



MIAMI BEACH

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

COMMITTEE MEMORANDUM

TO: Land Use and Development Committee

FROM: Kathie G. Brooks, Interim City Manager *For KGB*

DATE: November 5, 2012

SUBJECT: **PROPOSED ALTON ROAD HISTORIC DISTRICT BUFFER OVERLAY**

BACKGROUND

In the Summer of 2006 the Historic Preservation Board initiated the westward expansion of the Flamingo Park Local Historic District to the east right-of-way line of Alton Road between 6th Street and 14th Street in order to protect the character of the adjacent National Register Historic District as well as the historically significant but yet unprotected properties along this stretch of Alton Road. It was noted by the board that recent commercial development trends along Alton Road could significantly adversely impact the quality of life and historic integrity of the National Register Historic District thereby undermining the cultural tourism appeal and quality of life of the city.

At the same time the Historic Preservation Board requested the Planning Department to initiate a major planning study of the Alton Road Corridor, including both sides of the road between 5th Street and Michigan Avenue, which should include an analysis and evaluation of existing uses and conditions, historically significant properties, permitted building heights, allowable FAR, parking conditions and requirements, the efficacy of current zoning, and the character of the public right-of-way with regard to pedestrian amenities, convenient means of transit, and quality of landscape.

The board further requested that the Planning Department organize and advertise a series of community planning workshops, inviting members of the Historic Preservation Board and the Planning Board, in order to gain public input and insight from local business owners and residents so that the Department might develop a comprehensive set of planning and zoning recommendations for future development and preservation along the corridor that would enable healthy future growth and development without overwhelming or adversely impacting the historic character of the area.

On January 16, 2008, the Mayor and City Commission approved Ordinance No. 2008-3592, expanding the boundaries of the Flamingo Park Historic District westward expansion to Alton Road between 8 Street and 14 Street; and on January 28, 2009, the Mayor and City Commission approved Ordinance No. 2008-3592, expanding the boundaries of the Flamingo Park Historic District westward expansion to Alton Road between 6 Street and 8 Street

The Planning Department conducted an analysis of existing conditions, issues and opportunities in the Alton Road corridor and held a community planning workshop on August 20, 2008 to receive community input on land use, zoning, business development, parking, transit and pedestrian/bicycle amenities. On January 27, 2009, the Planning Department presented

preliminary findings and recommendations for the Alton Road Neighborhood Planning Study to the Planning Board. On February 26, 2009, the Planning Department and the Planning Board held a second community planning workshop on the Alton Road Neighborhood Planning Study to receive community input. Both community planning workshops were advertised by mailed notice to property owners, newspaper notice, and City email newsletters.

On March 2, 2009, the Land Use and Development Committee adopted a motion directing the Planning Department to prepare an ordinance that would rezone the east side of Alton Road between 6 Street and 16 Street from the CD-2 district to the CD-1 district, and to review the uses and to the extent that there is a floor area incentive for mixed-use buildings, require that the additional FAR be set aside for affordable or workforce housing, and to refer the item to the Planning Board. On March 18, 2009, the Mayor and City Commission discussed the motion from the Land Use and Development Committee and clarified their intent to consider other options, including an overlay district that would remove the floor area ratio incentive for mixed-use projects.

During the Planning Board meetings on April 21, 2009, May 26, 2009 and August 25, 2009, the Planning Department staff held additional detailed discussions with the Board on the proposed zoning modifications for the east side of Alton Road in the Flamingo Park Historic District. The proposed Alton Road- Historic District Buffer Overlay is the result of those discussions.

On October 27, 2009, the Planning Board held a public hearing on the proposed overlay district and heard testimony from residents who were unhappy with some aspects of the draft ordinance. The Planning Board continued the hearing to the November 17 meeting and asked staff to meet with the concerned residents to try to resolve their issues. The Planning Department held two meetings with the residents on October 30 and November 9, 2009. The public hearing at the Planning Board meeting on November 17, 2009 resulted in several additional amendments to the proposed ordinance. The Planning Board recommended approval of the amended overlay district by a vote of 5 to 0.

Subsequently, the Administration made a determination that the amendments added to the ordinance during the November 17th public hearing, specifically amendments dealing with land use restrictions, may require a different type of notice to property owners than was provided for the previous public hearings. To avoid any legal challenges, the overlay district was brought back to the Planning Board in the same form as it was approved in November, 2009, with 30-day notice mailed to all property owners in and within 375 feet of the proposed overlay district.

On February 25, 2010, the Land Use and Development Committee discussed the proposed Alton Road Historic District Buffer Overlay. The Committee recommended that the ordinance be approved, and indicated that it does not need to come back to them unless there is a major material change made by the Planning Board.

On April 27, 2010, the Planning Board held a second public hearing on the proposed Alton Road Historic District Buffer Overlay district after the required 30-day mailed notice. The Planning Board voted 5 – 0 to recommend approval of the ordinance with an amendment that deleted the “no variances” provision. Subsequently, at their meeting on May 25, 2010, the Board voted 3 - 2 to reconsider their recommendation and to schedule the item for rehearing.

On August 24, 2010, the Planning Board held a third public hearing on the proposed Alton Road Historic District Buffer Overlay district after the required 30-day mailed notice. Based on objections from commercial property owners who were not present during the first two hearings, the Board voted separately on each of several amendments to the ordinance. Individual

amendments that were approved by the Planning Board have been incorporated into the ordinance. However, a final vote to recommend approval of the entire ordinance, as amended, failed by a vote of 3-2 (four affirmative votes are required to approve a request that requires City Commission approval).

On November 1, 2010, the Administration hosted a meeting between attorneys representing certain property owners who objected to the ordinance and representatives from the neighborhoods in an attempt to forge a compromise on several limited points of disagreement. As a result of that meeting, the Administration is proposing an alternate version of the ordinance that we believe satisfies the most critical objections from both sides; while at the same time it represents sound planning principles and the interests of the city-at-large. A summary chart of the disputed issues and proposed changes to the ordinance is enclosed as Attachment A, and each issue is discussed in the analysis below.

On November 17, 2010, the ordinance was scheduled for first reading. The Mayor and City Commission continued the first reading to the January 19, 2011 meeting and referred the item to the Land Use and Development Committee for discussion. The LUDC deferred the item on January 31, 2011, February 23, 2011, and April 21, 2011.

On May 18, 2011 the LUDC moved the ordinance to pending items based upon failure of various stakeholders to agree on details of the proposed Alton Road Historic District Buffer Overlay district. The proposed companion item, Parking District #6 for the Alton Road Corridor, was not discussed.

ANALYSIS

The purpose of the Alton Road – Historic District Buffer 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. Specifically the overlay district is intended to apply to properties zoned CD-2 Commercial Medium Intensity that are adjacent to lower intensity RS-4 and RM-1 residential buildings in designated local historic districts. The overlay district regulations are intended to achieve a more compatible relationship of scale and massing between the Alton Road corridor and the adjoining residential neighborhoods.

The locations of the proposed overlay district are as follows (see also attached map):

Area 1 includes those properties fronting on the east side of Alton Road from 6 Street to 11 Street. Existing zoning is CD-2 adjacent to RM-1 in the Flamingo Park Historic District.

Area 2 includes those properties fronting on the east side of Alton Road from 14 Street to 15 Street. Existing zoning is CD-2 adjacent to RS-4 in the Flamingo Park Historic District.

Area 3 includes those properties fronting on the east side of Alton Road from 17 Street to the Collins Canal, except for the corner property adjacent to 17 Street. Existing zoning is CD-2 adjacent to RS-4 in the Palm View Historic District.

The proposed ordinance limits the floor area ratio (FAR) to a maximum of 1.5 by removing the existing bonus of .5 FAR for mixed-use buildings. This will make new construction along Alton Road more compatible in scale and intensity with the adjoining historic neighborhood zoned RM-1, which has existing buildings that range from 0.5 to 1.25 FAR with a few scattered sites over 1.25 FAR. During the planning process, various alternatives were considered, including down-zoning from CD-2 to CD-1, which has a maximum FAR of 1.0 with a mixed-use bonus of .25 FAR. After much discussion and analysis, it was ultimately decided that 1.5 FAR is suitable for Alton Road development. This is based on many factors, including the importance of Alton Road

as a commercial corridor and the existing bus and potential future transit linkages (e.g. Bus Rapid Transit). From an urban design viewpoint, the proposed overlay district forms a gradual stepping up of the intensity from RM-1 on the residential neighborhood to the east, to a maximum of 1.5 FAR on the east side of Alton Road, to a maximum of 2.0 FAR on the west side of Alton Road, to a maximum of 2.25 FAR (2.75 for large lots) on the Bayfront in RM-3. However, it must be noted that FAR alone does not define the building envelop that is necessary to assure compatibility with the historic district. The height and setback regulations described below are also necessary to achieve this goal.

Another alternative that was discussed during the planning process was to keep a FAR bonus for residential uses in a mixed-use building, but to make the bonus an incentive to provide affordable or workforce housing. The Planning Board did not support this recommendation due to their consensus to limit FAR to a maximum of 1.5.

The maximum building height in the Planning Board recommended ordinance is 43 feet along Alton Road and a maximum of 23 feet in the rear portion of the lots within 50 feet from the rear property line for lots abutting an alley (Lenox Court) and within 60 feet from the RM-1 district for blocks with no alley between 8 Street and 11 Street. The 23 feet height limit in the rear of the lots is based upon maintaining consistency with the predominant 2-story height of existing buildings in the RM-1 district. For lots adjoining single family districts, the 23 feet height limit will also ensure a compatible transition in the rear portion of the commercial property. The administration has an alternative recommendation for maximum building height of 50 feet along the front portion of the lots fronting Alton Road and 28 feet in the rear portion of the lots. This change is based upon information supplied by property owners concerning industry standards for minimum ceiling heights in new retail, restaurant and office buildings. However, this recommendation is subject to building separation requirements for larger site development (see below) to prevent monolithic buildings at 50 feet height.

The building height limitations in the proposed overlay district are coupled with rear yard setbacks to achieve the appropriate buffer between the RM-1/RS-4 districts and the CD-2 district. Proposed minimum building setbacks in the rear yard are 25 feet for lots with no alley and 5 feet for lots with an alley. The existing CD-2 and CD-1 zoning districts have a 5 feet minimum rear setback irrespective of whether there is an alley (20 feet width) to provide adequate separation between the buildings.

The overlay district proposes a minimum 5 feet setback on the front and side facing a street. This is necessary to provide adequate pedestrian circulation space to support alternative modes of transportation and sustain a vibrant commercial district.

The overlay district as amended by the Planning Board has no minimum interior side yard setback, nor does it have provisions for building separation, lot aggregation or view corridors on larger lot assemblages. Instead, the Planning Board version of the ordinance contains language requiring architectural treatments on the façades of buildings to be reflective of the 50 feet wide lot development pattern that is predominant in the historic district. This could be accomplished by such things as small variations in setbacks, window placement, or vertical and horizontal design elements on the façade, subject to design review. This was the recommendation of the Planning Board in November 2009 following extensive workshop discussions wherein the Planning Department staff had recommended various formulas for requiring a complete physical separation between adjacent buildings on the upper stories above ground level retail. The intent was to prevent a continuous wall of 40-50 feet tall buildings that would be inconsistent with the small lot development pattern of the historic residential neighborhoods. The current recommendation from the Administration is retain the language developed by the Planning

Board with the clarification of “east and west” facades, and to add a paragraph requiring building separation under limited circumstances as follows: “Any development greater than 43 feet in height on a lot with more than 150 linear feet of frontage along Alton Road shall have a separation between all portions of the structure above a height of 28 feet, so that there is a minimum 15 feet wide view corridor running from east to west at least every 150 linear feet along the Alton Road corridor”.

The overlay district contains 9 contributing buildings in the Flamingo Park Historic District. Those contributing buildings are proposed to be subject to two of the same conditions applied to historic buildings in the adjoining RM-1 zoning district. Those include a prohibition on demolition of architecturally significant portions of the building and prohibition of building within a historic courtyard.

Residents of the Flamingo Park neighborhood were concerned about impacts of noise and traffic from intensive commercial uses. Therefore, the proposed overlay district modifies the underlying CD-2 land uses in several ways. One of them is by prohibiting retail uses, restaurants, bars, entertainment establishments and similar uses at any level above the ground floor. An exception is provided for loft or mezzanine within the interior of a ground floor commercial space, provided that the loft or mezzanine does not exceed one third of the floor area of the store. Based upon objections from property owners, the current Administration recommended ordinance deletes the language limiting the loft or mezzanine to one third of the floor area, and replaces it with language permitting “a second floor within a ground floor commercial space, if it functions as one single contiguous establishment and is only accessible to the public through the contiguous ground floor commercial space.” This would allow two full floors inside any given retail store, similar to CB2 or Borders book stores, but it would not allow multilevel shopping centers.

No alcoholic beverage establishment, entertainment establishment or restaurant may be licensed as a main permitted or accessory use in any open area above the ground floor (any area that is not included in the FAR calculations) or at ground level in any open area within 125 feet of a residential district, except that residents of a multifamily (apartment or condominium) building or hotel guests may use these areas, which may include a pool or other recreational amenities, for their individual, personal use with appropriate buffering as determined by the Planning Department or applicable land use board with jurisdiction. No variance to this provision would be permitted.

In accord with the objective of encouraging locally oriented retail and service uses that are compatible in scale and character with the historic districts, the overlay district requires conditional use approval for any individual retail, restaurant, bar, entertainment establishment or similar establishment in excess of a certain size threshold. The Planning Dept. conducted a detailed survey of businesses in the Alton Road corridor and determined that a threshold of 5,000 sq. ft. generally separates businesses that primarily serve the neighborhood population from businesses that primarily serve the entire city and beyond. To provide a generous margin of error, staff doubled the recommended threshold to 10,000 sq. ft. for conditional use approval. The Planning Board changed the conditional use threshold from 10,000 sq. ft. to 20,000 sq. ft. by a 4-2 vote at their meeting on August 24, 2010, based upon objections from property owners. The Administration’s recommendation is to keep the original threshold of 10,000 sq. ft. per establishment for conditional use approval based upon the analysis conducted by the Planning Department.

A majority of the discussions during the community workshops and Planning Board meetings centered upon the blocks between 6th and 11th Streets. However, it was noted that there is an

incompatible scale relationship between the CD-2 zoning district and adjoining RS-4 single family zoning districts located in the 1400 block and the 1700 block. Down-zoning to CD-1 was considered for these two blocks, but the Planning Department recommends that the proposed overlay district will provide a more effective buffer than CD-1 due to the height and setback regulations in the overlay district. At their August 24, 2010 meeting, the Planning Board voted 5-1 to remove lots 15 and 16 from the overlay district (northeast corner of 17 Street and Alton Road).

FISCAL IMPACT

In accordance with Charter section 5.02, which requires that the "City of Miami Beach shall consider the long-term economic impact (at least 5 years) of proposed legislative actions," this shall confirm that the City Administration evaluated the long-term economic impact (at least 5 years) of this proposed legislative action, and determined that there will be no measurable impact on the City's budget. By nature, a zoning district amendment does not have direct costs to the City, but it may affect long term revenue from property tax, sales tax and other revenue streams. Although some property owners have argued that the proposed overlay zoning will diminish their property values, the Administration believes that this claim is highly speculative, especially if the Administration's alternate ordinance is adopted. The Administration's proposal would preserve all of the most valuable development rights on each parcel, with the exception of removing the .5 bonus FAR for residential use mixed with commercial uses. Since this is a bonus and not as-of-right floor area, it is difficult to say whether any real development would be sacrificed. There are no existing buildings in the district that have used this bonus. Counterbalancing any potential loss of development rights on private property is the companion ordinance creating Parking District #6, which will reduce minimum parking requirements thereby creating significant savings to private property owners in the cost of providing parking spaces. This ordinance is also expected to generally enhance property values throughout the neighborhood by permitting appropriately scaled infill development and by encouraging the development of smaller, locally oriented businesses.

PLANNING BOARD ACTION

November 17, 2009 recommended approval as amended by a vote of 5 to 0

April 27, 2010 recommended approval as amended by a vote of 5 to 0.

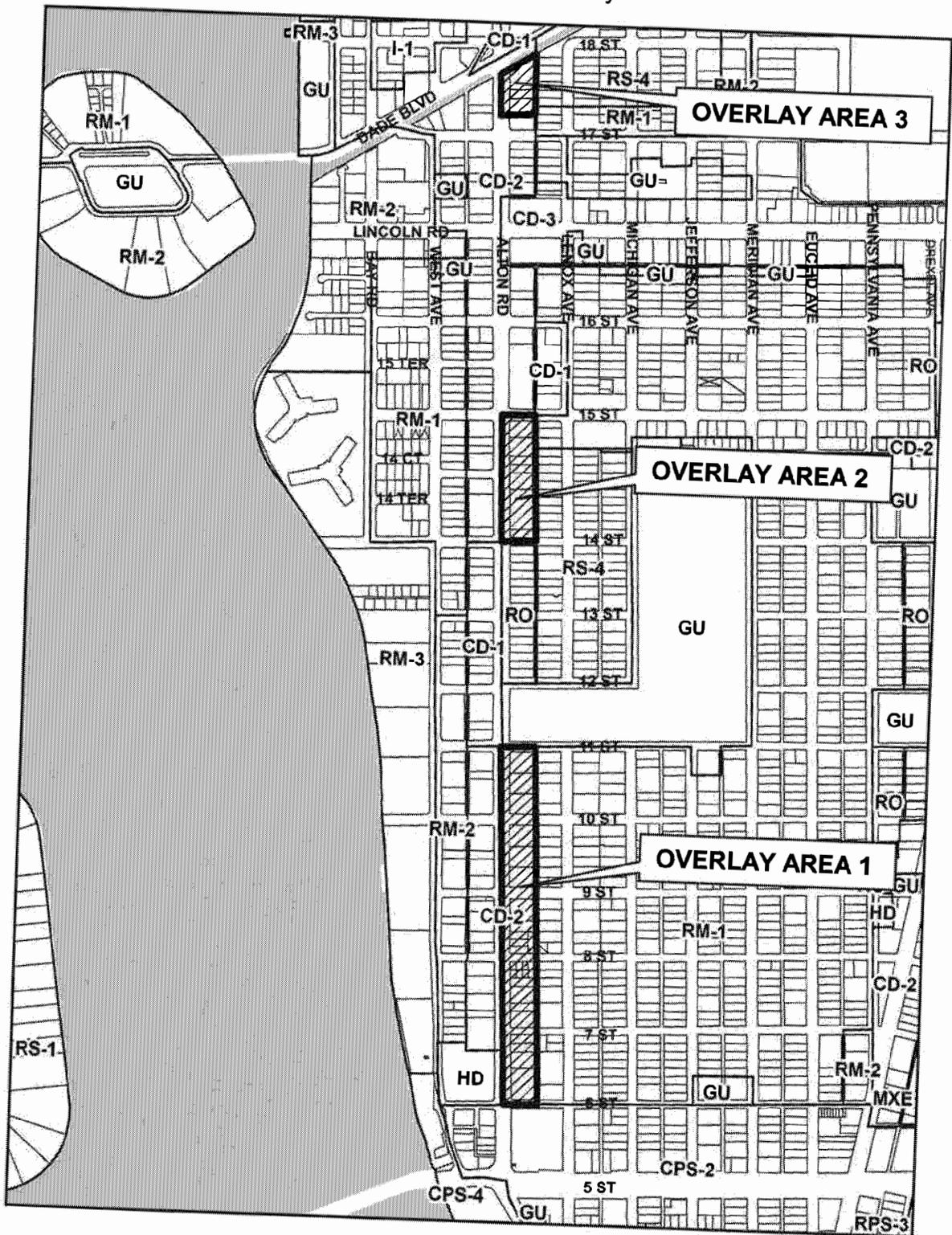
August 24, 2010 motion to recommend approval as amended failed by a vote of 3 to 2.

ADMINISTRATION RECOMMENDATION

The Administration recommends that the Land Use and Development Committee send a recommendation to the Mayor and City Commission to approve the Administration's proposed ordinance.

KGB\JGG\RL\JAM

Proposed Alton Road Historic District Buffer Overlay



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, "ZONING DISTRICTS AND REGULATIONS," ARTICLE III, "OVERLAY DISTRICTS," CREATING DIVISION 8 "ALTON ROAD - HISTORIC DISTRICT BUFFER OVERLAY," BY INCLUDING SECTION 142-858 "LOCATION AND PURPOSE," AND SECTION 142-859 "DEVELOPMENT REGULATIONS," INCLUDING AMONG OTHER PROVISIONS REGULATIONS ON MAXIMUM FLOOR AREA RATIO; MAXIMUM BUILDING HEIGHT; MINIMUM SETBACKS; BUILDING SEPARATION; DEMOLITION OR ADDITIONS TO CONTRIBUTING BUILDINGS IN AN HISTORIC DISTRICT; AND LAND USE REGULATIONS FOR LOCATION OF RETAIL USES, RESTAURANTS, BARS, ENTERTAINMENT ESTABLISHMENTS, ALCOHOLIC BEVERAGE ESTABLISHMENTS AND SIMILAR USES; REQUIRING CONDITIONAL USE APPROVAL OF SUCH USES IN EXCESS OF 10,000 SQ. FT.; AND PROHIBITING ALCOHOLIC BEVERAGE AND ENTERTAINMENT ESTABLISHMENTS IN OPEN AREAS WITH EXCEPTIONS AS PRESCRIBED IN THE ORDINANCE; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, In the summer of 2006, the Historic Preservation Board initiated the westward expansion of the Flamingo Park Local Historic District to the east right-of-way line of Alton Road between 6 Street and 14 Street, and requested the Planning Department to initiate a major planning study of the Alton Road corridor, including both sides of the road between 5 Street and Michigan Avenue, to include an analysis and evaluation of existing uses and conditions, historically significant properties, permitted building heights, allowable FAR, parking conditions and requirements, the efficacy of current zoning, and the character of the public right-of-way with regard to pedestrian amenities, convenient means of transit, and quality of landscape.

WHEREAS, on January 1, 2008, the Mayor and City Commission approved Ordinance No. 2008-3592, expanding the boundaries of the Flamingo Park Historic District westward expansion to Alton Road between 8 Street and 14 Street; and

WHEREAS, the Planning Department conducted an analysis of existing conditions, issues and opportunities in the Alton Road corridor and held a community planning workshop on August 20, 2008 to receive community input on land use, zoning, business development, parking, transit and pedestrian/bicycle amenities; and

WHEREAS, on January 27, 2009, the Planning Department presented preliminary findings and recommendations for the Alton Road Neighborhood Planning Study to the Planning Board; and

WHEREAS, on January 28, 2009, the Mayor and City Commission approved Ordinance No. 2008-3592, expanding the boundaries of the Flamingo Park Historic District westward expansion to Alton Road between 6 Street and 8 Street; and

WHEREAS, on February 26, 2009, the Planning Department and the Planning Board held a second community planning workshop on the Alton Road Neighborhood Planning Study to receive community input; and

WHEREAS, on March 2, 2009, the Land Use and Development Committee adopted a motion directing the Planning Department to prepare an ordinance that would rezone the east side of Alton Road between 6 Street and 16 Street from the CD-2 district to the CD-1 district, and to review the uses and to the extent that there is a floor area incentive for mixed-use buildings, require that the additional FAR be set aside for affordable or workforce housing, and to refer the item to the Planning Board; and

WHEREAS, on March 18, 2009, the Mayor and City Commission discussed the motion from the Land Use and Development Committee and clarified their intent to consider other options, including an overlay district that would remove the floor area ratio incentive for mixed-use projects; and

WHEREAS, on April 21, 2009, May 26, 2009 and August 25, 2009, the Planning Board held additional detailed discussions on the proposed zoning modifications for the east side of Alton Road in the Flamingo Park Historic District; and

WHEREAS, the proposed "Alton Road – Historic District Buffer Overlay" district responds to concerns expressed by the Planning Board, the Land Use and Development Committee and local residents by requiring among other things, a more compatible relationship of scale and massing between new development along the east side of the Alton Road corridor and the adjoining residential neighborhoods, by promoting mixed-use development that makes efficient use of parking, by minimizing the concentration of impacts from intense retail and restaurant development and by encouraging smaller neighborhood-oriented uses.

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 "Zoning Districts and Regulations," Article III, "Overlay Districts," Division 8 "Alton Road – Historic District Buffer Overlay" is hereby created as follows:

DIVISION 8. ALTON ROAD - HISTORIC DISTRICT BUFFER OVERLAY

Sec. 142-858. Location and purpose.

- (a) The regulations of this division shall apply to properties within the following boundaries, which shall be known as the Alton Road - Historic District Buffer Overlay.
- (1) Area 1 shall be those properties fronting on the east side of Alton Road from 6 Street to 11 Street, more specifically described as Lots 9 thru 16, Block 105 and Lots 9 thru 16, Block 106, OCEAN BEACH, FLA. ADDITION N°3, Plat Book 2, Page 81, Public Records of Miami-Dade County, Florida.
TOGETHER WITH:
Lots 6 thru 10, Block 122, Lots 7 thru 12, Block 123, and Lots 7 thru 12, Block 124, all in LENOX MANOR, Plat Book 7, Page 15, Public Records of Miami-Dade County, Florida.
- (2) Area 2 shall be those properties fronting on the east side of Alton Road from 14 Street to 15 Street, more specifically described as Lots 13 thru 24, Block 109, OCEAN BEACH, FLA. ADDITION N°3, Plat book 2, Page 81, Public Records of Miami-Dade County, Florida.
TOGETHER WITH:
Lots 3, and 4, Block 68, COMMERCIAL SUBDIVISION OF THE ALTON BEACH REALTY COMPANY, Plat Book 6, Page 5, Public Records of Miami-Dade County, Florida.
- (3) Area 3 shall be those properties fronting on the east side of Alton Road from 17 Street to the Collins Canal, more specifically described as Lots 10 thru 14, Block 18, FIRST ADDITION TO COMMERCIAL SUBDIVISION OF THE ALTON BEACH REALTY COMPANY, Plat Book 6, Page 30, Public Records of Miami-Dade County, Florida.
- (b) 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. Specifically the overlay district is intended to apply to properties zoned CD-2 Commercial Medium Intensity that are adjacent to lower intensity RS-4 and RM-1 residential buildings in designated local historic districts. The overlay district regulations are intended to achieve a more compatible relationship of scale and massing between the Alton Road corridor and the adjoining residential neighborhoods, to promote mixed-use development that makes efficient use of parking, to minimize the concentration of impacts from intense retail and restaurant development and to encourage smaller neighborhood-oriented uses.

Sec. 142-859. Development regulations.

The following overlay regulations shall apply within the Alton Road – Historic District Buffer Overlay District. All development regulations applicable to and/or in the underlying zoning district shall apply, except as follows:

- (a) Maximum FAR. The maximum floor area ratio (FAR) in this overlay district shall be 1.5. The floor area ratio provision for mixed use buildings in section 142-307(d)(2) shall not apply in this overlay district.
- (b) Maximum building height. The maximum building height in this district shall be 50 feet and a maximum of 4 stories, except that building height shall be limited to 28 feet within 50 feet from the rear property line for lots abutting an alley (Lenox Court) and within 60 feet from the RM-1 district for blocks with no alley between 8 Street and 11 Street. There shall be no variances for building height.
- (c) Minimum setbacks.
 - (1) Front – 5 feet.
 - (2) Side facing a street – 5 feet.
 - (3) Interior side – 0 feet.
 - (4) Rear - for lots with a rear property line abutting an RM-1 or an RS-4 district the rear yard setback shall be a minimum of 25 feet; for lots with a rear property line abutting an alley (Lenox Court) the rear setback shall be a minimum of 5 feet; otherwise the rear setback shall be a minimum of 7.5 feet.
 - (5) There shall be no variances for building setbacks, except for triangular lots.
- (d) Building separation:
 - (1) The east and west façades of any building constructed on more than 50 linear feet of frontage along Alton Road shall be divided into segments with building massing and architectural treatments intended to be reflective of the 50 feet wide lot development pattern that is predominant in the historic district.
 - (2) Any building greater than 43 feet in height with a footprint that occupies more than 150 linear feet of frontage along Alton Road shall have a separation between all portions of the building above a height of 28 feet, so that there is a minimum 15 feet wide view corridor running from east to west at least every 150 linear feet along the Alton Road corridor.

(e) The following regulations shall apply to lots containing contributing buildings in the Flamingo Park Historic District within the Alton Road – Historic District Buffer Overlay.

(1) Only those portions of a contributing building that were not part of the original structure on site, or that have not acquired any type of architectural significance, as determined by staff or the historic preservation board, may be issued a Certificate of Appropriateness for demolition.

(2) For contributing buildings or properties, no building or structure shall be permitted within an existing historic courtyard. For purposes of this subsection, an historic courtyard shall be defined as a grade level space, open to the sky, which is enclosed on at least two sides by an existing building or structure on the same property and is an established architectural or historic component of the site or building design by virtue of significant features and/or finishes, including, but not limited to, paving patterns, fountains, terraces, walkways or landscaping.

(f) Land Use: Main permitted uses, conditional uses and accessory uses shall be permissible as set forth in the CD-2 district regulations, with the following exceptions:

(1) Retail uses, restaurants, bars, entertainment establishments and similar uses shall not be permitted at any level above the ground floor, except that a loft or mezzanine containing these uses may be permitted within the interior of a ground floor commercial space. This subsection shall not apply to existing and proposed retail uses in buildings existing in this district as of the effective date of this ordinance.

(2) Any individual retail, restaurant, bar, entertainment establishment or similar establishment in excess of 10,000 square feet, inclusive of outdoor seating areas, shall require conditional use approval. The regulations in Chapter 142, Article V, Division 6, Entertainment Establishments, shall continue to apply to uses in this overlay district.

(3) No alcoholic beverage establishment, entertainment establishment or restaurant may be licensed as a main permitted or accessory use in any open area above the ground floor (any area that is not included in the FAR calculations) or at ground level in any open area within 125 feet of a residential district, except that residents of a multifamily (apartment or condominium) building or hotel guests may use these areas, which may include a pool or other recreational amenities, for their individual, personal use with appropriate buffering as determined

by the Planning Department or applicable land use board with jurisdiction.

SECTION 2. 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 3. 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 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 _____, 20__.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

City Attorney

Date

First Reading:
Second Reading:

Verified by: _____
Richard G. Lorber
Acting Planning Director