



MIAMI BEACH

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

COMMITTEE MEMORANDUM

TO: Members of the Land Use and Development Committee

FROM: Kathie G. Brooks, Interim City Manager *[Signature]* for KGB

DATE: February 21, 2013

SUBJECT: **SPECIAL LAND USE AND DEVELOPMENT COMMITTEE MEETING OF FEBRUARY 21, 2013**

A meeting of the Land Use and Development Committee has been scheduled for February 21, 2013 at 5:00 pm in the City Manager's Large Conference Room.

- 1. DISCUSSION REGARDING MIAMI BEACH UNITED RESOLUTIONS TO ADDRESS THE ISSUE OF COMPATIBILITY OF CERTAIN USES IN PROXIMITY TO RESIDENTIAL USES, TO CREATE SAFEGUARDS WHILE STILL ALLOWING FOR FLEXIBILITY OF DEVELOPMENT.**

**(RETURNING FROM THE DECEMBER 19, 2012 LUDC MEETING
ORIGINALLY REFERRED BY COMMISSIONER MICHAEL GONGORA
JULY 18, 2012 CITY COMMISSION MEETING, ITEM C4F)**

2013 MEETING SCHEDULE

Tuesday, March 19, 2013 (Joint LUDC / NCAC)
Wednesday, March 20, 2013
Monday, April 22, 2013
Wednesday, May 22, 2013
Wednesday, June 12, 2013
Wednesday, July 31, 2013
* AUGUST – RECESS *
Monday, September 23, 2013
Wednesday, October 23, 2013
Wednesday, November 13, 2013
Monday, December 16, 2013

PENDING ITEMS: REFER TO ATTACHMENT 1



MIAMI BEACH

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

COMMITTEE MEMORANDUM

TO: Members of the Land Use and Development Committee

FROM: Kathie G. Brooks, Interim City Manager

DATE: February 21, 2013

SUBJECT: **DISCUSSION REGARDING MIAMI BEACH UNITED RESOLUTIONS TO ADDRESS THE ISSUE OF COMPATIBILITY OF CERTAIN USES IN PROXIMITY TO RESIDENTIAL USES, TO CREATE SAFEGUARDS WHILE STILL ALLOWING FOR FLEXIBILITY OF DEVELOPMENT**

On July 18, 2012, at the request of Commissioner Góngora, the Mayor and City Commission approved a referral to the Land Use and Development Committee (LUDC) for a discussion regarding Miami Beach United (MBU) resolutions (see attachments) to address the issue of compatibility of certain uses in proximity to residential uses, to create safeguards while still allowing for flexibility of development. On November 5, 2012, the Committee reviewed these proposals and requested that staff further analyze them and bring back options and recommendations. On December 19, 2012, the Committee moved forward to the Planning Board an ordinance to prohibit hotels in the West Avenue corridor and Palm View to Planning Board, and decided that the balance of the MBU items (Sidewalk Cafes, and Compatibility with Nearby Single-Family Residential Zones) shall be heard by the Committee at a special LUDC meeting.

Sidewalk Cafes

The first resolution deals with sidewalk cafes in close proximity to residential neighborhoods. This can be a problem if the café use generates late night noise and disruption. The MBU resolution calls for the following regulations on proposed sidewalk cafes located within 200 feet of residential zoning districts:

- Out Door Speakers And Music Will Be Banned
- Alcohol Shall Not Be Served Unless Accompanied By Food
- A 5ft Pedestrian Path Shall Be Observed At All Times
- Closing Hours Shall Be 9pm On Weekdays And 11pm On Weekends
- Residents Within The Special Cafe Zone Shall Be Notified Of The Pending Permit Within The Zone And Have The Ability To Offer Comments On The Proposed Application

Planning Department staff has continued to examine the issue through the use of existing licensing data for sidewalk cafes and maps of residential areas. Map analysis shows that a buffer of 200 feet from residential districts would subject almost all sidewalk cafés to the proposed restrictions; staff believes this is too broad. Staff would suggest that additional regulation be applied to proposed new sidewalk cafes which are 100 feet or less from nearby residential zones, as this would not include the vast majority of cafes

on Lincoln Road, but would capture those proposed cafes on the side streets adjacent to Lincoln Road, and other areas located close to residential uses.

An alternative to imposing the requested set of mandatory conditions on operations, could be to require Conditional Use approval from the Planning Board for any newly proposed sidewalk café located within 100 feet of a residential neighborhood. In this way, applications can be reviewed on a case-by-case basis, with some areas perhaps exempted where such prohibition is not needed, and other areas controlled very strictly as conditions warrant. A similar ordinance currently requires the same review and approval for parking lots within 100 feet of a residential district or use, so the concept could be applied in the same way to sidewalk cafés.

A combination of mandatory conditions as well as Planning Board Conditional Use review may make the most sense. Staff believes that the mandatory restrictions suggested by MBU make sense in general, but may be slightly too restrictive in terms of permitted hours of operation, as requiring restaurants to close these facilities at 9pm on weekdays and 11pm on weekends would be earlier than is typical for the vast majority of restaurants in Miami Beach. Staff would suggest setting a mandatory closing time of one or two hours later than proposed by MBU, and then allowing an application to the Planning Board to permit those hours to be extended.

Compatibility with Nearby Single-Family Residential Zones

The second resolution attempts to address proposed developments within close proximity to single family residential neighborhoods. The recent public hearings for the proposed Palau development in Sunset Harbour brought much criticism from nearby single family residents of Sunset Islands 3 and 4. Although the development was finally approved by the Planning Board and then the Design Review Board, with significant modification to the originally proposed plans in order to mitigate the impact upon the neighboring single family residential areas to the north and east, residents remain dissatisfied with the proposal and feel that the scale of the building will overpower nearby residences. It should be noted that an appeal of the DRB decision is pending before the City Commission and as such, the Committee should refrain from discussing the specifics of this project.

This was also a similar concern several years ago with the approval of the Cabi project on 42nd Street and Pinetree Drive, also in close proximity to a single family residential neighborhood. While the City's zoning map and future land use map are drawn in such a way as to try to separate uses and buffer lower scale neighborhoods from potentially higher intensity development, in a few cases, such a buffer may not be present. In these cases, there does appear to be a need to modify proposed developments in order to most effectively buffer and protect nearby residents, while also allowing reasonable development to proceed.

The MBU proposal would limit all properties within 350 feet of single family zoning districts to a maximum building height of 33 feet, and properties within 500 feet of single family districts would be limited to 41 feet, 3 inches. Analysis shows a large number of properties would be affected by such a regulation, including many areas of the City currently zoned for medium and high intensity, and permitting significantly greater heights than proposed. This could be a problem from the standpoint of legal property rights and the Bert J. Harris Act, the Florida statute affecting downzoning. Staff finds

that as an alternative using a 100 foot buffer, the most sensitive areas of interface between higher zoning and single family residential would still be included, but the large majority of properties not directly adjacent or across a street or waterway from single family residential would be unaffected.

Staff also believes that the main issue would be addressed by a lowering of the maximum building height for the portion of the property closest to the residential area, where these portions could be limited to the lower height, permitting the building to step up further away from the residential areas. A recommendation of permitting 35 feet, 3 stories for a specified depth along frontages directly adjacent or across the street or waterway to single family areas, with a line of sight requirement from across the street or waterway for the remainder of the property, could be supported. Further research could refine this concept further, but the basic idea has been discussed by the various boards viewing similar projects within close proximity to single family districts. Codifying a building envelope that is responsive to adjacent low scale development could result in property owners of new development understanding that scale and massing is critical in certain areas, the Boards could concentrate their reviews to address other issues and the adjacent neighborhoods would have some expectation that the Code requires new development to be more responsive to the surrounding scale.

ADMINISTRATION RECOMMENDATION

The Administration seeks guidance from the Committee on the desired policy direction. If there is interest in pursuing these proposals, staff recommends that the matters be forwarded to the Planning Board for further review and recommendation.

KGB/JGG/RGL



Dedicated to IMPROVING the quality of LIFE FOR Miami Beach residents, managed and measured growth of OUR city, and ethical leadership of government - for a vibrant city rooted in HISTORY, its PEOPLE, RESOURCES AND NEIGHBORHOODS, with focus on the FUTURE.



The City of Miami Beach Sidewalk Cafe Ordinance for purposes of permitting shall be amended to include a special zone created for SideWalk Cafes to be located within 200 ft of a residential zone - measuring the distance from the residential property line to the property line of the proposed Sidewalk Cafe.

The Sidewalk Cafe conditions proposed shall be the following:

OUT DOOR SPEAKERS AND MUSIC WILL BE BANNED

ALCOHOL SHALL NOT BE SERVED UNLESS ACCOMPANIED BY FOOD

A 5FT PEDESTRIAN PATH SHALL BE OBSERVED AT ALL TIMES

CLOSING HOURS SHALL BE 9PM ON WEEKDAYS AND 11PM ON WEEKENDS

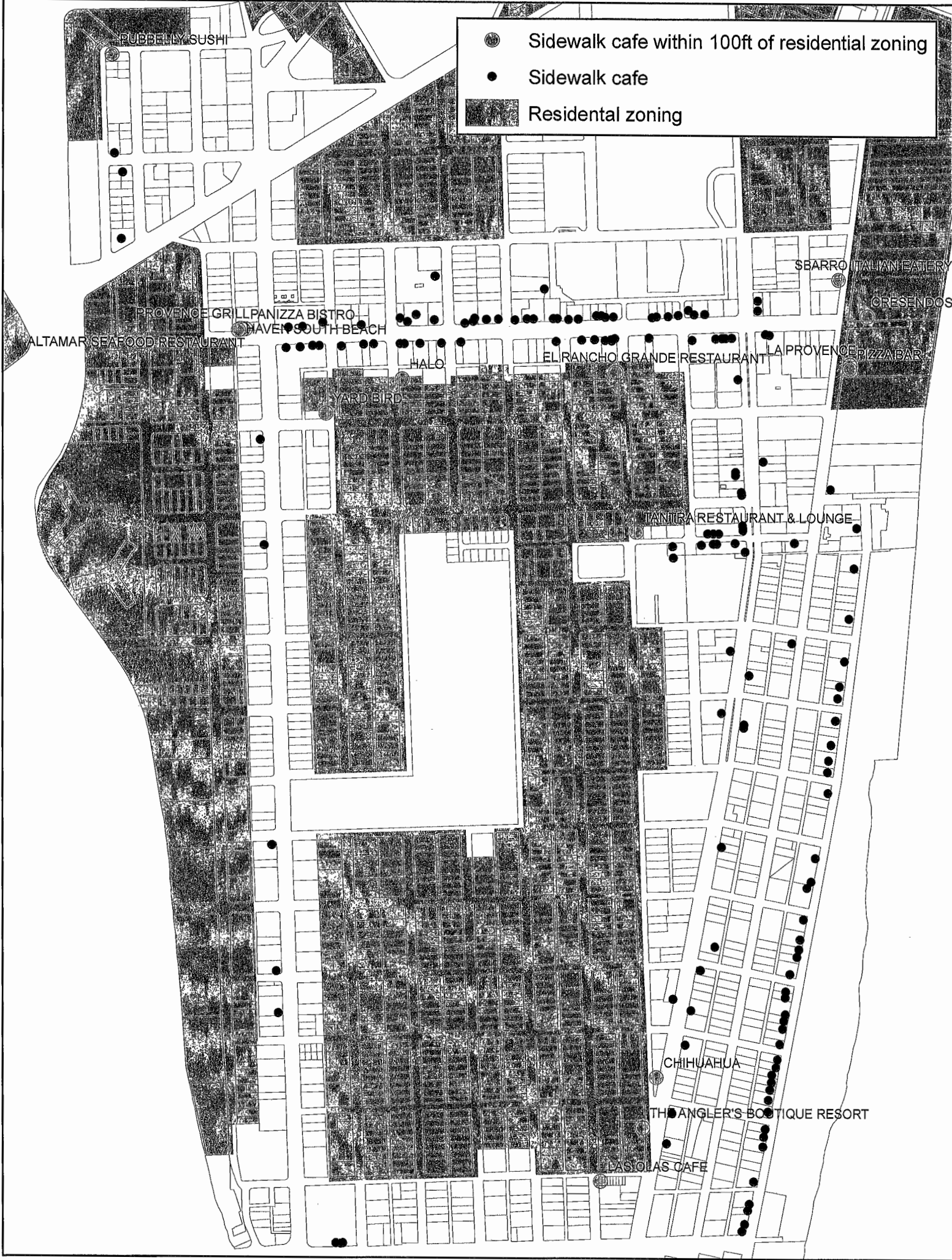
RESIDENTS WITHIN THE SPECIAL CAFE ZONE SHALL BE NOTIFIED OF THE PENDING PERMIT WITHIN THE ZONE AND HAVE THE ABILITY TO OFFER COMMENTS ON THE PROPOSED APPLICATION

Sophia Sieczkowski

Corresponding Secretary

MIAMIBEACHUNITED

www.miamibeachunited.org



- Sidewalk cafe within 100ft of residential zoning
- Sidewalk cafe
- Residential zoning

RUBBELLY SUSHI

SBARRO ITALIAN EATERY

CRESENDOS

PROVENCE GRILL PANIZZA BISTRO

ALTAMAR SEAFOOD RESTAURANT

YARD BIRD

HALO

EL RANCHO GRANDE RESTAURANT

LA PROVENCE PIZZABAR

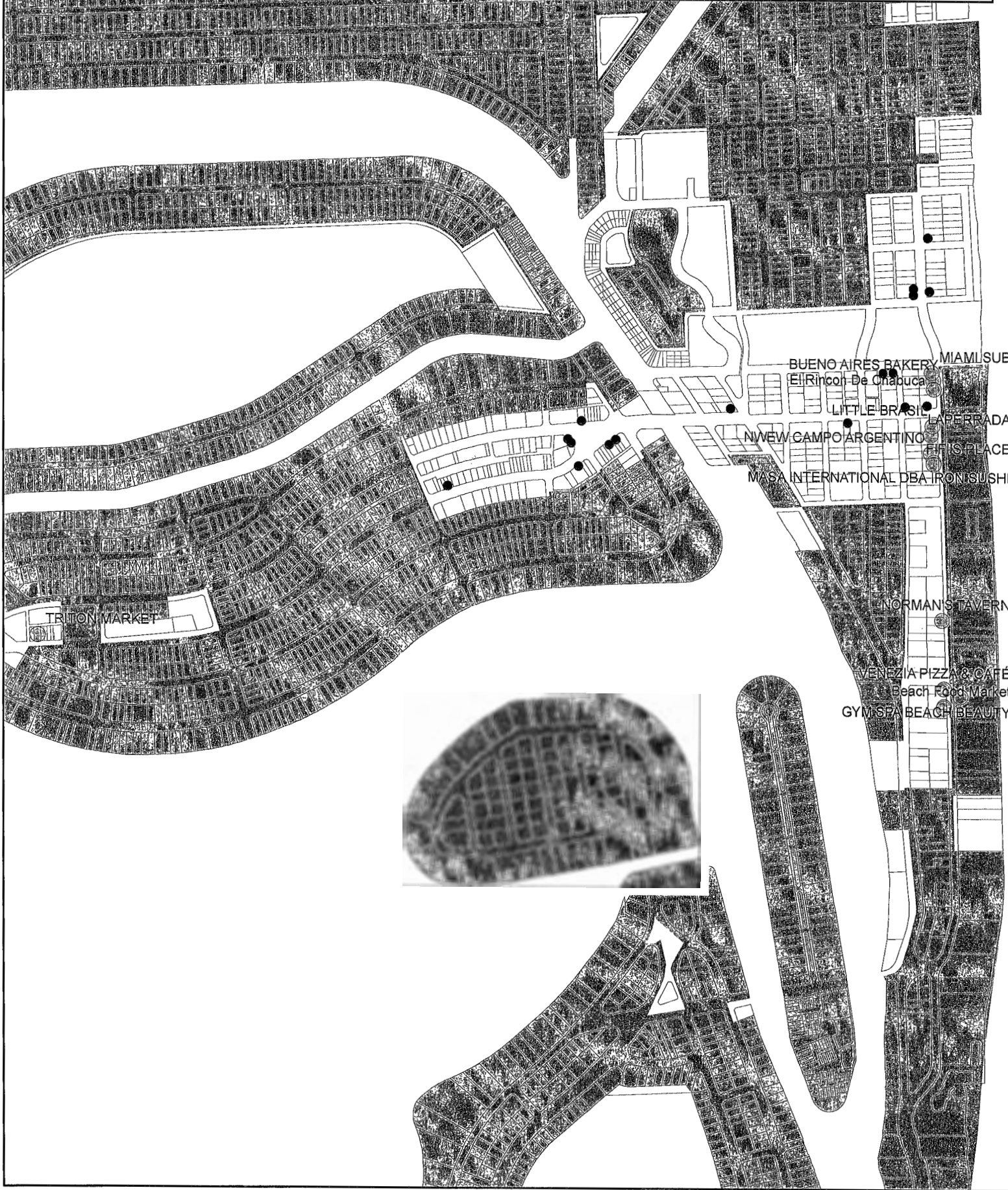
TANIRA RESTAURANT & LOUNGE

CHIHUAHUA

THE ANGLER'S BOULIQUE RESORT

LAS OLAS CAFE

- Sidewalk cafe within 100ft of residential zoning
- Sidewalk cafe
- Residential zoning





Dedicated to improving the quality of life for Miami Beach residents,
managed and measured growth of our city,
and ethical leadership of government
- for a vibrant city rooted in HISTORY, its PEOPLE, RESOURCES
and NEIGHBORHOODS, with focus on the FUTURE.

MIAMI BEACH UNITED proposes the following amendment to the zoning code be placed on the Miami Beach City Commission's July agenda to transmit to the Land Use Committee:

TRANSITIONAL NEIGHBORHOODS

All applications for development approvals proposed, of which any part of is located within 350 feet of any single family-zoned or used property shall comply with the following:




1. Such proposed development shall not exceed the allowable height for single family homes (as set forth in section 142-105(b)) within 350 feet of any single family-zoned or used property and 125% of that height within the area between 350 feet and 500 feet of any single family-zoned or used property.
2. City staff and all appropriate city boards shall deny the requested development approval within 350 feet of single family-zoned or used property if the proposed development:
 - a) Would be out of scale with the adjacent residential neighborhood or
 - b) Would promote excessive, noise, traffic, light, dust, smell, overcrowding or concentration of people or population, or
 - c) Would not be compatible with the adjacent residential neighborhood and its development.

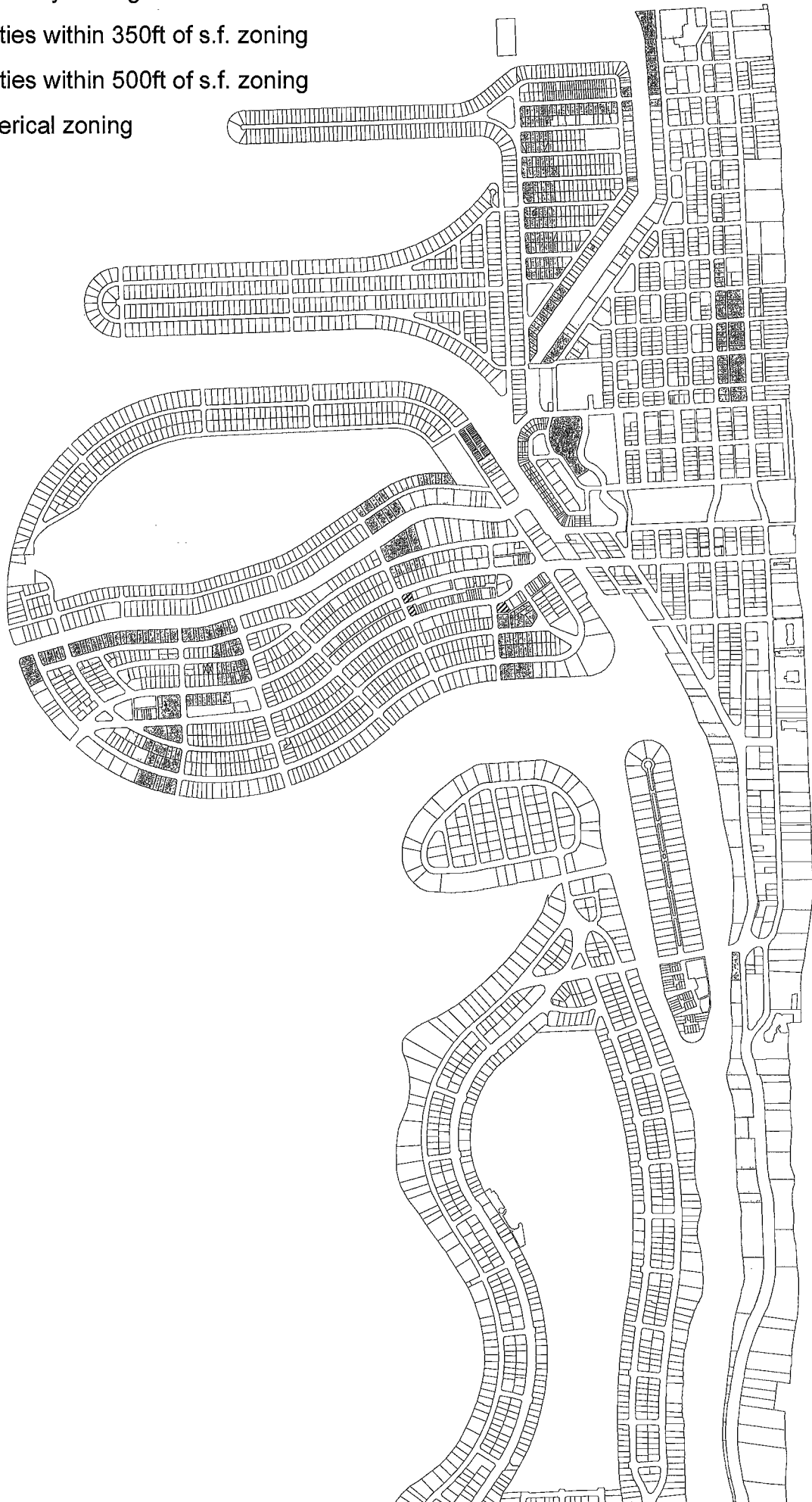
City staff and all appropriate city boards may impose conditions on any requested development approval within 350 feet of single family-zoned or used property including but not limited to reduction of the mass, scale and height of any structure, location of access points, and establishment of hours of operation.

3. Notice regarding transitional neighborhood applications shall be mailed (First Class US Mail) to all property owners and homeowners associations within a 500-foot radius of the application property as follows:

- a) Upon filing of a development approval application, and
 - b) No sooner than ten days before the first decision-making action by staff or by the appropriate decision-making board or other city entity.
4. In any review of a development approval application, city staff, boards and other decision-making entities shall allow all parties (including any objectors) a reasonable time to present their full case, to present evidence, and to examine and cross-examine witnesses whether they have retained counsel or not.

Single family zoning

-  Properties within 350ft of s.f. zoning
-  Properties within 500ft of s.f. zoning
-  Commerical zoning



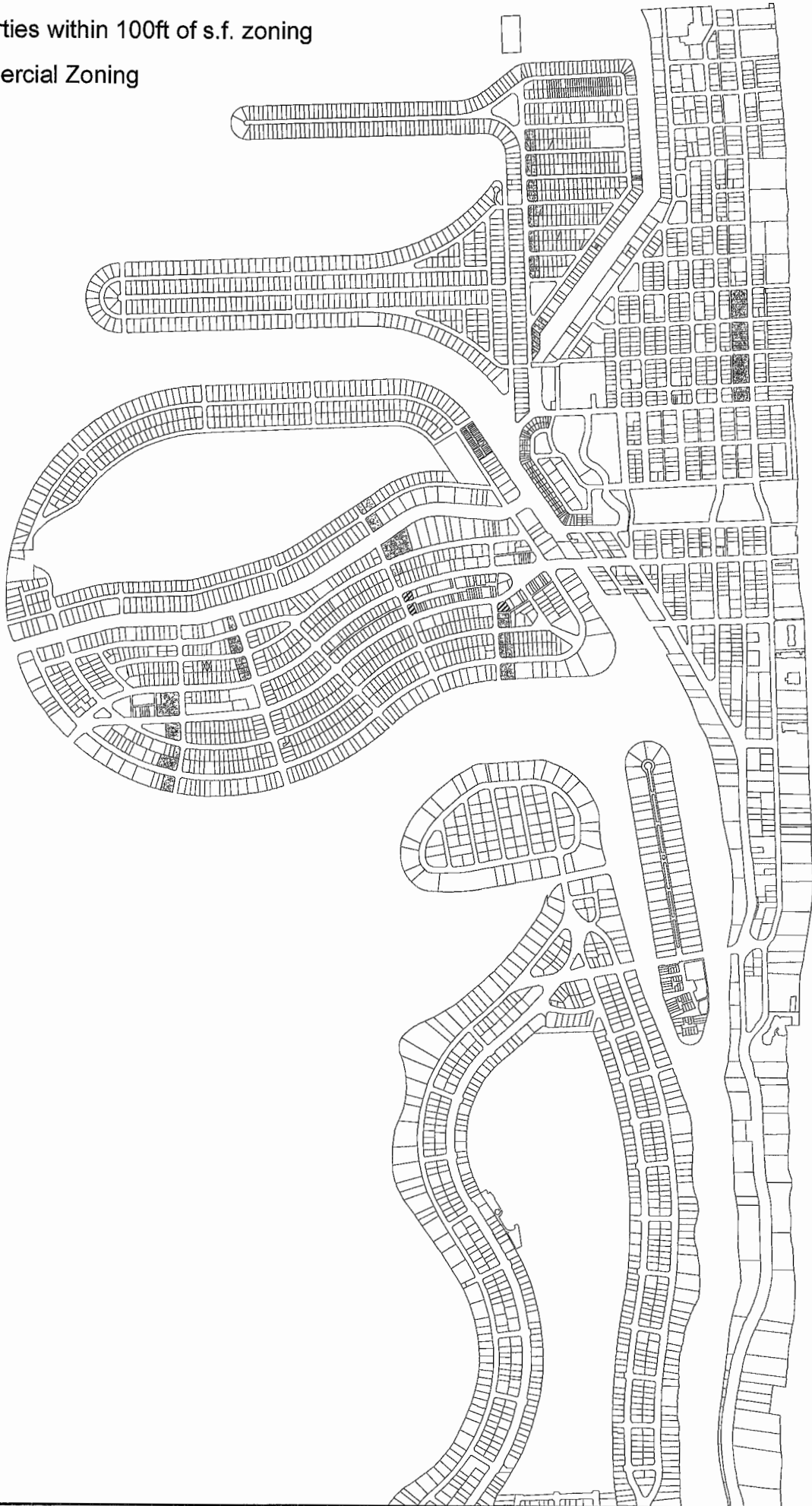
Single family zoning






Properties within 100ft of s.f. zoning

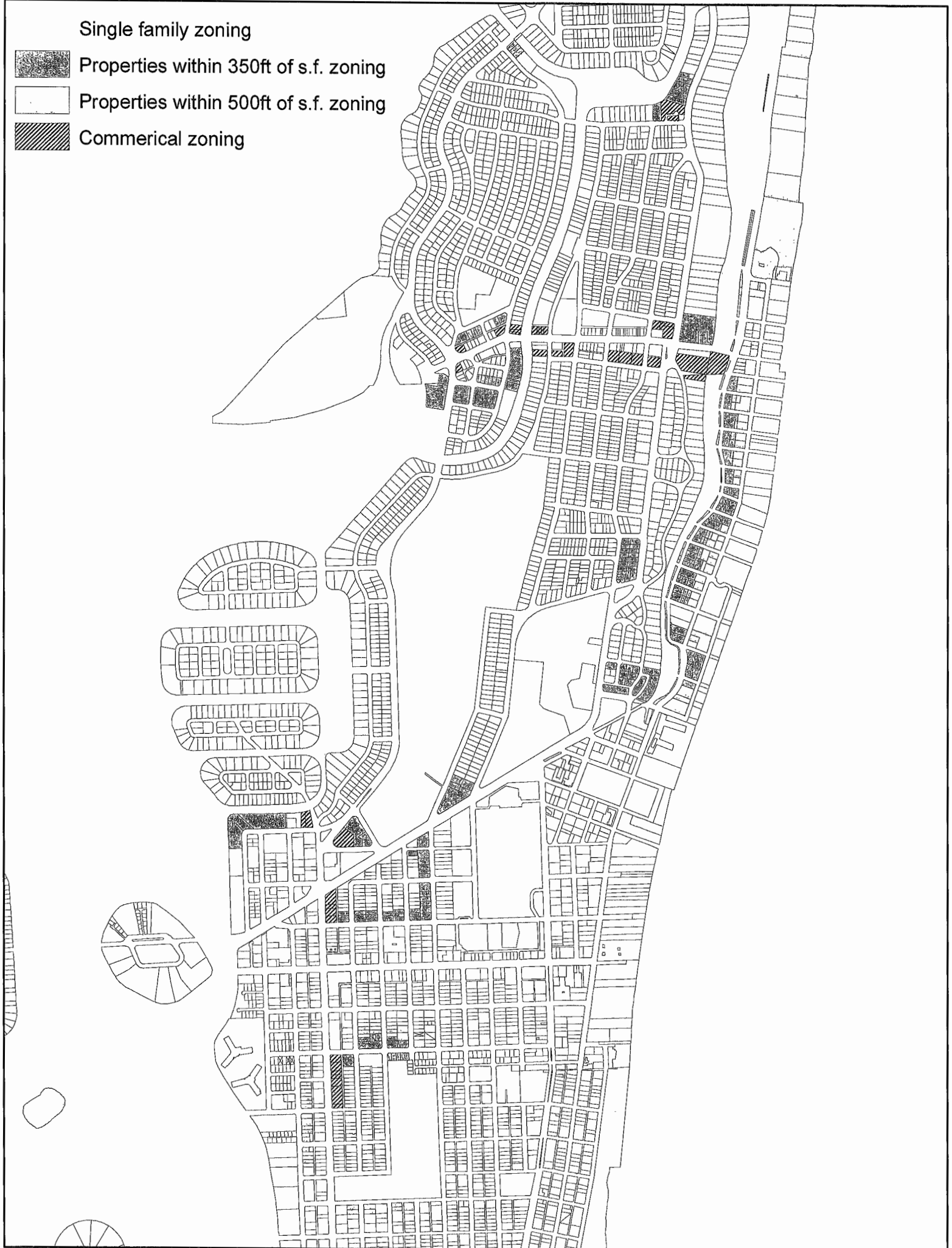


Commercial Zoning



Single family zoning

-  Properties within 350ft of s.f. zoning
-  Properties within 500ft of s.f. zoning
-  Commerical zoning



Single family zoning



Properties within 100ft of s.f. zoning



Commercial Zoning

