

MIAMI BEACH

Land Use and Sustainability Committee

Link: <https://us02web.zoom.us/j/87518931775>

Dial-in Telephones: 1 312 626 6799 or 888 475 4499

Meeting ID: 875 1893 1775

May 6, 2020 - 8:00 AM

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

Alina T. Hudak, Liaison
Naima De Pinedo, Support Staff

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LAND USE AND SUSTAINABILITY COMMITTEE AGENDA

Wednesday, May 6, 2020, 8:00 AM

ACTION ITEMS

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

Commissioner Ricky Arriola
June 5, 2019 C4 Q (Continued from February 18, 2020)
- 2 Discussion Pertaining To Strategic Increases In FAR Related To Resiliency And Other Defined Policy Benchmarks.

Mayor Dan Gelber
January 15, 2020 C4 K (Continued from February 18, 2020)
- 3 Parking Requirements in Historic and Conservation Districts – MXE Regulations.

Commissioner Ricky Arriola
February 12, 2020 R5 H
- 4 Proposed Zoning Overlay For The Lehrman Day School At 77th Street And Dickens Avenue.

Commissioner Micky Steinberg
December 11, 2019 C4 N (Deferred from February 18, 2020)
- 5 A) Review Of Resilience Strategy Workplan – Planned And In Progress Resiliency Projects. B1.) Discussion Regarding Establishing Private Property Harmonization And The Residential / Commercial Property Runoff And Public Drainage Infrastructure Policies For The West Avenue Neighborhood. (PW) B2.) Discussion Regarding Siting Of The Stormwater Pump Station And Above Ground Components For The West Avenue Neighborhood Project. (CIP) C) Discussion

Regarding The Relocation Of Auxiliary Power Generator For The Storm Water Pump Station For Indian Creek Phase III Project. D) Review of Palm Hibiscus Status. E) Palm Hibiscus / Road Elevation Experience.

Commissioner Mark Samuelian
Recurring Item

Time Certain 9 a.m.

- 6 Discussion To Review The Role Of Land Use Boards In Neighborhood Improvement Projects.

Commissioner Mark Samuelian
April 11, 2018 C4 N (Deferred from January 21, 2020)

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

Commissioners Michael Gongora and Ricky Arriola
October 16, 2019 C4 T (Deferred from February 18, 2020)

- 8 Discuss Rezoning CD-1 Area Between 40th Street And 41st Street To CD-3 In Order To Incentivize Mixed-Use Development In Mid-Beach

Commissioner Ricky Arriola
March 18, 2020 (C4 AC)

DISCUSSION ITEMS

9. Discussion Regarding Finding A Plan, A List Of Locations Where Blue And Green Infrastructure Solutions Can Be Applied To, In Areas Prone To Flood During Heavy Rain.

Commissioner Mark Samuelian
January 15, 2020 C4 N (Continued from February 18, 2020)

Public Works

10. Mitigation Project funding from the U.S. Department of Housing and Urban Development.

Commissioner Mark Samuelian
September 11, 2019 C4 P (Continued from October 23, 2019 SRC)

Office of the City Manager - Grants and Intergovernmental Affairs

11. Discuss Permitting Outdoor Theatre Use.

Commissioner Ricky Arriola
February 12, 2020 C4 X (Continued from February 18, 2020)

Planning Time Certain 11 a.m.

Time Certain 11 a.m.

12. Discussion: Limiting Big Box Formula Retail And Formula Restaurants On Lincoln Road

Commissioner Ricky Arriola
June 5, 2019 C4 R (Deferred from January 21, 2020)

Planning

13. Discussion: Establishment Of Penalties For Property Owners Engaging In Demolition By Neglect.

Commissioner Ricky Arriola
July 17, 2019 C4 O (Deferred from January 21, 2020)

Planning

SUPPLEMENTAL

14. Comprehensive Plan Amendment For Public Facility (PF) Future Land Use Element.

Mayor Dan Gelber
March 18, 2020 (C4V)

Updated May 1, 2020

15. Proposed Amendment To Chapter 142 Of The Land Development Regulations Of The City Code Pertaining To Development Regulations In The CPS-4 District.

Mayor Dan Gelber
April 22, 2020 (C4F)

Updated May 1, 2020

DEFERRED ITEMS

16. Discuss The Status Of Suite-Hotels In The West Avenue Neighborhood.

Commissioner Mark Samuelian
February 12, 2020 C4 V

17. Discussion Pertaining To Amendments To The City Code Regarding Potential Requirements For Higher Elevation For New Commercial Construction That Is Vulnerable To Flooding.

Commissioner Ricky Arriola
July 31, 2019 C4 D

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

No Sponsor
October 16, 2019 R5 V

19. Discussion Regarding Tight Urbanism.

Commissioner Ricky Arriola
September 11, 2019 C4 Z

20. Discussion Regarding The Frequency Of Water Testing In Miami Beach.

Commissioner Micky Steinberg
September 11, 2019 R9 S

21. Discuss Piloting The Closure Of 9th Street Between Ocean Drive And Collins Avenue.

Commissioner Ricky Arriola
January 15, 2020 C4 P

22. Discuss Designating Ocean Drive As A Valet Only Street.

Commissioner Ricky Arriola
January 15, 2020 C4 Q

23. 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

24. Discussion Regarding How Green infrastructure Including Living Or Hybrid Shorelines Can Complement Grey infrastructure In Our Climate Adaptation On-Going Work.

Commissioner Micky Steinberg
April 13, 2016 C4 N

25. Discussion On City Of Miami Beach Stormwater, Sanitary, Sewer, And Water Infrastructure Best Management Practices.

- Commissioner Micky Steinberg**
May 11, 2016 C4 U
26. Discussion On Repurposing Our Golf Courses For The Future.
- Commissioner Ricky Arriola**
May 16, 2018 C4 AB
27. Discussion On Artificial Reefs.
- Commissioner Ricky Arriola**
May 16, 2018 C4 AI (Deferred from January 21, 2020)
28. Discuss The July 30, 2019 Sustainability Committee Motions.
- Commissioner Mark Samuelian**
October 16, 2019 C4 K
29. Discussion: Review of Allowable Store Signage
- Commissioner Micky Steinberg**
January 15, 2020 C4 R
30. Discussion Regarding Adopt A Drain
31. Discussion Pertaining To A Transfer Of Development Rights (TDR) Along The Tatum Waterway Area.
- Commissioner Ricky Arriola**
July 17, 2019, C4 R
32. Discuss The Status And Implications Of The Action Items Associated With Ongoing Water Quality Coordination With Miami-Dade County.
- Commissioners Mark Samuelian and Michael Gongora**
July 17, 2019 C4 U
33. 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
34. Discuss Arkup's Luxury Houseboats And Their Effects On Biscayne Bay And The Quality Of Life Of Surrounding Residents.
- Commissioner Ricky Arriola**
September 11, 2019 R9 X
35. Discussion on Banks Located on First-Floor Retail Spaces
- Commissioner Ricky Arriola**
October 16, 2019 C4 S (Deferred from January 21, 2020)
36. Discuss The Miami-Dade County Resolution Urging Municipalities To Adopt Post-Disaster Temporary Zoning Relief.
- Commissioner Mark Samuelian**
December 11, 2019 C4 S
37. Discussion Regarding The Palm View Neighborhood Study.
- No Sponsor**
March 18, 2020 C4 W

38. Discuss How The Cities Of Miami And Miami Beach Measure Flooding.

Commissioner Mark Samuelian
March 18, 2020 C4 X

39. Discuss Making Aesthetics A Primary Criterion In Future Resiliency Projects.

Commissioner Mark Samuelian
March 18, 2020 C4 Y

40. Discuss Potential Additional Support For Miami Beach Resiliency From The Army Corps Of Engineers.

Commissioner Mark Samuelian
March 18, 2020 C4 Z

41. Review The City Of Miami Beach Experience And Perspectives On Pervious/Permeable Pavement And Identify Potential Opportunities For Use.

Commissioner Mark Samuelian
March 18, 2020 C4 AA

42. Review The City Of Miami Beach's Experience And Perspective On Full Depth Asphalt And Identify Potential Opportunities For Use.

Commissioner Mark Samuelian
March 18, 2020 C4 AB



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

Item 1
COMMITTEE MEMORANDUM

TO: Land Use and Sustainability Committee

FROM: Jimmy L. Morales, City Manager

DATE: May 6, 2020

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

ACTION REQUESTED:

Discuss the item and provide a favorable recommendation on the proposed ordinance to the Planning Board.

ADMINISTRATION RECOMMENDATION:

Conclude the item and recommend that the Planning Board transmit the ordinance to the City Commission with a favorable recommendation.

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.

The December 2, 2019 LUDC meeting was cancelled, and the item was moved to the January 2020 agenda of the newly created Land Use and Sustainability Committee (LUSC). On December 11, 2019, the City Commission referred the proposed ordinance to the Planning Board (Item C4I).

On January 21, 2019 the LUSC deferred the item to the February 18, 2020 meeting. On February 18, 2020 the item was discussed and continued to March 17, 2020. The March 17, 2020 LUSC meeting was postponed and the item was placed on the May 6, 2020 LUSC agenda.

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 retained a land use consultant to study the appropriateness of regulations on formula restaurants and formula commercial establishments in the Sunset Harbour Neighborhood. The consultants report, attached, substantiates the planning and legal basis for the proposed ordinance.

The attached draft Ordinance establishes the "Sunset Harbour Mixed-Use Neighborhood" Overlay District. The overlay prohibits formula restaurants and formula commercial establishments. Similar prohibitions exist in portions of the Art Deco/MiMo Commercial Character Overlay District that front Ocean Drive and Ocean Terrace. As it may be difficult to establish whether a business is a formula restaurant/formula commercial establishment from floor plans, the Ordinance would be primarily enforced through the requirement that an applicant provide a signed affidavit affirming that the applicant's business operation is not a formula retail or formula restaurant establishment.

On a separate note, but pertinent to the discussion, the Art Deco/MiMo Commercial Character Overlay District also contains restrictions on Pawnshops, Tobacco/Vape Dealers, Check Cashing Stores, Convenience Stores, Grocery Stores, Occult Science Establishments, Souvenir and T-Shirt Shops, and Tattoo Studios. Accordingly, the Administration recommends that the LUSC also consider recommending a separate referral to the Planning Board regarding the prohibition of the aforementioned uses in the Sunset Harbour Neighborhood.

The Administration also recommends that the boundaries of the proposed overlay district be further discussed in order to address the planning goal of preserving and promoting the Sunset Harbour Neighborhood's unique 'small-town' character. The businesses within Sunset Harbour that promote the neighborhood's unique identity (namely, its vibrant, neighborhood-serving

restaurants and retailers) are primarily concentrated in the interior of the neighborhood. Planning staff therefore recommends that the proposed overlay exclude properties fronting Alton Road, which currently contain businesses that have a greater tendency to draw customers from outside of the neighborhood, as opposed to the businesses in the interior. The Alton Road Corridor, which is a major arterial road, is a more appropriate location for non-neighborhood-oriented retail uses. However, the LUSC may wish to consider size restrictions for the Alton Road corridor to ensure greater compatibility between the businesses along the corridor and the interior of the neighborhood.

The proposed Ordinance and a companion Comprehensive Plan Amendment are scheduled to be reviewed by the Planning Board on May 19, 2020.

CONCLUSION:

The Administration recommends that the Land Use and Sustainability Committee:

- 1) Recommend that the Planning Board transmit the proposed amendment to the Comprehensive Plan to the City Commission with a favorable recommendation;
- 2) Recommend that the Planning Board transmit the proposed amendment to the Land Development Regulations to the City Commission with a favorable recommendation;
- 3) Recommend that the City Commission refer a separate ordinance to Planning Board and LUSC to prohibit Pawnshops, Tobacco/Vape Dealers, Check Cashing Stores, Convenience Stores, Grocery Stores, Occult Science Establishments, Souvenir and T-Shirt Shops, and Tattoo Studios within the Sunset Harbour Neighborhood; and
- 4) Recommend that the City Commission refer a separate ordinance to the Planning Board and LUSC to limit nuisance uses and provide size restrictions for retail uses for properties fronting Alton Road within the Sunset Harbour neighborhood.

Applicable Area

South Beach

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?

Yes

Does this item utilize G.O. Bond Funds?

No

Departments

Planning / City Attorney

ATTACHMENTS:

Description	Type
□ Draft ORD	Memo
□ Consultant Report	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, from what started as a primarily industrial and commercial neighborhood, into the present 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, aesthetics, and "flavor" 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 in their neighborhoods (including, without limitation, the "mom-and-pop" businesses that are diminishing and becoming increasingly rare in neighborhoods, not just in Miami Beach, but throughout the country); and

WHEREAS, the proliferation of formula commercial establishments decreases 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, the Mayor and City Commission desire to promote and preserve the 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:

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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.

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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 facade; 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.

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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**

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ARTICLE III. – OVERLAY DISTRICTS

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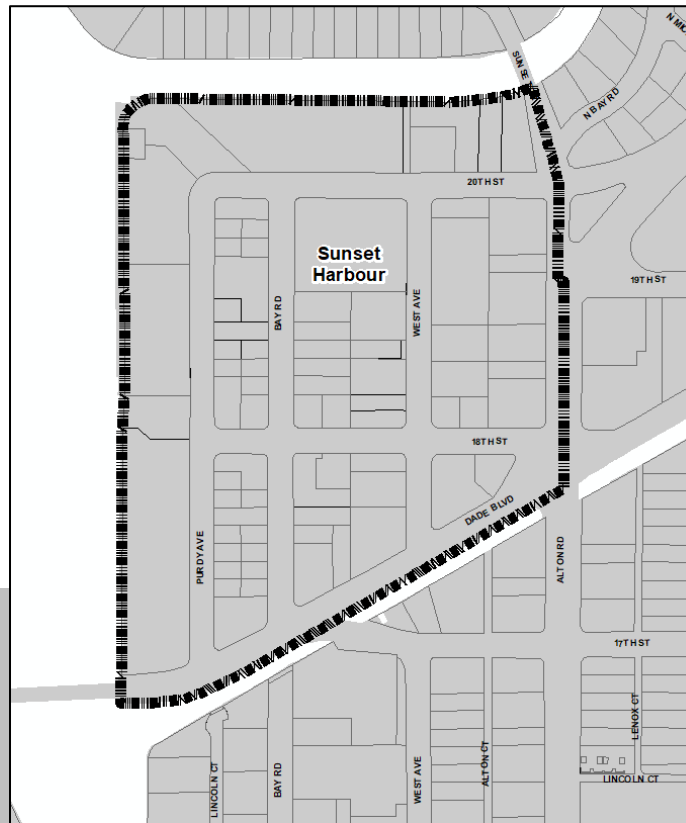
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DIVISION 14 – SUNSET HARBOUR MIXED-USE NEIGHBORHOOD OVERLAY DISTRICT

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:



- (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 from what started as a primarily industrial and commercial neighborhood, into the present 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 like the Sunset Harbour Neighborhood; 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. 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 and notarized 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.

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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

M:\\$CMB\CCUPDATES\Land Use and Sustainability Committee\2020\3- March 17, 2020\Sunset Harbor Formula Retail LDR - DRAFT
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Sunset Harbour Neighborhood

Gelabert-Sánchez, LLC

March 12, 2020

Ana Gelabert-Sánchez, AICP, LF

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APPENDIX A. ART DECO/MIMO OVERLAY DISTRICT ORDINANCE AND MEA, INC. REPORT37

I. Executive Summary

The City is currently proposing an amendment to its Land Development Regulations that creates a mixed-use Neighborhood Overlay District for the Sunset Harbour Neighborhood.

The purpose of this Overlay District is to continue to preserve the unique character and scale of the Sunset Harbour Neighborhood.

Since 1989, the Mayor and the City Commission have adopted a series of Citywide Land Development Regulations to create Overlay and Neighborhood Conservation Districts in an effort to protect the unique character of the City's neighborhoods and districts and to promote compatible development.

Over the last decade the Mayor and City Commission have adopted and amended specific regulations for the Sunset Harbour Neighborhood in order to promote a more pedestrian friendly and vibrant mixed-use neighborhood.

The story of Sunset Harbour is one of a neighborhood in transition; the neighborhood has evolved from light industrial uses that originally occupied the area to a hip, walkable urban neighborhood comprised of an area of mixed uses, including residential. Sunset Harbour is composed of a mixture of residential, light industrial and distinctive low intensity service, restaurant, and retail uses.

Sunset Harbour has been described as "a pedestrian-friendly enclave (with bountiful parking)" and "[a] micro-neighborhood [...] densely populated with both casual and upscale restaurants", also, "one of Miami's most popular boutique neighborhoods for shopping and dining". This neighborhood is a example of how the coexistence of industrial, retail, and residential uses can promote a unique and sustainable urban environment.

A windshield survey shows approximately 19 to 20 restaurants, 12 health related uses that promote well-being, approximately 2 to 3 water-oriented activities, in addition to the Sunset Harbour Yacht Club, a full service boutique marina and a variety of independent neighborhood businesses.

Formula Business Establishments are concentrated on Alton Road, a main commercial corridor.

The increasing desirability and neighborhood qualities of Sunset Harbour have driven the need to preserve its “character”. Character has been defined as an amalgamation of attributes and assets that add up to a unique identity for a neighborhood. It may include “built form, landscape, history, people, and their activities”. The primary vehicle for protecting the character of a neighborhood is through the establishment of an Overlay or Conservation District.

This document consists of a review of the proposed Sunset Harbour Mixed-Use Neighborhood Overlay District regulation; existing City’s regulations, and whether the proposed Ordinance is supported by the Goals, Objectives, and Policies of the Comprehensive Plan.

I have also undertaken a review of ordinances that have been implemented in other cities with similar neighborhoods in order to determine what regulations other cities have used to preserve the distinct character of their neighborhoods.

I have concluded that the City’s proposed Ordinance is supported by existing City of Miami Beach Goals, Objectives, and Policies of the Comprehensive Plan and is consistent with established Planning practices. It will further the desired outcome of preserving the character of Sunset Harbour and promoting a vibrant, mixed-use residential neighborhood. Therefore, I recommend that the City Commission adopt the proposed Ordinance.

II. Vision, Comprehensive Plan & Land Development Regulations

The City's Comprehensive Plan and its Goals and Objectives, as well as its Land Development Regulations, exist to support the well-being and interests of its various citizens. A critical aspect of these is to minimize threats to health, safety, and welfare through regulation of uses of land to ensure the compatibility of adjacent land uses.

The following provisions of the City's Comprehensive Plan and Land Development Regulations are relevant to a land use analysis of the proposed regulations for the Sunset Harbour Neighborhood.

A. Vision and Guiding Principles

The Vision Statement defines the City of Miami Beach as "A Unique and Historic Environment".

"A PROSPEROUS CITY with a special flavor of arts, culture, education, and business; A SAFE CITY with a mosaic of residents enjoying life in iconic and historic NEIGHBORHOODS; A RESILIENT COASTAL CITY with a thriving environment and modern infrastructure; A RESILIENT COASTAL CITY with a thriving environment and modern infrastructure; A SMART CITY of high quality and efficient services and employees."

Miami Beach – The City That Evokes All Senses

<https://www.miamibeachfl.gov/city-hall/city-manager/mission-vision-and-values/>

Guiding Principle – Enhance Community Character

"The City shall encourage redevelopment that enhances the character of existing development by maximizing context sensitive design through appropriate architecture, compatible scale, and pedestrian-friendly features."

B. Comprehensive Plan – Goals, Objectives, and Policies

The State of Florida mandates that all local governments adopt a Comprehensive Plan to regulate future development actions. The State of Florida requires that all development regulations and actions be consistent with this adopted plan.

According to Section 163.3194(1)(a), Florida Statutes:

“...After a comprehensive plan, or element or portion thereof, has been adopted in conformity with this act, all development undertaken by, and all actions taken in regard to development orders by, governmental agencies in regard to land covered by such plan or element shall be consistent with such plan or element as adopted.”

The City of Miami Beach defines the Comprehensive Plan as the document adopted by the City Commission in accordance with the Local Government Comprehensive Planning and Land Development Regulation Act of 1986, as amended, meeting the requirements of F.S. §§ 163.3177 and 163.3178; principles, guidelines, and standards for the orderly and balanced future economic, social, physical, environmental, and fiscal development of the City.

The following section identifies goals, objectives and policies within elements of the Comprehensive Plan that support Land Development Regulations to enhance and protect the character and quality of life in the City of Miami Beach.

COMPREHENSIVE PLAN - ELEMENTS

GUIDING PRINCIPLES

The intent of the guiding principles is to provide an overview of the priorities and objectives of the Element to aid in local government planning and decision making, including but not limited to the amendments to this Element and the City’s Land Development Regulations, as well as applications for Future Land Use and Zoning map amendments.

a. RESILIENT LAND USE (RLU) AND DEVELOPMENT ELEMENT

Goal RLU 1

Preserve and enhance the character of Miami Beach and its quality of life through the implementation of future land use and land development requirements that maximize the potential for economic benefit and the enjoyment of natural and man-made resources, while minimizing the threat to health, safety and welfare posed by hazards, nuisances, incompatible land uses, and environmental degradation

Objective RLU 1.1: Establishment of Future Land Use Categories. The City hereby adopts future land use map categories to provide for an efficient distribution and compatible pattern of land uses, and to maintain and enhance the character of the community.

Policy RLU 1.1.7 HIGH DENSITY MULTI FAMILY RESIDENTIAL (RM-3) Purpose: To provide development opportunities for and to enhance the desirability and quality of existing and/or new high-density multi-family residential and hotel areas.

Policy RLU 1.1.9 MEDIUM INTENSITY COMMERCIAL (CD-2) Purpose: To provide development opportunities for and to enhance the desirability and quality of existing and/or new medium intensity commercial areas which serve the entire City.

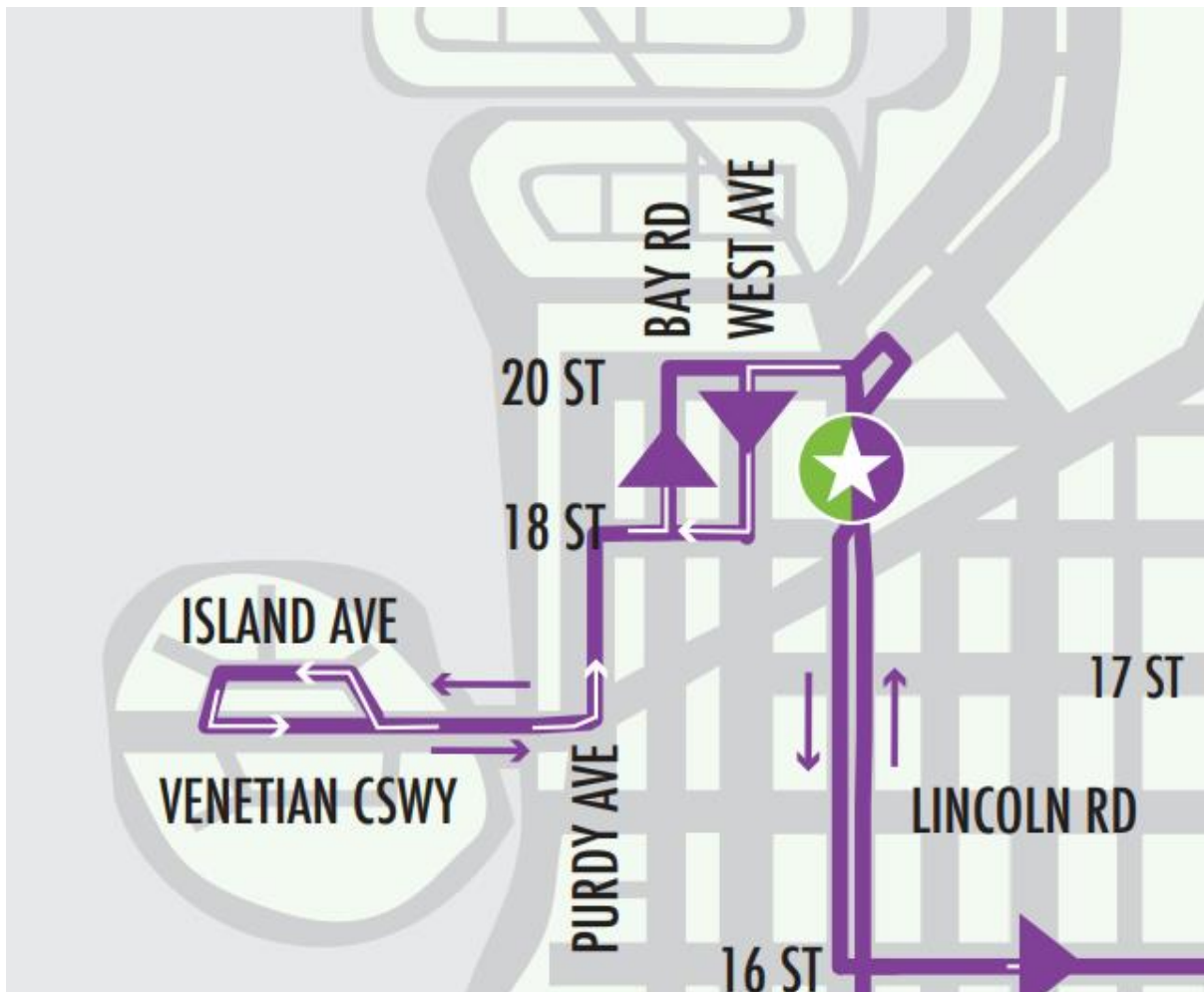
b. TRANSPORTATION ELEMENT (TE)

Goal TE 2: Putting People First

Objective TE 2.1: Enhance, Protect, and Preserve the City's Neighborhoods. To provide a safe and attractive transportation system throughout the City that meets the needs of the users of the right-of-way, the neighborhoods, the neighboring communities, and the environment.

Policy TE 2.1.2: The City shall strive to protect the residential neighborhoods from unnecessary traffic intrusion through the evaluation and implementation of traffic calming, regulatory or operational alternatives identified in the adopted Street-Design Guidelines which would provide incentives for non-local traffic to remain on the designated arterial network.

Miami Beach South Beach Trolley Route Through Sunset Harbour



C. Current Regulations and Timeline

Land Development Regulations – Sunset Harbour

There are three Land Development categories within the Sunset Harbour Neighborhood which were established in 1989, and have been subsequently modified.

1. RM – 3 Residential Multi-Family, High Density

The RM – 3 Residential Multi-Family, High Density District is designed for high intensity multi-family residences and hotels.

2. CD – 2 Commercial Medium Intensity

The CD – 2 Commercial, Medium Intensity District provides for commercial activities, services, offices, and related activities which serve the entire City.

3. I – 1 Urban Light Industrial

The I – 1 Urban Light Industrial District is to permit light industrial uses that are generally compatible with one another and with adjoining residential or commercial districts.

Sunset Harbour Neighborhood Timeline of Land Development Regulations

2009

Ordinance No. 2009-3663 – Amended the list of Permitted, Conditional and Prohibited uses in the I-1 Urban Light Industrial District Land Development Regulations to address residents’ concerns about incompatible uses that would have an adverse impact on the quality of life. Specifically, the ordinance fine-tuned the list of permitted uses, and made substantial amendments to the list of conditional uses (by adding automotive, industrial, and towing uses).

2012

Ordinance No. 2012-3786 – Created a new Parking District No.5 and amended the Permitted, Conditional and Prohibited uses in the I-1 Urban Light Industrial District and CD-2 Commercial Medium Intensity District to reflect a neighborhood in transition from light industrial uses to an area of mixed use.

The creation of Parking District No. 5 reduced or eliminated required parking for small commercial businesses. The ordinance also amended the I-1 and CD-2 to set lower thresholds for conditional use review of certain uses and to prohibit, in the CD-2 District, certain uses such as outdoor entertainment establishments, neighborhood impact establishments and open-air entertainment establishments.

The purpose of this ordinance is to “lessen the intensity of the uses in order to provide uses compatible with the residential aspect of the neighborhood and to provide incentives for a low scale neighborhood friendly development where people and commerce can exist side by side and promote a better quality of life and a pedestrian friendly neighborhood”.

2013

Ordinance No. 2013-3802 – Sunset Harbour Parking Requirements.
Amended parking requirements for residential and live-work type uses.

The purpose of this ordinance is to provide “incentives for a low scale, neighborhood friendly residential development particularly as part of the adaptive re-use existing structures where people and commerce can exist side by side” and promoting a “more pedestrian - friendly neighborhood”.

2014

Ordinance No. 2014-3905 – Parking District No. 5 – Sunset Harbour
The purpose of this ordinance is to remove the two-year sunset provision for Parking District No. 5, in order to continue, “to support the surrounding neighborhood growth of small, resident-oriented businesses”.

The creation of the Sunset Harbour Parking District has “encouraged uses that are compatible with the low scale character of the neighborhood” and “has resulted in a better quality of life for the residents of the area and a more pedestrian friendly neighborhood”. Removing the sunset provision was determined to be necessary to continue accomplishing these neighborhood objectives.

2015

Ordinance No. 2015-3983 – Sunset Harbour CD-2 Entertainment Prohibition
Sunset Harbour is a neighborhood comprised of a mix of residential and commercial uses in close proximity.

The purpose of this ordinance is to prohibit uses such as stand-alone bars,

entertainment establishments, and dance halls, which are located within the CD-2 District, on the basis that they are incompatible with the low scale character of the Sunset Harbour Neighborhood.

2016

Ordinance No. 2016-4046 – Sunset Harbour - Alcoholic Beverage Establishment Regulations

The purpose of this ordinance is to establish additional requirements for alcoholic beverage establishments, whether as a main use, conditional or an accessory use. The ordinance establishes hours of operation for alcohol prohibits above-ground alcoholic beverage establishments and prohibits special events within any alcoholic beverage establishment within the Sunset Harbour neighborhood. The ordinance also clarified that outdoor entertainment establishments, neighborhood impact establishments, and open-air entertainment establishments are prohibited uses within the I-1 Light Industrial District of the Sunset Harbour neighborhood.

2019

Ordinance No. 2019-4293- Sunset Harbour Parking Reductions to Incentivize Resiliency

The purpose of this ordinance is to promote economic development by incentivizing improvements that promote resiliency within Sunset Harbour by reducing or eliminating parking requirements, or authorizing operators to pay an annual fee in lieu of providing required parking.

2020

On December 11, 2019, the City Commission referred an Ordinance to the City's Planning Board, in order to eliminate any exceptions to the 2:00 a.m. closing time for alcoholic beverage establishments in Sunset Harbour. As referenced in the recitals to the Ordinance, alcoholic beverage establishments "can, if not regulated, be incompatible with the scale, character, and quality of life of

adjacent residential neighborhoods.” In order to promote the compatibility of eating and drinking establishments with the surrounding neighborhood, the Ordinance clarifies that the 2:00 a.m. closing time shall apply to all alcoholic beverage establishments in Sunset Harbour. The Planning Board reviewed the Ordinance on January 28, 2020, and transmitted it to the City Commission with a favorable recommendation. The Ordinance was approved by the City Commission at First Reading on February 12, 2020, and is scheduled for Second Reading on March 18, 2020.

D. Overlay and Neighborhood Conservation Districts

An Overlay District is a set of regulations which are superimposed upon and supplement, but do not replace, the underlying Zoning District and regulations otherwise applicable to the designated area.

Overlay Districts and Neighborhood Conservation Districts (NCDs) have been increasingly used as a technique by local jurisdictions as a means of protecting the distinctive character of neighborhoods that are being threatened by encroachment, development, or other changes.

The City of Miami Beach has 12 zoning overlay districts. Of the 12, eight (8) overlay districts provide additional regulations for uses beyond what is prohibited in the underlying zoning districts. In particular, the Alton Road Historic District Buffer Overlay, which is in close proximity to Sunset Harbour, limits the scale of commercial establishments and restricts entertainment establishments. The Art Deco/MiMo Commercial Character Overlay incorporates restrictions on Formula Retail and Formula Restaurants along Ocean Drive, similar to the restrictions being proposed for Sunset Harbour.

NCD regulations are generally applied when the area to be protected has a distinct physical character but does not merit a historic preservation designation. An NCD may be favored over historic designation when support for stricter regulations is lacking.

The City of Miami Beach has created Overlay Districts since as early as 1989 and Conservation Districts since as early as 2004.

The City of Miami Beach describes a Neighborhood Conservation District as follows:

Intent:

A neighborhood conservation district (NCD) is a protective land use tool that provides criteria and a mechanism to be implemented when desired for the maintenance of neighborhood characteristics.

Such districts and the regulations adopted for them shall be consistent with and promote the policies set out in, the Miami Beach Comprehensive Plan and other official adopted plans and regulations.

Objective:

The purpose is to provide a land-use or zoning tool to conserve established neighborhood scale and character and to promote compatible development through the sensible regulation. And to protect neighborhoods or districts that have significant architectural and historic merit and a distinct character but do not qualify for historic designation.

List of Miami Beach Overlay and Conservation Districts

1. DUNE PRESERVATION OVERLAY

The regulations of this division are designed to accommodate and promote recreational, open space and related uses

Ord. No. 89-2665, § 15-3, eff. 10-1-89

2. OCEANFRONT OVERLAY

Additional regulations for oceanfront lots.

These regulations apply to buildings and structures located west of the bulkhead line.

Ord. No. 89-2665, § 6-27, eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90

3. CONVENTION HOTEL OVERLAY

Maximum floor area ratio for convention hotel development city center/historic convention village redevelopment and revitalization area.

Ord. No. 2002-3374, § 1, 6-19-02; Ord. No. 2004-3458, § 1, 10-13-04

4. WEST AVENUE BAY FRONT OVERLAY

The purpose in identifying this subject overlay district is to provide district specific land development regulations and land-use incentives to property owners and developers who retain existing structures and/or provide new infill structures that maintain the low-scale, as-built character predominant in the existing low intensity (RM-1) and medium intensity (RM-2) underlying residential zoning district of the subject overlay area.

Ord. No. 2002-3374, § 1, 6-19-02; Ord. No. 2004-3458, § 1, 10-13-04

5. GILBERT M. FEIN NEIGHBORHOOD CONSERVATION OVERLAY (NCD-1/RM-2)

The Intent of this Neighborhood Conservation Designation is to establish a comprehensive series of protective and incentive legislative elements including zoning overlays, zoning revisions, design guidelines and other mechanisms provided for the Lincoln Terrace and 16th Street-end neighborhood of the City of Miami Beach to be known as the Gilbert M. Fein Neighborhood Conservation District

Ord. No. 2005-3497, § 2, 10-19-05)

6. COLLINS PARK ARTS DISTRICT OVERLAY

The purpose of this overlay district is to provide land-use incentives to property owners, developers and commercial businesses to encourage arts-related businesses within the district

Ord. No. 2007-3577, § 1, 10-17-07; Ord. No. 2016-4061, § 1, 11-9-16)

7. 40TH STREET OVERLAY

The purpose of this overlay district is to provide pedestrian-friendly religious institutional uses through the conditional use permit process at the properties to serve the surrounding residential uses.

Ord. No. 2011-3714, § 2, 1-19-11)

8. ALTON ROAD - HISTORIC DISTRICT BUFFER OVERLAY

The purpose of this overlay district is to minimize the impacts of development along Alton Road on residential properties located in the Flamingo Park Historic District and the Palm View Historic District.

Ord. No. 2014-3871, § 1, 5-21-14)

9. FAENA DISTRICT OVERLAY

The purpose of this overlay district is to allow limited flexibility of uses and limited increases in heights because of the common ownership and operation of the properties within the overlay district.

Ord. No. 2014-3913, § 1(142-871), 12-17-14

10. OCEAN TERRACE OVERLAY

The purpose of this overlay district is to Stimulate neighborhood revitalization and encourage new development and renovation of important historic buildings within the Ocean Terrace/Collins Avenue corridor, Encourage private property owners to assemble and redevelop properties comprehensively, Improve the pedestrian environment of the neighborhood and Maintain the scale, massing and character of the existing building typology adjacent to the public sidewalks. Ord. No. 2016-4021, § 1, 6-8-16)

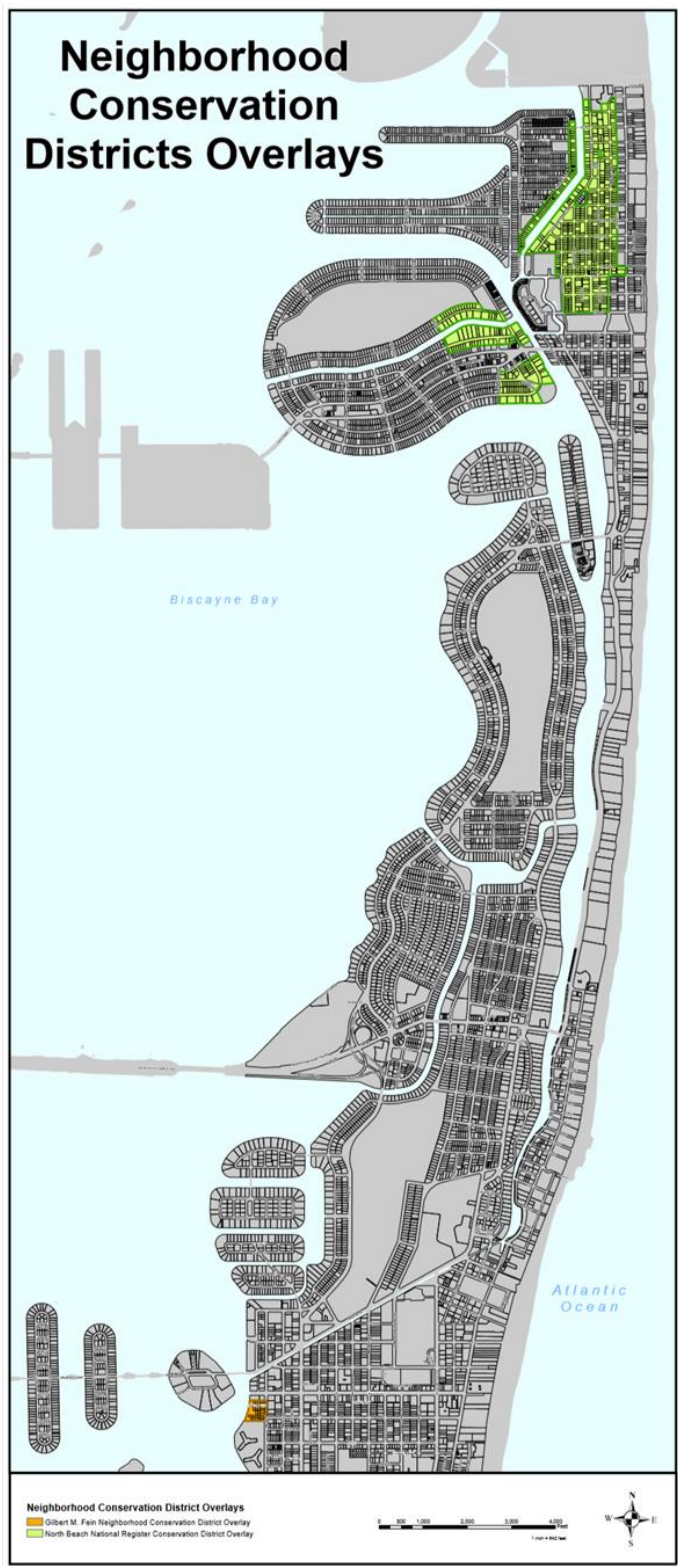
11. ART DECO - MIMO COMMERCIAL CHARACTER OVERLAY DISTRICT

The purpose of this overlay district is to limit the proliferation of uses which may diminish the character of historic commercial areas within the city. Ord. No. 2017-4137, § 2, 9-25-17

12. NORTH BEACH NATIONAL REGISTER CONSERVATION DISTRICT OVERLAY

The purpose of this overlay district is to Provide land-use regulations that encourage the retention and preservation of existing "contributing" buildings within the National Register Districts, to promote walking, bicycling and public transit modes of transportation and to ensure that the scale and massing of new development is consistent with the established context of the existing residential neighborhoods and maintains the low-scale, as-built character of the surrounding neighborhoods Ord. No. 2018-4187, § 2(142-880), 4-11-16

Neighborhood Conservation Districts Overlays





(Maps prepared by the City of Miami Beach Planning Department)

III. Proposed Amendment

Sunset Harbour Mixed-Use Neighborhood Overlay District

This land use analysis examines a proposed ordinance amending Chapter 142 of the Miami Beach City Code entitled “Zoning Districts and Regulations”, Article III, “Overlay Districts”, Division 14, “Sunset Harbour Mixed-Use Neighborhood Overlay District”, to provide regulations on formula restaurant and formula commercial establishments.

Over the last few decades, the City has adopted several ordinances creating Overlay Districts in order to maintain the scale and character of established neighborhoods.

The proposed Overlay District protects the unique character of the Sunset Harbour neighborhood and will promote a more pedestrian friendly and vibrant mixed-use neighborhood.

IV. Analysis

A. Sunset Harbour Neighborhood

Sunset Harbour is a neighborhood that has evolved from the light industrial uses that originally occupied the area and continues to evolve into an area of mixed uses including residential development. The neighborhood is composed of a mixture of residential, light industrial and low intensity service, restaurant and retail uses.

Sunset Harbour has been described as “a pedestrian-friendly enclave (with bountiful parking)”; “[a] micro-neighborhood [...] densely populated with both casual and upscale restaurants”; and “one of Miami’s most popular boutique neighborhoods for shopping and dining”.

Sunset Harbour is a pedestrian oriented neighborhood. A windshield survey indicates many people access area businesses by walking as opposed to driving. The City is actively improving pedestrian connectivity which is increasing the walking trend. This includes a new pedestrian bridge on Bay Road and a new bridge with sidewalks on West Avenue that greatly improve connectivity to areas to the south.

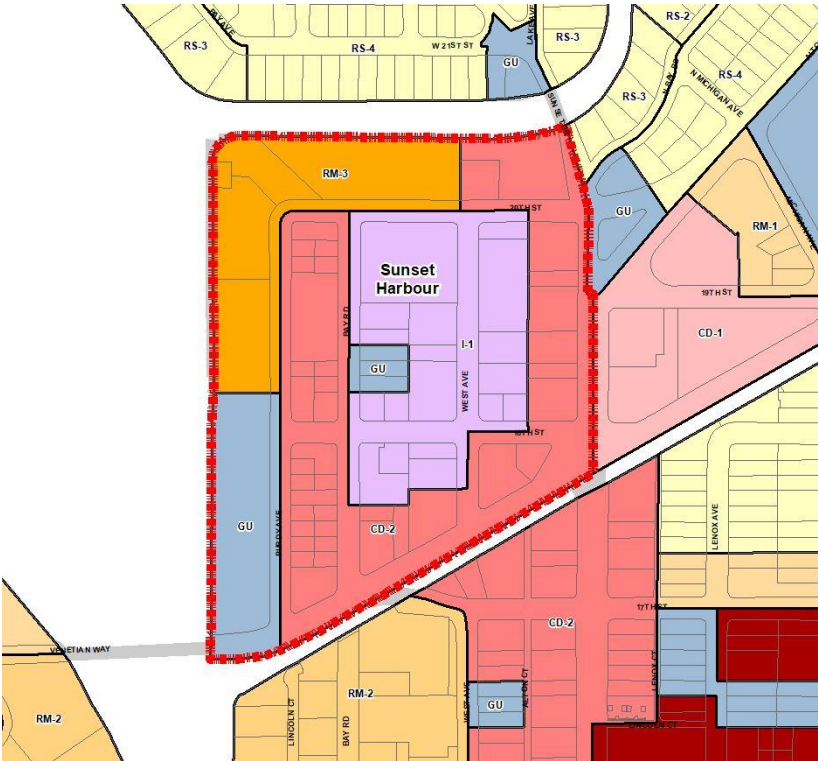
Additionally, there are improved pedestrian and bicycle facilities along 17th Street, Dade Boulevard, and the Venetian Causeway. It is well served by the City of Miami Beach South Beach Trolley Loop and Metrobus routes A, S, and M. Sunset Harbour is served by a centralized parking garage, the Sunset Harbour Garage. Information on parking utilization from the Parking Department indicates that the garage does not reach capacity, even during peak periods, providing evidence of increasing pedestrian activity and the use of alternative modes of transportation.

A visual inspection shows approximately 20 restaurants; 12 health uses; and several water-oriented activities, in addition to the Yacht Club, a full-service boutique marina; and a variety of independent neighborhood businesses.

Formula Business Establishments are concentrated on Alton Road, a main commercial corridor and arterial roadway exterior to the neighborhood. In contrast, those businesses that promote the unique identity of the Sunset Harbour Neighborhood are primarily concentrated in the interior of the neighborhood.

The Sunset Harbour Neighborhood is an example of how the coexistence of industrial, retail, and residential uses can promote a unique and sustainable urban environment.

Sunset Neighborhood Map and Chart



	Housing Units	Pop.	Area of Parcels (SF)	Area of Parcels (Acres)	Housing Density (Units/Acre)	Population Density (People/Acre)
Sunset Harbour	581	793	1,230,082	28.24	21	28

(Map and chart prepared by the City of Miami Beach Planning Department)

B. Neighborhood Character and Impact of Formula Establishments

The character of a neighborhood is defined, in part, by the variety of small, independent owned and/or operated businesses that it contains. In order to preserve the character of neighborhoods, cities are increasingly regulating the types of businesses allowed.

Formula Restaurants and Formula Retail Establishments are retail stores that have multiple locations with the same recognizable appearance, and are generally known as chain stores. They offer a standardized selection of merchandise, standard façade, color scheme, and signage. City Code Section 114-1 defines “formula restaurant” and “formula commercial establishment” as follows:

Formula commercial establishment means a commercial use, excluding office, restaurant and hotel use, that has ten 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 stories or less with frontage on Ocean Drive, formula commercial establishment means a commercial use, excluding office, restaurant and hotel, which has five 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 facade: 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) Façade 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.

Formula restaurant *means 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 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 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.

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(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.

Many cities have adopted measures to limit the incidence of Formula Restaurants and Formula Retail Establishments due to the negative impact they can have on the character of a neighborhood. Unregulated, Formula Restaurants and Formula Retail Establishments will drive out independent businesses and neighborhood shops that primarily service the surrounding neighborhood and form part of the unique neighborhood character.

Due to the increasing desirability and neighborhood qualities of the Sunset Harbour neighborhood, the City of Miami Beach has opted to explore the creation of restrictions on Formula Retail Establishments.

C. Formula Restaurant and Formula Commercial Establishment Regulations in Other Cities

Examples of District/Use Regulations in Other Cities or Counties

Local governments across the country have used a variety of methodologies to regulate Formula Restaurants and Formula Commercial Establishments in an effort to protect the established character of the community or a specific district or/and a need to protect existing independent small-scale locally owned and operated businesses.

The approaches vary from strictly prohibiting the use, to allowing the use as a conditional use with specific restrictions or requiring a special use permit, or a combination of both.

Definitions of Formula Business or Retail Establishment are generally consistent across the jurisdictions I have reviewed. All definitions include the following features: a standardized array of merchandise, a standardized façade, a standardized décor and color scheme, uniform apparel, standardized signage, a trademark of services. In other words, retail establishments with multiple locations and recognizable appearance.

One factor that varies across jurisdictions is the numerical threshold for an establishment to qualify as a formula establishment. Some jurisdictions define Formula Establishments as an operation with 10 or more locations within the jurisdiction, within the United States, or in some instances, in the world. Many do not distinguish between restaurants and retail establishments. However, those jurisdictions that define Formula Restaurant Establishments typically establish the threshold at 3 or more locations within their jurisdiction.

The most commonly occurring types of regulation are as follows:

1. Regulations that prohibit Formula Retail Establishments.
2. Regulations that allow Formula Retail Establishments in the Downtown commercial areas.
3. Regulations that prohibit Formula Establishments in specific neighborhoods and allow them in central commercial or tourist areas.

4. Regulations that allow Formula Establishments through a conditional use or special permit that requires a public review.

The restrictions placed on conditional use permits can vary. For example, the restrictions can consist of any of the following:

1. Performance Based Guidelines
2. Limitation on street frontage allowed (i.e., 25 ft. of frontage)
3. Limitation on square footage per establishment (i.e. 2500 sq. ft.)
4. Limitation on percentage of ground floor (i.e. 30%)
5. Limitation on the concentration of similar uses in the area
6. Requirement of traffic studies

a. City of San Francisco, CA

The City of San Francisco defines Formula Retail Uses as “a type of retail sales activity or retail sales establishment which along with *eleven or more other retail establishments located in the World*”.

Purpose: an effort “to protect San Francisco’s vibrant small business sector and create a supportive environment for new small business innovations”

Regulations: Formula Retail Establishments are prohibited in nine of San Francisco’s Neighborhood Commercial Districts; allowed Downtown through a Conditional Use after complying with the Performance Based Design Guidelines.

Performance Based Guidelines review considerations include: 1. The percentage of the total linear street frontage within a 300- foot radius or a quarter of a mile radius, at the Planning Department's discretion, from the subject property that is occupied by Formula Retail and non-Formula Retail businesses. 2.The availability of other similar retail uses within the district and within the vicinity of the proposed project. 3. The compatibility of the proposed Formula Retail use with the existing architectural and aesthetic character of the district.

b. Town of Palm Beach, FL

The Town of Palm Beach definition of Formula Establishments only refers to Formula Restaurants and is defined as “a restaurant that is one of a chain or group *of three or more restaurants in the nation*”

Regulations: Not allowed in their commercial districts.

c. Malibu, CA

Purpose: “to promote and maintain a district community character and a diverse retail base. Encourage retail elements that promote variety while contributing to an maintaining the city’s small-town atmosphere and prevent the proliferation of businesses that create a homogenized retail experience”

Regulations: Permitted after obtaining a Formula Retail Clearance (FRC) permit. The ordinance established a maximum square footage to 2,500 square feet for formula retail businesses and limits such businesses to 30 percent if located in a shopping center.

The FRC for a formula retail business not located in a shopping center would be limited to 2,500 square feet. Additionally, it would require analysis to determine if another formula retail establishment was located within 500 feet of the proposed business, as measured from walls of the locations

d. Nantucket, MA

Purpose: “Create Formula Business Exclusion District (FBED) to address the advance impact of nationwide standardized businesses on Nantucket’s historic downtown area. The proliferation of formula businesses will have a negative impact on the island’s economy, historical relevance and unique character and economic viability”.

Regulations: Formula Business Establishments are prohibited in order to maintain a unique retail and dining experience.

e. Dennis, MA

Purpose: The purpose and intent of the Formula Based Business regulation is to address the adverse impact of nationwide, standardized businesses on Dennis villages, historic and residential areas as well as gateways to the town. The proliferation of formula-based businesses will have a negative impact on the town’s economy, historical relevance, unique character and economic vitality.

Regulations: Allowed in certain areas and only by Special Permit.

Needs to meet criteria such as; 1.not to alter the character of the Zone in a way which detracts from its uniqueness or contributes to a nationwide trend of standardized downtown offerings; 2. will complement those businesses already in the Zone, 3.will be operated in a non-obtrusive manner to preserve the community's character and ambiance, 4.There shall not be a substantial impact to the public safety from increased traffic. At the discretion of the Planning Board, the applicant may be required to submit a traffic study, prepared by a Registered Professional Engineer, approved by the board, maximize pedestrian and vehicular safety both on the site and accessing and egress and ingress.

f. Jersey City, NJ

Purpose: The proposed amendments will provide formula business restrictions to various downtown redevelopment plans. Formula business, which utilizes standardized features such as decor, menu or merchandise items, and logos, may detract from downtown Jersey City's unique community character. Restrictions on formula business should be implemented to preserve Downtown's distinctive sense of place and unique neighborhood character.

Regulations: Restrictions on formula business should be implemented to preserve Downtown's distinctive sense of place and unique neighborhood character in Downtown Redevelopment Areas. Formula Business Establishments, as defined by the Land Development Ordinance, are restricted to a maximum of 30% of ground floor gross leasable commercial area.

g. Sausalito, CA

Purpose: The purpose of the standards in this section regulate the location and operation of formula retail establishments in order to maintain the City's unique village character, the diversity and economic vitality of the community's commercial districts, and the quality of life of Sausalito residents; It is therefore the intention of the City that an over-concentration of formula retail businesses not be allowed, that all permitted formula retail establishments shall create a unique visual appearance that reflects and/or complements the distinctive and unique historical character of Sausalito, and that no such establishment shall project a visual appearance that is homogeneous with its establishments in other communities.

Regulations: A formula retail establishment may be allowed only in the central commercial, shopping center and neighborhood commercial districts and only with a conditional use permit.

Needs to meet criteria such as design review; be compatible with existing surrounding uses; preserve the community's distinctive character and ambiance; consistent with the unique historic character of Sausalito, and would preserve the distinctive visual appearance and shopping experience of Sausalito for its residents and visitors.

h. San Juan Bautista, CA

Purpose: The preservation of the existing character and scale of the city's commercial and historic districts is vital to the city's ability to attract tourism and ... is also important to maintain the distinctive small-town charm and character enjoyed by current residents." It also notes that a proliferation of formula businesses would threaten the economic vitality of the city's commercial districts, resulting in "a loss of employment opportunities for small business owners and employees who are residents."

Regulations: Formula Retail or Business Establishments are not allowed.

i. York, ME

Purpose: Amend the town's zoning ordinance to prohibit formula restaurants in order to protect the character and identity of the community and not create undue impacts in terms of noise, litter, traffic and other adverse impacts.

Regulations: Formula Restaurants Establishments are not allowed.

j. Ojay, CA

Purpose: The purpose of this section is to regulate the location and design of formula business establishments in order to maintain the tourist attracting small town character of the City, the diversity of the community's unique commercial areas and quality of life for visitors and residents.

Regulations: A formula business may be established on a site after obtaining a conditional use permit from the City.

Subject to these limitations:

No conditional use permit shall be issued for a use that is a formula business located within the area of the Downtown Commercial land use designation of the City's General Plan if either of the following are true: (i) such establishment has street-level frontage exceeding twenty-five (25) linear feet on any street, or (ii) the useable area of the building or structure wherein the formula business is to be

located exceeds two thousand (2,000) square feet. For purposes of this section, “street level frontage” shall include frontage on private parking lots and access ways where the commercial building does not abut a public street.

No permit application of any kind shall be accepted or processed for a formula business that also possesses at least two of the following characteristics:

- (i) Specializes in short order or quick service food and/or drink; (ii) Serves food and/or drink primarily in paper, plastic or other disposable containers; and
- (iii) Payment is made by customers before food and/or drink is consumed.

The Commission may promulgate regulations to further define the scope and meaning of the foregoing findings to ensure consistent implementation of this subsection.

V. Conclusion

This document has reviewed the applicable provisions of the City of Miami Beach Comprehensive Plan and the City of Miami Beach Land Development Regulations. It has reviewed the potential impact upon the distinct character of the Sunset Harbour Neighborhood and reviewed the strategies used by other cities to regulate Formula Restaurants and Formula Commercial Establishments.

The City of Miami Beach has historically implemented regulations that promote and protect the character of its unique neighborhoods. Since 1989, the City has implemented twelve Overlay and Conservation Districts. Additionally, since 2009 the City has adopted regulations that limit, prohibit, or reduce the intensity of certain uses within the Sunset Harbour Neighborhood, in order to address concerns about incompatible uses that would affect the character and quality of life. The City has also provided incentives that would promote the “low scale, neighborhood friendly residential mixed use neighborhood”, “where people and commerce can exist side by side”; in order to establish uses that are compatible with the mixed-use residential character of the neighborhood and promote a “more pedestrian friendly neighborhood.”

The proposed Overlay District continues this pattern of legislation adopted in order to protect the unique neighborhoods of Miami Beach. It continues to promote the unique character of the Sunset Harbour mixed-used neighborhood; and to provide opportunities for independent and unique businesses that will primarily serve the residents of the Sunset Harbour neighborhood.

The Vision Statement defines the City as “A unique and Historic Environment” and follows, as a guiding principle, the commitment to “Enhance Community Character”

The Sunset Harbour Mixed-Use Neighborhood Overlay District is supported by the Vision, Goals and Objectives of the Comprehensive Plan. It follows the City’s guiding principle and commitment to "encourage redevelopment by maximizing context sensitive design through appropriate architecture

compatible scale and pedestrian features".

The proposed Sunset Harbour Overlay District will continue to promote the small town character of this pedestrian-friendly neighborhood.

Appendix A. ART DECO/MIMO OVERLAY DISTRICT ORDINANCE AND MEA, INC. REPORT



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

Item 2
COMMITTEE MEMORANDUM

TO: Land Use and Sustainability Committee

FROM: Jimmy L. Morales, City Manager

DATE: May 6, 2020

TITLE: DISCUSSION PERTAINING TO STRATEGIC INCREASES IN FAR RELATED TO RESILIENCY AND OTHER DEFINED POLICY BENCHMARKS

ACTION REQUESTED:

Discuss and provide recommendations to the full City Commission.

ADMINISTRATION RECOMMENDATION:

Provide recommendations to the City Commission for review and referral to the Planning Board.

HISTORY:

On January 15, 2020, at the request of Mayor Dan Gelber, the City Commission referred a discussion item to the Land Use and Sustainability Committee (LUSC) regarding strategic increases in FAR citywide. The item was discussed briefly at the January 21, 2020 LUSC meeting and continued to the February 18, 2020 meeting.

On February 18, 2020, the LUSC discussed the options provided and continued the item to March 17, 2020 in order to further develop the following FAR options:

1. Resiliency bonuses.
2. Workforce/Affordable housing.
3. FAR bonus pool (monetary contribution for added FAR).

The March 17, 2020 LUSC meeting was postponed and the item was placed on the May 6, 2020 LUSC agenda.

ANALYSIS:

BACKGROUND

The maximum square footage (intensity) of a building is regulated by the Floor Area Ratio (FAR), which applies to all zoning districts except for single-family districts. Floor area ratio (FAR) is a defined term in Section 114-1 of the Land Development Regulations (LDRs) and is essentially a multiplier used to regulate the maximum size of a building based on the lot size. For example, a 10,000 square foot lot with an FAR of 2.0 would be allowed to build up to a 20,000 square foot

building.

Floor area is also a defined term in Section 114-1 of the LDRs and provides the specific requirements for the calculation of floor area. Under section 114-1, floor area consists of the gross horizontal areas of the floors of a building, unless such areas are specifically exempted. The only exceptions to the definition of floor area are expressly listed in Section 114-1.

The purpose of the regulation of floor area, including FAR, both in the City of Miami Beach and in other municipalities, is to provide a quantifiable mechanism to control both the size and intensity, as well as the overall exterior mass, of a building. That is why floor area is measured to the exterior face of exterior walls or from the exterior face of an architectural projection. Under the Miami Beach City Code, it is from this total floor area volume that certain areas are excluded.

The current requirements for FAR and floor area have been in place since 1989 (Ordinance 89-2665), and the only amendments subsequent to 1989 have been to the exceptions from floor area.

BACKGROUND ANALYSIS

Any increase in FAR, either through a bonus/incentive provision, percent increase, or additional exclusions, must be effectuated in a deliberate and thoughtful manner, and needs to be supported by a thorough planning analysis. This will promote thoughtful development incentives, prevent unintended consequences related to FAR increases, as well as ensure the continuation of a predictable method of plan review.

The definition of floor area in the City Code, as well as the application of FAR regulations in general, has not been evaluated comprehensively since 1989. In this regard, staff believes that the subject discussion is much needed and well overdue. Additionally, the decisions and recommendations made as part of this exercise will better inform the resiliency code.

In order to provide structure and organization for this FAR discussion, the administration previously provided the following five categories:

1. Bonus FAR/incentives related to resiliency and other defined policy benchmarks.
2. New exclusions from the calculation of floor area to address evolving building and life safety code requirements.
3. Strategic FAR increases within specific zoning districts.
4. The creation of Transfer of Development Rights (TDR) Programs in specified areas of the City.
5. Removing all exemptions, counting everything including parking, and increasing the FAR across the City.

The following is the analysis of each category provided previously. Staff had previously recommended prioritizing FAR increases that are easier to understand as part of a ballot question:

1. Bonus FAR/incentives related to resiliency and other defined policy benchmarks.

a. Exclusions for the conversion of non-required enclosed parking spaces facing a waterway.

b. Introduction of original floor plates in contributing buildings. Re-introducing original, historic floors to buildings where the floors may have been removed in years past. In this regard, if a hotel building had floors removed to create volumetric space, and they seek to re-introduce those floors, this would not be possible under the regulations of the code if the building or building site is legal non-conforming as to maximum FAR.

Unfortunately, the floor plates of many contributing buildings have been severely modified or removed in order to transfer the square footage of the contributing building to a new building. Only the MXE zoning district restricts the percentage of demolition allowed for interior floor plates of contributing building. This option would allow the re-introduction of original floor plates in contributing buildings.

The administration should note that a ballot measure including a variation of this proposal failed last November. Limiting the types of uses to residential or hotel uses (not including accessory uses), or including some variation of a public benefit, may make this proposal more acceptable. Additionally, the proposal should be contingent on the full restoration of the structure.

c. Resiliency and adaptation bonuses. This would apply to all zoning districts, and the actual bonus number would be conditioned upon tangible improvements that substantially increase and improve the sustainability of new and existing structures. These improvements would go above and beyond minimum code requirements and the bonuses are intended to incentivize such improvements. The actual bonus points would be added to the maximum FAR permitted on the property and would be capped at a fixed number. For example, an RM-2 property, which has a maximum FAR of 2.0, would be able to increase the overall FAR to a maximum of 2.5 with resiliency bonus points.

d. First level interior transitional access for non-residential buildings. This would include stairs, ramps, and lifts required to get from the sidewalk level up to a higher finished first floor level. This would encourage commercial properties to elevate their first floor to be more resilient to flooding, while still providing a transparent, active storefront at the sidewalk level.

e. New floor area within volumetric buildings such as historic theatres. In this regard, there are historic theatres in the City that need adaptive re-purposing, such as a conversion to retail or food & dining establishments. However, if the building is legal non-conforming as to maximum FAR, there is no opportunity under the code to add additional floor plates within the structure, even though they will not be visible.

f. Exempting the floor area of existing contributing buildings which are elevated. Although any demolition is subject to a Certificate of Appropriateness from the Historic Preservation Board, such exemption could encourage elevating such structures to ensure their long-term viability, as the added square footage could help offset the costs to elevate these buildings.

g. Bonus for providing affordable and/or workforce housing, as defined in the City Code. The Comprehensive Plan already has increased density allowances for affordable and workforce

housing. As such, an FAR bonus for providing such types of units should not require modifying the density limitations of the Comprehensive Plan. This should be limited to rental housing to ensure that the constructed units are available for the long-term.

h. Bonus for providing Transit Oriented Development (TOD) along defined corridors in the City. TOD's are an excellent tool for promoting development that minimizes the impact of single car vehicles. As TOD's are located adjacent to or abutting dedicated transit lines, as well as multiple transit modes, they are ideal for end users who do not own or rely on a single motor vehicle. In order to encourage these types of uses, additional FAR in the form of a bonus or TDR is ideal.

2. New exclusions from the calculation of floor area to address evolving City Code, Florida Building Code and Life Safety Code requirements.

a. Bicycle Parking. Exclusions for secured bicycle parking, whether required or not.

b. Stairwells and elevators above main roof decks.

c. FPL Transformer vaults. These vault rooms have becoming increasingly larger, and often include additional infrastructure required by FPL to also help serve neighboring properties. Their location within an enclosed building is preferable to any exterior pad-mounted option.

d. Fire control rooms and related public safety spaces, not accessible to the general public.

3. Strategic FAR increases within specific zoning districts. Existing low intensity districts, such as RM-1, low intensity residential districts, and CD-1, commercial low intensity districts, currently have very low maximum FAR and face challenges with regard to meeting minimum building and life safety code requirements. In the administration's prior analysis, the areas of stair and elevators consume, on average, about 8% of a building's available FAR. For an RM-1 zoned property, an increase of 8% would result in an FAR of 1.35, vs the typical maximum of 1.25. For an 8,000 SF lot, the resulting FAR of 1.35 would result in an area of 10,800 SF, vs the current maximum of 1.25 or 10,000 SF.

4. The creation of Transfer of Development Rights (TDR) Programs in specified areas of the City. Allowing properties, within defined transfer and receiver districts, to transfer some or all their development rights to another property has two significant benefits. First, it does not result in an overall increase in intensity within the larger area. Second. It provides a vehicle for vulnerable and at-risk properties to become adaptation areas.

A process to manage a TDR program would need to be developed, and transfer and receiving districts would need to be established. Transfer districts could, potentially, be limited to lower-density zoning districts such as RM-1, as well as more vulnerable areas on the west side of the City. Receiving districts should be areas with higher intensity and higher density zoning, such as the CD-2 and CD-3 Commercial Districts, and RM-3 high intensity residential district. Additionally, receiving districts should be located within defined transportation corridors.

A cap on the maximum percentage beyond the FAR of the underlying zoning district would also need to be established, as well as a review of potential height increases to go along with an increased FAR.

5. Removing all exemptions, counting everything within a building envelope, including parking, and increasing the FAR across the City. This would incentivize less parking and more efficient circulation. However, the actual increases in FAR would need to be evaluated on a district basis.

As noted previously, although increases in FAR will increase the bulk and mass of buildings, as well as the intensity, the existing density limitations in the City's Comprehensive Plan will ensure that residential density would not be increased. Any increase in density would require an amendment to the Comprehensive Plan. Additionally, changes pertaining the calculation of FAR will have no impact on single family home regulations or single family districts, as they are regulated by unit size and lot coverage, as separately defined in Section 142-105.

CITY CHARTER

In order to amend the Land Development Regulations of the City Code to allow an increase in zoned floor area, pursuant to City Charter Section 1.03(c), approval of the City's voters will be required. The following is the language in Section 1.03(c):

The floor area ratio of any property or street end within the City of Miami Beach shall not be increased by zoning, transfer, or any other means from its current zoned floor area ratio, unless any such increase in zoned floor area ratio for any such property shall first be approved by a vote of the electors of the City of Miami Beach.

An increase in zoned FAR includes, but is not limited to, modifications of the definition of floor area, amendments to the exclusions of floor area and a direct increase in the FAR number. All of the potential options identified above would require a ballot question for an amendment that would allow a property to add FAR, as they would result in an increase in zoned FAR "by zoning, transfer, or any other means" pursuant to City Charter Section 1.03(c).

May 6, 2020 UPDATE

Based on the direction of the LUSC at the February 18, 2020 meeting, the administration has prepared a draft Public Benefits Ordinance, which includes the recommended focus items. This includes resiliency bonuses, workforce/affordable housing bonuses, and a FAR bonus pool (monetary contribution). The following is a summary of the draft Ordinance (Attachment "A") for a public benefits program:

1. Zoning districts established.

a. Included zoning districts and base bonus increases. Applicable zoning districts are identified where additional height and FAR may be permitted. The maximum limits range from a bonus FAR of 0.25 for low intensity districts, such as RM-1, residential low-intensity and CD-1, commercial medium intensity, to 0.50 for higher intensity zoning districts such as RM-3, residential high intensity and CD-3, commercial high intensity zoning districts. Additional height ranges from 10 feet to 20 feet, commensurate with the FAR bonus.

A lower bonus of 0.25 was used for zoning districts with a lower FAR, as an increase to .5 would result in a disproportionally large increase of 40% for example in the RM-1 zoning district. The chart below indicates some base FAR requirements and the percentage increase proposed.

Zoning District Base FAR increase Resulting FAR

RM-1 $1.25 + .5$ (40% increase) = 1.75 **
RM-1 $1.25 + .25$ (20% increase) = 1.5
RM-2, CD-2 $2.0 + .5$ (25% increase) = 2.5
RM-3, CD-3 $3.0 + .5$ (17% increase) = 3.5

** Not recommended

b. Added bonus for workforce/affordable housing. In addition to the bonus height and FAR noted above, an additional bonus of up to 0.50 FAR and 20 more feet in additional height is available exclusively for workforce/affordable housing for zoning districts where the base FAR for the property is a minimum of 2.0 and which is also located along an established transit corridor.

c. Exempt districts. Lower Intensity zoning districts, zoning districts where FAR is not applicable (such as single family) and other zoning districts are specifically excluded, including properties which recently received an increase in FAR through a ballot initiative.

2. Location of bonus FAR. The only square footage allowed above the maximum height for the underlying zoning district is that achieved through the public benefits program.

3. Monetary option for benefits and establishment of Trust Funds.

4. Criteria for the public benefits program.

a. Affordable/workforce housing.

1. On-site. For each square foot of Affordable/Workforce housing provided on site, the development shall be allowed an equivalent amount of additional Floor Area up to the bonus height and floor area as described in Section 142-3.1

2. Off-site. For each square foot of affordable /workforce housing provided off site, in a location within the City approved by the City Commission, the development shall be allowed 0.5 square feet of additional floor area up to the bonus height and floor area.

b. Trust Fund contributions. For a cash contribution to the City of Miami Beach Benefit Trust Fund, the development shall be allowed additional Floor Area up to the bonus Height and floor area. The cash contribution shall be determined based on a percentage of the market value of the per square foot price being charged for units at projects within the market area where the proposed project seeking the bonus is located. The calculation assumes a land value per saleable or rentable square foot within market area to equate to between 10 (ten) to 15 (fifteen) percent of market area's weighted average sales price per square foot. The cash contributions shall be adjusted on an annual basis to reflect market conditions effective October 1st of every year.

(Note: the contribution fund calculation is a placeholder requiring further analysis.)

c. Resiliency and adaptation bonuses:

1. Elevating first floor of an existing structure. When the first floor of an existing structure is elevated to a minimum of BFE +1 foot, the development may receive a bonus FAR, equivalent of the FAR of the elevated area only, not to exceed a bonus FAR of 0.25.

2. Seawall improvements. When the entirety of a property's seawall is improved or reconstructed to a minimum height of 5.7 feet NAVD, the development may receive a bonus FAR of 0.10.

3. Self-sustaining electrical and surplus stormwater retention and reuse. When a development is fully self-sustaining in terms of electrical power using solar power and similar electricity generating devices, and also includes stormwater retention that is over and above the minimum requirements in order to accommodate offsite stormwater, including the reuse of such stormwater through purple pipes throughout the building, the development may receive a bonus FAR of 0.25.

4. LEED Platinum certification. When LEED platinum certification is achieved in accordance with Chapter 133 of the City Code, the development may receive a bonus of 0.15.

If at the time the first Certificate of Occupancy is issued for the Building that received a public benefits bonus for a LEED platinum certification and the LEED certification has not been achieved, then the owner shall post a performance bond in a form acceptable to the City. The performance bond shall be determined based on the value of land per square foot of Building in the area of the City in which the proposed project is located, which may be adjusted from time to time based on market conditions. The City will draw down on the bond funds if LEED certification has not been achieved and accepted by the City within one year of the City issuance of the Certificate of Occupancy for the Building. Funds that become available to the City from the forfeiture of the performance bond shall be placed in the City of Miami Beach Public Benefits Trust Fund established by this Code.

5. Onsite Adaptation Areas. When onsite adaptation areas are provided, which are fully accessible from the public right of way and provide tangible drainage, stormwater retention and related resiliency and sustainability benefits, the development may receive a bonus of 0.10 to 0.35 points depending upon the overall size and level of improvement.

(Note: this option requires further development)

6. Publicly accessible recreation facilities. When active recreation facilities that are available to the general public, and serve a recreational need for the immediate area are provided on site, a bonus FAR of 0.10 points may be permitted, subject to the approval of the city's parks and recreation department.

(Note: this option requires further development)

In addition to the Public Benefits ordinance noted above, the administration would also recommend a separate ordinance (Attachment "B") be considered for new exclusions from the calculation of floor area to address evolving City Code, Florida Building Code, and Life Safety Code requirements, outlined as follows:

1. Bicycle Parking. Currently required automotive parking is exempt from inclusion as floor area, and up to two vehicular parking spaces may be provided per apartment unit, without counting as floor area. Further, in most districts where the City has reduced the vehicular parking requirements, parking may still be provided in most cases in accordance with Parking District No. 1, which generally has the highest parking requirements. A typical parking space, including half of the abutting drive occupies an area of approximately 250 square feet, whereas the same area could easily accommodate more than 10 bicycles.

2. Stairwells and elevators above main roof decks. The area of two typical stairwells and a typical elevator at one level is approximately 500 square feet. While such area is minimal, its exception from inclusion as floor area would be especially beneficial to existing buildings that are currently over their maximum FAR. While many older buildings may have one stair to the roof, in order to add a rooftop deck or pool, building code and life-safety requirements must be satisfied, which usually requires two stairs as well as an accessible means of vertical access (an elevator). Such

an exception would allow these non-conforming buildings to add desirable roof-top amenities.

3. FPL Transformer vaults. These vault rooms, when required, have become increasingly larger, and often include additional infrastructure required by FPL to also help serve neighboring properties. Their location within an enclosed building is preferable to any exterior pad-mounted option. The typical area occupied by such use is generally around 300-500 square feet depending on the size of the project. Such exemption again would be especially helpful for existing buildings undergoing renovations, which may need to remove a hotel room or other space to accommodate for the required area for the FPL vault.

4. Fire control rooms and related public safety spaces, not accessible to the general public. Such control rooms are important life-safety requirements for larger projects and were not standard requirements decades ago. The typical area occupied by these rooms is 300-500 square feet.

Lastly, the administration would recommend that the following continue to be explored as separate, stand-alone ordinances in the future.

1. Exclusions for the conversion of non-required enclosed parking spaces facing a waterway. The City has many non-conforming parking areas facing a waterway, including the ocean. The Code was modified many years ago to require active uses at all levels of a building when facing a waterway. Such existing non-conforming parking areas are typically characterized by blank walls, often several stories high, or open parking structures. Such structures have a significant negative impact on the City's overall character, especially when viewed from the public beach walk or bay walk. Conversion of such spaces would allow active uses with glazing and architectural treatment that would improve the visual character along the waterfront.

The administration should note that a ballot measure including this proposal failed last November. Additional restrictions and protections may need to be contemplated to limit the area and depth of non-conforming parking to be converted. Such non-conforming areas could be limited to conversion of 10 parking spaces (approximately 2500 SF) or 15 spaces (approximately 3750 SF), both including half of the abutting drive aisle. Converted uses could also be limited to back-of-house uses and/or retail uses, and limited to oceanfront parking structures within local historic districts which also expand public access to the beach.

SUMMARY

July 31, 2020 is the deadline for adopting a resolution to place a ballot question(s) on the City's November 3, 2020 ballot. As such, the City Commission will need to reach consensus on any proposed FAR questions in time for the July Commission meetings. First reading referrals to the Planning Board should be made no later than the May 13, 2020 City Commission meeting, so that such legislation can be considered and transmitted by the Planning Board at their June meeting. This would allow for first reading to occur in July.

The administration is seeking action based upon the modified recommendations noted above. Additionally, the administration recommends that individual, narrowly crafted ballot questions, which are easy to understand, be proposed, as opposed to larger, more cumbersome ballot questions.

CONCLUSION:

The administration recommends that the LUSC discuss the options presented herein and provide recommendations to the City Commission for referral to the Planning Board.

Applicable Area

Citywide

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?

Yes

Does this item utilize G.O. Bond Funds?

No

Departments

Planning

ATTACHMENTS:

Description	Type
<input type="checkbox"/> Attach A - Public Benefit ORD	Memo
<input type="checkbox"/> Attach B - Sec 114 ORD	Memo

ATTACHMENT “A”

Draft Public Benefits Program for bonus FAR and height in specified zoning districts.

Chapter 142 - ZONING DISTRICTS AND REGULATIONS

ARTICLE I. – GENERAL TO ALL ZONING DISTRICTS

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Sec. 142-3.0 – Public benefits program.

The intent of the Public Benefits Program established in this section is to allow bonus building height and Floor Area Ratio (FAR) in the specified zoning districts in exchange for the developer's contribution to specified programs that provide benefits to the public.

Sec. 142-3.01 – Definitions.

Workforce housing shall be as defined in Section 58-501.

Affordable housing shall include both *elderly* and *non-elderly Low income and moderate income* housing, as defined in Section 58-401.

Sec. 142-3.1 – Applicable Zoning Districts

- (a) The bonus Height and Floor Area (FAR) shall be permitted if a proposed Development contributes toward the specified public benefits, above the maximum which is otherwise allowed by the City Code, in the amount and in the manner as set forth herein.
- (1) RM-1: 10 feet additional height, FAR bonus of 0.25.
 - (2) RM-2: 20 feet additional height, FAR bonus of 0.50.
 - (3) RM-3: 20 feet additional height, FAR bonus of 0.50.
 - (4) CD-1: 10 feet additional height, FAR bonus of 0.25.
 - (5) CD-2: 20 feet additional height, FAR bonus of 0.50.
 - (6) CD-3: 20 feet additional height, FAR bonus of 0.50.
 - (7) I-1: 10 feet additional height, FAR bonus of 0.25; however I-1 zoned properties are not eligible for any bonuses related to workforce/affordable housing.
 - (8) MXE: 20 feet additional height, FAR bonus of 0.50.
 - (9) RPS-1: 10 feet additional height, FAR bonus of 0.25.
 - (10) RPS-2: 10 feet additional height, FAR bonus of 0.35.
 - (11) RPS-3: 10 feet additional height, FAR bonus of 0.35.
 - (12) RPS-4: 20 feet additional height, FAR bonus of 0.50.
 - (13) TC-1: 20 feet additional height, FAR bonus of 0.5.
 - (14) TC-2: 20 feet additional height, FAR bonus of 0.5.
 - (15) TC-3: 10 feet additional height, FAR bonus of 0.25.

(16) GU: 20 feet additional height, FAR bonus of 0.50.

- (b) In addition to the height and FAR bonus noted in Sec. 142-3.1(a) an additional 20 feet in height and 0.5 bonus FAR shall also be available exclusively for additional workforce/affordable housing for properties located in a zoning district which has a minimum base FAR of 1.5 and which are also located along the following established transit corridors:

(1) Fifth Street

(2) Alton Road

(3) 17th Street

(4) Washington Avenue

- (b) Exemptions. The height and Floor Area (FAR) bonuses shall not apply to the following districts in any manner:

(1) RS-1, RS-2, RS-3, RS-4,

(2) RM-PRD1, RM-PRD-2

(2) CCC

(3) GC

(5) HD

(6) MR

(7) RO

(8) TH

(9) WD-1

(10) WD-2

(11) SPE

(12) TC-C

Sec. 142-3.2 – Location.

Upon providing a binding commitment for the specified public benefits as provided in Section 142-3.3 below, the proposed development project shall be allowed to build within the restrictions of the specific zoning district, with the additional bonus height and floor area ratio as established in this Section. The only square footage allowed above the maximum height for the underlying zoning district is that achieved through the Public Benefits program.

Sec. 142-3.3 – Benefits monetary contribution.

- (a) The proposed bonus Height and floor area ratio (FAR) shall be permitted in exchange for contribution to the City for the following public benefits:

- (1) Affordable/workforce housing;

The City shall establish a City of Miami Beach Public Benefits Trust Fund for the cash contributions for Affordable/ Workforce Housing

(2) Resiliency and adaptation bonuses:

The City's established Sustainability and Resiliency Fund shall be utilized for all contributions made to resiliency and adaptation bonuses made under this section.

The City Commission, upon the manager's recommendation, shall annually decide the allocation of funds from the Trust Fund collected under this section.

Sec. 142-3.4

For the purposes of the public benefits program, the following criteria shall apply:

(a) **Affordable/ Workforce Housing.** A development project may provide any of the following or combination thereof:

(1) **Affordable/Workforce housing on site of the development.** For each square foot of Affordable and/or Workforce housing provided on site, the development shall be allowed an equivalent amount of additional floor area up to the bonus height and floor area as described in Section 142-3.1

(2) **Affordable/Workforce housing off-site.** For each square foot of affordable and/or workforce housing provided off site, in a location within the City approved by the City Commission, the development shall be allowed 0.5 square feet of additional floor area up to the bonus height and floor area as described in Section 142-3.1. No additional allowance is given for the purchase of the site.

(b) **Trust Fund contributions.** For a cash contribution to the City of Miami Beach Benefit Trust Fund, the development shall be allowed additional Floor Area up to the bonus height and floor area as described in Section 142-3.1. The cash contribution shall be determined based on a percentage of the market value of the per square foot price being charged for units at projects within the market area where the proposed project seeking the bonus is located. The calculation assumes a land value per saleable or rentable square foot within market area to equate to between 10 (ten) to 15 (fifteen) percent of market area's weighted average sales price per square foot. The cash contributions shall be adjusted on an annual basis to reflect market conditions effective October 1st of every year.

(Note: the contribution fund calculation is a placeholder requiring further analysis.)

(c) **Resiliency and adaptation bonuses:**

(1) **Elevating first floor of an existing structure.** When the first floor of an existing structure is elevated to a minimum of BFE +1 foot, the development may receive a bonus FAR, equivalent of the FAR of the elevated area only, not to exceed a **bonus FAR of 0.25.**

(2) **Seawall improvements.** When the entirety of a property's seawall is improved or reconstructed to a minimum height of 5.7 feet NAVD, the development may receive a **bonus FAR of 0.10.**

(3) **Self-sustaining electrical and surplus stormwater retention and reuse.** When a development is fully self-sustaining in terms of electrical power using solar power and similar electricity generating devices, and also includes stormwater retention that is over and above the minimum requirements in order to accommodate offsite stormwater, including the reuse of such stormwater through purple pipes throughout the building, the development may receive a **bonus FAR of 0.25.**

- (4) **LEED Platinum certification.** When LEED platinum certification is achieved in accordance with Chapter 133 of the City Code, the development may receive a **bonus of 0.15.**

If at the time the first Certificate of Occupancy is issued for the Building that received a public benefits bonus for a LEED platinum certification and the LEED certification has not been achieved, then the owner shall post a performance bond in a form acceptable to the City. The performance bond shall be determined based on the value of land per square foot of Building in the area of the City in which the proposed project is located, which may be adjusted from time to time based on market conditions. The City will draw down on the bond funds if LEED certification has not been achieved and accepted by the City within one year of the City issuance of the Certificate of Occupancy for the Building. Funds that become available to the City from the forfeiture of the performance bond shall be placed in the City of Miami Beach Public Benefits Trust Fund established by this Code.

- (5) **Onsite Adaptation Areas.** When onsite adaptation areas are provided, which are fully accessible from the public right of way and provide tangible drainage, stormwater retention and related resiliency and sustainability benefits, the development may receive a bonus of 0.10 to 0.35 points depending upon the overall size and level of improvement.

(Note: this option requires further analysis)

- (6) **Publicly accessible recreation facilities.** When active recreation facilities that are available to the general public, and serve a recreational need for the immediate area are provided on site, a bonus FAR of 0.10 points may be permitted, subject to the approval of the city's parks and recreation department.

(Note: this option requires further analysis)

Sec. 142-3.4

No Building permit shall be issued for bonus height and FAR until the Planning Director, or designee has certified compliance with the provisions of this section, upon referral and assurance of compliance from applicable departments. Certification shall be made only after a certified check has been deposited and cleared to the City of Miami Beach Public Benefits Trust Fund or, for non cash contributions, a binding commitment has been approved by the City Manager. The cash contribution shall be nonrefundable once paid.

ATTACHMENT “B”

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:

* * *

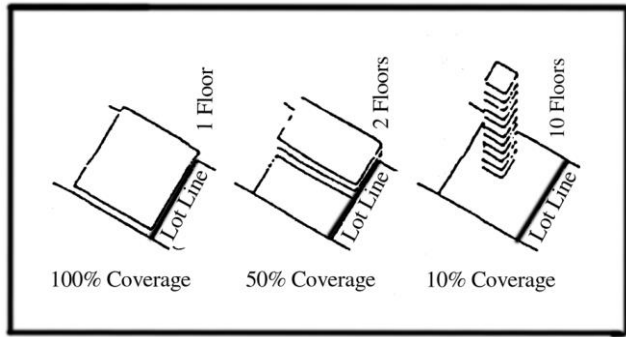
Floor area means the sum of the gross horizontal areas of the floors of a building or buildings, measured from the exterior faces of exterior walls or from the exterior face of an architectural projection, from the centerline of walls separating two attached buildings. However, the floor area of a building shall not include the following unless otherwise provided for in these land development regulations.

- (1) Accessory water tanks or cooling towers.
- (2) Uncovered steps.
- (3) Attic space, whether or not a floor actually has been laid, providing structural headroom of less than seven feet six inches.
- (4) Terraces, breezeways, or open porches.
- (5) Floor space used for required accessory off-street parking spaces. However, up to a maximum of two spaces per residential unit may be provided without being included in the calculation of the floor area ratio.
- (6) Commercial parking garages and noncommercial parking garages when such structures are the main use on a site.
- (7) Mechanical equipment rooms located above main roof deck.
- (8) Exterior unenclosed private balconies.
- (9) Floor area located below grade when the top of the slab of the ceiling is located at or below grade. However, if any portion of the top of the slab of the ceiling is above grade, the floor area that is below grade shall be included in the floor area ratio calculation. Despite the foregoing, for existing contributing structures that are located within a local historic district, national register historic district, or local historic site, when the top of the slab of an existing ceiling of a partial basement is located above grade, one-half of the floor area of the corresponding floor that is located below grade shall be included in the floor area ratio calculation.
- (10) Enclosed garbage rooms, enclosed within the building on the ground floor level.
- (11) Stairwells and elevators located above the main roof deck.
- (12) Transformer vault rooms
- (13) Fire control rooms and related command centers for life-safety purposes.
- (14) Bicycle parking (secured).

Volumetric buildings, used for storage, where there are no interior floors, the floor area shall be calculated as if there was a floor for every eight feet of height.

When transfer of development rights are involved, see chapter 118, article V for additional regulations that address floor area.

Floor area ratio means the floor area of the building or buildings on any lot divided by the area of the lot.



Each example illustrated above has a floor area ratio of 1.0.

*

*

*

Item 3
COMMITTEE MEMORANDUM

TO: Land Use and Sustainability Committee

FROM: Jimmy L. Morales, City Manager

DATE: May 6, 2020

TITLE: **PARKING REQUIREMENTS IN HISTORIC AND CONSERVATION DISTRICTS –
MXE REGULATIONS.**

ACTION REQUESTED:

Conclude the item and recommend that the City Commission approve the subject ordinance.

ADMINISTRATION RECOMMENDATION:

Conclude the item and recommend that the City Commission approve the ordinance in accordance with the analysis herein.

HISTORY:

On February 12, 2020, the City Commission approved, at first reading, an ordinance reducing the parking requirements for hotel and residential uses in the CD-2 zoning districts within the Normandy Isles national register conservation district. At the request of Commissioner Ricky Arriola, the City Commission referred the MXE portion of the subject ordinance to the Land Use and Sustainability Committee (Item R5 H).

The subject ordinance, as originally proposed, would reduce the parking requirements for hotel and residential uses in the following, limited areas of the City:

1. CD-2 zoning districts within the Normandy Isles national register conservation district.
2. MXE zoning districts south of 16th Street.

The attached map shows the MXE areas of the City that the new parking reductions are intended to apply. Overlaid into this map are locations of existing parking facilities, as well as dedicated transit stops and ridership information for these stops. This map illustrates how transit stops and parking facilities are well within the established industry standard walking distance of ¼ mile, or 1,500 feet.

On February 12, 2020, the City Commission approved the subject ordinance at first reading, but only for the Normandy Isle portion of the legislation. The MXE portion of the proposal was bi-

furcated and referred to the LUSC for further discussion.

The March 17, 2020 LUSC meeting was postponed and the item was placed on the May 6, 2020 LUSC agenda.

ANALYSIS:

The subject ordinance only applies to new construction (existing buildings do not have a parking requirement); as such, the number of actual spaces required is limited to the square footage of new construction, which is typically in the form of a ground level or roof-top addition. Attached are illustrations of recent projects, approved or contemplated, within the MXE area south of 16th Street. As the LUSC will note, the impact of these projects, from a size standpoint is minimal.

The administration believes that the subject ordinance is good policy and will be an incentive for existing buildings to be renovated and restored, as additions will be more economically feasible. All addition and renovation proposals within the MXE district are subject to the review and approval of the Historic Preservation Board. This will ensure that any proposed additions are limited, as well as sensitive and contextually compatible with both the structure on site and the surrounding area.

Finally, as noted on the attached map, a number of publicly accessible parking structures have been built in and abutting the MXE district since 1991. With the recent adoption of the City-wide mobility fee, which replaced the concurrency management fee for traffic, a broader measurement for mobility, as opposed to solely vehicular traffic, has been put in place. The mobility fee takes into account all mobility aspects of a project and is not limited solely to vehicular congestion and off-site vehicular storage.

CONCLUSION:

The administration recommends that the Land Use and Sustainability Committee transmit the proposed ordinance back to the City Commission for first reading with a favorable recommendation.

Applicable Area

South Beach

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?

Yes

Does this item utilize G.O. Bond Funds?

No

Departments

Planning

ATTACHMENTS:

Description	Type
<input type="checkbox"/> First Reading - ORD	Memo
<input type="checkbox"/> MXE Illustrations	Memo
<input type="checkbox"/> MXE Map	Memo

**Parking Requirements in Historic and Conservation Districts
(REVISED FOLLOWING FIRST READING)**

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 130 OF THE CITY CODE, ENTITLED "OFF-STREET PARKING REQUIREMENTS," ARTICLE II, ENTITLED "DISTRICTS; REQUIREMENTS," SECTION 130-31, ENTITLED "PARKING DISTRICTS ESTABLISHED," ~~SECTION 130-32, ENTITLED "OFF-STREET PARKING REQUIREMENTS FOR PARKING DISTRICT NO. 1" AND SECTION 130-33, ENTITLED "OFF-STREET PARKING REQUIREMENTS FOR PARKING DISTRICTS NOS. 2, 3, 4, 5, 6, 7, AND 8,"~~ TO AMEND THE PARKING REQUIREMENTS FOR RESIDENTIAL, HOTEL, NON-RESIDENTIAL AND ACCESSORY USES LOCATED WITHIN HISTORIC DISTRICTS, HISTORIC SITES AND CONSERVATION DISTRICTS; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, Chapter 130 of the Land Development Regulations of the City Code sets forth various provisions related to off-street parking; and

WHEREAS, in areas of the City with access to high-quality transit, the City has sought to reduce or eliminate parking requirements in order to incentivize the use of public transportation; and

WHEREAS, the construction of excess parking spaces results in more massive buildings and places severe limitations on the amount of pervious landscaped areas that can be provided on a site; and

WHEREAS, the regulations proposed herein would further facilitate new construction on small lots by reducing the parking requirements generally and, on the smallest of lots, eliminating parking requirements altogether; and

WHEREAS, the regulations proposed herein will promote the general health, safety, and welfare of the residents of the City.

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

SECTION 1. Chapter 130 of the City Code, entitled "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.

(a) For the purposes of establishing off-street parking requirements, the city shall be divided into the following parking districts:

* * *

(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) The off-street parking requirements associated with the new construction of residential and hotel units, including allowable accessory uses, that are located in CD-2 zoning districts within the Normandy Isles national register conservation district and in MXE zoning districts south of 16th Street, shall be as follows:

(1) One space per residential unit and 0.5 space per hotel unit.

(2) There shall be no parking requirement for the following:

a. Development sites of 6 units (hotel or residential) or fewer.

b. Properties located within 1,500 feet of a public transit stop, or within 1,500 feet of any public or private parking garage. **Additionally, for properties located in CD-2 zoning districts within the Normandy Isles national register conservation district, the first level of the structure shall be fully activated at the ground level with non-office and non-financial institution uses.**

(3) *Additions to existing buildings.* For existing buildings, which are classified as "contributing" and of which at least 75 percent of the front and street side elevations, and 25 percent of interior side elevations, are substantially retained, preserved, and/or restored, there shall be no parking requirement for the existing building, or for any new residential or hotel units, whether attached or detached, regardless of lot width or number of units. Any proposed addition to the existing building shall be subject to the certificate of appropriateness or design review criteria set forth in chapter 118, as applicable, and shall include a renovation plan for the existing building that is fully consistent with the Secretary of the Interior's Guidelines and Standards for the Rehabilitation of Historic Buildings.

(4) *Waiver.* The off-street parking requirements set forth in subsection (c)(1) may be waived by the design review board or historic preservation board, pursuant to the design review or certificate of appropriateness criteria, as may be applicable, upon a finding that off-street parking is not necessary to support the construction of new residential or hotel units within a local historic district or conservation district.

(5) Minimum bicycle parking requirements. Secure off-site storage for bicycles shall be required as follows:

a. Short-term bicycle parking: Four (4) spaces per building or one (1) space per ten units, whichever is greater.

b. Long-term bicycle parking: One (1) space per unit.

(d) Any building or structure erected in within a local historic district, historic site, or conservation district may provide required parking on-site as specified in the regulations applicable to parking district no. 1. Such required parking, if provided, shall be exempt from the definition of "floor area," in accordance with the regulations specified in chapter 114 of these land development regulations.

SECTION 2. Repealer.

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

SECTION 3. 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 4. Severability.

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

SECTION 5. Effective Date.

This Ordinance shall take effect ten days following adoption.

PASSED AND ADOPTED this ____ day of _____, 2020.

Dan Gelber, Mayor

ATTEST:

Rafael E. Granado, City Clerk

First Reading: February 12, 2020
Second Reading: March 11, 2020

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

APPROVED AS TO FORM
AND LANGUAGE
AND FOR EXECUTION

Rafael E. Granado 1-29-20
City Attorney Date
NK



Essex Hotel
1001 Collins Av, rooftop and ground level additions



Aqua Hotel
1530 Collins Av, ground level addition



Nassau Hotel
1414 Collins Av, ground level addition



Hotel Clifton
1343 Collins Av, rooftop addition



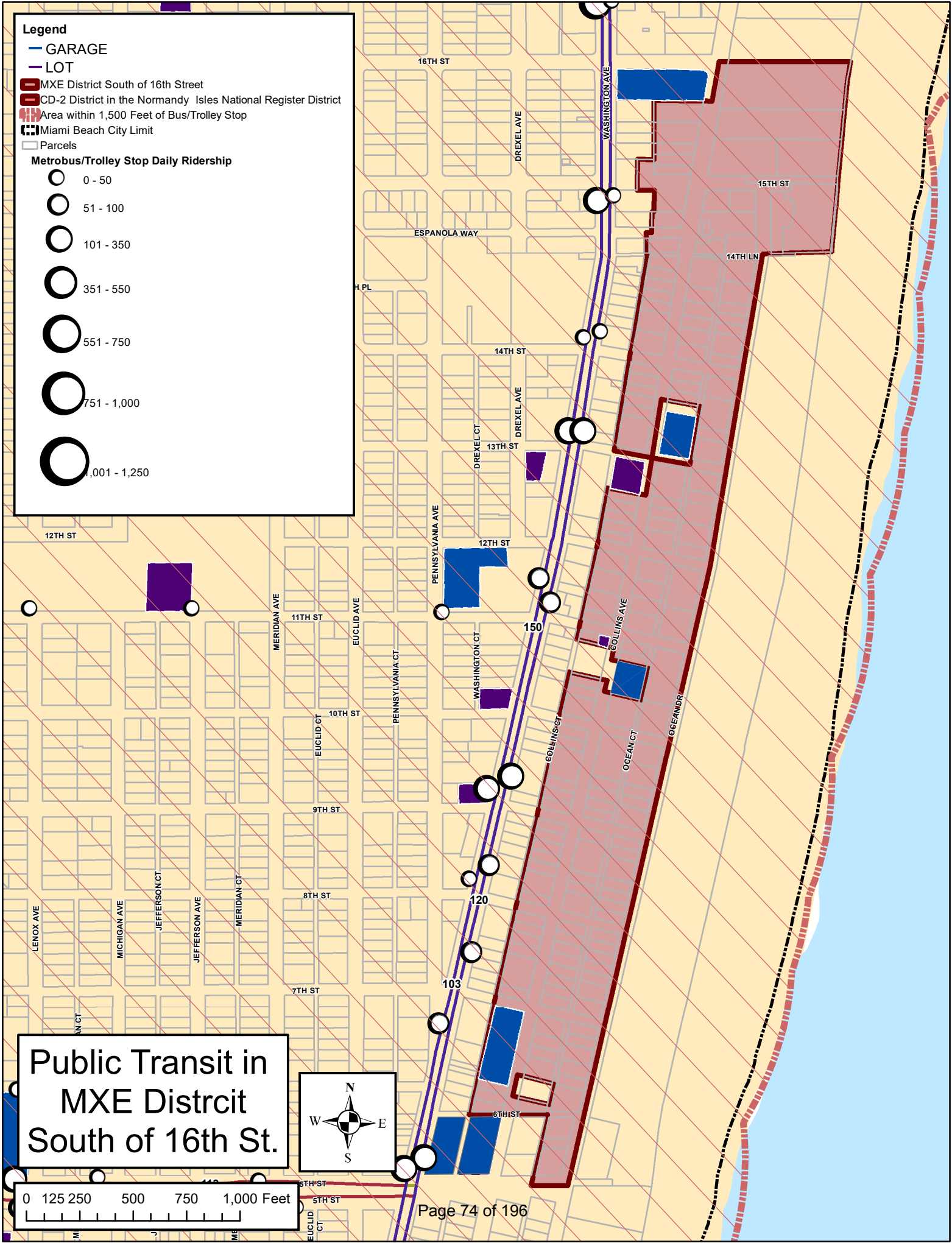
Page 63 of 196
President Villa Hotel
1425 Collins Av, ground level addition

Legend

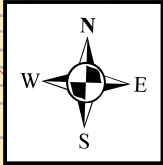
- GARAGE
- LOT
- MXE District South of 16th Street
- CD-2 District in the Normandy Isles National Register District
- Area within 1,500 Feet of Bus/Trolley Stop
- Miami Beach City Limit
- Parcels

Metrobus/Trolley Stop Daily Ridership

- 0 - 50
- 51 - 100
- 101 - 350
- 351 - 550
- 551 - 750
- 751 - 1,000
- 1,001 - 1,250



Public Transit in
MXE District
South of 16th St.



0 125 250 500 750 1,000 Feet



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

Item 4
COMMITTEE MEMORANDUM

TO: Land Use and Sustainability Committee

FROM: Jimmy L. Morales, City Manager

DATE: May 6, 2020

TITLE: **PROPOSED ZONING OVERLAY FOR THE LEHRMAN DAY SCHOOL AT 77TH STREET AND DICKENS AVENUE.**

ACTION REQUESTED:

Discuss the item and move to the Planning Board.

ADMINISTRATION RECOMMENDATION:

Endorse the proposal and forward to the Planning Board.

HISTORY:

On December 11, 2019, at the request of Commissioner Micky Steinberg, the City Commission referred the item to the Land Use and Development Committee and the Planning Board (Item C4N). The item was placed on the January 21, 2020 agenda of the newly created Land Use and Sustainability Committee (LUSC), and deferred to the February 18, 2020 LUSC meeting.

On February 18, 2020, the item was deferred to March 17, 2020. The March 17, 2020 LUSC meeting was postponed and the item was placed on the May 6, 2020 LUSC agenda.

ANALYSIS:

The Lehrman Day School is a long standing, community institution that has served the residents of Miami Beach for decades. In order to accommodate modest expansion plans, inclusive of a new gym facility and internal drop-off and pick-up area, the school is seeking modifications to the RM-1 development regulations. These modifications would be specific to an overlay for the institutional use.

The Lehrman School has prepared the attached draft of the proposed overlay and LDR amendments. The proposed changes modify the physical development regulations of a school parcel within the overlay, more particularly as it relates to building height, setbacks, lot width and minimum lot aggregation.

Subsequent to a recommendation by the LUSC, the proposal will proceed to the Planning Board for a formal review and recommendation. The administration is supportive of the modifications proposed in the draft overlay and recommends that it be forward to the Planning Board.

CONCLUSION:

The administration recommends that the item be endorsed and forwarded to the Planning Board.

Applicable Area

North Beach

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?

Yes

Does this item utilize G.O. Bond Funds?

No

Departments

Planning

ATTACHMENTS:

Description

 Draft ORD - Lehman Overlay

Type

Memo

**Zoning Overlay for North Beach Private and Public Schools
District Overlay**

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 "NORTH BEACH PRIVATE AND PUBLIC SCHOOL OVERLAY DISTRICT," TO PROVIDE REGULATIONS FOR RENOVATION AND ENHANCEMENTS TO SCHOOLS WITHIN THE BOUNDARIES; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City's land development regulations include regulations for permitted, accessory, conditional, and prohibited uses in the RM-1 districts; and

WHEREAS, provisions to allow private and public schools to continue to operate in RM-1 in North Beach are necessary and desirable; and

WHEREAS, the City seeks to encourage the revitalization and redevelopment of the existing private and public schools in order to address the current educational requirements and needs of the future; and

WHEREAS, the City seeks to promote enhancements for children in educational facilities, providing safeguards and address the greater security needs in today's atmosphere; and

WHEREAS, the City seeks to ensure that the scale and massing of new development is consistent with the established context of the existing residential neighborhoods and maintains the low-scale, as-built character of the surrounding neighborhoods.; and

WHEREAS, the proposed overlay is necessary in order to promote and maintain schools in North Beach.

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 III. "Overlay Districts," Division 14. "North Beach Private and Public School District Overlay," is hereby created as follows:

DIVISION 14. - NORTH BEACH PRIVATE AND PUBLIC SCHOOL DISTRICT OVERLAY

Sec. 142-870.20. - Location and purpose.

(a) The overlay regulations in this division shall apply to all new and existing schools located in that portion of the RM-1 Residential Multifamily Low Intensity zoning district which is bounded on the north by the south side of 78th Street; on the east by the west side of Collins Avenue;

on the west by the east side of Tatum Waterway; and on the south by the north side of 75th Street.

(b) In the event of a conflict between the overlay regulations in this division and the regulations for the underlying RM-1 zoning district and/or North Beach National Register Conservation District Overlay, these overlay regulations shall control.

(c) The purpose of this overlay district is to:

- (1) Provide land-use regulations that encourage the retention and preservation of existing public and private schools within the overlay;
- (2) Promote enhancements to educational facilities for children that improve academic offerings, campus security, vehicle circulation, parking, and student access; and
- (3) Ensure that the scale and massing of new development is consistent with the established context of the existing residential neighborhoods, and maintain the low-scale, as-built character of the surrounding neighborhoods.

Sec. 142-870.21. - Development regulations and area requirements.

The following overlay regulations shall apply to the North Beach Private and Public School District Overlay:

(a) The lot area, lot width, and lot aggregation requirements for properties zoned RM-1 within the North Beach Private and Public School District Overlay district are as follows:

<u>Minimum Developable Lot Area (Square Feet)</u>	<u>Minimum Developable Lot Width (Feet)</u>	<u>Maximum Developable Lot Width (Feet)</u>	<u>Maximum Developable Aggregation (Platted Lots)</u>
<u>5,000 SF</u>	<u>50 feet</u>	<u>Developments for schools have no maximum lot width restriction.</u>	<u>Schools: up to nine (9) lots may be aggregated.</u>

(b) The height requirements for RM-1 properties within the North Beach Private and Public School District Overlay district are as follows:

- (1) The maximum building height for new construction shall be 32 feet for the first 10 feet of building depth, as measured from the minimum required front setback, and a maximum of 60 feet for the remainder of the building depth when building includes a gymnasium; otherwise, the maximum building height shall be 45 feet.
- (2) In the event that the existing building exceeds 32 feet in height that existing height shall control.
- (3) Elevator and stairwell bulkheads extending above the main roofline of a building shall be required to meet the line-of-sight requirements set forth in section 142-1161,

unless waived by either the historic preservation board or design review board, as may be applicable.

(c) Exterior building and lot standards.

(1) There shall be no minimum or maximum yard elevation requirements or maximum lot coverage requirements within the North Beach Private and Public School District Overlay.

(d) The setback requirements for all buildings located in the RM-1 district within the North Beach Private and Public School District are as follows:

<u>Front</u>	<u>Interior Side</u>	<u>Street Side</u>	<u>Rear</u>
<u>10 feet</u>	<u>Non-waterfront: Lot width of 60 feet or less: five feet. Lot width of 61 feet or greater: 7.5 feet, or eight percent of lot width, whichever is greater.</u>	<u>Five feet</u>	<u>Non-waterfront lots: Five feet</u>

(e) No additional setback requirements shall be imposed for landscaping.

(f) For development of school sites consisting of nine platted lots or less, the width of any new building shall not have any restrictions.

(g) For development of school sites consisting of nine platted lots or less, there shall be no minimum distance separation between buildings on a single site.

(h) For development of school sites, a courtyard or semi-public outdoor area shall not be required.

(i) Notwithstanding the provisions in section 142-1132, within the required front yard, rear yard, or side yards facing a street or interior, fences, walls, and gates shall not exceed eight (8) feet in height, as measured consistent with the definition of "adjusted future grade" in section 114-1.

Sec. 142-870.22. - Additional parking standards.

(a) Notwithstanding the provisions of section 130-32, there shall be no minimum parking requirement associated with the redevelopment of an existing school.

(b) All exterior parking and driveway surface areas shall be composed of semi-pervious or pervious material such as concrete or grass pavers, set in sand.

(c) Required wheel stops shall have a low profile, and shall not exceed five feet in width.

(d) All parking lots for schools shall meet minimum 5' front, 5' rear, 5' side-interior, and 5' side facing a street, yard setback, notwithstanding any other regulations .

(e) For schools, a maximum of five (5) one-way driveway curb cuts per platted lot within a development site shall be permitted. The maximum width of each driveway curb cut shall not exceed fifteen (15) feet.

- (f) Notwithstanding the provisions of section 130-101, no new loading spaces shall be required in connection with the expansion of an existing school (including the construction of a new building or structure, or an increase to the floor area of the school).
- (g) Notwithstanding Sec. 126-11 for landscaped areas in permanent parking lots, when reconfiguring existing parking for a school they minimum requirements shall not apply.

SECTION 2. Repealer.

All ordinances or parts of ordinances and all sections and parts of sections in conflict herewith be and the same are hereby repealed.

SECTION 3. 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, as amended. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 4. Severability.

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 5. Effective Date.

This Ordinance shall take effect the ____ day of _____, 2020.

PASSED AND ADOPTED this ____ day of _____, 2020.

Dan Gelber, Mayor

ATTEST:

Rafael E. Granado, City Clerk

APPROVED AS TO FORM
AND LANGUAGE
AND FOR EXECUTION

City Attorney

Date

First Reading: _____, 2020

Second Reading: _____, 2020

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



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

Item 5
COMMITTEE MEMORANDUM

TO: Land Use and Sustainability Committee

FROM: Jimmy L. Morales, City Manager

DATE: May 6, 2020

TITLE: A) Review Of Resilience Strategy Workplan – Planned And In Progress Resiliency Projects. B1.) Discussion Regarding Establishing Private Property Harmonization And The Residential / Commercial Property Runoff And Public Drainage Infrastructure Policies For The West Avenue Neighborhood. (PW) B2.) Discussion Regarding Siting Of The Stormwater Pump Station And Above Ground Components For The West Avenue Neighborhood Project. (CIP) C) Discussion Regarding The Relocation Of Auxiliary Power Generator For The Storm Water Pump Station For Indian Creek Phase III Project. D) Review of Palm Hibiscus Status. (Verbal Update) E) Palm Hibiscus / Road Elevation Experience. (Verbal Update)

Applicable Area

Citywide

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?

Yes

Does this item utilize G.O. Bond Funds?

Yes

Departments

Capital Improvement Projects & Public Works

ATTACHMENTS:

Description	Type
❑ A) Review Of Resilience Strategy Workplan – Planned And In Progress Resiliency Projects.	Memo
❑ B1.) Discussion Regarding Establishing Private Property Harmonization And The Residential / Commercial Property Runoff And Public Drainage Infrastructure Policies For The West Avenue Neighborhood. (PW)	Memo
❑ B1.) Attachment 1	Memo
❑ B1.) Attachment 2	Memo
❑ B1.) Attachment 3	Memo
❑ B2.) Discussion Regarding Siting Of The Stormwater Pump Station And Above Ground Components For The West Avenue Neighborhood Project. (CIP)	Memo

- ▣ C) Discussion Regarding The Relocation Of Auxiliary Power Generator For The Storm Water Pump Station For Indian Creek Phase III Project. Memo

LAND USE AND SUSTAINABILITY COMMITTEE PROJECTS PROGRESS REPORT

	Project Name	District	Scope of Work	Project Budget	Current Status	Anticipated Completion
Design						
1	First Street Imp Alton & Washington	South Beach	Improvements on First Street to include complete roadway reconstruction, elevation of the roadway to a minimum 3.7 NAVD elevation, utility removal/replacement, new storm drainage line installation, new storm pump station (120,000 gpm), force main installation, landscaping and lighting. Its also includes the installation of storm drainage trunk lines along Alton Road & Washington avenue from South Point Drive to 5th Street.	\$24,000,000	Coordinating with SOFNA and other project stake holders the proposed typical section and the location of the proposed stormwater outfall. Design will continue once the typical section and the location of the outfall are selected.	May 2022
2	Indian Creek -Street Drainage Imp. - Phase III	Middle Beach	Storm water drainage improvements on Indian Creek Drive and side streets from 25 Street to 41 Street, including completing the stormwater pump station at 32nd Street. Final pavement restoration of the roadway and sidewalk on Collins Avenue between 25 Street and 26 Street; Rebuilding and raising the roadway and sidewalk on Indian Creek Drive between 26 Street and 41 Street and new street lighting, signage and pavement markings.	\$33,000,000	Contractor mobilized on site on March 8, 2020. Contractor has implemented Maintenance of Traffic (MOT) on Collins Avenue, Indian Creek Road closure, installation of temp lighting system, demolition, installation of dewatering system, harmonization, and installation of 72-inch drainage pipe. Franchise utility owners have started utility relocation.	Winter 2021
3	Maurice Gibb Park Redesign (GOB)	Middle Beach	Renovation of the park to include soil remediation, a new playground with shade canopy, pavilion(s), a dog park, walkways, landscaping with open sodded areas, irrigation, signage and park furnishings.	\$7,020,681	The 90 % Design Documents are completed and are being reviewed by city departments. The permit process with the Army Corps of Engineers, FDEP and Miami Dade County DERM and the City of Miami Beach Building Department is underway. Construction is estimated to commence by early 2021.	Summer 2022
4	Bayshore Park (Par 3) (GOB)	Middle Beach	A new passive community park to include environmental remediation, a central lake; open meadows and informal open play field areas; site grading; pavilion; 6 tennis courts with restroom facilities; children's playground; dog park; boardwalk and pathways; security lighting; vita course and fitness cluster; butterfly garden; linear water feature and parking lot. Resilient strategies proposed at the park include stormwater retention system, pervious pavement; solar panels for pedestrian lighting, energy efficient lighting and roof mounted solar panels.	\$21,160,190	DERM has issued the conditional approval of the project design including the sustainable and resilient components. Proceeding towards 90% design. Anticipating start of the procurement process by Fall 2020. Project completion is now expected by the end of 2022.	Winter 2022
5	Middle Beach Recreational Corridor Ph 3 (GOB)	Middle Beach	Construction of approximately 3,500 linear feet of an on-grade pedestrian walkway and the demolition of the existing wooden boardwalk from 24th to 45th street. Dune enhancements such as native dune vegetation species and beach compatible dune fill and irrigation systems will be provided for the landscaping. Path lighting will meet Florida Fish and Wildlife Commission's marine turtle nesting requirements.	\$13,215,000	Demolition of the existing wooden boardwalk was completed in March. Trees have been relocated from 36 Street north to 46 Street. The removal of the invasive planting has been completed up to 46 Street. The root raking, earthwork and subgrade stabilization is in progress from 36 Street North to 46 Street. Underground electrical and irrigation main activities has commenced from 36 Street to 46 Street.	Winter 2021

LAND USE AND SUSTAINABILITY COMMITTEE PROJECTS PROGRESS REPORT

	Project Name	District	Scope of Work	Project Budget	Current Status	Anticipated Completion
6	North Beach Oceanside Park Renovation	North Beach	Renovation of the park to include pedestrian entrances with new gates, pedestrian beach access, walkways with lighting, refurbished restrooms and picnic shelters, site furnishings, open sodded areas, landscape and irrigation.	\$12,700,000	CIP and Parks and Recreation Department are exploring other options of procuring the different park components. Cost proposals from the different contractors have been received and are being evaluated to confirm scope of work. The revised plans from the consultant has been placed on a temporary hold until CIP & Parks and Recreation Department complete the evaluation process.	Spring 2022
7	Sunset Harbor Pump Station #3 Screen	Middle Beach	A perforated metal enclosure is being designed to screen the equipment at the Sunset Harbour Pump Station #3. The height of the screen will vary from 9'-0" above the traffic barricade adjacent to the generator, to 3'-0" at the westernmost portion of the pump station. At the eastern side, the enclosure will also serve as an entrance sign for the neighborhood.	\$750,000	Award for Construction Contract was approved by City Commission on April 22, 2020. Kick off meeting expected by end of next week. Construction is expected within 30 days .	Winter 2020
Preconstruction						
8	Brittany Bay Park	North Beach	This project includes the creation of a living shoreline between the existing remaining seawall and the concrete retaining / seawall. ADA-Accessible overlook that will allow park patrons to walk from the Park to the existing seawall's edge. The project is intended to enhance the surrounding riparian and intertidal environment by creating a new habitat for aquatic and terrestrial species and improving water quality via filtration of upland runoff. The Park renovations also include new concrete walkways, milling and resurfacing the existing parking lot, new trees, new exercise equipment, furniture, lighting and new landscaping.	\$1,400,000	Plans are being reviewed by the City of Miami Beach Building Department, Miami Dade County DERM, and FDEP. The Army Corps has approved the plans and issued the required permit for the project. Upon approval for permits, the project will enter the procurement phase for the selection of a contractor.	Spring 2021
Construction						
9	Palm & Hibiscus Island Neighborhood Improvements	South Beach	This project includes a variety of aboveground and underground improvement such as new water main and service, new storm water drainage system including 3 pump stations, lining of the sanitary sewer system and replacing all the sewer laterals, raising the elevation and reconstruction of the roadways including installation of Geo Textile, new decorative street lights, speed tables, landscape, hardscape improvements, harmonization with private properties and undergrounding the franchise utilities on Hibiscus Island. Additional scope of services was added to the project to install 3 bi-fuel generators as well as, implementation of the new drainage criteria to install and harmonize a yard drain in each private property with the finished floor elevation (FFE) lower than the crown of road.	\$48,938,882	The overall project including the generators, is 95% complete. The design of the private property drainage inlets, for qualifying properties under the City's new drainage policy are complete. Private property drainage connection packages for both Palm and Hibiscus Islands have been submitted to DERM on February 10, 2020 and additional packages have been submitted on April 20, 2020. The response to DERM comments for the Palm and Hibiscus closeout package was submitted on April 20, 2020. Permit modification and closeout package for Palm Island will be submitted as soon as storm drain structures have been cleaned. Contractor has delivered three emergency back-up generators of which two have been installed. The Hibiscus generator location has been finlized between FPL, HOA and the contractor for the best desirable location and is in process of installation.	Summer 2020

LAND USE AND SUSTAINABILITY COMMITTEE PROJECTS PROGRESS REPORT

	Project Name	District	Scope of Work	Project Budget	Current Status	Anticipated Completion
10	Stormwater Pump Station at 19th Street East of Meridian	Middle Beach	Installation of a stormwater pump station, including an emergency generator and seawall reconstruction along Collins Canal near 19th Street and Meridian Avenue. A change order was approved for the extension of the Botanical Garden along the Dade Canal and a seawall at the Carl Fisher Clubhouse.	\$8,400,000	<p>19 Street Pump station is currently operational. DERM final certification is pending.</p> <p>Botanical Garden expansion, all work completed with the exception of ground covers, which is anticipated to be completed by the end of April.</p> <p>Carl Fisher Seawall, Carl Fisher Seawall, work commenced on February 3, 2020, all piles and panels completed. Cap has been poured. Back filing and landscaping commencing.</p>	<p>Completed</p> <p>Spring 2020</p> <p>Summer 2020</p>
11	Venetian Islands Neighborhood Improvements	South Beach	Work includes site preparation, earthwork, demolition, storm drainage, roadway, concrete valley gutters, paving and grading, water main, lighting, and planting. Additional scope added included installation of six (6) stormwater pump stations, two per island, and automated meter reading technology.	\$37,382,720	All Pumps Stations and easment restorations are complete. DERM is performed their final inspections, and issued a list of items to be addressed, which are currently being done and a re-inspection request will be requested. Following the homeowner's association request, additional studies and discussion are been done in a collaboration efforts to the final recommendation on the roadway remediation.	TBD
12	Venetian Islands Seawalls	South Beach	This project entails seawall replacement, at two (2) locations consisting of precast concrete bulkhead panels, king piles, batter piles and concrete cap; and seawall cap raising at five (5) locations consisting in new concrete cap, batter piles and retaining walls, all locations within the Venetian Islands.	\$650,000	Permit modification approved by DERM and SFWM, and currently resubmitting final revisions to the Building Department in response to their latest review comments. Upon issuance of the Building Department permit, contractor will mobilize within 2 weeks, which is anticipated for no later than Mid May. Stakeholders outreach ongoing.	TBD

LAND USE AND SUSTAINABILITY COMMITTEE PROJECTS PROGRESS REPORT

	Project Name	District	Scope of Work	Project Budget	Current Status	Anticipated Completion
13	West Avenue - Phase II Improvements - North of 14 Street	South Beach	West Avenue - Phase II Improvements North of 14th St - Scope includes Water, Sewer, Storm and above ground improvements from 14th Street north to the Collins Canal and include a new stormwater Pump Station and Baywalk at the end of Lincoln Road. Project is being re-designed to include the following resiliency items: Road elevation 3.7 NAVD; 10 year storm event; Mobility – 2 lanes with center continuous turn lane; Protected bike path; Street ends enhanced design; Permanent generators and 120,000 gpm pump station.	\$79,158,564	<p>Design of Water and Sewer System is 100% complete.</p> <p>Roadway, Landscaping, lighting, drainage and Pump Station Design is 100% complete.</p> <p>Design/build team submitted proposal for the design efforts to include the additional water qualities components as requested by DERM. A Change Order was approved by City Commission on April 22, 2020, for additional design costs. It is anticipated to submit to DERM 90 days after approval of proposal. Staff has completed the analysis for the above ground components, and an Item will be discussed at May's LUSC meeting regarding its location.</p> <p>Harmonization meetings with properties owners commenced, we are working in ways to continue these meeting in a safe way due to the COVID-19.</p> <p>The expected start date has moved up to now Fall of 2020.</p>	Summer 2023
14	West Avenue - Phase II Improvements - South of 14th Street	South Beach	West Avenue - Phase II Improvements South of 14th St. The scope includes Water, Sewer, Storm and above ground improvements from 14th Street south to 5th Street. Project is being re-designed to include the following resiliency items: Road elevation 3.7 NAVD; 10 year storm event; Mobility – 2 lanes with center continuous turn lane; Protected bike path; Street ends enhanced design; Elimination of street paving to allow for wider pedestrian sidewalks and more green areas; Permanent generators for existing pump stations.		<p>Design of Water and Sewer System is 100% complete.</p> <p>Roadway, Landscaping, lighting, drainage and Pump Station Design is 100% complete.</p> <p>Design/build team submitted proposal for the design efforts to include the additional water qualities components as requested by DERM. A Change Order was approved by City Commission on April 22, 2020, for additional design costs. It is anticipated to submit to DERM 90 days after approval of proposal.</p> <p>Harmonization meetings with properties owners commenced, we are working in ways to continue these meeting in a safe way due to the COVID-19.</p> <p>The expected start has moved up to now Fall of 2020.</p>	Winter 2022
TOTAL				\$287,776,037		



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

COMMITTEE MEMORANDUM

TO: Land Use and Sustainability Committee

FROM: Jimmy L. Morales, City Manager

DATE: May 6, 2020

TITLE: A DISCUSSION REGARDING ESTABLISHING; (1) PRIVATE PROPERTY HARMONIZATION POLICY; AND (2) THE RESIDENTIAL/COMMERCIAL PROPERTY RUNOFF AND PUBLIC DRAINAGE INFRASTRUCTURE POLICIES FOR THE WEST AVENUE NEIGHBORHOOD

HISTORY:

On March 22, 2017, the Mayor and City Commission passed Resolutions No. 2017-29800 and Resolution No. 2017-29799, awarding design/build services to Ric-Man Construction Florida, Inc (Ric-Man)., for West Avenue North of 14th Street Improvements and West Avenue South of 14th Street Phase II.

The project is currently in the design phase. The water distribution system and sanitary sewer system designs are complete. Roadway and landscaping plans are 90% complete. The stormwater pump station design is 90% complete. However, the Miami Dade County Department of Regulatory and Economic Resources (DERM) has requested additional water quality treatment for the stormwater design.

In order to proceed with the West Avenue Neighborhood Improvement Project that addresses critical needs within the water, wastewater and stormwater systems, the project team is proposing the proceeding as a formal City policy that remains consistent with the harmonization requirements of the DCP, providing relief to private property owners that cannot manage stormwater runoff onsite, while aligning with the City's holistic stormwater management strategy.

ANALYSIS:

The project team is proposing a policy that remains consistent with the harmonization requirements of the DCP and provides relief to private property owners that cannot manage stormwater runoff onsite, while aligning with the City's holistic stormwater management strategy.

The West Avenue Neighborhood Improvement project impacts 178 properties, which result in 192 areas that require harmonization. Of these areas, the project team has developed harmonization plans for 129 locations. The team has presented 16 properties with proposed plans and received their feedback. The team will continue to meet with properties, presenting fully detailed harmonization plans prior to commencing construction on the harmonization work.

Additionally, the team has presented and discussed the project at numerous community and neighborhood meetings, including the West Avenue Neighborhood Association, North of Fifth Neighborhood Association, individual building associations, and other meetings organized by the community. As of December of 2019, the team began holding open house meetings at the Capital Improvement Projects offices every Friday, where anyone from the community was welcome to meet with the team for information or to provide feedback. Representatives of West Avenue Neighborhood Association have attended these meeting and are currently meeting with the team on a bi-weekly basis.

As a result of these meetings two overarching concerns have been identified: 1) community members have expressed a concern over the potential costs which could be incurred by private properties to restore or rebuild private improvements affected by the project; and 2) certain property owners are requesting direction on the ability to connect their private property drainage to the City's stormwater system.

Private Property Harmonization

The elevation of roadways requires that the City's right-of-way be harmonized with adjacent private properties. While the harmonization efforts endeavor to satisfy the requirements of private property owners, there are certain, special or atypical, features within the City's right-of-way. These features often have established variance agreements that explicitly require the private property owner to pay for their removal and replacement. Features without these agreements are right-of-way encroachments, not approved by the City. Additionally, since the features are unique and a standard removal and replacement process cannot be developed, the costs associated with the removal and replacement of these features were not contemplated as part of the scope of the Design Criteria Package (DCP).

The DCP directs the Design-Builder to replace driveways and walkways with matching asphalt or concrete. In cases where existing driveways have been constructed using different materials (pavers, tiles, stamped concrete, etc.), the Design-Builder is currently directed to replace those materials with concrete or coordinate with the property owner to determine if the existing material can be salvaged and re-used at the owner's expense.

There are several other features which may be impacted by harmonization including, but not limited to, fences, walls, gates, fire connections, railings, and landscaping. The

DCP requires the removal, re-installation, or modification, of these components to be done at the owner's expense.

While staff continues to work with private property owners to address their concerns, the policy should reflect that costs associated with the removal and replacement of these atypical features, whether on the City's right-of-way or within a harmonized area of the private property, is the responsibility of private property owners.

Residential/Commercial Property Run-off and Public Drainage Infrastructure

In addition to the challenges posed by the required harmonization, certain properties will need to address drainage requirements.

The City of Miami Beach operates a citywide stormwater management system that collects, conveys, and disposes of stormwater runoff from public rights of way. The primary function of this system is to facilitate travel along thoroughfares while maintaining a safe and livable condition for the City's residents and visitors. Recently, the City has undertaken a significant capital program that upgrades the system to account for sea level rise and climate change.

During the development of its capital program, the City consulted numerous subject matter experts (including the Urban Land Institute) and developed a holistic stormwater management strategy - one that attenuates flooding while mimicking nature's water cycle. In addition, the team and community members received confirmation of the project goals and valuable feedback from the West Avenue Resilience Accelerator, a partnership between 100 Resilient Cities and Columbia University. The current strategy provides a framework for a sustainable approach to urban stormwater management. It includes the elevation of certain roadways to minimize sunny day flooding and incorporates green infrastructure that replenishes the freshwater lens and mitigates the transport of excessive nutrient loads into Biscayne Bay.

Therefore, to ensure that stakeholder concerns are properly addressed when implementing this strategy, staff has developed the following policy that endeavors to address private property concerns, while aligning with the overall stormwater management strategy. The policy would apply to any private property (residential or commercial) that satisfies the stipulated conditions and is enumerated below.

Definitions

Design Storm Event - a 10 year – 24 hour storm as defined within Resolution No. 2017-30039.

Habitable Space – the building livable area, as defined in the Miami-Dade County Property Appraiser's Glossary of Terms. The livable area represents the space used for habitation purposes. Typically, livable area will have access to electricity, plumbing and oftentimes air conditioning. It may include hallways, closets, bathrooms, storage

and other areas outside the main living structure. It does not include garages, carports, and patios.

Predevelopment Model – a model of the existing stormwater drainage system, representing its performance during the design storm event.

Post Development Model - a model of the proposed stormwater drainage system, representing its performance during the design storm event.

Policy

Public drainage improvements will not subject private properties to additional flooding. Consequently, the finished floor elevations of habitable spaces will not have an increased risk of flooding during the design storm event. This will be demonstrated by comparing a predevelopment and post development model.

In order to maximize water quality treatment, private properties should retain the first 1-½ inches of rainfall on their premises.

Properties must accommodate the percolation of all staged water within a 24 hour period.

In cases where the finished floor elevation of habitable spaces within private properties is located below the future crown of the adjacent roadway and the private property owner's consent is obtained, drainage will be provided within the private property and connected to the City's stormwater system. The private property drainage system, when possible, will be placed at an elevation to retain the first 1-½ inches of rainfall on the premises and public infrastructure will be sized to address water quantity.

When the retention of the first 1-½ inches of rainfall will flood habitable spaces, the private property drainage system will be placed at an elevation below the elevation of the finished floor of habitable spaces and public infrastructure will be designed to accommodate water quantity from the private property. Water quality treatment will remain the responsibility of the private property owner and the private property drainage system will be placed at an elevation that maximizes the percolation of staged water.

In cases where the finished floor elevation of habitable spaces is located above the future crown of the adjacent roadway and the grade elevation of the private property is substantially low, thereby not allowing water to percolate on site, drainage may be provided within the private property and connected to the City' stormwater system at the discretion of the City Engineer. The private property drainage should be designed to maximize the water retained on site and public infrastructure will be sized to accommodate water quantity. Water quality treatment will remain the responsibility of the private property owner.

The purpose of the public stormwater system is to collect, convey, and dispose of stormwater runoff within public rights-of-way. The fees collected by the stormwater enterprise fund do not contemplate the impacts associated with direct connections to the City's stormwater system. Thus, the City will develop a rate structure to charge private properties directly connected to the City's public stormwater system. Once developed, this rate structure will be presented to the Finance and Economic Resilience Committee (FERC) and, upon FERC approval will be presented to the City Commission for formal adoption.

The intent of this policy is to provide a functional direct drainage connection to private property owners. Any restoration work on private property associated with the construction of the drainage connections will be limited to the materials defined in the DCP for harmonization work. As such no specialty materials or features will be restored by the City, and the costs of restoring the private property beyond utilizing concrete, asphalt, or sod will remain the sole responsibility of the private property owner.

All water quality treatment requirements, stipulated by DERM or any entity with jurisdiction, will remain the sole responsibility of the private property owner. These include, but are not limited to, the retention of the first 1-½ inches of rainfall, the sequestering of contaminants, and the sequestering of nutrients.

Any direct private property connections to the City's stormwater system are intended as a temporary condition. The direct connections will be removed and no new direct connections will be allowed, once the private properties are redeveloped.

Results from the 2019 Resident Survey show that 50% of residents rated efforts to manage stormwater drainage and flooding as excellent or good. In order to continue maintaining excellent standards in this area, the City recommends establishing harmonization and drainage policies for the West Avenue Neighborhood.

CONCLUSION:

In order to proceed with the West Avenue Neighborhood Improvement Project that addresses critical needs within the water, wastewater and stormwater systems, the project team requires direction regarding drainage and harmonization policies.

The project team is proposing a policy that remains consistent with the harmonization requirements of the DCP and provides relief to private property owners that cannot manage stormwater runoff onsite, while aligning with the City's holistic stormwater management strategy.

The following policy and attached draft Resolution is being presented to the members of the Land Use and Sustainability Committee for consideration and motion to proceed to the full City Commission for approval.

Applicable Area

South Beach

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?

Yes

Does this item utilize G.O. Bond Funds?

No

Departments

Public Works

ATTACHMENTS:

Description	Type
📎 DRAFT reso	Memo
📎 2017-29800 Reso	Resolution
📎 2017-29799 Reso	Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ESTABLISHING; (1) PRIVATE PROPERTY HARMONIZATION POLICY; AND (2) THE RESIDENTIAL/COMMERCIAL PROPERTY RUNOFF AND PUBLIC DRAINAGE INFRASTRUCTURE POLICIES FOR THE WEST AVENUE NEIGHBORHOOD.

WHEREAS, on March 22, 2017, the Mayor and City Commission passed Resolutions No. 2017-29800 and Resolution No. 2017-29799, awarding design/build services to Ric-Man Construction Florida, Inc (Ric-Man)., for West Avenue North of 14th Street Improvements and West Avenue South of 14th Street Phase II; and

WHEREAS, the project is currently in the design phase; and

WHEREAS, the water distribution system and sanitary sewer system designs are complete. Roadway and landscaping plans are 90% complete. The stormwater pump station design is 90% complete; and

WHEREAS, the Miami Dade County Department of Regulatory and Economic Resources (DERM) has requested additional water quality treatment for the stormwater design; and

WHEREAS, in order to effectively finalize the designs and develop the additional water quality measures, the project team is proposing the proceeding harmonization and drainage policies for the West Avenue Neighborhood Improvement Project; and

WHEREAS, there have been project briefings with residents and two overarching concerns have been identified: 1) community members have expressed a concern over the potential costs which could be incurred by private properties to restore or rebuild private improvements affected by the project; and 2) certain property owners are requesting direction on the ability to connect their private property drainage to the city's stormwater system; and

WHEREAS, the elevation of roadways requires that the City's right-of-way be harmonized with adjacent private properties; and

WHEREAS, there are certain, specialty or atypical, features within the City's right-of-way, that often have established variance agreements that explicitly requires the private property owner to pay for their removal and replacement, and as such should be reflected in the City policy; and

WHEREAS, features without these agreements, located within the City's right-of-way, are right-of-way encroachments, not approved by the City, and the costs associated with the removal and replacement of these features should be borne by the private property owner and should be reflected in the City policy; and

WHEREAS, the DCP directs the Design-Builder to replace driveways and walkways with matching asphalt or concrete. In cases where existing driveways have been constructed using different materials (pavers, tiles, stamped concrete, etc.), the Design-Builder is currently directed to replace those materials with concrete or coordinate with the property owner to determine if the existing material can be salvaged and re-used at the owner's expense; and

WHEREAS, there are several other features which may be impacted by harmonization including, but not limited to, fences, walls, gates, fire connections, railings, and landscaping. The DCP requires the removal, re-installation, or modification, of these components to be done at the owner's expense; and

WHEREAS, harmonization work may impact portions of the private property that may contain specialty or atypical features that are unique, and the costs associated with the removal and replacement of these features within private property shall be borne by the private owner; and

WHEREAS, certain properties will also need to address drainage requirements; and

WHEREAS, the City of Miami Beach operates a citywide stormwater management system that collects, conveys, and disposes of stormwater runoff from public rights of way; and

WHEREAS, to ensure that stakeholder concerns are properly addressed, staff has developed the following policy that endeavors to address private property concerns, while aligning with the overall stormwater management strategy. The policy would apply to any private property (residential or commercial) that satisfies the stipulated conditions and is enumerated below.

Definitions

1. Design Storm Event - a 10 year – 24-hour storm as defined within Resolution No. 2017-30039.
2. Habitable Space – the building livable area, as defined in the Miami-Dade County Property Appraiser's Glossary of Terms. The livable area represents the space used for habitation purposes. Typically, livable area will have access to electricity, plumbing and oftentimes air conditioning. It may include hallways, closets, bathrooms, storage and other areas outside the main living structure. It does not include garages, carports, and patios.
3. Predevelopment Model - a model of the existing stormwater drainage system, representing its performance during the design storm event.
4. Post Development Model - a model of the proposed stormwater drainage system, representing its performance during the design storm event.

Policy

1. Public drainage improvements will not subject private properties to additional flooding. Consequently, the finished floor elevations of habitable spaces will not have an increased risk of flooding during the design storm event. This will be demonstrated by comparing a predevelopment and post development model.
2. In order to maximize water quality treatment, private properties should retain the first 1-½ inch of rainfall on their premises.
3. Properties must accommodate the percolation of all staged water within a 24-hour period.

4. In cases where the finished floor elevation of habitable spaces within private properties is located below the future crown of the adjacent roadway and the private property owner's consent is obtained, drainage will be provided within the private property and connected to the City's stormwater system. The private property drainage system, when possible, will be placed at an elevation to retain the first 1-½ inch of rainfall on the premises and public infrastructure will be sized to address water quantity.
5. When the retention of the first 1-½ inch of rainfall will flood habitable spaces, the private property drainage system will be placed at an elevation below the elevation of the finished floor of habitable spaces and public infrastructure will be designed to accommodate water quantity from the private property. Water quality treatment will remain the responsibility of the private property owner and the private property drainage system will be placed at an elevation that maximizes the percolation of staged water.
6. In cases where the finished floor elevation of habitable spaces is located above the future crown of the adjacent roadway and the grade elevation of the private property is substantially low, thereby not allowing water to percolate on site, drainage may be provided within the private property and connected to the City's stormwater system at the discretion of the City Engineer. The private property drainage should be designed to maximize the water retained on site and public infrastructure will be sized to accommodate water quantity. Water quality treatment will remain the responsibility of the private property owner.
7. The purpose of the public stormwater is to collect, convey, and dispose of stormwater runoff within public rights of way. The fees collected by the stormwater enterprise fund do not contemplate the impacts associated with direct connections to the City's stormwater system. Thus, the City will develop a rate structure to charge private properties directly connected to the City's public stormwater system. Once developed, this rate structure will be presented to the Finance and Economic Resilience Committee (FERC) and, upon FERC approval will be presented to the City Commission for formal adoption.
8. The intent of this policy is to provide a functional direct drainage connection to private property owners. Any restoration work on private property associated with the construction of the drainage connections will be limited to the materials defined in the DCP for harmonization work. As such no specialty materials or features will be restored by the City, and the costs of restoring the private property beyond utilizing concrete, asphalt, or sod will remain the sole responsibility of the private property owner.
9. All water quality treatment requirements, stipulated by DERM or any entity with jurisdiction, will remain the sole responsibility of the private property owner. These include, but are not limited to, the retention of the first 1-½ inch of rainfall, the sequestering of contaminants, and the sequestering of nutrients.
10. Any direct private property connections to the City's stormwater system are intended as a temporary condition. The direct connections will be removed and no new direct connections will be allowed, once the private properties are redeveloped.

WHEREAS, the project team is proposing the proceeding as a formal City policy that remains consistent with the harmonization requirements of the DCP and provides relief to private property owners that cannot manage stormwater runoff onsite, while aligning with the City's holistic stormwater management strategy; and

WHEREAS, the Administration recommends the City Commission approve the resolution accepting these policies.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby, establish; (1) private property harmonization policy; and (2) the residential/commercial property runoff and public drainage infrastructure policy for the West Avenue Neighborhood

PASSED AND ADOPTED this ____ day of _____, 2020.

Dan Gelber, Mayor

ATTEST:

Ralph Granado, City Clerk

RESOLUTION NO.

2017-29800

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE CITY MANAGER TO AWARD AN AGREEMENT, PURSUANT TO REQUEST FOR PROPOSALS (RFP) NO. 2016-091-KB, FOR DESIGN/BUILD SERVICES FOR WEST AVENUE IMPROVEMENTS PHASE II NORTH OF 14 STREET (PHASE II), TO RIC-MAN CONSTRUCTION FLORIDA, INC., WITH THE GUARANTEED MAXIMUM PRICE (GMP) IN THE AMOUNT OF \$30,243,063.00; AUTHORIZING A TEN PERCENT (10%) OWNER'S CONTINGENCY FOR THE PROJECT IN THE AMOUNT OF \$3,024,306.30; AND FURTHER AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A DESIGN BUILD AGREEMENT WITH RIC-MAN CONSTRUCTION FLORIDA, INC.

WHEREAS, at the March 1, 2017 City Commission meeting, the Mayor and City Commission considered the City Manager's recommendation to award an agreement pursuant to Request for Proposals (RFP) No. 2016-091-KB (Item R7F) to Ric-Man Construction Florida, Inc. (Ric-Man); and

WHEREAS, at the March 1, 2017 City Commission meeting, the City Commission accepted the City Manager's recommendation, and authorized the Administration to enter into negotiations with the top-ranked proposer, Ric-man Construction Florida, Inc.; further, should the Administration not be successful in its negotiations with Ric-man Construction Florida, Inc., the City Commission authorized the Administration to enter into negotiations with the second highest ranked proposer, Lanzo Construction Co., Florida; and further provided that the final negotiated Guaranteed Maximum Price ("GMP") with the successful proposer shall be subject to the prior approval of the Mayor and City Commission; and

WHEREAS, on March 6, 2017, the Administration met with Ric-Man to negotiate the proposed GMP; and

WHEREAS, Ric-Man agreed to reduce its original GMP of \$30,850,663.00, to the revised GMP of \$30,243,063.00, yielding cost savings to the City in the amount of \$607,600.00; and

WHEREAS, the City Manager, after successful negotiations, recommends award of the contract to Ric-Man, with a GMP in the amount of \$30,243,063.00; and

WHEREAS, the City Manager further recommends the establishment of a separate ten percent (10%) Owner's Contingency for the Project in the amount of \$3,024,306.30.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission of the City of Miami Beach, Florida hereby accept the recommendation of the City Manager to award an agreement, pursuant to Request for Proposals (RFP) No. 2016-091-KB for Design/Build Services for West Avenue Improvements Phase II North of 14 Street (Phase II), to Ric-Man Construction Florida, Inc., with the Guaranteed Maximum Price (GMP) in the amount of \$30,243,063.00; authorize a ten percent (10%) Owner's Contingency in the amount of \$3,024,306.30; and further authorize the Mayor and City Clerk to execute a Design Build agreement with Ric-Man Construction Florida, Inc.

PASSED AND ADOPTED this 22 day of March 2017.

ATTEST:

RA 3/29/17
Rafael Granada, City Clerk

[Signature]
Philip Levine, Mayor

T:\AGENDA\2017\3 - March\Procurement Department\March 22, 2017\RFP 2016-090 and 091-KB West Ave South and North of 14 ST\2016-091 -KB RFP - Design Build Services for West Ave North of 14 Street (Phase II)- Resov3 03 10 17.docx

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

Paul C. [Signature] 3/16/17
City Attorney P.C.P. Date

RESOLUTION NO.

2017-29799

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE CITY MANAGER TO AWARD AN AGREEMENT, PURSUANT TO REQUEST FOR PROPOSALS (RFP) NO. 2016-090-KB, FOR DESIGN/BUILD SERVICES FOR WEST AVENUE IMPROVEMENTS PHASE II SOUTH OF 14 STREET (PHASE II), TO RIC-MAN CONSTRUCTION FLORIDA, INC., WITH THE GUARANTEED MAXIMUM PRICE (GMP) IN THE AMOUNT OF \$13,113,590.00; AUTHORIZING A TEN PERCENT (10%) OWNER'S CONTINGENCY FOR THE PROJECT IN THE AMOUNT OF \$1,311,359.00; AND FURTHER AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A DESIGN BUILD AGREEMENT WITH RIC-MAN CONSTRUCTION FLORIDA, INC.

WHEREAS, at the March 1, 2017 City Commission meeting, the City Commission considered the City Manager's recommendation to award an agreement pursuant to Request for Proposals (RFP) No. 2016-090-KB (Item R7E) to Ric-Man Construction Florida, Inc. (Ric-Man).; and

WHEREAS, at the March 1, 2017 City Commission meeting, the City Commission accepted the City manager's recommendation, and authorized the Administration to enter into negotiations with the top-ranked proposer, Ric-man Construction Florida, Inc.; further, should the Administration not be successful in its negotiations with Ric-man Construction Florida, Inc., the City Commission authorized the Administration to enter into negotiations with the second highest ranked proposer, Lanzo Construction Co., Florida; and further provided that the final negotiated Guaranteed Maximum Price ("GMP") with the successful proposer shall be subject to the prior approval of the Mayor and City Commission; and

WHEREAS, on March 6, 2017, the Administration met with Ric-Man, to negotiate the proposed Guaranteed Maximum Price ("GMP"); and

WHEREAS, Ric-Man agreed to reduce its original GMP of \$13,285,990.00, to the revised GMP of \$13,113,590.00, yielding cost savings to the City in the amount of \$172,400.00; and

WHEREAS, the City Manager, after successful negotiations, recommends award of the contract to Ric-Man Construction Florida, Inc., with a Guaranteed Maximum Price (GMP) in the amount of \$13,113,590.00; and

WHEREAS, the City Manager further recommends the establishment of a separate ten percent (10%) Owner's Contingency for the Project, in the amount of \$1,311,359.00.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission of the City of Miami Beach, Florida hereby accept the recommendation of the City Manager to award an Agreement pursuant to Request for Proposals (RFP) No. 2016-090-KB for Design/Build Services for West Avenue Improvements Phase II South of 14 Street (Phase II), to Ric-Man Construction Florida, Inc., with the Guaranteed Maximum Price (GMP) in the amount of \$13,113,590.00; authorize a ten percent (10%) Owner's Contingency for the Project in the amount of \$1,311,359.00; and further authorize the Mayor and City Clerk to execute a

Design/Build Agreement with Ric-Man Construction Florida, Inc.

PASSED AND ADOPTED this 22 day of March 2017

ATTEST:

78 3/29/17
Rafael Granado, City Clerk

Philip Levine, Mayor

T:\AGENDA\2017\2 - February\Procurement Department\RFP 2016-090-KB West Ave South of 14 ST\2016-090-KB RFP - Design Build Services for West Ave South of 14 Street (Phase II)- Reso V2.docx

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

Paul G. L. 3-16-17
City Attorney RAF Date

COMMITTEE MEMORANDUM

TO: Members of the Land Use and Sustainability Committee

FROM: Jimmy L. Morales, City Manager

DATE: May 6, 2020

SUBJECT: **DISCUSSION REGARDING; SITING OF THE STORMWATER PUMP STATION AND ABOVE GROUND COMPONENTS FOR THE WEST AVENUE NEIGHBORHOOD PROJECT.**

The purpose of this Memorandum is to update the Land Use and Sustainability (LUSC) Committee on the West Avenue Phase II Improvement Project.

During the January 18, 2020, LUSC meeting, staff was asked to return with additional information pertaining to the West Avenue Neighborhood Improvement Project. Since the Committee has been unable to convene, please find below the information prepared for presentation to LUSC for your use and reference.

DERM Permitting Requirements

This project is being designed to collect and manage storm water from the West Avenue neighborhood. One of the requirements to obtain a permit from the Miami-Dade County Regulatory and Economic Resources Department (DRER), to discharge stormwater into the bay (Class II), is the inclusion of sufficient water treatment capacity. The project team has held multiple discussions and meetings with DRER to discuss project approach and proposed water quality treatment components. DRER has emphasized that although projects were previously permitted using mechanical treatment, future projects would not be permitted without retaining the first inch and a half of rainfall runoff. This involves additional design and construction effort, beyond what was identified in the Design Criteria Package (DCP), and a significant cost increase of several million dollars.

On April 22, 2020, the Mayor and City Commission approved a Change Order No. 5 to the design-build contract, for the design of additional water quality treatment for the West Avenue Neighborhood Improvement Project.

Harmonization of Private Properties

This project impacts 178 properties, which results in 192 areas that require harmonization. Of these areas, the project team has developed harmonization plans for all 192 locations in preparation for meetings with the property owners. The team has presented 16 properties with proposed plans and received feedback. Additionally, the team has presented and discussed the project at multiple community and neighborhood meetings, including the West Avenue Neighborhood Association, North of Fifth Neighborhood Association, individual building associations and other meetings organized by the community. Commencing in December of 2019, the team has held open house meetings at the Office of Capital Improvement Projects every Friday, where anyone from the community was welcome to meet with the team for information or to provide feedback. Additionally, representatives of the West Avenue Neighborhood Association have been meeting with the team on a bi-weekly basis. Generally, community members have

expressed a concern over the potential costs which could be incurred by private properties to restore or rebuild private improvements affected by the project.

The DCP directs the Design/Builder (DB) to replace driveways and walkways with matching asphalt or concrete. In prior projects, in cases where existing driveways have been constructed using different materials, such as pavers, tiles, stamped concrete, etc., the DB was directed to replace it with concrete only, or coordinate with the property owner to determine if the existing material can be salvaged and re-used at the owner's expense. In addition, there are several other features which may be impacted by the harmonization and the road raising including, but not limited to, fences, gates, fire connections, railings, and landscaping. In prior projects, the removal and re-installation, or modifications, to these components were to be done at the owner's expense.

Private Property Drainage

In addition to the challenges posed by the required harmonization, certain properties will need to address additional drainage requirements. The City of Miami Beach operates a citywide stormwater management system that collects, conveys, and disposes of stormwater runoff from public rights of way. The primary function of this system is to facilitate travel along thoroughfares while maintaining a safe and livable condition for the City's residents and visitors. Recently, the City has undertaken a significant capital program that upgrades the system to account for sea level rise and climate change.

During the development of its capital program, the City consulted numerous subject matter experts (including the Urban Land Institute) and developed a holistic stormwater management strategy - one that attenuates flooding while mimicking nature's water cycle. In addition, the team and community members received confirmation of the project goals and valuable feedback from the West Avenue Resilience Accelerator, a partnership between 100 Resilient Cities and the Center for Resilient Cities and Landscapes at Columbia University. The strategy provides the framework for a sustainable approach to stormwater management. It includes the raising of roadways to minimize sunny day flooding and incorporates green infrastructure that replenishes the freshwater lens and mitigates the transport of excessive nutrient loads into Biscayne Bay.

Therefore, to ensure that stakeholder concerns are properly addressed when implementing this strategy, the City has resolved (Resolution No. 2019-30683) to develop a comprehensive drainage policy for low lying residential properties that aligns with the overall stormwater management strategy.

The proposed administrative policy for residential/commercial property runoff and public drainage infrastructure, will endeavor to minimize the flood risk of residential properties while preserving a holistic stormwater management strategy. In order to accomplish this, the policy will promote the percolation of water via greenspaces and limits the use of direct connection to those properties, residential or commercial, that satisfy the stipulated conditions. Additionally, the policy will provide relief to vulnerable habitable spaces while allowing for water to stage in non-habitable areas.

Frequently Asked Questions (FAQ) Document

In an effort to address concerns and questions raised by members of the community, the project team has drafted a Frequently Asked Questions (FAQ) informational flyer but cannot finalize this information until the drainage and harmonization policies are

completed and implemented as referenced above. These policies will direct the further development of this project.

Upon resolution of the harmonization and drainage policies, the project team is prepared to publish the informational flyer addressing frequently asked questions.

Siting of the Stormwater Pump Station and Above Ground Components

During the March 2017 City Commission meeting, the Ric-Man Construction FL, Inc. (RCMF) design build team was awarded the contract for the West Avenue project.

The DCP and accompanying conceptual drawings provided the details of performance, location, capacity, and key elements of the Pump Station. For example, the stipulated required elevations of the electrical panels were 8.44 NAVD minimum and the DCP required screening of the control panels with an aesthetically pleasing enclosure. However, pursuant to the Urban Land Institute (ULI) recommendations and the City's overall resilience effort, the project scope was expanded to include additional elements. These elements were comprised of green infrastructure, stormwater system upgrades to meet a 10-year storm level of service, street-end enhancements for the neighborhood, auxiliary power generators, and increased water quality treatment capacity. The scope expansion resulted in a 120,000 gpm stormwater pump station with corresponding above ground control panels, a 1,250 kW auxiliary power generator and a FPL vault.

To better understand the site comparisons and selection criteria, it is important to clarify the composition of the above ground components. These are grouped into three main systems: pump station controls (approx. 30.5' L x 20.5' W x 13' H); auxiliary power generator (approx. 34' L x 14' W x 15' H); and a FPL Vault (approx. 34' L x 20' W x 13.1' H) (Exhibit A). The pump station controls house all the control and electrical panels required to operate the pump station. The generator provides auxiliary back up power for the pump station in the event of a power outage. Finally, the FPL vault houses the transformers and switchgear required by FPL in order to connect the pump station to their infrastructure and meet the power demands of the system.

During the course of the development of the project, eleven alternatives were analyzed for the location of the pump station, outfall, and above ground equipment, including the generator. These alternatives are illustrated in the attached map (Exhibit B) and summarized below. However, after careful review of all available options, and in accordance with the recommendation of the engineer of record (Exhibit C), the pump station at the Lincoln Road street end with the above ground components located at the median between Lincoln Court and Bay Road (Alternative 1) is the recommended alternative for the reasons listed below.

Alternative 1 – Pump Station at Lincoln Road street end with above ground structures at median between Bay Road and Lincoln Court (Exhibit D)

- Least intrusive to balconies
- Allows for additional green space at street end and improved streetscape from the pedestrian bridge to the waterfront (Exhibit E)
- The plant wall design with canopy cover concept that would create a living barrier to the roll-up to Lincoln Road roundabout or an architectural panel design similar to the pedestrian bridge on Collins Canal (Exhibit F). Both options would provide placemaking for the neighborhood

- At 200 feet from the pumps the location is a safe and efficient approach to maintenance and operation
- Allows for safe operation of pump station
- The Fire Department has provided clearance and there is no line of sight issues for vehicles
- The pump station access covers will be disguised within the promenade type atmosphere created in the roundabout
- There will be no obstructed views at the sea wall to the bay from the Lincoln Ct intersection facing west
- Sidewalks will be flush with the roadway from Bay Road to the roundabout and throughout Lincoln Court using pavers for the roadway and walkway areas
- Additional enhancements such as benches, sculptures, street art are possible
- Traffic calming west of Bay Road will occur enhancing the pedestrian experience and promoting a promenade environment for the residents

The following alternatives were evaluated and rejected for the reasons outlined below:

Alternative 1a – All components at Lincoln Road Roundabout

- Due to the upgrade in Lincoln Road Pump Station capacity and addition of a generator, views of the bay from the street end would be obstructed, in addition to significantly obstructing views for both buildings located at 1441 and 1450 Lincoln Road
- Conflict with the bay walk access
- Limits availability of street end for neighborhood placemaking as recommended by ULI

Alternative 1b- Generator relocated behind 1450 Lincoln Road, in parking lot

- Requires easement within 1450 Lincoln Road
- Permitting w/ FPL problematic for duct bank on private property
- Loss of private parking spaces
- Control Platform and FPL Vault still interfering with 1441/1450 Lincoln Road balconies and bay view from street end

Alternative 1c- Generator relocated to Lincoln Road, in Front of Lincoln West Towers

- Loss of private parking spaces in the right of way
- More than 700 feet from Lincoln Road Pump Station- additional costs
- Control Platform and FPL Vault still interfering with 1441/1450 Lincoln Road balconies and bay view from street end

Alternative 1d- Median Concept at Alton/ Lincoln Road

- Greater than 1,000 feet from Lincoln Road pump station- presents safety, maintenance and operational issues
- Control panels may increase in size
- Additional safety disconnects and elevated platforms will be necessary at the roundabout
- Will require FDOT approval
- If approved by FDOT, will require major intersection modifications
- Loss of public parking spaces in commercial area
- Potential loss of sidewalk café seating areas

Alternative 2 -Full Relocation of Pump Station and All Above Ground Components to City Parking Lot P-24 at 1671 West Avenue (adjacent to post office) With Discharge at Lincoln Road Street End

- Loss of public parking
- Location identified for future stormwater projects
- Addition of force main system to dissipator at Lincoln Road roundabout
- FPL Power distribution changes requiring reengineering — added costs and delays to the project

Alternative 2a- Full Relocation of Pump Station and All Above Ground Components to City Parking Lot P-24 with Discharge at Dade Canal and 17th Street

- Reduction in overall pumping capacity — would require demolition of existing pump station at 17th Street
- Loss of public parking
- Addition of force main system to 17th Street dissipator
- FPL power distribution changes requiring reengineering — added costs and delays to the project

Alternative 3- Full Relocation of Pump Station, Control Panels and FPL Vault to 17th Street; Generator at P-24, 1671 West Avenue

- Reduction in overall pumping capacity — would require demolition of existing pump station at 17th Street
- 17th St pump station needs to connect to Flamingo drainage basin - future project
- Loss of public parking
- FPL power distribution changes requiring reengineering — added costs and delays to the project
- Space constraints will result in regular maintenance occurring within the roadway, causing impacts to traffic at West Avenue and 17th Street intersection

Alternative 3a- Full Relocation of Pump Station, Control Panels and Generator to 17th Street; FPL Vault at P-24, 1671 West Avenue - Drop Down Dissipator

- Reduction in overall pumping capacity — would require demolition of existing pump station at 17th Street
- 17th Street pump station needs to connect to Flamingo drainage basin- future project
- Loss of public parking
- FPL power distribution changes requiring reengineering — added costs and delays to the project
- Space constraints will result in regular maintenance occurring within the roadway, causing impacts to traffic at West Avenue and 17th Street intersection

Alternative 4- Full relocation of Pump Station and All Above Ground Components to Parking Lot P-23 at 1631 West Avenue

- Loss of Public parking
- Location identified for future stormwater projects
- Addition of force main system to dissipator at Lincoln Road roundabout
- FPL power distribution changes requiring reengineering — added costs and delays to the project

Alternative 5- Full Relocation of Pump Station and All Above Ground Components to Bay Road Street End at Dade Canal

- Reduced right of way creates space constraints
- Will require utility relocations — above and below ground
- Building vehicular access to 1674 Bay Road affected due to its close proximity to the street end and proposed pump station components

The Administration will present these options to LUSC and request that they forward a resolution to the City Commission, accepting the siting for the Lincoln Road pump station, including above ground components, as described in Alternative 1 (Exhibit D).

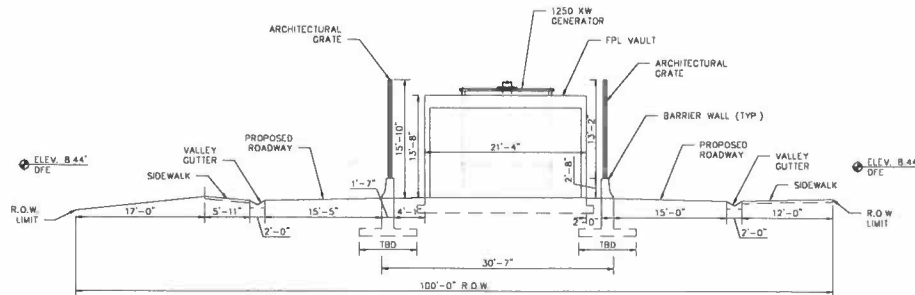
CONCLUSION

1. The Administration has compiled policies defining the criteria under which private property inlets will be allowed to connect to the City's system, as well as the limits and responsibilities of harmonization work. The Administration is preparing an item to be presented at the LUSC which will clarify and affirm the City's harmonization and drainage policies for this project.
2. The Administration has directed staff to continue all public outreach efforts, including maintaining office hours and standing meetings. Upon resolution of the City's harmonization and drainage policies, the project team is prepared to update and publish the informational flyer addressing frequently asked questions.
3. Finally, the design build team has examined multiple site arrangements and locations for the pump station, equipment and generator for the Lincoln Road Pump Station. Staff will be seeking direction for the allocation of funding for the above-ground components, including beautification with the screening and additional landscaped area. The Administration is requesting for the LUSC to forward to the Commission, a recommendation to proceed with the design and installation of the pump station and associated above ground components as described in Alternative 1.

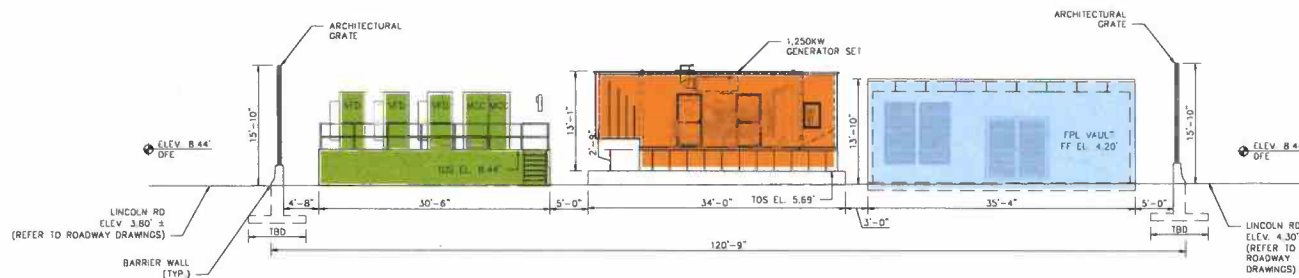
EXHIBITS

Exhibit A- Elevation of above ground components
Exhibit B- Map of evaluated pump station sites
Exhibit C- Engineer of Record Recommendation
Exhibit D- Alternative 1 pump station plan
Exhibit E- Proposed street end improvements
Exhibit F- Renderings of proposed screens

EXHIBIT A



A SECTION
PS-C05 SCALE: 1"=8'



B SECTION
PS-C05 SCALE: 1"=8'

PERMIT SET

MIAMI BEACH
PUBLIC WORKS DEPARTMENT
1700 CONVENTION CENTER DRIVE, MIAMI BEACH, FL 33138

REID009000

**LINCOLN ROAD
PUMP STATION
CIVIL
SECTIONS**

ces
CONSULTANTS

CITY MANAGER JIMMY L. MORALES
DIRECTOR ROY COLEY, P.E.
CITY ENGINEER HEYSON PEREZ-JACOME, P.E.

ENG. OF RECORD J.A.C.
DESIGN ENGINEER J.T.
DRAWN BY J.T.
CHECKER J.R.
SCALE AS NOTED

ENGINEER OF RECORD
JOSE A. CARABALLA, P.E.
FL REG. NO. 73084

NO.	DATE	REVISION	APPROVED BY
1	10/25/19	PERMIT SET	
2	01/21/19	60% RE-SUBMITTAL REVIEW	
3	12/19/17	90% SUBMITTAL REVIEW	
4	12/19/17	90% SUBMITTAL REVIEW	
5	12/19/17	90% SUBMITTAL REVIEW	
6	12/19/17	90% SUBMITTAL REVIEW	

File Name: PS-C06.dwg

Survey Reference

Field Book

Page

Work Order: 2018-09-18

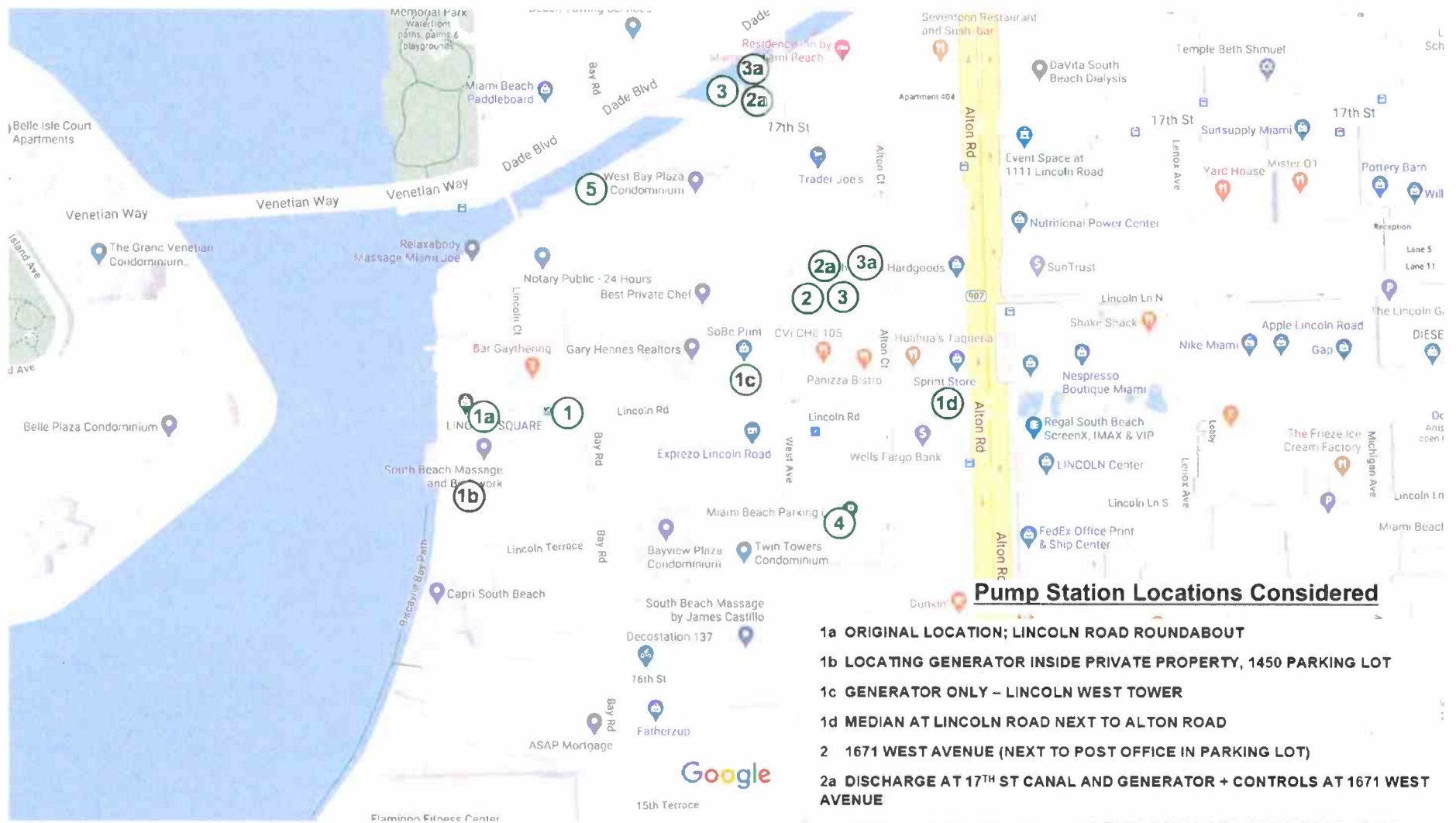
Date: 10/25/19

Sheet

Drawing

PS-C06

EXHIBIT B



Pump Station Locations Considered

- 1a ORIGINAL LOCATION; LINCOLN ROAD ROUNDABOUT
- 1b LOCATING GENERATOR INSIDE PRIVATE PROPERTY, 1450 PARKING LOT
- 1c GENERATOR ONLY – LINCOLN WEST TOWER
- 1d MEDIAN AT LINCOLN ROAD NEXT TO ALTON ROAD
- 2 1671 WEST AVENUE (NEXT TO POST OFFICE IN PARKING LOT)
- 2a DISCHARGE AT 17TH ST CANAL AND GENERATOR + CONTROLS AT 1671 WEST AVENUE
- 3 PUMP STATION +CONTROLS AT 17TH ST. CANAL AND GENERATOR AT 1671 WEST AVENUE
- 3a PUMP STATION+CONTROLS AT 17TH ST. WITH DROP DOWN DISSIPATOR
- 4 PUMP STATION+CONTROLS, GENERATOR AND FPL TRANSFORMER AT 1631 WEST AVENUE PARKING LOT
- 5 PUMP STATION+CONTROLS, GENERATOR AND FPL TRANSFORMER AT BAY ROAD



February 24, 2020

Michael Fischer
Chief Operating Officer
RIC-MAN Construction Florida, Inc.

Attention: Mr. Michael Fischer

Re: Design / Build Services for West Avenue Improvements Phase II North of 14th Street
2016-091-K8
Feasibility Analysis; Median Concept for Electrical Equipment and Generator Location

Mr. Fischer:

The City of Miami Beach (CMB) is in the process of implementing a substantial program to improve flood protection and reduce existing flooding conditions in the West Avenue neighborhood. A critical program implementation component is the design of a 120,000 GPM stormwater pump station and the associated electrical components. The pump station will be located at the west street end of Lincoln Road. The location of the electrical equipment has not been solidified. The RMCF Design-Build Team has attempted to identify several possible locations, and we have narrowed the search down to two (2) locations. This short description is to discuss the challenges of locating the electrical equipment in the median at the intersection of Alton Road and Lincoln Road.

The residents of Lincoln Road between the Lincoln Road street end and West Avenue have requested that we analyze the intersection of Alton Road and Lincoln Road as a possible location for the electrical equipment. Our design team has looked at this intersection in depth, and we have met with FDOT representatives in an attempt to understand the feasibility of this location. In order to install the electrical equipment within the median at the intersection of Alton Road and Lincoln Road, the entire intersection will require a complete reconstruction. Due to the width required for the equipment, we will need to perform the following improvements

- 1) Remove the majority, if not all, parking along Lincoln Road from Alton Road to West Avenue.
- 2) Demolish the entire intersection of Alton Road and Lincoln Road.
- 3) Move the traffic signals in order to set with the new alignment.
- 4) Re-align the pedestrian crosswalks on the east and west side of Alton Road.
- 5) Adjust the timing of the traffic lights at this intersection.

FDOT will not advise if these adjustments are allowed within their roadway without a complete and permissible design present for the evaluation.



Possible Issues with this Design

Due to the proximity of the existing buildings and the width of the existing roadway, there may be some minor issues with ADA accessibility. Additionally, the equipment is required to be at a certain height based on FEMA requirements. Since the intersection of Alton Road and Lincoln Road is approximately 2 feet lower than the intersection of Lincoln Road and Bay Road, We will need to increase the screen height by approximately 2 feet.

Finally, we have mentioned in many occasions setting the electrical equipment so far from the actual pump station may cause a health and safety issue with workers. The safest way to operate this station either in an emergency or during routine maintenance is by maintaining a close proximity between the electrical equipment and the pumps. This allows for operation by line of sight. As we increase the distance over 300 feet, it becomes more difficult and dangerous to operate. At over 1,000 feet, it will require specialty equipment, additional security features, such as pump disconnect switches at the street end, an increased number of workers per maintenance crew, and specialty training for all employees working on the maintenance of this pump station. CES as the Engineer of Record concludes that the location of the proposed Median between Lincoln Court and Bay Road is the most safe, efficient and cost effective location for this critical equipment and therefore highly recommends the City approve that location in lieu of the above detailed Alton Road option.

If you have any additional questions or require additional clarification, please do not hesitate to contact us.

Sincerely,

JOSE A. CARABALLO
CES CONSULTANTS, INC.

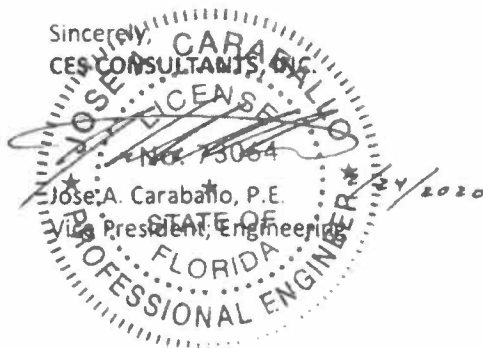


EXHIBIT D

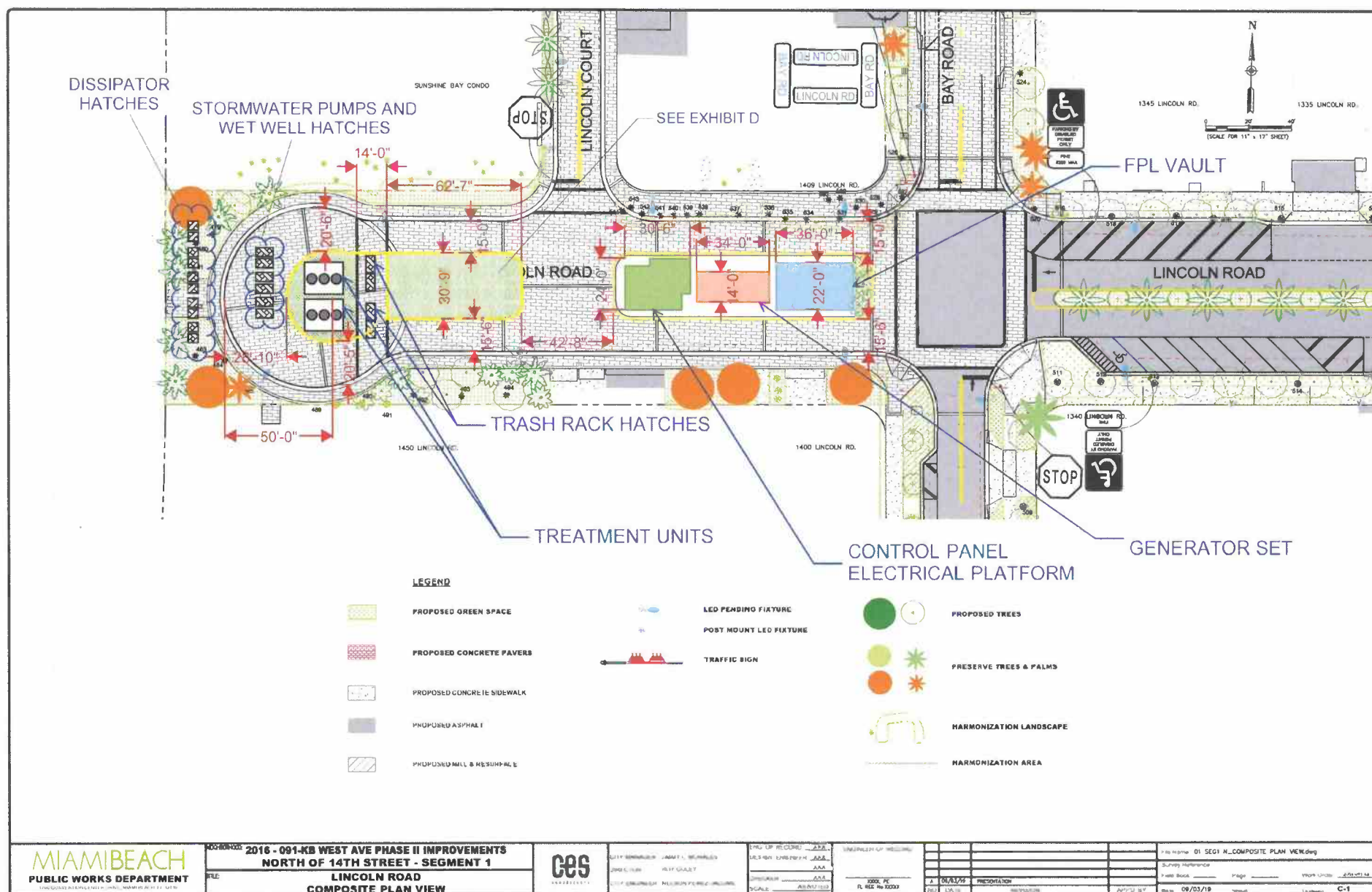
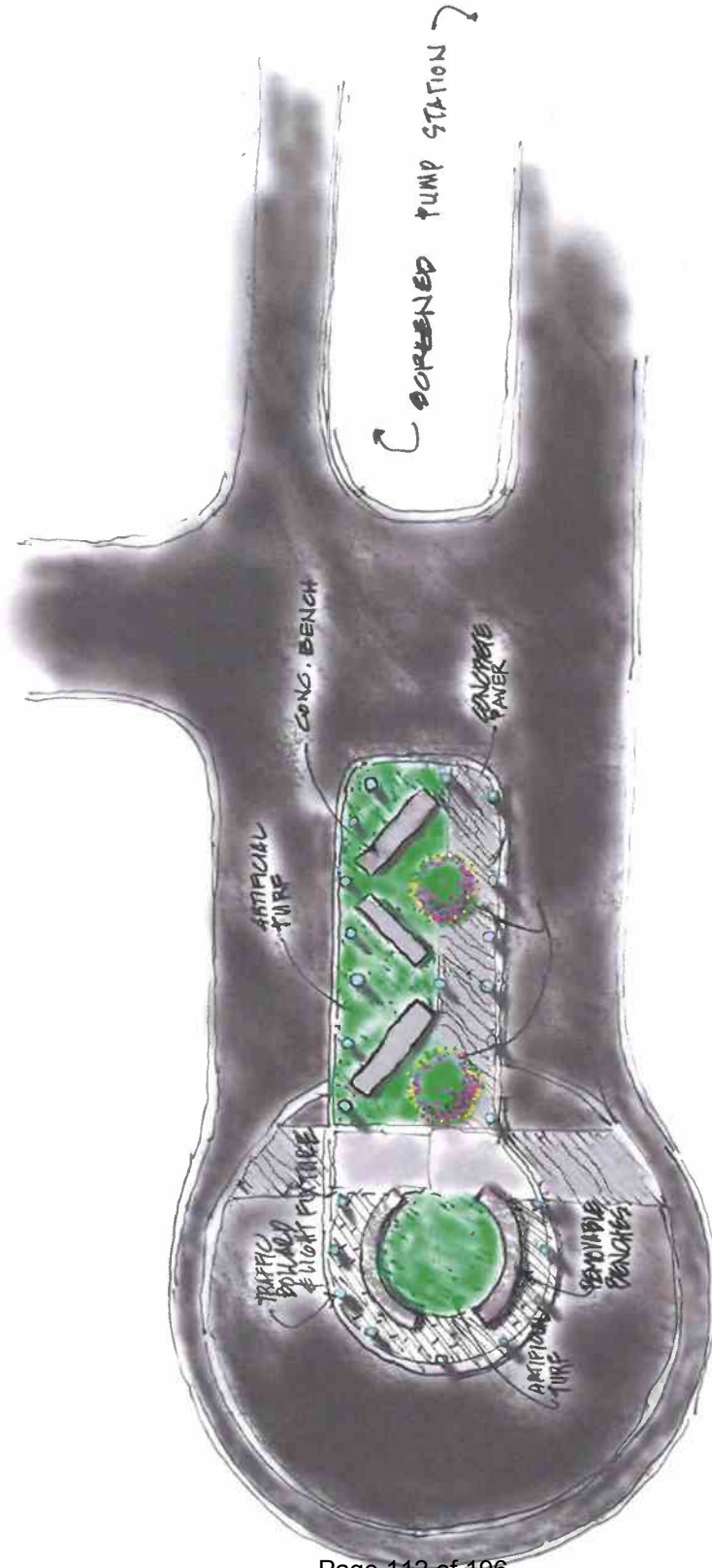
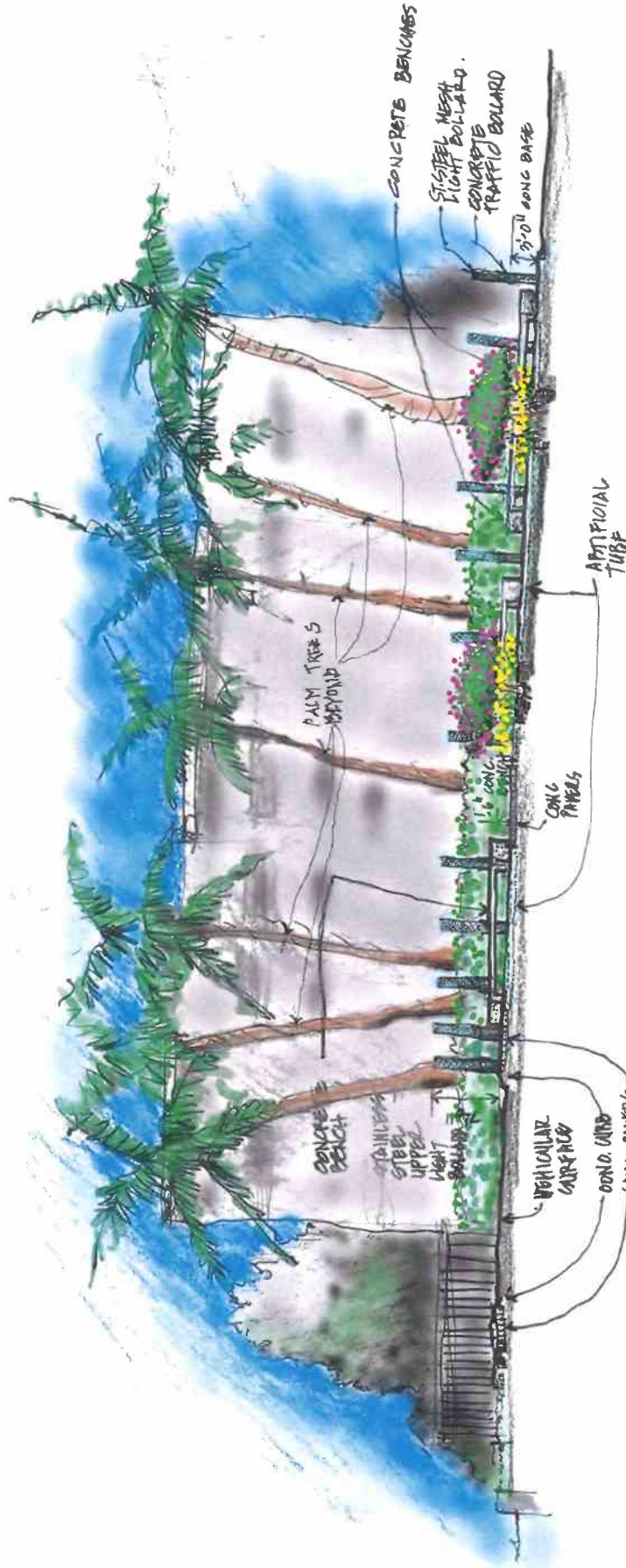


EXHIBIT E



STREET END CONCEPT

EXHIBIT E



STREET END CONCEPT SECTION

EXHIBIT F



LINCOLN ROAD FENCE ENCLOSURE

PERMUY Architecture

EXHIBIT F



COMMITTEE MEMORANDUM

TO: Members of the Land Use and Sustainability Committee

FROM: Jimmy L. Morales, City Manager

DATE: May 6, 2020

SUBJECT: **DIRECTION REGARDING THE RELOCATION OF THE AUXILIARY POWER GENERATOR FOR THE STORM WATER PUMP STATION, AS PART OF THE INDIAN CREEK DRIVE FLOODING MITIGATION PROJECT, PHASE III, FROM 2925 INDIAN CREEK DRIVE TO THE CITY OWNED PARKING LOT (P-55) LOCATED AT 2660 COLLINS AVENUE, ALONG INDIAN CREEK DRIVE.**

BACKGROUND

On July 31, 2019, The City Commission adopted Resolution 2019-30915 to award of a contract to Ric-Man Construction Florida, Inc., for the construction of Indian Creek Drive Flooding Mitigation Project, Phase III.

Construction commenced the week of March 2 and is expected to have a duration of approximately two (2) years.

The project was designed to include a generator to supply auxiliary power to the proposed stormwater pump station. The generator is to be located on the west side of Indian Creek Drive, across from 2925 Indian Creek Drive, within the right of way, as depicted in the attached map (Exhibit 1). This location was selected due to its close proximity (550 feet) to the stormwater pump station. The proposed location also provides sufficient area between Indian Creek Drive and the seawall to accommodate the generator.

In a meeting on February 25, 2020, at the request of the City Commission, and chaired by Commissioner Gongora, representatives from the Commission, the adjacent neighborhood, city departments and the engineer of record, discussed several topics regarding the Project. One of the discussion items focused on the proposed location for the auxiliary power generator. Representatives from the community have objected to the visibility of the proposed location and requested that alternative locations be evaluated. Two alternate locations were reviewed, and group preference at this meeting was to relocate the auxiliary power generator to the northwest corner of the city parking lot (P-55) located at 2660 Collins Avenue. The parking lot is adjacent to the intersection of 27th Street and Indian Creek Drive, as depicted on the attached map (Exhibit 1). This alternative location is approximately 1400 feet from the pump station controls. It was understood that the relocation of the generator would not include the relocation of the control panels and that any change in the generator location would require redesign. The group also discussed a desire to include adequate screening which would provide noise abatement and improve aesthetics. Additional design and construction costs would be incurred to accommodate the relocation.

ANALYSIS

Prior to proceeding with the relocation of the generator, in order to determine feasibility, City staff in conjunction with the design consultant will need to conduct proper due diligence. Coordination with the Planning and Zoning, Parking Departments and the community are needed. Consensus with the properties immediately adjacent to the alternate location will be critical. The relocation will have a financial impact. Additionally, if determination to proceed and necessary re-design is not completed in a timely fashion, the relocation may also impact project schedule and duration. Items to be considered in the proper due diligence of the proposed relocation include, but are not limited to:

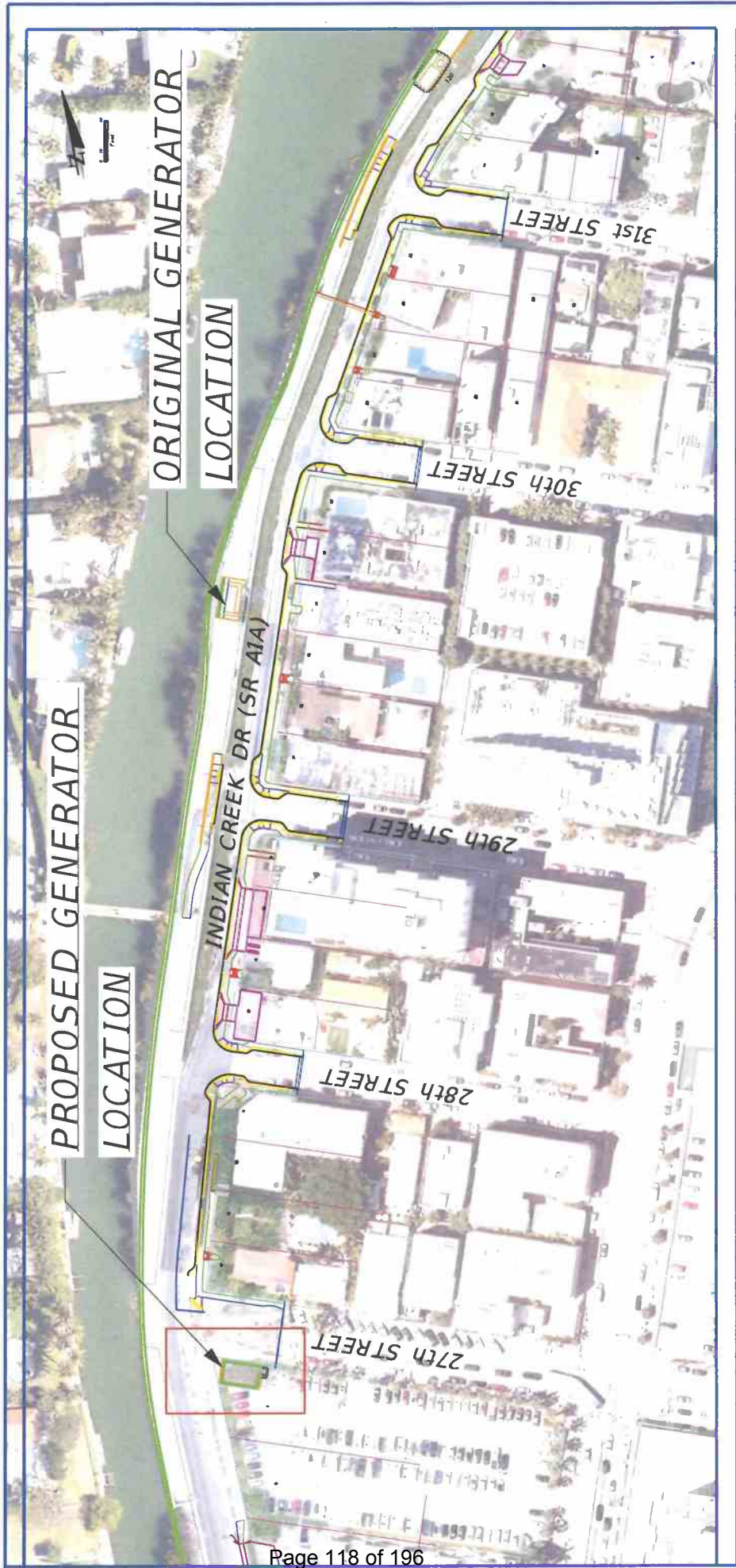
- Coordination with Planning and Zoning Department. This site is within an existing city parking lot, which requires review and adherence to all development regulations.
- FDOT review and approval.
- Design modification and permitting effort will require a contract amendment to the project design team.
- A change order must be negotiated with the contractor for this work.
- The placement of the generator within this site will require a full Building Department permit.
- The area of the parking lot where the generator is proposed will have to be reconfigured, resulting in some loss of parking. The actual impact will be determined by the design.
- Removal/relocation of existing trees.
- Community outreach will need to take place to ensure consensus, particularly with adjacent properties.
- Relocation of the generator to the alternate site may limit any potential future development of that site, should the City so choose in the future (i.e. parking garage or other).
- Additional funding will need to be identified.

CONCLUSION

The Administration seeks direction on how to proceed.

Attachments

Exhibit 1- Map of area showing original and proposed alternate location





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

Item 6
COMMITTEE MEMORANDUM

TO: Land Use and Sustainability Committee

FROM: Jimmy L. Morales, City Manager

DATE: May 6, 2020

TITLE: DISCUSSION TO REVIEW THE ROLE OF LAND USE BOARDS IN NEIGHBORHOOD IMPROVEMENT PROJECTS.

ACTION REQUESTED:

Discuss the item. If consensus is reached, a recommendation to the full City Commission may be warranted.

ADMINISTRATION RECOMMENDATION:

Conclude the item with a recommendation to the City Commission.

HISTORY:

On April 11, 2018, at the request of Commissioner Mark Samuelian, the City Commission referred the discussion item to the Land Use and Development Committee (Item C4N). On May 23, 2018, the LUDC discussed the item and continued it to a date certain of July 18, 2018, with direction to staff to look at different potential options. On July 18, 2018 the item was deferred to September 28, 2018.

On September 28, 2018 the item was deferred to the December 2018 LUDC meeting. Since the December 2018 LUDC was cancelled, the item was moved to the January 2019 LUDC agenda. The January 2019 LUDC agenda was moved to February 20, 2019.

On February 20, 2019, the item was deferred to the April 3, 2019 LUDC meeting. On April 3, 2019 the item was continued to the May 22, 2019 LUDC. On May 22, 2019 the item was deferred to the June 12, 2019 LUDC. On June 12, 2019 the item was deferred to the July 24, 2019 LUDC. On July 24, 2019 the item was deferred to the September 18, 2019 LUDC.

On September 18, 2019 the item was deferred to the December 2, 2019 LUDC. The December 2, 2019 LUDC was cancelled and the item was moved to the January 21, 2020 agenda of the newly created Land Use and Sustainability Committee (LUSC). On January 21, 2020 the item was deferred to the February 18, 2020 LUSC. On February 18, 2020 the item was deferred to the March 17, 2020 LUSC. The March 17, 2020 LUSC meeting was postponed and the item was moved to the May 6, 2020 agenda.

ANALYSIS:

Since this item was first discussed in May of 2018, staff has had internal discussions regarding potential options for public participation in the review of neighborhood projects. The Manager's READY Team discussed the proposal and concluded that the input of the recently appointed Master Design Consultant for Integrated Water Management, Jacobs Engineering, would be beneficial. Jacobs Engineering has a number of task orders, one of which includes roadway infrastructure projects. In this regard, Jacobs will be taking into account the totality of the City's water management efforts when evaluating proposals for roadway elevations.

Additionally, the City has initiated a comprehensive review of the development review process, including all staff and land use board processes. The consultant hired to conduct this analysis, the Matrix Group, has concluded their evaluation and presented their recommendations to the LUDC and the City Commission.

The administration has also created an internal Development Review Committee (DRC), as part of the Ready Team. This internal DRC will be evaluating city infrastructure projects, including roadway elevation projects, from a multi-disciplinary standpoint, including input from the public works, environmental and planning departments.

In summary, since the elevation of roadways is primarily an engineering project, and the land use boards, particularly the Design Review Board (DRB), are structured to review above ground, exterior aesthetics, the administration would not recommend formalizing a process within the LDR's that mandates DRB review. In the event that a significant roadway elevation project, which may entail substantial above ground improvements such as landscaping, guard rails and differentiations in sidewalk, is proposed, the City Commission could always refer a discussion item, as needed, to the DRB, for more specific input and recommendations.

CONCLUSION:

In view of the foregoing, the administration recommends that the item be concluded and that the LUDC make a recommendation to the City Commission to refer future roadway elevation projects containing substantial above ground improvements to the DRB as needed for more specific input and recommendations.

Applicable Area

Citywide

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?

Yes

Does this item utilize G.O. Bond Funds?

No

Departments

Planning



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

Item 7
COMMITTEE MEMORANDUM

TO: Land Use and Sustainability Committee

FROM: Jimmy L. Morales, City Manager

DATE: May 6, 2020

TITLE: DISCUSS RM-2 ZONING AT THE WEST END OF ARTHUR GODFREY ROAD/41ST STREET AND POTENTIAL FOR PUBLIC BENEFITS.

ACTION REQUESTED:

Discuss the item and provide a recommendation on the proposed ordinances to the City Commission.

ADMINISTRATION RECOMMENDATION:

Conclude the item and recommend that any City Commission referral of the attached draft ordinances to the Planning Board include the attached scope of public benefits.

HISTORY:

On October 16, 2019, at the request of Commissioners Michael Gongora and Ricky Arriola, the City Commission referred the discussion item to the Land Use and Development Committee (Item C4 T). The item was placed on the January 21, 2020 agenda of the newly created Land Use and Sustainability Committee (LUSC), and deferred to February 18, 2020, at the request of the proposer.

On February 18, 2020, the item was deferred to March 17, 2020, also at the request of the proposer. The March 17, 2020 LUSC meeting was postponed, and the item was moved to the May 6, 2020 LUSC agenda.

ANALYSIS:

BACKGROUND

On February 12, 2014, the City Commission adopted ordinance 2014-3839, which increased the height limit from 60 feet to 85 feet for the area fronting the west side of Alton Road between Arthur Godfrey Road and West 34th Street (Talmudic University site). There was companion future land use map and zoning map amendment to expand the RM-2 area, as the Talmudic University had acquired surplus land from the Florida Department of Transportation (FDOT).

This amendment was intended to facilitate the development of a vacant area on the Talmudic University site, as well as to fund improvements to the site. On March 4, 2014, the Design Review Board (DRB) approved the development of an 8-story, 72-unit, residential building; this project was never constructed.

In 2015, a private application was filed by the current proposer, to increase the maximum allowable height on the site from the current 8 stories / 85 feet to 15 stories / 150 feet. The Planning Board did not recommend in favor of this height increase and the administration recommended denial when the proposal came before the City Commission. The applicant subsequently withdrew the application and did not move forward.

PLANNING ANALYSIS

The current owner of the subject property, "M 4000 Alton Owner LLC c/o M-4000 Alton MGR, LLC" is in the process of acquiring an additional 0.406 acres of surplus land from FDOT. In order to accommodate this additional property and combine it with the existing site, the proposer is seeking the following land use amendments, which are attached:

1. A re-zoning of the current surplus FDOT parcel from GU to RM-2. The specific corresponding zoning map change is from GU, "Government Use" to RM-2, "Residential Multifamily, Medium Intensity".
2. A companion Future Land Use Map (FLUM) amendment to change the future land use designation of the parcel from the current Public Facilities: Government Use (PF) category to the Residential Multifamily Medium Intensity (RM-2) category.
3. An LDR amendment to establish the "Julia Tuttle Causeway District," which would incorporate specific development regulations for the area abutting the west side of Alton Road and the south side of 41st Street/Interstate 195.

The following is a summary of the proposed development regulations in the draft LDR ordinance:

1. Increase the maximum building height from 85 feet to 290 feet.
2. Structures exceeding 85 feet in height will have a minimum setback of 190 feet from Alton Road.
3. Establish rear and side setbacks of 0 feet.
4. Reduce the minimum unit size from 550 SF to 450 SF.
5. Reduce the average unit size from 800 SF to 700 SF.
6. Allow for up to a 3,000 SF accessory restaurant use, open to the public, with no additional loading or parking requirements.
7. Provide that the residential liner requirement for floors containing parking only apply only to the frontage facing Alton Road.

The large setback from Alton Road is intended to reduce the impact of a taller building on the single-family residential area to the east. Due to the expanded setback, a large open space would be created on the east side of the site, which is expected to be approximately one (1) acre. Additionally, the proposed reduction in average and maximum unit size requirements will allow for more flexibility in unit types; this, in turn, will allow, potentially, for more attainable housing.

Staff does have concerns with the proposed increase in height; specifically, the following is noted:

- The existing height limit of 8 stories / 85 feet is consistent with the current and potential future built context of the higher density areas next to and adjacent to the Talmudic University site. These include the CD-3 Commercial Corridor along 41st Street. Additionally, by way of context, the

existing Talmudic University building on the subject site is 72 feet tall.

- Allowing a higher height for the proposed site could set a precedent for future efforts to increase maximum building heights, particularly along 41st Street. In this regard, the aggregation of lots in the CD-3 district could result in higher FAR maximums (2.25 v. 2.75), thus making a height increase proposal more attractive in order to accommodate higher FAR.

- Along the west side of the City, from the northern boundary of Sunset Harbor all the way to the northern end of North Bay Road, there exists a defined scale of smaller buildings. The only exception to this is the Mt. Sinai campus; however, even the larger buildings on the Mt. Sinai campus are not as tall as the proposal herein. The proposal to almost quadruple the height limit on the subject site would result in a significant departure from the established scale of the area.

Notwithstanding the foregoing, the administration has reviewed the overall proposal within the larger context of creating a one-acre area of open space; such open space area could provide significant public benefits. If a determination is made that the proposed height increase is warranted, the open space, public park, would be a significant public benefit for the City's residents.

The administration would recommend that the open space area proposed contain significant resiliency elements that provide tangible options for managing, retaining and treating stormwater. Attached is a scope of specific elements that should be considered for the open space area, including water management elements. Such a public benefits scope could be incorporated into the proposed plan, either as part of a covenant or as part of the proposed ordinance to ensure that improvements are made.

CONCLUSION:

The Administration recommends the following:

1. The Land Use and Sustainability Committee discuss the proposal and refer the attached ordinances to the City Commission.
2. The Committee recommend that if the proposed ordinances are referred to the Planning Board, that such referral include the attached scope of public benefits.

Applicable Area

Middle Beach

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?

Yes

Does this item utilize G.O. Bond Funds?

No

Departments

Planning

ATTACHMENTS:

Description

Type

❏	Draft ORD - LDR Overlay	Memo
❏	Draft ORD - Rezoning	Memo
❏	Draft ORD - FLUM	Memo
❏	Draft - Scope of Public Benefits	Memo
❏	MAP	Memo

4000 Alton Road Expansion - Julia Tuttle Causeway District

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 IV, ENTITLED, "RM-2 RESIDENTIAL MULTIFAMILY, MEDIUM INTENSITY," CREATING SECTION 142-220, ENTITLED, "JULIA TUTTLE CAUSEWAY DISTRICT" TO CREATE ZONING REGULATIONS FOR THE UNIQUELY SITUATED PROPERTY; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

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

WHEREAS, on or about March 7, 2018, the Mayor's 41st Street Blue Ribbon Committee was formed, and ten members were appointed by the Mayor and Commission; and

WHEREAS, on March 23, 2018, the Committee discussed and recommended goals and objectives, including improving the quality of life through multi-modal transportation design, community engagement, defining the overall vision for 41st Street as the main entrance/gateway to Mid-Beach, storefront revitalization and façade incentives, assessment of current public works, infrastructure improvements, and to define key opportunities and challenges; and

WHEREAS, on July 31, 2018, the Committee discussed and recommended the 41st Street Urban Design Vision Plan, with proposed recommendations guided by core principals/strategies based upon resident feedback and the design team's analysis of the street; and

WHEREAS, the Committee and the 41st Street Urban Design Vision Plan prioritize the importance of 41st Street as a primary gateway to Mid-beach and Miami Beach, as a whole; and

WHEREAS, the property located within the RM-2 District that fronts on the west side of Alton Road and fronts 41st Street/Interstate 195 is uniquely situated to serve as the Julia Tuttle Causeway District; and

WHEREAS, the property located within the Julia Tuttle Causeway District is situated as an isolated island of land fronting three major roadways at the visible prominent entrance to Miami Beach; and

WHEREAS, the proposed zoning regulations applicable to the Julia Tuttle Causeway District will allow for increased height and modified setback and minimum unit size regulations to reflect the unique nature of the property; and

WHEREAS, the proposed zoning regulations applicable to the Julia Tuttle Causeway District will not impact the surrounding neighbors and will incentivize development setback from neighboring residents and towards the Interstate 195 entrance to Miami Beach;

WHEREAS, the creation of the Julia Tuttle Causeway District will serve as a stimulant to realizing the vision of the 41st Street Urban Design Vision Plan by providing for development of a signature building that will frame the entrance to Miami Beach;

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," at Article II, entitled "District Regulations," at Division 3, entitled "Residential Multifamily Districts" of the Land Development Regulations of the Code of the City of Miami Beach, Florida is hereby amended as follows:

**CHAPTER 142
ZONING DISTRICTS AND REGULATIONS**

**ARTICLE II
DISTRICT REGULATIONS**

* * *

**DIVISION 3
RESIDENTIAL MULTIFAMILY DISTRICTS**

* * *

**SUBDIVISION IV
RM-2 RESIDENTIAL MULTIFAMILY, MEDIUM INTENSITY**

* * *

Sec. 142-220- Julia Tuttle Causeway District.

The following regulations shall apply to properties that front on the west side of Alton Road and front 41st Street/Interstate 195, known as the Julia Tuttle Causeway District; where there is conflict within this division, the criteria below shall apply:

- (1) The maximum building height shall be 290 feet; the height of all allowable height regulation exceptions provided in Section 141-1161(a) shall be allowed up to 30 feet above the height of the roofline of the main structure
- (2) The setback requirements in the Julia Tuttle Causeway District shall be as follows:
 - a. Front: 50 feet; any structure in excess of 85 feet in height shall be setback a minimum of 190 feet from Alton Road.
 - b. Rear: 0 feet

c. Side: 0 feet

- (3) For new multifamily construction, the minimum unit size shall be 450 square feet; the average unit size shall be a minimum of 700 square feet.
- (4) Accessory restaurant use open to the public shall be permitted within the Julia Tuttle Causeway District. There shall be no parking or loading requirement for an accessory restaurant use up to 3,000 square feet in size where it is part of a mixed-use building provided that there is already a loading zone and parking provided for the residential use.
- (5) The Regulations for New Construction provided in Section 142-219(1) shall only apply to the eastern frontage along Alton Road for new construction within the Julia Tuttle Causeway District.

SECTION 2. REPEALER.

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

SECTION 3. 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 4. SEVERABILITY.

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

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED AND ADOPTED this ____ day of _____, 2020.

Dan Gelber, Mayor

ATTEST:

Rafael E. Granado, City Clerk

APPROVED AS TO FORM
AND LANGUAGE
AND FOR EXECUTION

City Attorney

Date

First Reading: , 2020

Second Reading: , 2020

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

4000 Alton Road Expansion - Rezoning

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE OFFICIAL ZONING DISTRICT MAP, REFERENCED IN SECTION 142-72 OF THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, BY CHANGING THE ZONING DISTRICT CLASSIFICATION FOR THE PARCEL LOCATED ABUTTING 4000 ALTON ROAD AND FRONTING 41ST STREET/INTERSTATE 195, FROM THE CURRENT ZONING CLASSIFICATION OF GU, "GOVERNMENTAL USE", TO THE PROPOSED ZONING CLASSIFICATION OF RM-2, "RESIDENTIAL MULTIFAMILY, MEDIUM INTENSITY"; AND PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, on July 31, 2018, the Mayor's 41st Street Blue Ribbon Committee discussed and recommended the 41st Street Urban Design Vision Plan, with proposed recommendations guided by core principals/strategies based upon resident feedback and the design team's analysis of the street; and

WHEREAS, the Committee and the 41st Street Urban Design Vision Plan prioritize the importance of 41st Street as a primary gateway to Mid-beach and Miami Beach, as a whole; and

WHEREAS, the subject property is deemed surplus property by the Florida Department of Transportation (FDOT) and thus eligible for conveyance to the abutting property owner at 4000 Alton Road; and

WHEREAS, the conveyance of the subject property to private ownership makes it incompatible with the GU, Government Use zoning classification; and

WHEREAS, the property and abutting 4000 Alton Road are situated as an isolated island of land fronting three major roadways at the visible prominent entrance to Miami Beach; and

WHEREAS, changing the zoning classification of the subject parcels as provided herein is necessary to ensure the development of the site will be compatible with development in adjacent property given the unique location and situation, and will contribute to the general health and welfare of the City; and

WHEREAS, the City of Miami Beach has determined that changing the zoning classification of the subject parcel as provided herein will ensure that new development is compatible and in scale with the built environment, is consistent with the 41st Street Urban Design Vision Plan, and is in the best interest of the City; and

WHEREAS, the amendment set forth below is 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. ZONING MAP AMENDMENT The following amendments to the City's zoning map designations for the properties described herein are hereby approved and adopted and the Planning Director is hereby directed to make the appropriate changes to the zoning map of the City:

A parcel of land generally located adjacent to 4000 Alton Road and abutting 41 Street/Interstate 195 and described and depicted in Exhibit "A," from the current GU: Government Use to the proposed zoning classification of RM-2 "Residential Multifamily, Medium Intensity".

SECTION 2. REPEALER

All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

SECTION 3. SEVERABILITY

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

SECTION 4. CODIFICATION

It is the intention of the City Commission that the Official Zoning District Map, referenced in Section 142-72 of the Code of the City of Miami Beach, Florida be amended in accordance with the provisions of this Ordinance.

SECTION 5. EFFECTIVE DATE

This ordinance shall take effect 31 days after adoption to correspond to the adoption date of the Future Land Use Map of the City's Comprehensive Plan.

PASSED AND ADOPTED this ____ day of _____, 2020.

Dan Gelber, Mayor

ATTEST:

Rafael E. Granado, City Clerk

APPROVED AS TO FORM
AND LANGUAGE
AND FOR EXECUTION

City Attorney

Date

First Reading:
Second Reading:

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

4000 Alton Road Expansion - Comprehensive Plan Amendment

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, PURSUANT TO THE PROCEDURES IN SECTION 163.3184(3), FLORIDA STATUTES, TO AMEND THE FUTURE LAND USE MAP OF THE MIAMI BEACH COMPREHENSIVE PLAN, BY CHANGING THE DESIGNATION FOR THE PARCEL LOCATED ABUTTING 4000 ALTON ROAD AND FRONTING 41ST STREET/INTERSTATE 195, FROM THE CURRENT DESIGNATION OF PF, "PUBLIC FACILITY: GOVERNMENT USE", TO THE PROPOSED DESIGNATION OF RM-2, "RESIDENTIAL MULTIFAMILY, MEDIUM INTENSITY"; PROVIDING FOR INCLUSION IN THE COMPREHENSIVE PLAN; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, on July 31, 2018, the Mayor's 41st Street Blue Ribbon Committee discussed and recommended the 41st Street Urban Design Vision Plan, with proposed recommendations guided by core principals/strategies based upon resident feedback and the design team's analysis of the street; and

WHEREAS, the Committee and the 41st Street Urban Design Vision Plan prioritize the importance of 41st Street as a primary gateway to Mid-beach and Miami Beach, as a whole; and

WHEREAS, the subject property is deemed surplus property by the Florida Department of Transportation (FDOT) and thus eligible for conveyance to the abutting property owner at 4000 Alton Road; and

WHEREAS, the conveyance of the subject property to private ownership makes it incompatible with the PF, Public Facility: Government Use designation; and

WHEREAS, the property and abutting 4000 Alton Road are situated as an isolated island of land fronting three major roadways at the visible prominent entrance to Miami Beach; and

WHEREAS, changing the comprehensive plan designations of the subject parcel as provided herein is necessary to ensure the development of the site will be compatible with development in adjacent property give the unique location and situation, and will contribute to the general health and welfare of the City; and

WHEREAS, the City of Miami Beach has determined that changing the designation of the subject parcel as provided herein will ensure that new development is compatible and in scale with the built environment, is consistent with the 41st Street Urban Design Vision Plan, and is in the best interest of the City; and

WHEREAS, the amendment set forth below is 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. COMPREHENSIVE PLAN FUTURE LAND USE MAP AMENDMENT The following amendments to the designations for the properties described herein are hereby approved and adopted and the Planning Director is hereby directed to make the appropriate changes to the City's Future Land Use Map:

A parcel of land generally located adjacent to 4000 Alton Road and abutting 41 Street/Interstate 195 and described and depicted in Exhibit "A," from the current PF Public Facility: Government Use to the proposed designation of RM-2 "Residential Multifamily, Medium Intensity".

SECTION 2. REPEALER

All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

SECTION 3. SEVERABILITY

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

SECTION 4. INCLUSION IN COMPREHENSIVE PLAN

It is the intention of the City Commission that the Comprehensive Plan's Future Land Use Map be amended in accordance with the provisions of this Ordinance.

SECTION 5. TRANSMITTAL

The Planning Director is hereby directed to transmit this ordinance to the appropriate state, regional and county agencies as required by applicable law.

SECTION 6. EFFECTIVE DATE

This ordinance shall take effect 10 days after adoption.

PASSED AND ADOPTED this _____ day of _____, 2020.

Dan Gelber, Mayor

ATTEST:

Rafael E. Granado, City Clerk

APPROVED AS TO FORM
AND LANGUAGE
AND FOR EXECUTION

City Attorney

Date

First Reading:
Second Reading:

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

MIAMI BEACH

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

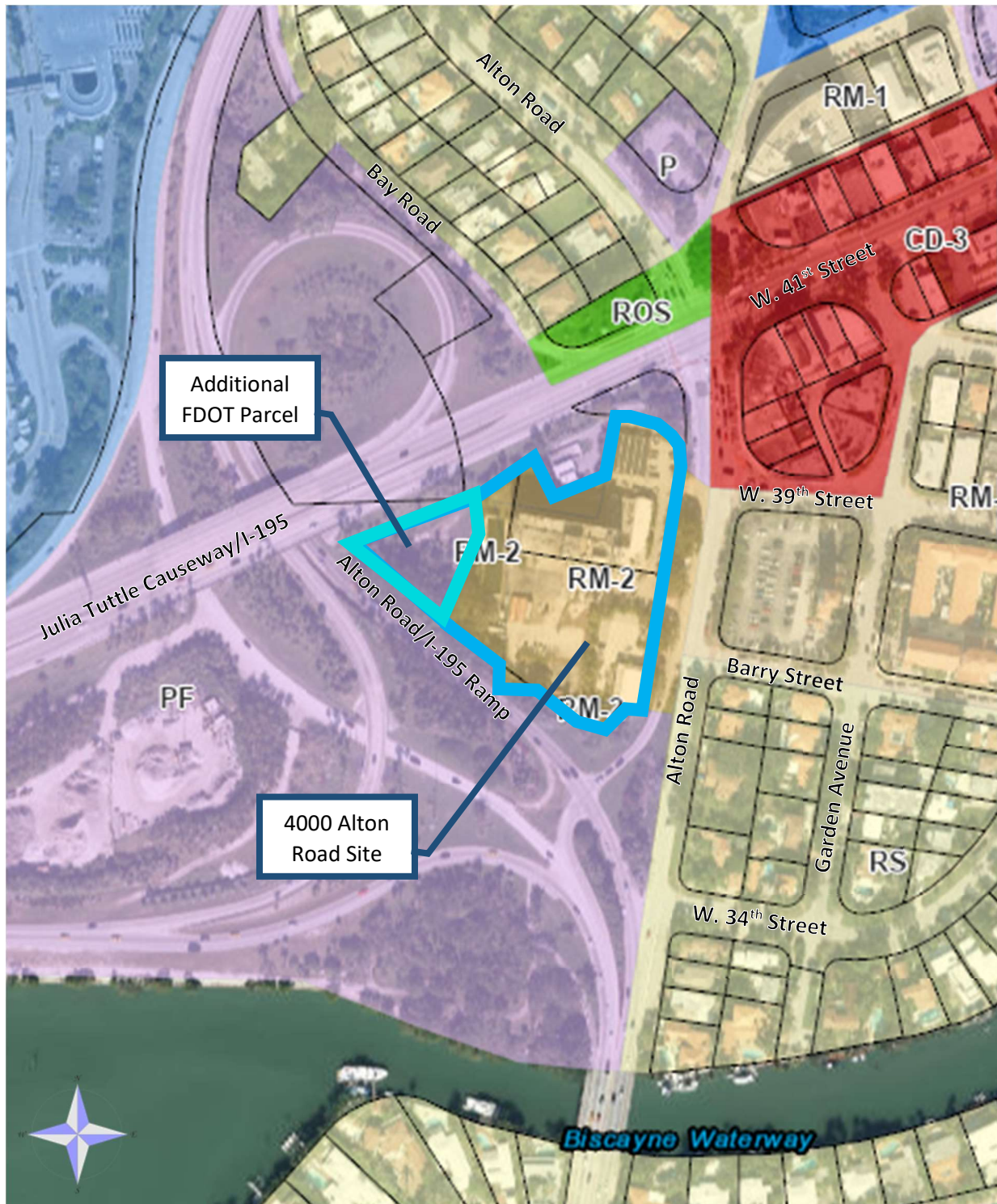
RECOMMENDED PUBLIC BENEFITS FOR THE PROPOSED EXPANSION AT 4000

ALTON ROAD

1. Develop a one (1) acre park for the benefit of city residents
2. The initial park concept SHOULD include options for fitness, open green spaces, seating areas, drinking fountains, landscaping and children's play areas.
3. Provide landscape to encourage habitat areas for pollinators, including at least 70% of plants and trees to be native.
4. All lighting should limit backlighting and glare, within temperature ranges in accordance with City safety requirements, including but not limited to light poles, lighted bollards and landscaping lighting.
5. Study the feasibility of providing a dog park.
6. If playground areas for children are provided, such area should include perimeter shade trees and other means of shade. Additionally, if playground equipment is provided it should be manufactured by Monstrum (or equivalent) made mostly of wood and warrantied for durability and low maintenance.
7. A stormwater management system capable of retaining and disposing runoff in accordance with the City of Miami Beach standards and requirements, as well as FDOT design storm requirements. At a minimum, the following benchmarks shall be met:
 - Miami-Dade County RER (DERM) 5-Year, 1-Hour 3.2" rainfall storm
 - Miami-Dade County RER (DERM) 5-Year, 24-Hour, 6" rainfall storm
 - City of Miami Beach 10-Year, 24-Hour, 8.75" rainfall storm (which includes a 1.25 factor of safety)
 - FDOT 100-Year, 24-Hour, 13" rainfall storm
8. Drainage wells that will promote the cleaning of the first flush of rainfall from the lift station to the bay shall be required. The capacity of these wells shall not be utilized towards on-site stormwater management and a separate stormwater management system shall be constructed as described above. At a minimum, the following benchmarks shall be met:
 - A minimum of five interconnected wells shall be provided for the sole purpose of improving the performance and quality of storm water runoff from the proposed stormwater system, as more specifically depicted in the City's Middle North Bay and Nautilus Basin Study
 - All wells shall have a minimum combined capacity of 10,000 gallons per minute with no well design assuming more than 2,000 gallons per minute per individual well.
 - All wells shall be designed and constructed in accordance with regulatory requirements.

- All wells shall be permitted for use as injection wells with passive pressure relief by means of an orifice plate or other method approved by applicable regulatory authorities and the City.
 - All wells shall contain a header, with an appropriate passive pressure relief device, manifolded all wells to a proposed pump station.
 - All wells shall be spaced in a manner to ensure that no well capacity is limited by another.
 - All wells shall be tested to confirm minimum required capacity is achieved.
9. A cistern shall be provided to capture water runoff during storm events and provide reuse opportunity to irrigate planting.
 10. A continuous bio-swale shall be provided to contain stormwater and to work as part of the stormwater management system.
 11. A continuous perimeter swale shall be constructed to contain storm and irrigation runoff water on the property.
 12. The perimeter sidewalk shall be relocated into the property in order to create a green area between the sidewalk and curb.
 13. Information and education signage shall be installed to inform and inspire the public about resilience and sustainability efforts being made in the property.

Zoning and Future Land Use Map





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

Item 8
COMMITTEE MEMORANDUM

TO: Land Use and Sustainability Committee

FROM: Jimmy L. Morales, City Manager

DATE: May 6, 2020

TITLE: DISCUSS REZONING CD-1 AREA BETWEEN 40TH STREET AND 41ST STREET TO CD-3 IN ORDER TO INCENTIVIZE MIXED-USE DEVELOPMENT IN MID-BEACH

HISTORY:

On March 18, 2020, at the request of Commissioner Ricky Arriola, the subject discussion item was referred to the Land Use and Sustainability Committee (Item C4 AC).

ANALYSIS:

As noted on the attached zoning map, the 41st Street corridor consists primarily of CD-3 zoned properties. There are a number of surface parking lots to the north and south of 41st Street, which are accessed from 40th Street and 42nd Street; these surface lots are zoned GU.

There are also a more limited number of lots fronting on the north side of 40th Street, between Chase and Sheridan Avenues, which are zoned CD-1. Some of these CD-1 lots already abut, or have the potential to abut, CD-3 zoned properties along 41st Street. However, even if a unified site is formed, under the code, there is no way to move FAR from the CD-3 sites to the CD-1 sites.

In order to provide more tangible opportunities for unified development sites along this limited area of the 41st corridor, the up zoning of the CD-1 parcels to CD-3 is worthy of consideration. In this regard, such an up zoning should only occur if the existing CD-1 parcel can be combined with an abutting CD-3 site, so that a more holistic development site, with frontage on 41st Street is achieved.

Under the City Charter any increase in zoned FAR requires approval from the voters. In order for a ballot question to be placed on the November 3, 2020 ballot, the City Commission would need to approve the ballot language by the end of July. Additionally, a first reading ordinance may be required, which requires a separate referral by the City Commission to the Planning Board.

CONCLUSION:

The administration recommends the following:

1. The Land Use and Sustainability Committee endorse the concept of a re-zoning of some or

all of the CD-1 parcels on the north side of 40th Street to CD-3.
2. The administration place a discussion item on the May 13, 2020 City Commission agenda to consider a ballot question and referral to the Planning Board, for the up zoning of some or all of the CD-1 parcels on the north side of 40th Street to CD-3.

Applicable Area

Middle Beach

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?

Yes

Does this item utilize G.O. Bond Funds?

No

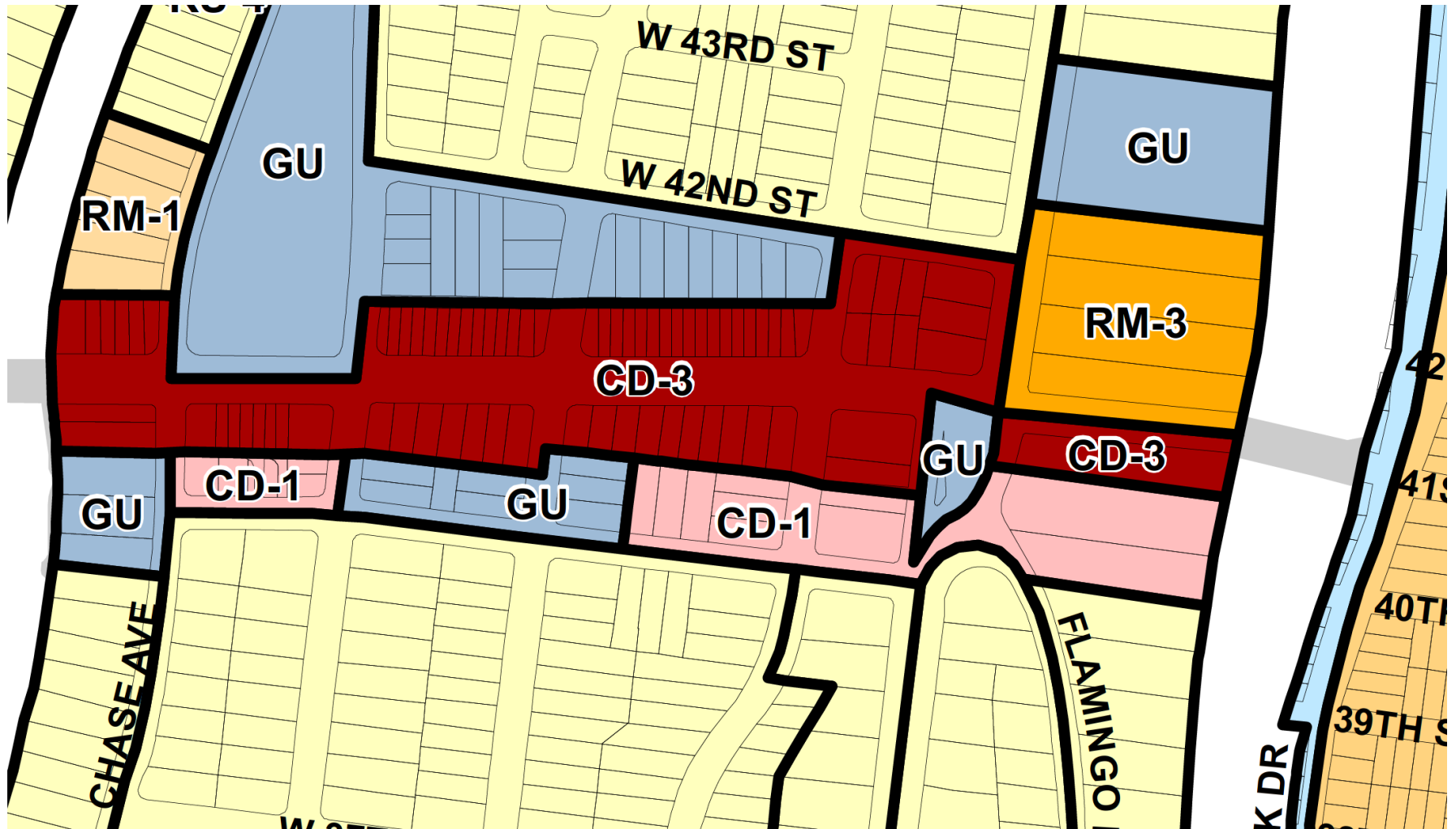
Departments

Planning

ATTACHMENTS:

Description	Type
<input type="checkbox"/> Zoning Map - 41st Street Area	Memo

Current Zoning





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

Item 9.
COMMITTEE MEMORANDUM

TO: Land Use and Sustainability Committee

FROM: Jimmy L. Morales, City Manager

DATE: May 6, 2020

TITLE: DISCUSSION REGARDING FINDING A PLAN, A LIST OF LOCATIONS WHERE BLUE AND GREEN INFRASTRUCTURE SOLUTIONS CAN BE APPLIED TO, IN AREAS PRONE TO FLOOD DURING HEAVY RAIN.

HISTORY:

To meet its stormwater needs, the City of Miami Beach is investing over \$650 Million in various infrastructure improvements, over an estimated span of 10 years. The infrastructure improvements include installing larger pipes, building pump stations, and raising roads to ensure that the roads do not flood in future tidal and rainfall events.

During King Tide events, to prevent localized street flooding in low areas such as upper North Bay Road, Orchard Park, Indian Creek, Tatum Waterway, and other North Beach areas, temporary pumps have been installed to assist in mitigating standing water.

At its January 27, 2020 Commission Workshop on Resilience, the Public Works Department offered the Commission members a presentation on Temporary Pumps (attached), which depicts citywide locations where temporary pumps are deployed.

Two scenarios were offered to the Committee members for discussion: A 14 pump deployment (which would allow for some standing water to remain, as recommended by the Urban Land Institute) or a 28 pump deployment (which would provide a higher level of service), to be tested for a period of six months at a cost of \$454,000 or \$890,000 respectively.

ANALYSIS:

At its February 18, 2020 meeting, the Land Use and Sustainability Committee held a discussion regarding properties in areas that continuously flood during rain events or King Tides. While there is a resiliency program that will identify these needs, many neighborhoods will not be included for another five to ten years. Committee members inquired whether there was an interim solution for such homes not included, perhaps with the inclusion of blue/green initiatives. Public Works offered alternatives to be considered for discussion.

At the end of the discussion, the Committee made a motion to bring forth a plan, a list of locations where blue/green infrastructure solutions may be applied to, a ballpark cost and funding

alternatives for these initiatives and to bring it back to the Committee. It was noted that these initiatives would be in addition to the proposed 14 pump deployment.

BLUE/GREEN INFRASTRUCTURE

A typical blue/green infrastructure installed within the right-of-way is a manmade swale (bioswale) typically vegetated and/or mulched with engineering soils below the surface. It can improve water quality by allowing water to collect naturally in the bioswale depressions and drain through the engineered soils beneath the surface rather than passing into storm sewers. It is designed to capture the first 1.5 inches of rainfall during storm events.

The City will be considering implementing a pilot project as means to test the efficacy and value of this type of technology. The La Gorce neighborhood, West 59th Street between Alton Road and Biscayne Bay, has been targeted for this pilot project.

A bioswale can provide the following benefits and limitations:

BENEFITS	LIMITATIONS
Effective removal of suspended solids, nutrients (nitrogen and phosphorus) and other pollutants before it enters the bay.	Bioswales are not intended to solve water quantity issues; thus, flooding would not be completely addressed by a bioswale.
Allows stormwater infiltration to replenish the fresh water lens beneath the ground	Periodic maintenance is required to preserve vegetation, grading, and permeability.
Captures the first flush (1.5 inches) of runoff from every rain event to remove contaminants and attenuates the intensity of rainfalls especially for high frequency, low volume rains.	Only the first 1.5 inches of large rain events will be captured – excess water will bypass the bioswale due to limited capacity; however, this adequately treats contaminated runoff per County and State regulations.
Beautifies the area with attractive landscape and utilizes a variety of native plants to minimize maintenance requirements.	Potential loss of parking if bioswales are placed in right-of-way areas currently being used by property owners for parking.

FLOODING AREAS IDENTIFIED

There are currently about 25 properties that have been identified and categorized as nuisance flood prone areas (see map attached). These are areas of ponding water where the deployment of a temporary pump is not an option. A property located on 50th Street is being considered for an additional test case to implement a blue/green initiative to assist in removing standing water from the driveway apron by reshaping the swale to alleviate and help infiltrate the standing water.

Through the construction of a sub-surface water detaining "tank" comprised of a series of silva cell structures arranged in such a manner so as to maximize the collection and dissipation of standing water from the above-ground swale into the ground through gradual infiltration.

The cost of the proposed installation can run anywhere from \$15k to \$30k per property, depending on the size of the swale. Below are the estimated costs for the above property:

Estimate of Probable Construction Costs

770 W 50th Street

Source RS Means /Wade Trim

Item	Quantity	Unit	Unit Cost	Subtotal
ASHTO #57 stone	6	CY	83	\$498.00
Excavation	37	CY	56	\$2,072.00
Restoration	480	SF	1	\$480.00
Plantings	1	LS	2500	\$2,500.00
Silva Cell 2 - 1x System includes 1 Base, 1 Deck, and 6-1x posts	7	EA	105	\$735.00
Silva Cell 2 Strongbacks	10	EA	41.52	\$415.20
Silva Cell Cable/Zip Ties 25" (635mm) long. ~100 per bag	1	EA	15.96	\$15.96
10" long X 19/64" diameter galvanized Spiral timber spikes. ~225 per carton (Item# 33272)	1	EA	120	\$120.00
35% MOB-DEMOB, MOT, ESC, INS, PERMITS				\$2,392.66
SUBTOTAL				\$10,000.00
engineering inspection and construction management 25%			0.25	\$3,000.00
Budget contingency			0.1	\$1,000.00
TOTAL				\$14,000.00

A budgetary cost for the areas identified to receive similar treatment would be in the \$150,000 to \$200,000 range. If the proposed test case is constructed and proves successful, additional properties could be designed, cost estimates developed, and abutting property owner contacted for concurrence.

Results from the 2019 Resident Survey show that 50% of residents rated efforts to manage stormwater drainage and flooding as excellent/good, and 59% of residents rated Stormwater & drainage improvements as excellent/good. In order to continue maintaining excellent standards in this area, the City is considering increasing the usage and funding of temporary pumps.

CONCLUSION:

The following is presented to the members of the Land Use and Sustainability Committee for discussion and further direction.

Applicable Area

North Beach

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?

Yes

Does this item utilize G.O. Bond Funds?

No

Departments

Public Works

ATTACHMENTS:

Description	Type
<div data-bbox="164 159 185 186"></div> Bioswales_02-28-20_770_W_50th_ST_2	Other
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<div data-bbox="164 243 185 270"></div> Temp_Pumps_-_Workshop_-_January_27__2020	Other
<div data-bbox="164 285 185 312"></div> AgendaItem_(3_4_2020_5_38_37_PM)	Other
<div data-bbox="164 327 185 354"></div> GIS_Elevations-_770_w_50th_(black)	Other



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MIAMI BEACH

PUBLIC WORKS DEPARTMENT

1700 CONVENTION CENTER DRIVE, MIAMI BEACH, FL 33139

TITLE:

NUISANCE FLOODING LOCATIONS



Temporary Pumps

Presented by: Roy Coley

Commission Workshop on Resilience

January 27, 2020



OBJECTIVES PROTECT AND ENHANCE OUR ENVIRONMENT AND INVEST IN INFRASTRUCTURE PROJECTS AND ASSETS THAT BUILD RESILIENCE BENEFITS LIKE REDUCING FLOOD RISK AND INCREASING SUSTAINABILITY.



COMMISSION GOALS

- Clean water strategy (2020)
- Improved infrastructure (2050)
- Stormwater, water, and sewer planning (2020)



An aerial photograph of a street intersection. A silver car is positioned in the upper center, and a dark grey car is in the center. Orange and white water barriers are placed along the left and right sides of the road. To the left of the road, there are four circular stormwater manholes on a concrete pad. To the right, there is a grassy area and a sidewalk with a street lamp. The scene is brightly lit, suggesting a sunny day.

The City has a robust Stormwater Plan to address “sunny day” flooding...

MIAMI BEACH
RISING
ABOVE

While the plan is implemented...

- During **emergency conditions** the City deploys **temporary pumps** and **personnel with vacuum trucks** to mitigate flooding



Indian Creek and 34th Street



West Ave and 8th Street



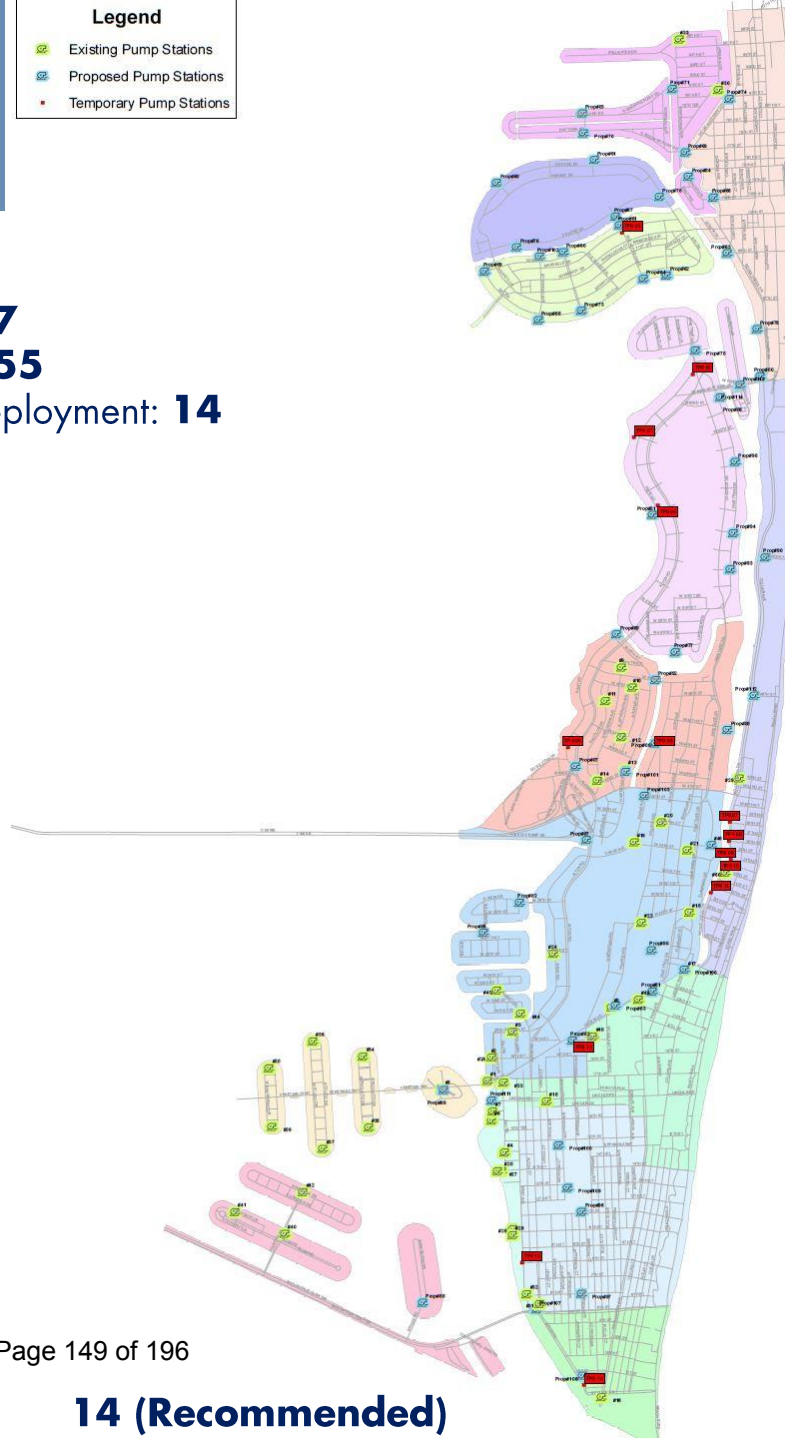
This effort needs to continue...

Existing Permanent Active Pump Stations: **47**
Proposed Future Permanent Pump Stations: **55**
Proposed locations for temporary pumps deployment: **14**
Recommended/ 28 Possible

MIAMI BEACH
RISING
ABOVE

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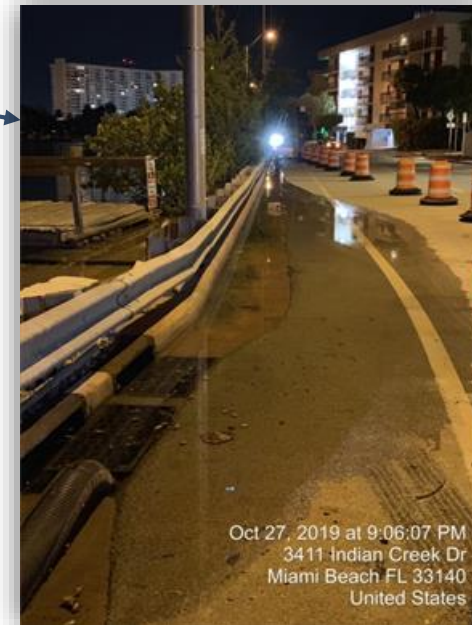
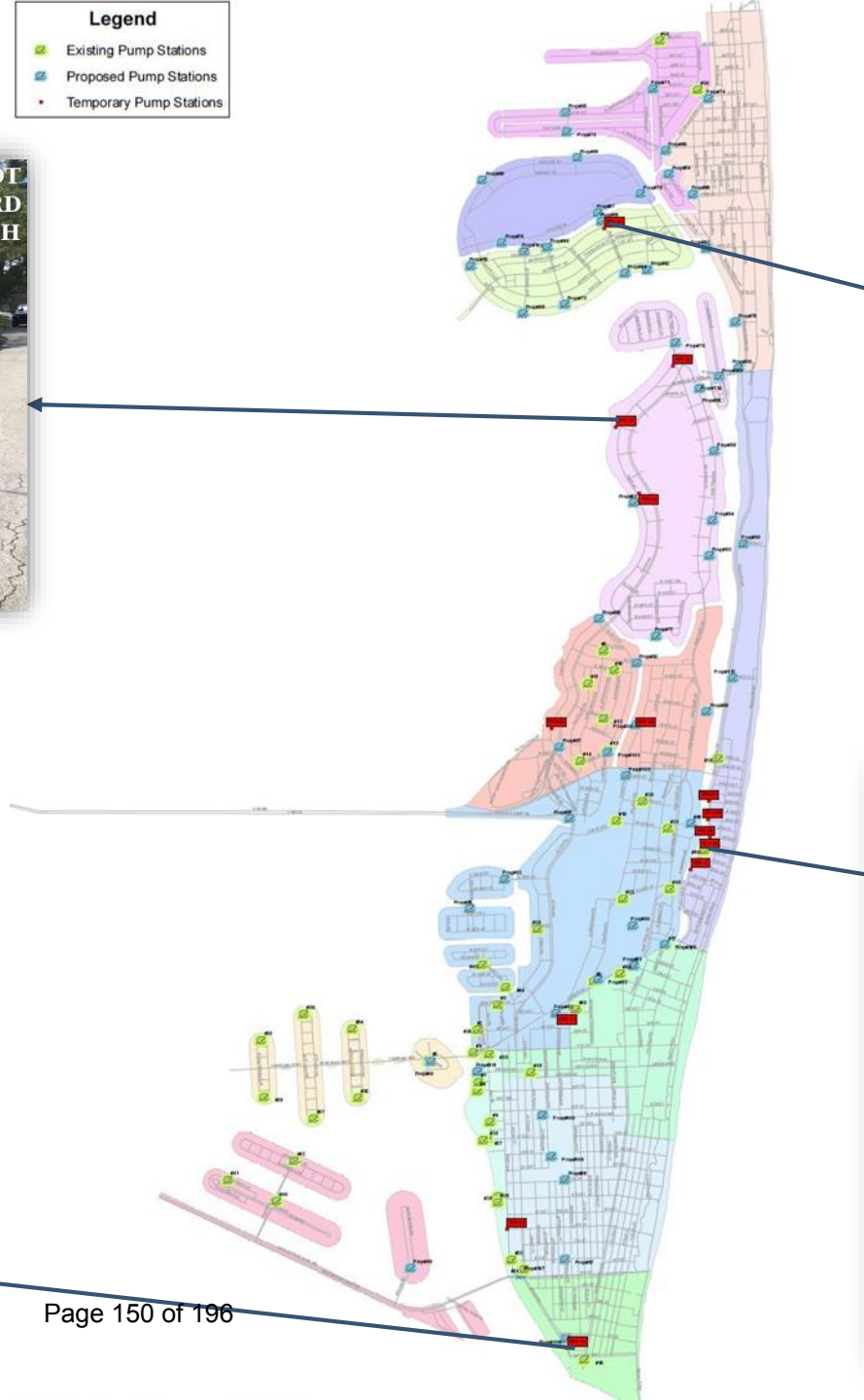
14 (Recommended)



28 (Possible)

Legend

- Existing Pump Stations
- Proposed Pump Stations
- Temporary Pump Stations



MIAMI BEACH
RISING
ABOVE

Temporary Pumps Deployment - 2020

Cost of Temporary Deployment 2017-2020

	Duration	No. of Pumps	Equipment	Fuel	Personnel	Total
FY 16/17	5-months	13 to 28	\$ 152,742.38	\$ 139,574.40	\$ 100,800.00	\$ 393,116.78
FY 17/18	11-months	27	\$ 325,410.73	\$ 307,063.68	\$ 221,760.00	\$ 854,234.41
FY 18/19	4-months	10 to 14	\$ 65,026.57	\$ 51,842.96	\$ 53,760.00	\$ 170,629.53
FY 19/20	3-months	14	\$ 147,701.10	\$ 38,882.22	\$ 40,320.00	\$ 226,903.32

Estimated Cost of 2020 Deployment:

14-Pump deployment for 6 months:

Deployment Duration: **6-months**

No. of Pumps: **14**

Equipment Cost: **\$295,420.20**

Fuel Cost: **\$77,764.44**

Personnel: **\$80,640.00**

Total estimated cost for 6 months: **\$453,824.64**

28-Pump deployment for 6 months:

Deployment Duration: **6-months**

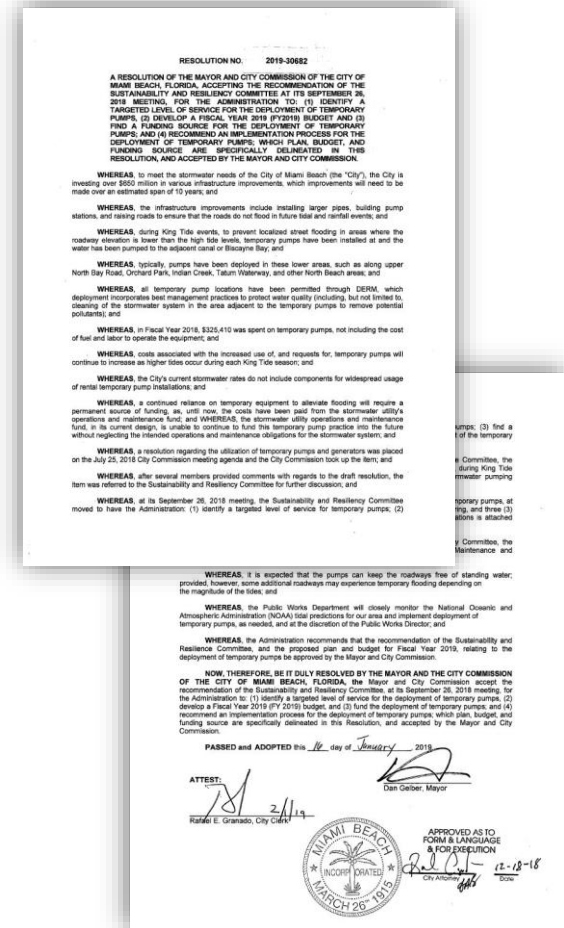
No. of Pumps: **28**

Equipment Cost: **\$601,670.40**

Fuel Cost: **\$167,486.28**

Personnel: **\$120,960.00**

Total estimated cost for 6 months: **\$890,119.68**



Resolution No. 2019-30682

An aerial photograph of a road construction site. At the top, a row of parked cars (silver, dark grey, and white) is visible. Below them, three orange traffic cones are placed on the asphalt. A blue car is driving in the center of the frame. The road is marked with yellow and white lines. To the right of the road is a concrete barrier and a sandy area with some sparse vegetation. The bottom of the image shows a body of water.

Q and A

MIAMI BEACH
RISING
ABOVE

COMMITTEE MEMORANDUM

TO: Land Use and Sustainability Committee

FROM: Jimmy L. Morales, City Manager

DATE: February 18, 2020

TITLE: Discussion To Explore Increasing The Usage Of Temporary Pumps And Funding It Using Monies From The Convention Center Hotel

HISTORY:

To meet the stormwater needs of the City of Miami Beach, the City is investing over \$650 million in various infrastructure improvements, which improvements will need to be made over an estimated span of 10 years. The infrastructure improvements include installing larger pipes, building pump stations, and raising roads to ensure that the roads do not flood in future tidal and rainfall events.

During King Tide events, to prevent localized street flooding in areas where the roadway elevation is lower than the high tide levels, temporary pumps have been installed to mitigate standing water and the water has been pumped to the adjacent canal or Biscayne Bay. Typically, pumps have been deployed in these lower areas, such as along upper North Bay Road, Orchard Park, Indian Creek, Tatum Waterway, and other North Beach areas.

In Fiscal Year 2018, \$325,410 was spent on the renting and deployment of temporary pumps, not including the cost of fuel and labor to operate the equipment. Costs associated with the increased use of, and requests for, temporary pumps will continue to increase as higher tides occur during each King Tide season. The City's current stormwater rates do not include components for widespread usage of rental temporary pump installations.

A resolution regarding the utilization of temporary pumps and generators was placed on the July 25, 2018 City Commission meeting agenda and a discussion was referred to the Sustainability and Resiliency Committee (SRC).

At its September 26, 2018 meeting, the SRC moved to have the Administration: (1) identify a targeted level of service for temporary pumps; (2) develop a Fiscal Year 2019 proposed budget for the deployment of temporary pumps; (3) find a permanent funding source; and (4) implement a recommended process for deployment of the temporary pumps; and to (5) bring the item back to the City Commission for approval.

Consistent with the direction of the SRC, the Administration determined the City's level of service would require the deployment of at least 25 temporary pumps, at an estimated cost of \$270,000 (assuming three (3) months of King Tides, in the Spring, and three (3) months of King Tides in the Fall).

At its January 16, 2019 meeting, the City Commission approved the SRC recommendation via Resolution No. 2019-30682 and to have the Administration identify \$272,000 in the Fiscal Year 2019 Stormwater Maintenance and Operations Fund.

At its January 15, 2020 meeting, the City Commission also approved a referral to the Land Use and Sustainability Committee to explore increasing the usage of temporary pumps and funding it using monies from the Convention Center Hotel.

At its January 27, 2020 Commission Workshop on Resilience, the Public Works Department offered the Commission members, a presentation on Temporary Pumps (attached), which depicts citywide locations where temporary pumps are deployed. Two scenarios are being offered to the Committee members for discussion and further direction: 14 pumps or 28 pump deployment for six months at a cost of \$454,000 or \$890,000 respectively.

ANALYSIS:

Results from the 2019 Resident Survey related to perception satisfaction of the City show that 79% of residents were very satisfied/satisfied and rated the City of Miami Beach as a place to live; and 70% were very satisfied/satisfied with the overall image of the City. In order to continue maintaining excellent standards in this area, the City is considering increasing the usage and funding of temporary funds.

Applicable Area

Citywide

Is this a "Residents Right to Know" item, pursuant to Citv Code Section 2-14?

Does this item utilize G.O. Bond Funds?

Yes

No

Departments

Public Works Department

ATTACHMENTS:

Description

- ☐ Resolution 2019-30682, temporary pumps
- ☐ Temp. Pumps - Workshop - Roy Coley

Type

Other
Other





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

Item 10.
COMMITTEE MEMORANDUM

TO: Land Use and Sustainability Committee

FROM: Jimmy L. Morales, City Manager

DATE: May 6, 2020

TITLE: DISCUSS HAVING THE CITY PURSUE MITIGATION PROJECT FUNDING FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HISTORY:

At the September 11, 2019 City Commission meeting, the Commission referred a discussion item to the Sustainability and Resiliency Committee for the City to pursue mitigation project funding from the U.S. Department of Housing and Urban Development. The item was discussed at the October 23, 2019 Sustainability and Resiliency Committee meeting and was scheduled to return to Committee with an update once the State's Action Plan was posted.

ANALYSIS:

The State of Florida has been allocated federal funding for disaster mitigation projects through the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant – Mitigation Program (CDBG-MIT). As a requirement for funding, states are required to provide HUD with an Action Plan outlining their plans for allocating the funds.

The State of Florida's Action Plan was posted on the Department of Economic Opportunity (DEO) website with a 45-day public comment period.

The City provided comments to the Action Plan, and a request for funding. Although the full application will not be available until later this year, the Administration took the step of requesting funding at this early stage. The City provided an outline of key factors that make Miami Beach unique, including the economic impact of tourism to the state, estimated at \$58 million in Resort Tax Revenues and more than \$30 million in Food and Beverage Tax Revenues annually.

The City's response also requested that the state include funding for the following key mitigation projects, which were either not included or not allocated sufficient funding in the plan, including:

- *Storm Water Management Program* which will reduce the risk of localized flooding.
- *Water and Sewer Line Funding*, especially on evacuation routes including city causeways.
- *Private and Public Seawalls* – Funding is needed for private seawall enhancements to elevate and replace seawalls and protect our most vulnerable areas. Of the 63 miles of seawalls in Miami

Beach, 60 miles of seawalls are privately-owned. Funding is needed to assist private property owners to elevate their seawalls to the newly established elevation of 5.7 feet NAVD88.

- *Critical Infrastructure* including construction of a new Fire Station.

The City's response to the State's Action Plan also listed prior accomplishments and highlighted the City's organizational capacity and previous work to alleviate flooding. The City's response to the Action Plan was included in the Countywide response submitted by the Miami-Dade County Local Mitigation Strategy Working Group as part of the regional response.

Upon approval of the plan, DEO will work with stakeholders to develop the application and distribute the federal funds.

CONCLUSION:

The Administration intends to apply for funding through this grant program for priority mitigation projects.

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?

No

Does this item utilize G.O. Bond Funds?

No

Departments

Office of the City Manager - Grants and Intergovernmental Affairs

Strategic Connection

Environment & Infrastructure - Reduce risk from storms, high tides, groundwater, and sea level rise.

Item 11.
COMMITTEE MEMORANDUM

TO: Land Use and Sustainability Committee

FROM: Jimmy L. Morales, City Manager

DATE: May 6, 2020

TITLE: **DISCUSS PERMITTING OUTDOOR THEATRE USE.**

ACTION REQUESTED:

Discuss and conclude the item with a recommendation to the City Commission.

ADMINISTRATION RECOMMENDATION:

The administration recommends that the LUSC endorse the C4 referral of the attached ordinance to the Planning Board.

HISTORY:

On February 12, 2020, at the request of Commissioner Ricky Arriola, the City Commission referred the discussion item to the Land Use and Sustainability Committee (Item C4 X). The item was discussed at the February 18, 2020 LUSC meeting and continued to March 17, 2020 with the following direction:

1. The item proposer shall engage in community outreach to gauge public and neighborhood support for the proposal.
2. A C4 referral item shall be placed on the March 18, 2020 agenda of the City Commission, to refer an ordinance to the Planning Board that would permit outdoor theater uses along the west side of Alton Road.

The March 17, 2020 LUSC meeting was postponed and the item was placed on the May 6, 2020 LUSC agenda. The above noted C4 item is currently pending before the City Commission.

ANALYSIS:

BACKGROUND/PROPOSAL

The developer of the 1212 Lincoln Road project, which is located on the west side of Alton Road, from 16th Street to Lincoln Road, is proposing to introduce a roof-top, outdoor movie theater use, with an accessory outdoor bar. Attached is an illustration of the proposal.

The developer has proposed the following operational components:

- A single screen theater with one showing each evening; movies would commence once it is dark.

- A concession stand with food and beverage, similar to indoor movie theater.
- The hours of operation are 5:00 pm to 12:00 midnight on weekdays and 5:00pm to 1:00 am on weekends. The outdoor bar counter would cease operations at 11:00 pm on weekdays and 12:00 midnight on weekends.
- The theater seats 250 persons, using both single seats and couch seats.
- The sound of the movie is heard only through headsets.
- All of the parking spaces proposed to be converted to theater area are excess, surplus parking and not required parking.
- Food preparation is proposed to take place in the restaurant downstairs, but sales, including table service, will occur upstairs.

Under the current regulations of the City Code, the proposed use is not permitted on the roof top of a structure on the west side of Alton Road. Specifically, the Alton Road corridor, which includes properties on the west side of Alton Road and east of Alton Court, between 14th Street and Collins Canal, has explicit regulations pertaining to roof-top uses and alcoholic beverage establishments, and the proposal herein is inconsistent with some of the current regulations.

It should also be noted that an outdoor movie theater meets the definition of an outdoor entertainment establishment. As such, pursuant to section 142-303 of the LDR's, conditional use approval from the Planning Board would be required (with or without an accessory outdoor bar). Additionally, pursuant to section 142-304 of the LDR's, the accessory outdoor bar counter proposed would not be permitted to operate past 12:00 midnight.

In order to allow for the proposed outdoor theater use at the subject location, the developer has drafted the attached ordinance, which proposes to amend sections 142-305, 142-310, 142-1109 and 142-1161 of the LDRs, as well as section 6-4 of the City Code, in order to allow for an outdoor movie theater use with an accessory outdoor bar. The following is a summary of the specific code sections that are proposed to be amended:

Sec. 142-305. - Prohibited uses AND Sec. 142-310. - Special regulations for alcohol beverage establishments.

The following new text is proposed:

Notwithstanding the foregoing, outdoor movie theaters with accessory outdoor bar counters may be permitted, including on rooftops, subject to conditional use approval and the following operational limitations:

a. The use shall front on Alton Road.

b. No music may exceed ambient, background levels. On rooftops, audio from the theater presentation may be delivered to patrons only through individual headphones.

c. The use shall cease operations no later than 12:00 a.m. on weekdays and 1:00 a.m. on weekends. Any accessory bar counter shall cease operations no later than 11:00 p.m. on weekdays and 12:00 a.m. on weekends.

Section 142-1109 - Accessory outdoor bar counters.

The following amended text is proposed:

Accessory outdoor bar counters shall be prohibited as a main permitted use and shall only be permitted as an accessory use to an outdoor movie theater fronting on Alton Road as provided in section 142-310, article IV, division 2 of this chapter, an outdoor cafe with a minimum of 30 chairs, or as an accessory use to a hotel pool deck. Accessory counters shall not be visible from any point along the property line adjacent to a public right-of-way.

Section 142-1161 – Height Exceptions.

The following new text is proposed:

For all districts, except RS-1, 2, 3 and 4 (single-family residential districts).

* * *

(20) Movie screens, lobby, and concession space serving an outdoor movie theater fronting on Alton Road as provided in section 142-310, article IV, division 2 of this chapter.

Sec. 6-4. - Location and use restrictions.

The following modified text is proposed:

(4) Motion picture theaters. No alcohol beverages shall be sold or offered for consumption in any motion picture theater, or in any room opening directly or indirectly into or in connection with any motion picture theater, except alcohol beverages may be served in motion picture theaters (i) of at least 15,000 square feet in total floor area, (ii) containing at least 300 permanent auditorium seats, and (iii) which are located in CD-3 commercial, high intensity districts. Additionally, alcohol beverages may be served in outdoor motion picture theaters fronting Alton Road that meet the requirements of section 142-310, article IV, division 2 of this chapter. Notwithstanding chapter 142, article 5, division 6 of the city Code, a an indoor motion picture theater in which the sale and consumption of alcohol beverages is permitted shall not be considered a neighborhood impact establishment. Motion picture theaters shall not be permitted to operate between the hours of 3:00 a.m. and 8:00 a.m., except that motion picture theaters may apply for up to three special event permits from the city per calendar year to operate during such hours. This section shall not relieve any person, entity or establishment from the restrictions contained in chapter 6, article II or the land development regulations of the city Code.

(10) Entertainment establishments. The minimum distance separation between entertainment establishments licensed to sell alcohol beverages, and not also operating as restaurants with full kitchens and serving full meals, shall be 300 feet. This shall not apply to outdoor movie theaters fronting Alton Road that meet the requirements of Section 142-310.

PLANNING ANALYSIS

The concept of an outdoor, roof-top movie theater venue is intriguing, as it would provide a unique and forward-thinking level of roof-top activation. Additionally, with the use of individual headphones, the negative impacts of spillover noise are reduced. Based upon the information

provided by the developer to date, the administration has identified the following areas that will require more information and/or further development:

1. According to the Building Permit for the main building (B1505070) only 20 parking spaces are excess / surplus parking. A detailed roof top plan and floor plans for the proposal will be needed, in order to verify whether the operational attributes of theater utilize more than 20 parking spaces. Such roof plan will need to clearly delineate all of the components of the proposed theater, including, but not be limited to seating, café space, bar counter, concession areas, restrooms and all points of access. If more than 20 parking spaces are needed for the theater operation, an additional amendment to Chapter 130 may be required.
2. Detailed elevation and section plans will be required, in order to determine whether any other components of the proposed theater exceed the height limits of the code. If other elements should exceed the maximum building height permitted, an additional amendment to section 142-1161, pertaining to height exceptions, may be required.
3. The location and operation of the accessory bar component of the proposal needs to be further studied, in order to prevent the venue from becoming an outdoor bar with an accessory theater use. To this end, it is suggested that the bar component be located closer to the east side of the roof, and that the areas for outdoor bar congregation and theater seating be segregated and tightly controlled. These types of operational components are typically addressed in greater detail as part of the planning board conditional use process.
4. The location of the movie screen should be placed on the west side of the roof top, with the projection facing east. This could also be addressed as part of a future DRB application, should the theater use be permitted.

The administration recommends that any referral of the subject ordinance address all the aforementioned issues.

CONCLUSION:

The administration recommends that the LUSC endorse the C4 referral of the attached ordinance to the Planning Board.

Applicable Area

Citywide

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?

Yes

Does this item utilize G.O. Bond Funds?

No

Departments

Planning Time Certain 11 a.m.

Strategic Connection

Neighborhoods - Modernize and streamline our old and complex land development regulations

and City codes.

ATTACHMENTS:

Description		Type
	Draft ORD	Memo
	Theater Rendering	Memo

CD-2 Alton Road Outdoor Movie Theaters

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, FLORIDA, BY AMENDING CHAPTER 142, ENTITLED "ZONING DISTRICTS AND REGULATIONS," SECTION 142-310, ENTITLED "SPECIAL REGULATIONS FOR ALCOHOL BEVERAGE ESTABLISHMENTS," SECTION 142-1109, ENTITLED "ACCESSORY OUTDOOR BAR COUNTERS," AND SECTION 142-305, ENTITLED "PROHIBITED USES;" SECTION 142-1161, ENTITLED "HEIGHT REGULATION EXCEPTIONS," BY AMENDING CHAPTER 6, ENTITLED "ALCOHOLIC BEVERAGES," SECTION 6-4, ENTITLED "LOCATION AND USE RESTRICTIONS" IN ORDER TO PERMIT OUTDOOR MOVIE THEATERS FRONTING ON ALTON ROAD; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, the Mayor and City Commission desire to encourage innovative and compatible redevelopment in the Alton Road Corridor;

WHEREAS, outdoor movie theater uses are an innovative entertainment use that will help encourage the commercial success of the Alton Road area.

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

SECTION 1. Chapter 142 of the City Code, entitled "Special regulations for alcohol beverage establishments," Section 142-310 is hereby amended as follows:

Sec. 142-310. - Special regulations for alcohol beverage establishments.

- (a) *Alton Road corridor.* The following additional requirements shall apply to alcoholic beverage establishments, whether as a main use, conditional use, or accessory use, that are located on the west side of Alton Road and east of Alton Court, between 5th Street and 11th Street, and between 14th Street and Collins Canal; and properties on the east side of West Avenue, between Lincoln Road and 17th Street, except alcoholic beverage establishments fronting Lincoln Road between West Avenue and Alton Road:
- (1) Operations shall cease no later than 2:00 a.m.
 - (2) Establishments with sidewalk cafe permits shall only serve alcoholic beverages at sidewalk cafes during hours when food is served in the restaurant, shall cease sidewalk cafe operations at 12:00 a.m., and shall not be permitted to have outdoor speakers.
 - (3) Commercial uses on rooftops shall be limited to restaurants only, shall cease operations no later than 11:00 p.m. on weekdays and 12:00 a.m. on weekends, and shall only be permitted to have ambient, background music.

- (4) Entertainment establishments shall be required to obtain conditional use approval from the planning board, in accordance with the requirements and procedures of chapter 118, article IV. Additionally, if approved as a conditional use, entertainment establishments shall be required to install a double door vestibule at all access points from the sidewalk, with the exception of emergency exits.
- (5) Outdoor bar counters shall be prohibited.
- (6) No special event permits shall be issued.
- (7) This subsection (a) above shall not apply to any valid, pre-existing permitted use with a valid business tax receipt (BTR) for an alcoholic beverage establishment that (i) is in application status prior to April 14, 2015; or (ii) issued prior to May 21, 2015; or (iii) to an establishment that has obtained approval for an alcoholic beverage establishment from a land use board, and which land use board order is active and has not expired, prior to May 21, 2015. Any increase to the approved hours of operation shall meet the requirements of this subsection (a).
- (8) Notwithstanding the foregoing, outdoor movie theaters with accessory outdoor bar counters may be permitted, including on rooftops, subject to conditional use approval and the following operational limitations:
 - a. The use shall front on Alton Road.
 - b. No music may exceed ambient, background levels. On rooftops, audio from the theater presentation may be delivered to patrons only through individual headphones.
 - c. The use shall cease operations no later than 12:00 a.m. on weekdays and 1:00 a.m. on weekends. Any accessory bar counter shall cease operations no later than 11:00 p.m. on weekdays and 12:00 a.m. on weekends.

SECTION 2. Chapter 142 of the City Code, entitled “Accessory outdoor bar counters,” Section 142-1109 is hereby amended as follows:

Accessory outdoor bar counters shall be prohibited as a main permitted use and shall only be permitted as an accessory use to an outdoor movie theater fronting on Alton Road as provided in section 142-310, article IV, division 2 of this chapter, an outdoor cafe with a minimum of 30 chairs, or as an accessory use to a hotel pool deck. Accessory counters shall not be visible from any point along the property line adjacent to a public right-of-way.

SECTION 3. Chapter 142 of the City Code, entitled “Height exceptions” Section 142-1161 is hereby amended as follows:

For all districts, except RS-1, 2, 3 and 4 (single-family residential districts).

- (a) The height regulations as prescribed in these land development regulations shall not apply to the following when located on the roof of a structure or attached to the main structure. For exceptions to the single-family residential districts, see subsection 142-105(e).

- (1) Air conditioning, ventilation, electrical, plumbing equipment or equipment rooms.
- (2) Chimneys and air vents.
- (3) Decks, not to exceed three feet above the main roofline and not exceeding a combined deck area of 50 percent of the enclosed floor area immediately one floor below.
- (4) Decorative structures used only for ornamental or aesthetic purposes such as spires, domes, belfries, not intended for habitation or to extend interior habitable space. Such structures shall not exceed a combined area of 20 percent of the enclosed floor area immediately one floor below.
- (5) Elevator bulkheads or elevator mechanical rooms.
- (6) Flagpoles subject to the provisions of section 138-72.
- (7) Parapet walls, not to exceed three and one-half feet above the main roofline unless otherwise approved by the design review board up to a maximum of 25 feet in height.
- (8) Planters, not to exceed three feet in height above the main roofline.
- (9) Radio, television, and cellular telephone towers or antennas, and rooftop wind turbines.
- (10) Stairwell bulkheads.
- (11) Skylights, not to exceed five feet above the main roofline.
- (12) Stage towers or scenery lofts for theaters.
- (13) Swimming pools, whirlpools or similar structures, which shall have a four-foot wide walkway surrounding such structures, not to exceed five feet above the main roofline.
- (14) Trellis, pergolas or similar structures that have an open roof of cross rafters or latticework.
- (15) Water towers.
- (16) Bathrooms required by the Florida Building Code, not to exceed the minimum size dimensions required under the Building Code, provided such bathrooms are not visible when viewed at eye level (five feet, six inches from grade) from the opposite side of the adjacent right-of-way; for corner properties. Such bathrooms shall also not be visible when viewed at eye level (five feet, six inches from grade) from the diagonal corner at the opposite side of the right-of-way and from the opposite side of the side street right-of-way.
- (17) Solar panels.
- (18) Wind turbines on oceanfront properties.
- (19) Sustainable roofing systems.
- (20) Movie screens, lobby, and concession space serving an outdoor movie theater fronting on Alton Road as provided in section 142-310, article IV, division 2 of this chapter.

- (b) The height of all allowable items in subsection (a) of this section, unless otherwise specified, shall not exceed 25 feet above the height of the roofline of the main structure. With the exception of items described in subsection (a)(17) and (a)(18) of this section, when any of the above items are freestanding, they shall follow the height limitations of the underlying zoning district (except flagpoles which are subject to section 138-72).
- (c) Notwithstanding other provisions of these regulations, the height of all structures and natural growth shall be limited by the requirements of the Federal Aviation Agency and any airport zoning regulations applicable to structure and natural growth.

SECTION 4. Chapter 142 of the City Code, entitled “Prohibited uses,” Section 142-305 is hereby amended as follows:

The prohibited uses in the CD-2 commercial, medium intensity district are accessory outdoor bar counters, except as provided in section 142-310, article IV, division 2 of this chapter and in chapter 6. Except as otherwise provided in these land development regulations, prohibited uses in the CD-2 commercial medium intensity district in the Sunset Harbour Neighborhood, generally bounded by Purdy Avenue, 20th Street, Alton Road and Dade Boulevard, also include hostels, outdoor entertainment establishments, neighborhood impact establishments, open air entertainment establishments, bars, dance halls, and entertainment establishments (as defined in section 114-1 of this Code).

SECTION 5. Chapter of 6 the City Code, entitled “Alcoholic Beverages,” Section 6-4, entitled “Location and use restrictions,” is hereby amended as follows:

Sec. 6-4. - Location and use restrictions.

(a) *Generally.* The following location and use restrictions are applicable for facilities selling or offering alcohol beverages for consumption:

(1) *Educational facilities.* No alcohol beverage shall be sold or offered for consumption in a commercial use within 300 feet of any property used as a public or private school operated for the instruction of minors in the common branches of learning. Except for uses in the civic and convention center (CCC) district, hospital (HD) district or within 300 feet of a marina.

(2) *Places of worship.* No alcohol beverage shall be sold or offered for consumption in an alcoholic beverage establishment, including bottle clubs, within 300 feet of any property used as a place of worship, except in restaurants operating with full kitchens and serving full meals for consumption on the premises.

(3) *Retail stores for off-premises consumption.* The minimum distance separation between retail stores primarily selling alcoholic beverages for consumption off the premises as a main permitted use shall be 1,500 feet. A retail store primarily selling alcoholic beverages may obtain conditional use approval from the planning board to operate at a lesser distance from an existing store, but in no event shall such a store open at a distance less than 700 feet from an existing store. There shall be no variances from this distance separation requirement.

(4) *Motion picture theaters.* No alcohol beverages shall be sold or offered for consumption in any motion picture theater, or in any room opening directly or indirectly into or in connection with any motion picture theater, except alcohol beverages may be served in motion picture theaters (i) of at least 15,000 square feet in total floor area, (ii) containing at least 300 permanent auditorium seats, and (iii) which are located in CD-3 commercial, high intensity districts. Additionally, alcohol beverages may be served in outdoor motion picture theaters fronting Alton Road that meet the requirements of section 142-310, article IV, division 2 of this chapter. Notwithstanding chapter 142, article 5, division 6 of the city Code, a an indoor motion picture theater in which the sale and consumption of alcohol beverages is permitted shall not be considered a neighborhood impact establishment. Motion picture theaters shall not be permitted to operate between

the hours of 3:00 a.m. and 8:00 a.m., except that motion picture theaters may apply for up to three special event permits from the city per calendar year to operate during such hours. This section shall not relieve any person, entity or establishment from the restrictions contained in chapter 6, article II or the land development regulations of the city Code.

Any approval granted pursuant to this section shall also be subject to the following restrictions:

- i. The sale of alcohol beverages for consumption off the premises is strictly prohibited.
 - ii. A minor control plan, setting forth conditions regarding hours of operation and alcohol sales, alcohol service and monitoring procedures, food service, and staff training, must be approved by the city manager or designee prior to the issuance of a license for alcohol sales or consumption.
 - iii. Designated alcohol beverage consumption areas, including concession and cafe areas, and those specific auditoriums in which alcohol beverages may be served and consumed, must be clearly designated as such and separated from the remainder of the theater by a barrier or other physical demarcation. All alcohol beverages must be served from within the designated alcohol beverage consumption areas, and no alcohol beverages may be consumed or carried beyond the boundary limits of the designated alcohol beverage consumption areas. Access to the designated alcohol beverage consumption areas is restricted to patrons who can present a valid identification for inspection demonstrating they are 21 years of age or older.
 - iv. There may be special customer promotions that combine purchase of a motion picture theater ticket with purchase of food and an alcohol beverage. No "happy hour" type of reduced price alcohol beverage promotion shall be allowed.
 - v. Motion picture theaters selling alcohol beverages, shall obtain the requisite state license for sales and consumption of such beverages.
 - vi. Motion picture theaters selling alcoholic beverages as defined in section 102-306 shall collect and remit resort taxes to the city for alcohol sales as required under section 102-306.
- (5) *Filling station.* No liquor as defined by F.S. § 568.01, shall be sold or offered for consumption on or off the premises of any filling station.
- (6) *Curb service sales.* No alcohol beverages shall be sold or served to persons in a vehicle of any kind or from an exterior counter or any type of walk-up window. All sales are to be from the interior of the structure.
- (7) *Off-premises consumption.* All sales of alcohol beverages for consumption off the premises shall be in a sealed container.

(8) *Bottle clubs.* There shall be no bottle clubs within 300 feet of any property used as a public or private school operated for the instruction of minors in the common branches of learning or place of worship.

(9) *Dance halls.* The minimum distance separation between dance halls licensed to sell alcohol beverages, and not also operating as restaurants with full kitchens and serving full meals, shall be 300 feet.

(10) *Entertainment establishments.* The minimum distance separation between entertainment establishments licensed to sell alcohol beverages, and not also operating as restaurants with full kitchens and serving full meals, shall be 300 feet. This shall not apply to outdoor movie theaters fronting Alton Road that meet the requirements of Section 142-310.

(b) *Determination of minimum distance separation.*

(1) For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the main entrance or exit in which the use associated with alcohol beverages occurs to the nearest point of the property used for a public or private school. In cases where a minimum distance is required between two uses associated with the alcohol beverages for consumption on or off the premises other than a public or private school, the minimum requirement shall be determined by measuring a straight line between the principal means of entrance of each use.

(2) When a distance separation is required, a scaled survey drawn by a registered land surveyor shall be submitted attesting to the separation of the uses in question. This requirement may be waived upon the written certification by the planning director that the minimum distance separation has been met.

(c) *Variances.* Variances to the provisions of this section may be granted pursuant to the procedure in section 118-351 et seq., except that no variances may be granted on the provisions of [subsection] 6-4(a)(4) concerning the sale or consumption of alcohol beverages in motion picture theaters.

SECTION 6. CODIFICATION. It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 7. REPEALER. All ordinances or parts of ordinances and all section and parts of sections in conflict herewith be and the same are hereby repealed.

SECTION 8. SEVERABILITY. If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 9. EFFECTIVE DATE AND APPLICABILITY. This Ordinance shall take effect ten days following adoption. The terms of this ordinance shall not apply to any development

undertaken pursuant to a vested rights determination issued by the City related to the definition of “floor area” or calculation thereof.

PASSED and **ADOPTED** this _____ day of _____, 20__.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

City Attorney

Date

First Reading:
Second Reading:

Verified by: _____
Thomas Mooney, AICP
Planning Director

Underscore denotes new language





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

Item 12.
COMMITTEE MEMORANDUM

TO: Land Use and Sustainability Committee

FROM: Jimmy L. Morales, City Manager

DATE: May 6, 2020

TITLE: DISCUSSION: LIMITING BIG BOX FORMULA RETAIL AND FORMULA RESTAURANTS ON LINCOLN ROAD

ACTION REQUESTED:

Discuss the item and provide policy direction.

ADMINISTRATION RECOMMENDATION:

Discuss and continue the item to the June 30, 2020 LUSC meeting.

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 R). The item was discussed briefly at the September 18, 2019 LUDC meeting, and continued to the October 30, 2019 meeting.

On October 30, 2019, the item was discussed and continued to the January, 2020 LUDC, with the following direction:

1. The City Attorney will draft an ordinance for review by the LUDC, which will include limits on big box establishments.
2. The Administration will place a C4 referral item on the City Commission agenda, as a place holder, in anticipation of a recommendation for referral to the Planning Board.
3. The administration will meet with the Lincoln Road BID for further input.

The item was placed on the January 21, 2020 agenda of the newly created Land Use and Sustainability Committee. The item was deferred to the February 18, 2020 meeting. On February 18, 2020 the item was continued to March 17, 2020. The March 17, 2020 LUSC meeting was postponed and the item was placed on the May 6, 2020 LUSC agenda.

ANALYSIS:

The administration met with the Lincoln Road BID Executive Committee on January 16, 2020.

The members of the Executive Committee expressed concerns and reservations with the proposal, as well as a desire to address the LUSC with their specific concerns.

If an ordinance should move forward, the administration and the City Attorney's office would recommend that the City perform a planning analysis and establish a solid record for any legislative changes. As is the case with Sunset Harbor, such an analysis will be an important component of any legislation. In order to take into consideration the input of the Lincoln Road BID, it is recommended that the item be continued to the June 30, 2020 LUSC meeting.

CONCLUSION:

The Administration recommends that the Land Use and Sustainability Committee continue the item to the June 30, 2020 LUSC meeting.

Applicable Area

South Beach

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?

Yes

Does this item utilize G.O. Bond Funds?

No

Departments

Planning



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

Item 13.
COMMITTEE MEMORANDUM

TO: Land Use and Sustainability Committee

FROM: Jimmy L. Morales, City Manager

DATE: May 6, 2020

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

ACTION REQUESTED:

Conclude the item and recommend that the City Commission adopt the attached ordinance.

ADMINISTRATION RECOMMENDATION:

Discuss the item and recommend that the City Commission adopt the attached ordinance.

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.

The December 2, 2019 LUDC meeting was cancelled, and the item was moved to the January 21, 2020 agenda of the newly created Land Use and Sustainability Committee. On January 21, 2020 the item was continued to the February 18, 2020 LUSC meeting. On February 18, 2020 the item was continued to March 17, 2020. The March 17, 2020 was cancelled and the item was moved to the May 6, 2020 LUSC agenda.

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

The ordinance pertaining to the presumption clause, as previously recommended by the Land Use and Development Committee, is pending before the City Commission and scheduled to be adopted on May 13, 2020. Additionally, a list of unsafe buildings has been posted on the City website, with a direct link from the planning department webpage.

About as-built drawings, as indicated previously, there are a couple of different options; each, however, has a budget impact and would need to be part of a budget enhancement for FY 2021. These include hiring an architectural firm or local University to do built drawings based upon available archival plans and a field assessment. Another potential option would be laser scanning and point cloud files that are then rendered. In those instances where a contributing building is proposed to be replaced or substantially modified, the Architect of record already puts together a detailed set of as-built drawings. Given the current limited need for such drawings on an emergency basis, as well as the potential cost of computer software required, the administration recommends that such a process not move forward at this time.

The administration has reviewed 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. The attached draft ordinance, which amends chapter 58 of the City Code, and creates a building registry process specific to Miami Beach. The following is a summary of the key points of the proposed ordinance:

- Terms specific to the proposed Abandoned and Vacant Properties Registry have been defined.
- Division 4 has been created within chapter 58, establishing an Abandoned and Vacant Properties Registry.
- Applicability: All properties within a locally designated historic district are subject to the Abandoned and Vacant Properties Registry. A property must register within 15 days of becoming abandoned or vacant.
- Detailed registration requirements have been developed. This includes a nonrefundable annual registration fee in the amount of two hundred dollars (\$200) per property, as well as a nonrefundable annual fee of thirty cents (\$0.30) per square foot shall be paid for any building or structure that exceed three (3) stories. This tiered approach to assessing fees will have a greater impact on larger structures, which are typically more vulnerable to demolition by neglect.
- A responsibility for compliance section is established, requiring that is the responsibility of the owner to maintain the property in accordance with the provisions in this article.

The administration believes that the proposal herein will create a fair and transparent process for tracking at risk properties within the City's local historic district. Additionally, it will allow for the City to proactively monitor the conditions of the structures, and better enforce the demolition by neglect section of the City Code.

The one section of the legislation that still needs to be worked out is the administering City department for the registry. The administration is discussing this internally, and it is anticipated that this piece of the legislation will be ready for first reading.

CONCLUSION:

The administration recommends that the item be concluded and that the attached draft ordinance be sent to the City Commission for consideration.

Applicable Area

Citywide

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?

Yes

Does this item utilize G.O. Bond Funds?

No

Departments

Planning

ATTACHMENTS:

Description	Type
 Draft ORD - Building Registry	Memo

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, BY AMENDING SUBPART A, ENTITLED "GENERAL ORDINANCES," BY AMENDING CHAPTER 58, ENTITLED "HOUSING," ARTICLE I, ENTITLED "IN GENERAL", DIVISION 1, ENTITLED "GENERALLY" BY AMENDING SECTION 58-31, ENTITLED "DEFINITIONS, AND BY AMENDING CHAPTER 58, ENTITLED "HOUSING," ARTICLE III, ENTITLED "PROPERTY MAINTENANCE STANDARDS," BY CREATING DIVISION 4, ENTITLED "ABANDONED AND VACANT PROPERTIES REGISTRY," AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS,

WHEREAS,

WHEREAS

WHEREAS,

NOW, THEREFORE, BE IT DULY ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. Article III, entitled "Property Maintenance Standards," of Chapter 58, entitled "Housing," of the Code of the City of Miami Beach, Florida is hereby amended creating Division 4, entitled "Abandoned and Vacant Properties Registry," as follows:

**CHAPTER 58
HOUSING**

ARTICLE I. In General

DIVISION 1. Generally

Sec. 58-31. - Definitions.

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

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.

Enforcement officer means any law enforcement officer, building inspector, building official, fire inspector or code enforcement officer employed by the City of Miami 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, passer-by, delivery agents or government agents; accumulation of abandoned personal property' and/or readily accessible residence, structures and buildings on the property.

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; or any conditions that constitute and attractive nuisance or otherwise endanger the public's safety while in the vicinity thereof.

Mortgagee the creditor, including, but not limited to, service companies, lenders in a mortgage agreement, and any agent, servant, employee 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 chapter, 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.

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 Miami-Dade County Property Appraiser's Office; or being a mortgagee in possession of real property.

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.

* * *

ARTICLE III. Property Maintenance Standards

* * *

DIVISION 4. Abandoned and Vacant Properties Registry

* * *

Sec. 58-302. 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 Miami Beach

Sec. 58-303. Applicability.

This division applies to abandoned or real property, whether occupied or vacant, within a local historic district within the City of Miami Beach.

Sec. 58-304. Administration and enforcement.

- (a) Within 15 days after a property has become abandoned or vacant, property owner of record and/or mortgagee shall register such property with the [REDACTED] or designee.
- (b) Failure of the property owner of record and/or mortgagee to properly register or to modify the registration from time to time to reflect a change in 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.
- (c) Pursuant to any judicial finding and determination, including any administrative proceeding that the property is in violation of this division, 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.
- (d) Failure of the property owner of record and/or mortgagee to properly inspect and secure a property subject to this article, and post and maintain the signage required in this article, is a violation of this division 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. 58-305. Registration requirements.

- (a) A nonrefundable annual registration fee in the amount of two hundred dollars (\$200) per property shall be paid.
- (b) A nonrefundable annual fee of thirty cents (\$0.30) per square foot shall be paid for any building or structure that exceed three (3) stories.
- (c) 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.
- (d) The renewal of the registration with its accompanying fee, shall be the responsibility of the property owner of record and/or mortgagee and a failure to do so in a timely manner shall subject the property owner of record and/or mortgagee to code enforcement action pursuant to the City of Miami Beach Code of Ordinances.
- (e) Properties subject to this division shall be maintained in accordance with the provisions contained within this article.

- (f) 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 also contain 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.

Sec. 58-306. Responsibility for compliance.

- (a) It is the responsibility of the owner to maintain the property in accordance with the provisions in this article. A mortgagee of any mortgage agreement which exists on abandoned real property that is in violation of this division 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 division shall only be effective during periods of time that the property is 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. 58-307. Additional authority.

- (a) If an appropriate enforcement officer has reason to believe that a property subject to the provisions of this division is posing a serious threat to the public health, safety and welfare, the enforcement officer may bring the violation before the code enforcement special master, 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 master 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.

SECTION 2. REPEALER.

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

SECTION 3. SEVERABILITY.

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

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 a 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. 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

Underline denotes additions
~~Strikethrough~~ denotes deletions

First Reading: April 22, 2020
Second Reading: May 13, 2020

M:\\$CMB\CCUPDATES\Land Use and Sustainability Committee\2020\3- March 17, 2020\Demo By Neglect - Vacant and Abandoned Properties Registry - ORD March 17, 2020 LUSC.docx



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Item 14.
COMMITTEE MEMORANDUM

TO: Land Use and Sustainability Committee

FROM: Jimmy L. Morales, City Manager

DATE: May 6, 2020

TITLE: **COMPREHENSIVE PLAN AMENDMENT FOR PUBLIC FACILITY (PF) FUTURE LAND USE ELEMENT.**

ACTION REQUESTED:

Discuss the item and continue to May 26, 2020.

ADMINISTRATION RECOMMENDATION:

Discuss and continue the item to May 26, 2020.

HISTORY:

On March 18, 2020, at the request of Mayor Dan Gelber, the City Commission referred the item to the Land Use and Development Committee (Item C4 V). The item was simultaneously referred to the Planning Board.

ANALYSIS:

The current lessee of the Miami Beach Marina is proposing a public private partnership with the City of Miami Beach to renegotiate the lease of the facility and make significant improvements to the property. The proposal includes an extension of the lease agreement, which requires a referendum. A comprehensive plan amendment is required for these negotiations to proceed.

The Public Facility (PF) Governmental Use land use designation in the 2040 Comprehensive Plan is intended to provide opportunities for existing and new governmental uses of City owned or controlled property. The lessee of the Miami Beach Marina is proposing substantial capital improvements to the Miami Beach Marina including significant enhancements to the marina facilities addressing resiliency, sea level rise, other needed capital improvements, and redevelopment of the upland portion of the marina. Additionally, the proposed extension of the marina lease would significantly improve the lease terms and deliver additional public benefits.

This initiative requires an amendment to the PF land use designation text, in order to allow for a public-private development agreement to govern and regulate upland development of the City-owned marina property. In this regard, the following text amendment is proposed:

POLICY RLU 1.1.17 PUBLIC FACILITY: GOVERNMENTAL USES (PF)

Purpose: To provide development opportunities for existing and new government uses, as well as public-private redevelopments.

Uses which may be permitted: Government uses, parking facilities, affordable or workforce housing, various types of commercial uses including business and professional offices, retail sales and service establishments, and eating and drinking establishments, and public-private marina redevelopments.

Public-private marina redevelopments shall include significant publicly accessible green open space and may permit the following uses: Retail sales and service establishments; commercial uses, including business and professional offices; eating and drinking establishments; apartment residential uses; and recreational uses.

The proposed amendment allows for public-private marina redevelopments as a main permitted use. This use allows for a variety of sub-uses which are expected to fund the resiliency improvements that must be made to such a site. Additionally, the amendment requires that significant amounts of open space be incorporated into public-private marina development.

Additionally, a the proposal will allow for resiliency enhancements to be built on the site, it is consistent with Principle 1 of the Resilient Land Use Element of the 2040 Comprehensive Plan, which states the following:

PRINCIPLE 1: DEVELOPING A RESILIENT FUTURE

The City shall encourage redevelopment that contributes to community resiliency by meeting all required peril of flood mitigation and storm hazard standards for on-site development and shall also prioritize energy efficient development that provides stormwater mitigation, and co-benefit features that contribute to the City's resiliency as a whole.

The zoning designation of the site is GU, which requires City Commission approval for any development proposal. Additionally, for private or joint government/private, such as this, Planning Board review is required. A companion item is also on the LUSC agenda to consider a corresponding amendment to the Land Development Regulations (LDR's). This is a fairly complex LDR amendment that will require additional study and analysis.

In order to address the additional analysis required for the LDR amendment, the administration is recommending continuance of both items to the May 26, 2020 LUSC meeting.

CONCLUSION:

The Administration recommends that the Land Use and Sustainability Committee discuss and continue the item to May 26, 2020.

Applicable Area

South Beach

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?

Does this item utilize G.O. Bond Funds?

Yes

No

Departments

Planning

ATTACHMENTS:

Description	Type
 Draft ORD - Comp Plan	Memo

Comprehensive Plan Amendment – PF Public-Private Redevelopment

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE RESILIENT LAND USE AND DEVELOPMENT ELEMENT, GOAL RLU 1 ENTITLED “LAND USE”, OBJECTIVE RLU 1.1 ENTITLED “ESTABLISHMENT OF FUTURE LAND USE CATEGORIES”, POLICY RLU 1.1.17 ENTITLED “PUBLIC FACILITY: GOVERNMENTAL USES (PF)” TEXT TO ALLOW FOR PUBLIC-PRIVATE DEVELOPMENT OF CITY-OWNED PROPERTY; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the Public Facility (PF) Governmental Use land use designation in the 2040 Comprehensive Plan is intended to provide opportunities for existing and new governmental uses of City-owned or controlled property, such as the Miami Beach Marina; and

WHEREAS, the Mayor and City Commission recognize the need to encourage the redevelopment of City-owned marina property; and

WHEREAS, the Mayor and City Commission are desirous of entering into a public-private development agreement with the current lessee of the Miami Beach Marina to provide additional public benefits to residents; and

WHEREAS, the lessee of the Miami Beach Marina is interested in renegotiating the lease of the facility and making significant improvements to the property; and

WHEREAS, the proposed improvements will address resiliency and sea level rise, which are encouraged in the 2040 Comprehensive Plan; and

WHEREAS, an amendment of the PF land use designation text is required in order to allow for the City to enter into a public-private development agreement that will govern and regulate development of the City-owned property; and

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

POLICY RLU 1.1.17 PUBLIC FACILITY: GOVERNMENTAL USES (PF)

Purpose: To provide development opportunities for existing and new government uses, as well as public-private redevelopments.

Uses which may be permitted: Government uses, parking facilities, affordable or workforce housing, various types of commercial uses including business and professional offices, retail sales and service establishments, and eating and drinking establishments, and public-private marina redevelopments.

Public-private marina redevelopments shall include significant publicly accessible green open space and may permit the following uses: Retail sales and service establishments; commercial uses, including business and professional offices; eating and drinking establishments; apartment residential uses; and recreational uses.

Intensity Limits: Intensity may be limited by such set back, height, floor area ratio and/or other restrictions as the City Commission acting in a legislative capacity determines can effectuate the purpose of this land use category and otherwise implement complementary public policy. However, in no case shall the intensity exceed a floor area ratio of 3.5.

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:

Rafael E. Granado, City Clerk

Dan Gelber, Mayor

First Reading:

Second Reading:

(Sponsored by Mayor Dan Gelber)

Verified by:

Thomas R. Mooney, AICP
Planning Director



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

Item 15.
COMMITTEE MEMORANDUM

TO: Land Use and Sustainability Committee

FROM: Jimmy L. Morales, City Manager

DATE: May 6, 2020

TITLE: PROPOSED AMENDMENT TO CHAPTER 142 OF THE LAND DEVELOPMENT REGULATIONS OF THE CITY CODE PERTAINING TO DEVELOPMENT REGULATIONS IN THE CPS-4 DISTRICT.

ACTION REQUESTED:

Discuss the item and continue to May 26, 2020.

ADMINISTRATION RECOMMENDATION:

Discuss and continue the item to May 26, 2020.

HISTORY:

On April 22, 2020, at the request of Mayor Dan Gelber, the City Commission referred the item to the Land Use and Sustainability Committee (Item C4 F). The item was simultaneously referred to the Planning Board.

ANALYSIS:

BACKGROUND

Miami Beach Marina Associates, Ltd., the lessee of the Miami Beach Marina ("Lessee"), and its affiliate Alton Road Mixed Use Investments, LLC (jointly, "Developer"), are proposing a public-private partnership with the City of Miami Beach to renegotiate the lease of the facility and make significant improvements to the Miami Beach Marina property. Specifically, the Developer is proposing to construct a residential building with approximately 60 units, totaling approximately 275,000 gross square feet, together with accessory commercial, retail, and office space totaling approximately 45,000 gross square feet. Notably, the Developer is proposing approximately 2 acres of publicly accessible open green space – including a park with substantial resiliency components. The Developer also proposes capital improvements including significant sea level rise and resiliency enhancements to the marina facilities together with the redevelopment of the upland portion of the marina.

The proposed extension of the marina lease would provide the City with a rare opportunity to improve the lease terms and deliver additional public benefits. This is because the existing Marina lease is otherwise in place for another thirty-two (32) years. The Administration is continuing to

explore additional potential enhancements that can assist the City's efforts in ensuring long-term resiliency. From a transactional perspective, the proposal includes a new lease with an extended term, and a development agreement which will provide for, and include, a sale of air rights. The lease and sale of air rights will each require voter referendum approval pursuant to the City Charter. Based upon ongoing assessments of information available at present, it is anticipated that an increase in FAR may be required to effectuate the proposal. Such an increase would require voter referendum approval pursuant to the City Charter.

PLANNING ANALYSIS

The subject ordinance amends the development regulations for the CPS-4 district. A companion item is also on the LUSC agenda to consider a corresponding Comprehensive Plan amendment. Specifically, the Miami Beach Marina site at 300 Alton Road (the "Marina Site") has a future land use designation of "Public Facilities (PF) Governmental Use." The Comprehensive Plan amendment would modify the PF future land use designation to allow for "public-private marina redevelopments."

The Marina Site has a zoning designation of "GU, Government Use" district. Pursuant to section 142-425, the development regulations for the GU district are an average of the development regulations (setbacks, floor area ratio, signs, parking, etc.) of the surrounding zoning districts. The sites immediately abutting the Marina Site have a "C-PS4, Intensive Mixed-Use Phased Bayside Commercial," designation. As such the CPS-4 zoning district regulations will apply to the adjacent GU district.

The attached draft ordinance creates development regulations that would only apply to sites with a marina and a PF Future Land Use designation; the following is a summary of the proposed new regulations:

- 1) Provide for the potential increase of the maximum floor area ratio (FAR) to accommodate the proposal. (The actual amount of the increase depends upon further analysis more particularly explained below.)
- 2) Increase the height limit from 150 feet, to 225 or 285 feet. (The actual height will depend upon further analysis of various massing studies, as detailed below.)
- 3) Increase the height for allowable height exceptions from 25 feet to 30 feet.
- 4) Modify setbacks as follows:
 - Increase the front setback from 0 feet to 5 feet.
 - Increase the interior side setback from 7.5 feet to 20 feet.
 - Maintain the 5-foot rear setback.
- 5) Allow floors containing parking to utilize non-use screening, as opposed to commercial and residential uses, on all frontages except the Alton Road frontage.

As the zoning designation of the site is GU, any development requires City Commission approval. Additionally, for private or joint government/private uses, such as this, Planning Board review is also required pursuant to City Code Section 142-423. Ultimately, if the various Project components are approved by the City Commission and the voters in a City-wide referendum, the design of the project will require Design Review Board approval.

The most significant parts of the CPS-4 LDR amendments proposed are the increases in height and potential FAR amendments. The Developer of the site has been studying numerous options regarding the dimensions of both the tower and pedestal portions of the proposed new structure to limit impacts.

Building Height

The average height for waterfront buildings along the Alton Road corridor to the south of 5th Street is 301 feet. The following are the building heights of adjacent structures:

- 1) Icon at South Beach – 450 Alton Road: 423 feet
- 2) Murano Grande – 400 Alton Road: 407 feet
- 3) Rebecca Tower North – 200 Alton Road: 115 feet
- 4) Rebecca Tower South – 150 Alton Road: 115 feet
- 5) The Yacht Club – 90 Alton Road: 341 feet
- 6) Murano – 1000 South Pointe Drive: 402 feet

As such, the height range of 225 to 285 feet being contemplated is compatible with existing, surrounding buildings, given the existing context of taller residential structures along the east side of Alton Road / South Pointe Drive. Planning staff believes that conceptually, a taller tower that has a substantially reduced width would be a better design direction than a shorter but broader building with a height of 225 feet. In this regard, the proposed maximum height of 285 feet is well below most of the existing residential structures along the east side of Alton Road / South Pointe Drive. The Developer's team is studying various design options with different dimensions for the pedestal and the tower.

Additionally, the current site, although composed of an uninspired array of surface parking and an awkward commercial building (Monty's), does allow for a significant light, air and view corridor. This view corridor is experienced both from the water side, as well as from most of the South Pointe area to the immediate east of the site. A taller, slender structure would allow for a much more substantial light and air corridor on the site. Further, a narrower tower and a smaller building footprint creates more opportunities for ground level open space. The modified setbacks and frontage requirements proposed also provide greater opportunities for open space.

Floor Are Ratio (FAR)

By way of baseline context, the Developer is proposing a residential tower with accessory commercial space, comprised of approximately 60 units and 320,000 square feet of development on the site. Ongoing study of the Marina Site and its adjacent parcels may impact the total available floor area on the site.

The FAR calculations for this site are complicated by an apparent transfer of +/-174,000 square feet of floor area to the Murano Grande and Icon Projects from the Marina Site as part of the Development Agreement executed in 1986 by and between the City, the Miami Beach Redevelopment Agency, and South Shore Developers, Inc. (the "SSDI DA"). The SSDI DA --

together with a series of City development actions throughout the 1980s – combined to form links resulting in the successful transformation of the South of Fifth neighborhood. By operation of the transfer, there is information to suggest that the FAR on the Marina Site may be less than the maximum zoned FAR of 2.5 permitted at present under the City's Land Development Regulations. Consequently, an FAR increase may be necessary to accommodate the proposed building and to account for, and offset, the previous transfer of FAR.

Staff would like to emphasize that the overall square footage proposed is modest and suitably scaled when measured against the existing, as-built neighborhood context established by Murano, The Yacht Club Portofino, Murano Grande, and Icon. The Developer is reviewing a number of factors related to the calculation of available floor area on the site, including the lengthy and complex entitlement history, ownership patterns, past rezoning, building permit records, transfer of development rights, and other land use issues that have arisen over the last thirty-five (35) years. Staff is continuing to discuss the project's FAR issues with the Developer and recommends bringing this matter back to the Committee for final review, following further study of historical zoning and legal issues.

Any increase in FAR would require the approval of the City's voters in accordance with City Charter Section 1.03(c) which, in pertinent part, provides as follows:

The floor area ratio of any property or street end within the City of Miami Beach shall not be increased by zoning, transfer, or any other means from its current zoned floor area ratio as it exists on the date of adoption of this Charter Amendment [November 7, 2001], including any limitations on floor area ratios which are in effect by virtue of development agreements through the full term of such agreements, unless such increase in zone floor area ratio for any such property shall first be approved by a vote of the electors of the City of Miami Beach.

CONCLUSION:

The Administration recommends the following:

1. The Land Use and Sustainability Committee discuss the proposal and provide a recommendation and policy direction as it pertains to the height, scale, massing and site plan of the proposal.
2. Continue the item to the May 26, 2020 LUSC meeting to allow the Administration and the Developer to confirm the final FAR calculations for the project.

Applicable Area

South Beach

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?

Yes

Does this item utilize G.O. Bond Funds?

No

Departments

Planning

ATTACHMENTS:

Description		Type
	Draft LDR ORD	Memo
	Area MAP	Memo

CPS-4 MARINA SUB-DISTRICT

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 18, ENTITLED, "PS PERFORMANCE STANDARD DISTRICT," CREATING SECTION 142-708, ENTITLED, "CPS-4 MARINA SUB-DISTRICT" TO PROVIDE DEVELOPMENT REGULATIONS FOR PROPERTIES CONTAINING PUBLIC-PRIVATE MARINA MIXED-USE REDEVELOPMENTS; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, the Miami Beach Marina owned by the City of Miami Beach is uniquely situated and has a land use designation of Public Facility (PF) Governmental Use in the 2040 Comprehensive Plan; and

WHEREAS, the Public Facility (PF) Governmental Use land use designation in the 2040 Comprehensive Plan is intended to provide opportunities for existing and new governmental uses of City-owned or controlled property, such as the Miami Beach Marina; and

WHEREAS, the Miami Beach Marina has a zoning classification of GU Governmental Use; and

WHEREAS, the development regulations for the GU Governmental Use shall be the average of the requirements contained in the surrounding zoning districts as determined by the planning and zoning director; and

WHEREAS, the Miami Beach Marina is surrounded by property with a zoning classification of CPS-4; and

WHEREAS, the Mayor and City Commission are desirous of entering into a public-private development agreement with the current lessee of the Miami Beach Marina to provide additional public benefits to residents; and

WHEREAS, the lessee of the Miami Beach Marina is interested in renegotiating the lease of the facility and making significant improvements to the property; and

WHEREAS, the proposed improvements will address resiliency and sea level rise, which are encouraged in the 2040 Comprehensive Plan; and

WHEREAS, the proposed zoning regulations applicable to the CPS-4 Marina Sub-District will allow for increased height and modified setback and use regulations to reflect the unique nature of the property; and

WHEREAS, the creation of the CPS-4 Marina Sub-District will allow for the desired public-private development agreement between the current lessee of the Miami Beach Marina and the City of Miami Beach; 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," at Article II, entitled "District Regulations," at Division 18, entitled "PS Performance Standard District" of the Land Development Regulations of the Code of the City of Miami Beach, Florida is hereby amended as follows:

**CHAPTER 142
ZONING DISTRICTS AND REGULATIONS**

**ARTICLE II
DISTRICT REGULATIONS**

* * *

**DIVISION 18
PS PERFORMANCE STANDARD DISTRICT**

* * *

Sec. 142-708- CPS-4 Marina Sub-District

Public-private marina mixed-use redevelopments incorporating City-owned marina property, and including residential dwelling units and significant publicly accessible green open space, designated Public Facility (PF) under the City's comprehensive plan, may be developed as provided in this section; where there is conflict within this division, the criteria below shall apply:

- (1) Maximum FAR: _____
- (2) Maximum building height: 225-285 feet; the height of allowable height regulation exceptions for elevator and mechanical equipment shall be allowed up to 30 feet above the height of the roofline of the main structure. Notwithstanding the foregoing, the design review board, in accordance with the applicable review criteria, may allow up to an additional five feet of height, as measured from the base flood elevation plus maximum freeboard, to the top of the second-floor slab.
- (3) The setback requirements in the CPS-4 Marina Sub-District shall be as provided in Section 142-699, except that the pedestal shall have the following minimum setbacks:
 - (a) Front: 5 feet
 - (b) Interior side: 20 feet
 - (c) Rear: 5 feet.
- (4) All floors of a building containing parking shall incorporate residential or commercial uses along the eastern side fronting Alton Road; all other sides of a building containing parking may incorporate alternative non-use screening such as landscape buffering and physical design elements.

SECTION 2. REPEALER.

All ordinances or parts of ordinances and all section and parts of sections in conflict

herewith be and the same are hereby repealed.

SECTION 3. 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 4. SEVERABILITY.

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

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED AND ADOPTED this _____ day of _____, 2020.

Dan Gelber, Mayor

ATTEST:

Rafael E. Granado, City Clerk

APPROVED AS TO FORM
AND LANGUAGE
AND FOR EXECUTION

City Attorney

Date

First Reading: _____, 2020

Second Reading: _____, 2020

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

300 Alton Surrounding Buildings & Future Land Use/Zoning Map

