townhomes;
 - (3) apartments;
 - (4) hotels, for properties fronting Harding Avenue or Collins Avenue, from the City Line on the north, to 73rd Street on the south; and
 - (5) bed and breakfast inn (pursuant to article V, division 7 of this chapter).
- (b) Prohibited uses. Alcoholic beverage establishments pursuant to the regulations set forth in chapter 6, of the City Code, are prohibited uses, unless otherwise specified. Moreover, all uses not listed as a main permitted or conditional use are also prohibited.

Sec. 142-153. - Conditional uses.

- (a) The conditional uses in the RM-1 residential multifamily, low density district are
- (1) adult congregate living facility;
 - (2) day care facility;
 - (3) nursing home;
 - (4) religious institutions;
 - (5) private and public institutions;
 - (6) schools; and
 - (7) commercial or noncommercial parking lots and garages.
- (b) For properties located in the Collins Waterfront Local Historic District, which are designated as a Local Historic Site, a hall for hire use within the interior of an existing building shall require conditional use approval and shall comply with the following:
- (1) The conditional use shall only be permitted within an existing structure that is on a property designated as a "Historic Site" and such limitation shall be recorded in the Public Records;

- (2) Dance halls, entertainment establishments and neighborhood impact establishments may only be permitted as part of a hall for hire;
- (3) The hall for hire use shall close by 11:00 p.m. Sunday through Thursday, and by 12:00 a.m. Friday and Saturday;
- (4) Events at the hall for hire shall be for the exclusive use of the property owner (and its subsidiaries) and invited guests. Events at the hall shall not be for the general public, with the exception of adjacent schools and community organizations within the Collins Park and Flamingo Drive areas, which may use the hall until 9:00 p.m.;
- (5) Restaurants, stand-alone bars and alcoholic beverage establishments, not functioning as a hall-for-hire, shall be prohibited;
- (6) Outdoor dining, outdoor entertainment and open-air entertainment uses shall be prohibited;
- (7) Private or valet parking for any event at the hall shall be prohibited from using Flamingo Drive, Flamingo Place or Lake Pancoast Drive to facilitate access to the site.
- (8) There shall be no variances from the provisions of Section 142-153(b).
- (c) For apartment buildings located north of 41st Street with a minimum of 100 apartment units, a restaurant serving alcoholic beverages shall require conditional use approval and shall comply with the following:
 - (1) The restaurant shall only be open to residents of the apartment building and their invited guests. All invited guests shall be required to park on the subject property.
 - (2) The kitchen shall be limited to a maximum size of 500 square feet.
 - (3) The conditional use application for a restaurant with outdoor seating and outdoor dining areas shall specify the proposed maximum number of seats, and locations of seating in the outdoor areas, which shall be subject to Planning Board review and approval.
 - (4) A hall for hire, dance hall, open-air entertainment establishment, outdoor entertainment establishment or entertainment establishment shall be prohibited.
 - (5) There shall only be one restaurant on the subject property.
 - (6) The hours of operation of the Restaurant may be from 8 a.m. to midnight (no orders to be taken after 11 p.m.) and for any exterior areas then only until 11p.m. (no orders to be taken after 10 p.m.)
 - (7) Without limiting the foregoing, in the outdoor areas of the restaurant there shall not be any entertainment or Special Events.

~~There shall be no variances from the provisions of Section 142-153(b).~~

- (d) For existing apartment buildings located **on lots fronting the Tatum Waterway and** within the North Shore National Register Historic District and which are classified as 'contributing,' accessory restaurants serving alcoholic beverages may be permitted as a conditional use in accordance with the following provisions:
 - (1) The interior restaurant area, inclusive of all seating and back-of-house areas, shall be located at the first level of the building and shall not exceed 25 percent of the floor area of the existing structure.
 - (2) The maximum number of seats shall not exceed 40; however, the maximum number of seats may be increased to 60, subject to planning board approval.

- (3) Outdoor seating and outdoor dining shall only be permitted in buildings with internal courtyards, which are part of a unified development site under common ownership. All such outdoor seating and dining areas shall be located within the internal courtyard. The maximum number of exterior seats shall not exceed 20; however, the maximum number of seats may be increased to 40, subject to planning board approval.
 - (4) Pass-through windows shall not be permitted.
 - (5) Beer and wine may be served; however, full liquor shall not be permitted.
 - (6) A fully enclosed, air-conditioned trash room shall be required.
 - (7) The hours of operation may be from 11:00 am to 10:00 pm (no orders to be taken after 9:00 p.m.)
 - (8) A plan for loading operations shall be provided for the review and approval of the planning board and parking department. Loading shall only take place between the hours of 10:00 am and 3:00 pm.
 - (9) Exterior speakers shall be prohibited, except as may be required under the Florida Life Safety Code.
 - (10) A hall for hire, dance hall, open-air entertainment establishment, outdoor entertainment establishment, entertainment establishment, or special event shall be prohibited.
 - (11) There shall only be one restaurant on the subject property.
 - (12) The minimum distance separation between accessory restaurants serving alcoholic beverages shall be 1,000 feet. However, the planning board may approve an accessory restaurant serving alcoholic beverages at a lesser distance than 1,000 feet, but in no event shall such use be located at a distance less than 500 feet from another accessory restaurant serving alcoholic beverages. No variances from this distance separation requirement may be granted.
- (e) For existing buildings **on lots fronting the Tatum Waterway and** classified as 'contributing' within the North Shore Local Historic District, hotels may be permitted as a conditional use, **in accordance with the following provisions:**
- (1) The entire property shall be required to make all necessary improvements to comply with minimum applicable seawall standards, as specified in this Code or in the public works manual, prior to the issuance of a business tax receipt (BTR) for a hotel. At a minimum, seawalls shall be raised to a minimum elevation of 4.0 feet NAVD with the ability to raise it to 5.7 feet NAVD.
 - (2) A completed application to comply with the minimum applicable seawall standards, as specified in this Code or in the public works manual, shall be filed no later than June 30, 2020, and prior to a request for conditional use approval from the planning board. Such application shall include, but not be limited to, all seawall permit documents required by the City and all outside agencies, as well as proof of submittal of such documents to all outside agencies. Failure to meet this deadline shall result in the subject property not being eligible to make application for conditional use approval.
 - (3) A BTR for the hotel use shall be issued no later than June 30, 2022.

(4) In the event that the permit for seawall improvements is issued by June 30, 2022, but construction of the seawall improvements encounters unforeseen delays, the planning board may grant up to a one year extension of the June 30, 2022 deadline to obtain a BTR for a hotel use. However, in no instance shall a BTR for a hotel use be issued after June 30, 2023.

(5) Accessory alcoholic beverage establishments (pursuant to article IV, division 2 of this chapter) associated with such hotel may also be permitted as a conditional use.

Sec. 142-154. - Accessory uses.

- (a) The accessory uses in the RM-1 residential multifamily, low density district are as required in article IV, division 2 of this chapter.

* * *

SECTION 2. Chapter 142, "Zoning Districts and Regulations," Article IV "Supplementary District Regulations," Division 2, "Accessory Uses," is hereby amended as follows:

CHAPTER 142 – ZONING DISTRICTS AND REGULATIONS

* * *

ARTICLE IV. – SUPPLEMENTARY DISTRICT REGULATIONS

* * *

DIVISION 2. – ACCESSORY USES

* * *

Sec. 142-902. - Permitted accessory uses.

The following are permitted accessory uses:

- (1) a. Hotels not located in the RM-1 or RM-2 district are permitted to have any accessory use that is customarily associated with the operation of a hotel or apartment building.
- b. Hotels located in the RM-2 district are permitted to have any accessory use that is customarily associated with the operation of a hotel or apartment building, except for dance halls, entertainment establishments, neighborhood impact establishments, outdoor entertainment establishments or open air entertainment establishments.
- c. Where permitted, hotels located in the RM-1 district may have accessory uses based upon the below criteria:
 1. A dining room operated solely for registered hotel visitors and their guests, located inside the building and not visible from the street, with no exterior signs, entrances or exits except as required by the South Florida Building Code.
 2. Other accessory uses customarily associated with the operation of an apartment building, as referenced in subsection 142-902(2), for the use of registered hotel visitors and their guests only.
 3. Notwithstanding the above, hotels located on lots fronting the Tatum Waterway and in the North Shore Local Historic District are permitted to have any accessory use that is customarily associated with the operation of a hotel or apartment building, except for dance halls, entertainment establishments, neighborhood impact establishments, outdoor entertainment establishments, or open air entertainment establishments.

- d. Hotels located in the RM-1, 2 or 3 districts are permitted to have religious institutions as a matter of right up to 199 occupancy, and over that occupancy shall be a conditional use.

(2) Apartment buildings may have accessory uses based upon the below criteria:

- a. Mechanical support equipment and administrative offices and uses that maintain the operation of the building.
- b. Washers and dryers shall be located inside a structure or not visible from a right-of-way.
- c. A dining room which is operated solely for the residents in the building shall be located inside the building and shall not be visible from the street with no exterior signs, entrances or exits except for those required by the South Florida Building Code. However, a dining room shall not be allowed in the RM-1 district except for those dining rooms associated with adult congregate living facilities.
- d. Public telephones and vending machines shall only be permitted to be located inside buildings; however, one public telephone may also be permitted outside, as long as it is not located in a required front yard, required side yard facing a street, or on a facade facing a street; the exact location and manner of placement of all public telephones shall be subject to design review approval. One automatic teller machine shall be permitted on the exterior walls of buildings, when associated with an accessory commercial use allowed under subsection 142-902(2)e., except in historic districts. The exact location and manner of placement for automatic teller machines shall be subject to design review approval.
- e. Buildings in the RM-3 and R-PS4 districts may have:
 - 1. Commercial, office, eating or drinking uses with access from the main lobby or from the street if they are either located on the ground floor, subterranean level or on the highest floor of a building.
 - 2. A retail store and/or a cafe with less than 30 seats (either or both of which could be open to residents and their guests) may occupy space on the amenity level of an apartment building located within an RM-3 district.
 - 3. Office space, when originally constructed on the second level of an existing building may be retained or re-introduced. When located on the ground floor, office space shall be at least 50 feet from the front property line.
- f. Solarium, sauna, exercise studio, health club or massage service for use by residents or open to the public by an individual licensed by the state or other appropriate agencies.
- g. Any accessory commercial use as permitted herein shall be located on the lobby or first floor if there are no apartment units on such levels. This provision shall not apply to home based business offices as provided for in section 142-1411.
- h. Family day care centers as defined in subsection 142-905(b)(1).
- i. One property management office for the purpose of managing residential units within the building as well as residential units located in other buildings under common

beneficial ownership, as long as the total number of units does not exceed a maximum of 100 units.

- j. Buildings in the RM-2 district in the area bounded by Indian Creek Drive, Collins Avenue, 41st Street and 44th Street that face the RM-3 district may have restaurant, coffee house, sundry shops, or food market uses located in ground floor space not to exceed 70 percent of the ground floor. These uses may have direct access to the street. Dance halls, entertainment establishments, neighborhood impact establishments, outdoor entertainment establishments, or open air entertainment establishments are not permitted. Outdoor music (including background music) is prohibited. Any outdoor uses on Indian Creek Drive shall be limited to no later than 11:00 p.m. Parking requirements for accessory commercial uses in newly constructed buildings must be satisfied by providing the required parking spaces, and may not be satisfied by paying a fee in lieu of providing parking. There shall be no variances from these provisions.
- k. Apartment buildings located in the RM-1, 2 or 3 districts are permitted to have religious institutions as a matter of right up to 199 occupancy, and over that occupancy shall be a conditional use.
- l. Existing apartment buildings **on lots fronting the Tatum Waterway located along Tatum Waterway Drive, Byron Avenue, and Crosbi Boulevard**, which are also located within the North Shore National Register Historic District and which are classified as 'contributing,' may have accessory office uses and may provide for the rental of non-motorized watercraft. These accessory uses shall comply with the following regulations:

- 1. The accessory use areas shall not exceed 25 percent of the floor area of the existing structure.
- 2. The hours of operation for which the use is open to the public may be from 12:00 pm to 8:00 p.m.
- 3. No exterior speakers shall be permitted, except as may be required under the Florida Life Safety Code.

- m. For existing apartment buildings **on lots fronting the Tatum Waterway and located within the North Shore National Register District**, which are classified as 'contributing,' the following accessory uses may be permitted:

- 1. Café;
- 2. Retail;
- 3. Office; and
- 4. Personal services.

Notwithstanding the foregoing, the following uses shall be prohibited: tobacco and vape dealers, package liquor stores, check cashing stores, occult science establishments and tattoo studios. Additionally, all accessory uses that may be permitted under this subsection (2)(m) shall comply with the following provisions:

- i. All uses shall be located within the interior of the premises. Outside or sidewalk seating shall be prohibited.

- ii. The minimum distance separation between accessory uses shall be 500 feet. There shall be no variances from this distance separation requirement.
- iii. The accessory use areas shall not exceed 25 percent of the floor area of the structure.
- iv. The hours of operation for which the use is open to the public may be from 7:00 a.m. to 8:00 p.m. The hours of operation for any of the above noted uses may be extended to 10:00 p.m. at the discretion of the planning board.
- v. No exterior speakers shall be permitted, except as may be required under the Florida Life Safety Code.
- vi. A hall for hire, dance hall, open-air entertainment establishment, outdoor entertainment establishment, entertainment establishment, or special event permit shall be prohibited.

* * *

SECTION 3. Chapter 130, "Off-Street Parking," Article II, "Districts; Requirements" is hereby amended as follows:

CHAPTER 130 – OFF-STREET PARKING

* * *

ARTICLE II. – DISTRICTS; REQUIREMENTS

* * *

Sec. 130-31 Parking districts established.

* * *

(b) There shall be no off-street parking requirement for main or accessory uses associated with buildings that existed prior to October 1, 1993, which are:

- (1) Located within the architectural district,
- (2) A contributing building within a local historic district, or
- (3) Individually designated historic building.

This provision shall not apply to renovations and new additions to existing buildings which create or add floor area, or to new construction which has a parking requirement.

(c) There shall be no off-street parking requirement for accessory uses associated with buildings in the RM-1 zoning district that existed prior to December 31, 2009, which are located in the North Shore National Register Historic District.

SECTION 4. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, 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, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and, the word "ordinance" may be changed to "section", "article", or other appropriate word.

SECTION 5. REPEALER.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 6. SEVERABILITY.

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

SECTION 7 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

First Reading: October 16, 2019
Second Reading: December 11, 2019

Verified by: _____
 Thomas Mooney, AICP
 Planning Director

M:\\$CMB\CCUPDATES\Land Use and Development Committee\2019\December 2, 2019\Accessory Uses along the Tatum Waterway - Second Reading ORD.docx

MIAMI BEACH

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

Item 5. COMMITTEE MEMORANDUM

TO: Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager

DATE: December 2, 2019

TITLE: **DISCUSSION REGARDING INCENTIVIZING NEW DEVELOPMENT TO INCLUDE UNITS FOR WORKFORCE AND AFFORDABLE HOUSING WITHIN NEW DEVELOPMENTS THAT SEEK DEVELOPMENT, HEIGHT, AND/OR ZONING AMENDMENTS FROM THE CITY OF MIAMI BEACH.**

Applicable Area

Citywide

Is this a Resident Right to Know item?

Yes

Does this item utilize G.O. Bond Funds?

No

ATTACHMENTS:

Description

□ C4 M

Type

Memo

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Commissioner Michael Gongora
DATE: May 8, 2019

SUBJECT: REFERRAL TO THE LAND USE AND DEVELOPMENT COMMITTEE -
DISCUSSION REGARDING INCENTIVIZING NEW DEVELOPMENT TO
INCLUDE UNITS FOR WORKFORCE AND AFFORDABLE HOUSING
WITHIN NEW DEVELOPMENTS THAT SEEK DEVELOPMENT, HEIGHT,
AND/OR ZONING AMENDMENTS FROM THE CITY OF MIAMI BEACH.

ANALYSIS

Please place on the May 8 Commission Meeting, a referral to Land Use and Development Committee on incentivizing new development to include units for workforce and affordable housing within new developments that seek development, height and/or zoning amendments from the City of Miami Beach. There is presently a bill pending in the State of Florida which would ban a requirement to include affordable housing but even if it passes I do not believe it would ban incentivizing inclusion of these units. Please feel free to contact my Aide Diana Fontani Martinez.

Legislative Tracking

Commissioner Michael Gongora

ATTACHMENTS:

Description

- Miami Herald Article - "Bill would ban affordable housing mandates in Florida "

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MIAMI-DADE COUNTY

Florida House passes bill that could stop cities from requiring affordable housing

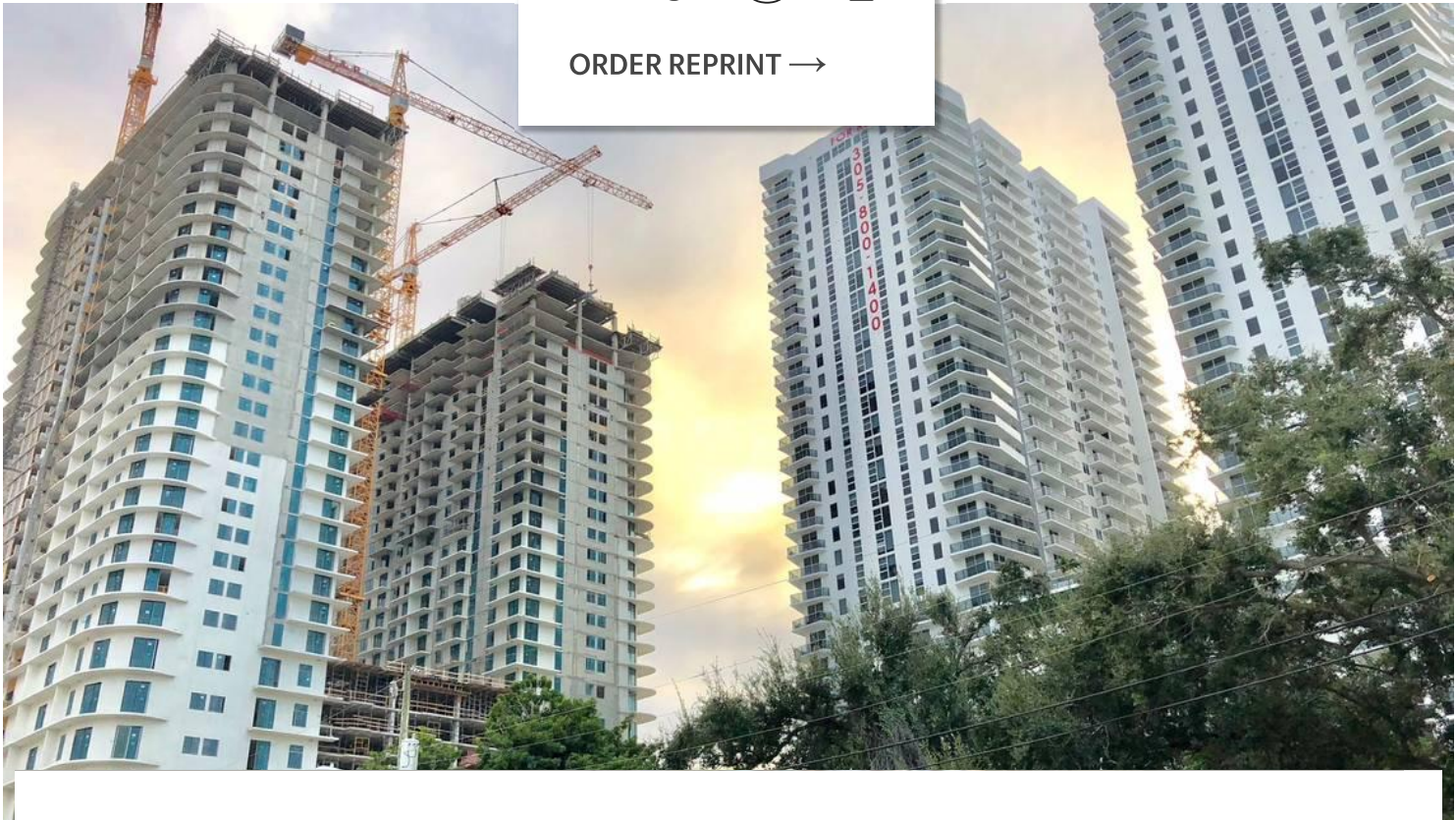
BY **ELIZABETH KOH**, **RENE RODRIGUEZ**, AND **JOEY FLECHAS**

APRIL 27, 2019 06:30 AM, UPDATED APRIL 29, 2019 08:45 AM



ORDER REPRINT →



In late 2018, Miami commissioners for the first time passed a ordinance that requires developers in a small 30-block area north of downtown to [set aside a percentage of units for residents with low incomes](#), a measure that was seen by advocates as a small but crucial step toward addressing Miami's housing affordability crisis.

The measure's sponsor, Commissioner Ken Russell, believes the concept could be expanded if successful on a small scale. But if a bill moving through the Florida Legislature passes, the city's first mandatory inclusionary zoning law might be its last.

House lawmakers voted largely on party lines Thursday to place limits on local governments' ability to set ceilings for rents or home sale prices, despite concerns from some Democrats that the move could imperil mandatory affordable housing requirements that counties and municipalities can enact now.

[HB 7103](#), which passed on a 72-37 vote, would preempt local governments from establishing their own rules on a number of development-related issues that could affect housing prices and cities' ability to spend building fees and shorten the window of time the public has to review new construction projects.

The bill's sponsor, Rep. Jason Fischer, R-Jacksonville, told Jacksonville radio station WJCT that he believes rent and price controls lead to higher prices, [making more housing unaffordable](#).

"The underlying belief though is that in the marketplace, people should be able to voluntary exchange and when you start having mandates and [the] state setting price controls, you create all kinds of distortions in the market," he told WJCT earlier this month.

Fischer's proposal is part of conservative lawmakers' broader focus on preempting local governments' powers, among the priorities of House Speaker Jose Oliva, R-Miami Lakes.

The bill would also prohibit local governments from establishing a maximum rent or sale price for homes as is done for affordable housing, and it adds a series of restrictions on a municipality's ability to mandate such price-controlled housing units be set aside for any particular group of people. The bill contains other provisions that would set restrictions on impact fees tied to building permits and reduce the time period departments have to review a permit application from 30 days to five.

A similar companion bill in the Senate has passed through all relevant committees but has not yet been scheduled for a floor vote.

Among a series of bills rapidly taken up by the House Thursday, the measure passed with little debate. Rep. Joe Geller, D-Aventura, urged other lawmakers to vote against the bill.

Some Democrats had raised questions on Wednesday night, when the bill was positioned for a House floor vote, about how the legislation might affect affordable funding.

Fischer cast the legislation as expanding cities' toolkits.

"What we are saying is [cities] can enter into voluntary agreements. They can provide incentives. They have a plethora of things," he said, in response to a question from Rep. Anna Eskamani, D-Orlando. "They just can't use the abusive power of government to mandate it."

Fischer returned repeatedly to the option of incentive programs, which are explicitly allowed under the bill.

In Miami, Russell pushed for the mandatory affordable units by giving developers more density to offset the lower revenue from units set aside for people in lower income categories. He argues the bill limits the menu of options for local governments to tackle the affordability problem.

"I see this legislation as an overreach of the state government trying to preempt home rule of municipalities and protect developers with a broad statewide blanket," Russell said. "Every city is different, and the crisis that is facing Miami should be dealt with by the municipal legislators who are elected locally and have the purview to change zoning laws."



Miami Commissioner Ken Russell Joey Flechas JFLECHAS@MIAMIHERALD.COM

A spokesman for Miami said city administrators are tracking the bill and actively opposing it, though the city's planning and legal departments are still analyzing the bill's potential impacts. Planning Director Francisco Garcia said the city believes that under the proposed law, developers would still be able to voluntarily offer income-restricted units in exchange for more buildable density.

County officials are watching closely, too. Miami-Dade administrators think the law would eliminate a county program requiring below-market housing pricing on developments built on county property around Metrorail stations. Some county zoning laws require at least 12.5 percent of units in "rapid transit" zones be priced for "workforce housing" buyers — people making up to 140 percent of the median income for Miami-Dade.

"We're definitely tracking this legislation," Miami-Dade zoning director Nathan Kogon said Thursday.

Read Next

MIAMI-DADE

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APRIL 15, 2019 6:41 PM

Alana Greer, an attorney and co-founder of the Community Justice Project, sees problems with the bill. She said the amended version that passed the House uses language so broad that it could hamper a range of affordable housing projects.

“The way this bill has been drafted would unintentionally bar almost all other efforts to produce affordable housing, including public land and public dollars,” said Greer, whose organization is a nonprofit group of lawyers working with grassroots groups in low-income communities of color.



Problems with a contractor performing renovations at the Civic Towers in Allapattah have led to delays and frustrated affordable housing tenants living in a construction zone.

By Emily Michot

As an example, Greer said that if the city solicited bids for affordable housing on city land, a development permit would theoretically trigger this law and invalidate the solicitation.

Some experts argue that inclusionary zoning laws have produced mixed results in other parts of the country. A study by the Economic Research Organization at the University of Hawaii concluded [that the mandatory regulations had a negative effect on Oahu](#) — another city struggling with a severe affordability crisis — resulting in fewer affordable housing units and raising the prices of market-rate units.

“The inclusionary zoning laws that this bill prohibits are perhaps well-intentioned,” said Matt Rieger, president and CEO of the Housing Trust Group, one of the largest affordable housing developers in Florida. “But practically speaking — as someone who is working every day to keep up with the tremendous demand in Florida for affordable housing — it’s not an effective tool for creating the volume of product we need to dig ourselves out of the current affordable housing crisis. Inclusionary zoning just does not move the needle much, if at all.”

Rieger echoed a lobbyist for the Florida Home Builders Association who testified in a House committee earlier this month.

“Mandated inclusionary zoning doesn’t work,” said lobbyist Kari Hebrank. Citing a Reason Foundation study of 13 cities in Southern California, she contended that such policies meant those areas actually ended up with less affordable housing because “it drives up the cost of market-ready housing.”

“People don’t move from their starter homes into their next homes, so the homes that would be affordable — the starter homes — don’t become available,” she said.

She added that local governments would also receive less property tax revenue with price controls in place: “Somebody has to pay for that. The costs get shifted, whether it’s the builder, the land developer or the local governments.”

Others argue that although inclusionary zoning requirements won’t solve the city’s affordability crisis on their own, there’s no harm in keeping them in play.



Annie Lord is executive director of Miami Homes for All. Photograph by Nick Garcia.

“Right now we’re at a crisis situation where we need all the tools we can possibly have,” said Annie Lord, executive director of Miami Homes For All, a nonprofit group that combats homelessness. “This bill takes one of those tools off the table. Inclusionary zoning is not a panacea. But in a lot of places, they can produce 200-300 units a year. That’s not nothing. There are strategic neighborhoods where the zoning could help with our housing needs.”

The bill would also impose a 30-day time limit for a county or municipality to review applications for developments or permit applications and issue procedures for addressing deficiencies. The bill reduces the time for building departments to review permit applications from 30 business days to five.

Housing advocates believe the shorter deadline would benefit developers of large real estate projects — at the cost of the communities surrounding them, who would have less time to scrutinize projects.

But some developers argue a speedier approval process reduces costs, which would translate to lower prices and rents.

“There are already time limits in the books that municipalities are supposed to adhere to,” said Jay Jacobson, president of Eden Multifamily, a real estate firm specializing in urban infill markets in South Florida. “You pay the building permit fees to the municipality. You pay a private provider to review your plan. You submit that plan and then the municipality sits on their ass and sends you a bunch of revisions on the last possible day. The longer it takes to get through the process, the more expensive the ultimate product costs.”

The bill also prohibits local governments from using funds generated by impact fees — pre-development costs used to improve roads, fire and police services, schools and parks services — on other projects or to pay off previous debts. Instead, the funds must be used directly toward the new construction.



Miami-Dade County and officials from Related Urban Development break ground during a ceremony to launch the redevelopment of the Liberty Square Rising project in Liberty City in May 2017. MATIAS J. OCNER

FOR THE MIAMI HERALD

Matt Allen, chief operating officer of The Related Group, Miami's biggest real estate developer, said he agrees that impact fees should be based on the "actual, direct impact" of the projects seeking permitting, and that legislation should work to increase funding and incentives for development of affordable and workforce housing.

"But any legislative action that supports this premise should also include concurrent efforts designed to increase funding and incentives for the development of affordable and workforce housing throughout the state," Allen said.

The bill had been opposed in committee stops by a host of groups representing local governments, including the League of Cities and the Florida Association of Counties. Groups representing home builders and community developers had indicated their support.

Some advocates believe laws and policies regarding housing should not be written at a state level. Henry Torres, president of the real estate development/management firm The Astor Companies, said Florida is a microcosm for the U.S., with prices varying so wildly from town to town that regulations need to be set by counties and municipalities.

"This kind of bill is detrimental to all the people who live in Florida, because something that works in Plant City, where you're going to pay \$1 per square foot in rent, won't work in Miami, where you're paying \$2.50-\$3 per square foot in rent," Torres said. "There are things we are required to do in Miami, like water and sewer improvements, that other cities may not require."

The House added three amendments, one technical, to the bill Wednesday and Thursday, including one that carved out an exception for the Florida Keys. Lawmakers also approved, with some debate, an amendment sponsored by Rep. Blaise Ingoglia, R-Spring Hill, that would bar local governments from charging for building inspections if a private provider is hired.

Herald staff writer Douglas Hanks contributed to this report.

 **COMMENTS** ▼

MIAMI BEACH

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

Item 6. COMMITTEE MEMORANDUM

TO: Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager

DATE: December 2, 2019

TITLE: **Discuss Prohibiting Banks Located On First-Floor Retail Spaces.**

Applicable Area

Citywide

Is this a Resident Right to
Know item?

Yes

Does this item utilize G.O.
Bond Funds?

No

ATTACHMENTS:

Description

□ C4 S

Type

Memo

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Vice-Mayor Ricky Arriola
DATE: October 16, 2019

SUBJECT: REFERRAL TO THE LAND USE AND DEVELOPMENT COMMITTEE TO
DISCUSS PROHIBITING BANKS LOCATED ON FIRST-FLOOR RETAIL
SPACES.

ANALYSIS

I am asking for the Land Use and Development Committee to consider prohibiting banks from being located on the first-floor retail space of buildings. Many development projects are turning to banking institutions to serve as first-floor retail anchors. Banks serve a vital role in our community, but their service can be provided on the second floor or above. First-floor retail space is valuable and scarce; it should house vibrant businesses that enhance the pedestrian experience. When banks are located on the first floor of retail developments, they take up a tremendous amount of square footage and raise rents on surrounding properties, thus making it harder to fill vacancies with small and unique businesses. If banks are located on the second floor of buildings, then we will also increase public safety as it will serve as a deterrent to criminals who might otherwise have a quick first-floor getaway.

A bank robbery recently occurred on October 2nd at Regions Bank on 16th and Washington. The culprit was later caught on 31st and Collins. Had Regions been located on the second floor of the building, then perhaps the crime would not have occurred or at a minimum, it would have afforded the Police Department added time to respond and apprehend the subject on site.

Applicable Area

Citywide

Is this a Resident Right to Know item?

Yes

Does this item utilize G.O. Bond Funds?

No

Legislative Tracking

Vice-Mayor Ricky Arriola

MIAMI BEACH

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

Item 7. COMMITTEE MEMORANDUM

TO: Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager

DATE: December 2, 2019

TITLE: **Discuss RM-2 Zoning At The West End Of Arthur Godfrey Road/41st Street
And Potential For Public Benefits.**

Applicable Area

Middle Beach

Is this a Resident Right to
Know item?

Yes

Does this item utilize G.O.
Bond Funds?

No

ATTACHMENTS:

Description

□ C4 T

Type

Memo

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Commissioner Michael Gongora
DATE: October 16, 2019

SUBJECT: REFERRAL TO THE LAND USE AND DEVELOPMENT COMMITTEE TO DISCUSS RM-2 ZONING AT THE WEST END OF ARTHUR GODFREY ROAD/41ST STREET AND POTENTIAL FOR PUBLIC BENEFITS.

ANALYSIS

Please place on the October 16 Commission agenda, a referral to the Land Use and Development Committee to discuss RM-2 Zoning at the west end of Arthur Godfrey Road/41st Street and potential for public benefits. Please feel free to contact Diana Fontani should you need any additional information.

FINANCIAL INFORMATION

Applicable Area

Middle Beach

Is this a Resident Right to Know item?

Yes

Does this item utilize G.O. Bond Funds?

No

Legislative Tracking

Commissioner Michael Gongora

Sponsor

Co-Sponsored by Vice-Mayor Arriola

MIAMI BEACH

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

Item 8. **COMMITTEE MEMORANDUM**

TO: Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager

DATE: December 2, 2019

TITLE: **Discussion Pertaining To A Transfer Of Development Rights (TDR) Along The Tatum Waterway Area.**

(ITEM DEFERRED)

Applicable Area

North Beach

Is this a Resident Right to Know item?

Yes

Does this item utilize G.O. Bond Funds?

No



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

Item 9.
COMMITTEE MEMORANDUM

TO: Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager

DATE: December 2, 2019

TITLE: **Development Regulations For Hotels On Lincoln Road – 500 Block Addition.**
(ITEM DEFERRED)

Applicable Area

South Beach

**Is this a Resident Right to
Know item?**

Yes

**Does this item utilize G.O.
Bond Funds?**

No



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

Item 10.

COMMITTEE MEMORANDUM

TO: Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager

DATE: December 2, 2019

**TITLE: Matrix Recommendations – Simplification Of Single Family Home Regulations
And DRB Administrative Review Procedures.
(ITEM DEFERRED)**

Applicable Area

Citywide

**Is this a Resident Right to
Know item?**

Yes

**Does this item utilize G.O.
Bond Funds?**

No