

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: Jimmy L. Morales, City Manager

DATE: May 18, 2016

SUBJECT: **LAND USE AND DEVELOPMENT COMMITTEE MEETING OF MAY 18, 2016**

A meeting of the Land Use and Development Committee has been scheduled for May 18, 2016 at 3:00 p.m. in the City Commission Chambers.

ACTION ITEMS

1. Discussion Regarding the creation of a Panel of Architects to review All New Single Family Home Construction.

(Continued from the April 20, 2016 LUDC Meeting
Sponsored by Commissioner Joy Malakoff
February 10, 2016 City Commission Meeting, Item C4J)

2. Proposed Comprehensive Plan Amendment Related to Sea Level Rise and Compliance with 2015 Florida Senate Bill 1094, Entitled "Peril of Flood".

(Continued from the April 20, 2016 LUDC Meeting
Sponsored by City Commission
April 13, 2016 City Commission Meeting, Item C4L)

DISCUSSION ITEMS

3. Discussion Regarding Operational Regulations for Alcoholic Beverage Establishments South of Fifth Street.

(Continued from the April 20, 2016 LUDC Meeting
Sponsored by Commissioner Michael Grieco
April 13, 2016 City Commission Meeting, Item C4C)

- 4. Discussion On The Transit Hub On The 500 Block Of Alton Road.**
(Continued from the April 20, 2016 LUDC Meeting
Sponsored by Commissioner Ricky Arriola
April 13, 2016 City Commission Meeting, Item C4Q)

- 5. An Ordinance Amending Chapter 142 Of The City Code As It Pertains To Alcoholic Beverage Establishments On The West Side Of Alton Road And The South Side Of 17th Street.**
(Sponsored by Commissioner Joy Malakoff
May 11, 2016 City Commission Meeting, Item R5F)

- 6. Single Family Demolition Procedures.**
(Sponsored by Commissioner Joy Malakoff
May 11, 2016 City Commission Meeting, Item R5K)

- 7. Proposed Miami Beach Marina Redevelopment and Associated Legislative Changes.**
(Sponsored by Commissioner John Elizabeth Aleman
May 11, 2016 City Commission Meeting, Item R9J)

VERBAL REPORTS

- 8. Discussion Regarding Future Rooftop And Deck Accessory Bar Uses In The Sunset Harbour Neighborhood.**
(Continued from the April 20, 2016 LUDC Meeting
Sponsored by Commissioner Michael Grieco
April 13, 2016 City Commission Meeting, Item C4B)

- 9. An Ordinance Amendment Pertaining To Alcoholic Beverage Establishments In The CD-3 District On 41st Street, In Order To Address Compatibility Issue With Surrounding Residential Districts.**
(Sponsored by Commissioner John Elizabeth Alemán
May 11, 2016 City Commission Meeting, Item C4C)

- 10. Discussion Regarding A Proposed Ordinance Change For North Beach Town Center Districts.**
(Sponsored by Commissioner John Elizabeth Alemán
May 11, 2016 City Commission Meeting, Item C4I)

- 11. Referral To Land Use And Development Committee To Discuss Revising The Cultural Arts Neighborhood District Overly (CANDO).**
(Sponsored by Commissioner Ricky Arriola
May 11, 2016 City Commission Meeting, Item C4L)

2016 Meeting Schedule

Wednesday June 15, 2016

Wednesday July 20, 2016 at 2 p.m.

Wednesday September 21, 2016

Wednesday October 26, 2016 at 2 p.m.

Wednesday November 16, 2016

Monday December 12, 2016

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COMMITTEE MEMORANDUM

TO: Land Use and Development Committee
FROM: Jimmy L. Morales, City Manager 
DATE: May 18, 2016
SUBJECT: **Discussion: Creation of a Panel of Architects to Review All New Single Family Home Construction.**

HISTORY

On February 10, 2016, at the request of Commissioner Joy Malakoff, the City Commission referred a discussion item to the Land Use and Development Committee (Item C4J), pertaining to demolition procedures for single family homes. On February 17, 2016, the Land Use Committee directed the Administration to prepare the following for additional discussion at the March 30, 2016 meeting:

1. A draft ordinance extending existing demolition procedures to all single family homes.
2. Provide additional data on the potential fiscal and review process impact of having all new single family home construction reviewed by the Design Review Board.

On March 30, 2016, the Land Use Committee endorsed the draft ordinance regarding demolition procedures for single family homes and continued the discussion pertaining to a review process for all single family homes to April 20, 2016. The Committee also requested that the following information be brought back for discussion on April 20, 2016:

- a. The City Attorney shall provide draft ballot language pertaining to an ethics ordinance modification for design professionals serving on both a new, rotating board of architects, as well as the existing City Land Use Boards.
- b. The Planning Department shall obtain information on the City of Coral Gables Board of Architects process, and put together an outline of how such a process might be implemented in the City of Miami Beach.

On April 20, 2016, the Land Use Committee discussed the City of Coral Gables Board of Architects process and how a similar streamlined process could be adopted for Miami Beach for the review of new single family residential construction. The Committee also requested that a draft ordinance be brought back for discussion.

BACKGROUND / ANALYSIS

Pursuant to a resolution adopted by the Design Review Board (DRB), the Land Use Committee discussed the potential for having the DRB review all new single family home construction. However, the current DRB process is not well structured to accommodate the level of single family home review being suggested by the Design Review Board.

As an alternative, a separate process for single family home review, consisting of a rotating panel of design professionals, has been proposed. The panel of architects proposed for Miami Beach is modeled on the City of Coral Gables Board of Architects process. In this regard, the proposed Miami Beach Panel of Architects would meet on a weekly or bi-weekly basis, with less onerous notice and application exhibit requirements. This proposed process requires code modifications (attached), as well as a tangible strategy to recruit more design professionals to serve on such a panel.

UPDATE

Pursuant to the direction of the LUDC on April 20, 2016, staff drafted the attached ordinance creating a Miami Beach Panel of Architects (MBPOA). The following is a summary of the proposed ordinance:

- The Miami Beach Panel of Architects (MBPOA) would review of new single family residential construction, including substantial additions, which are vacant or currently contain a post-1942 single family residence or a non-architecturally significant pre-1942 single family residence.
- The MBPOA would consist of a total of up to fifteen (15) design professionals, each appointed to serve for a term of one (1) year. The members of the MBPOA shall serve on a rotating basis and a review panel shall consist of three (3) members, serving on a rotating basis.
- MBPOA members would be appointed by the City Manager, with the consent of the City Commission. Each member shall be a State of Florida registered architect or landscape architect, and shall have demonstrated experience in the design and construction of projects or landscape design within the City of Miami Beach during the last five (5) years.
- MBPOA members would have to either be a resident of, or have their principal place of business in the City of Miami Beach. At the discretion of the City Manager, and with the consent of the City Commission, this residency requirement may be waived, provided that the applicant is a resident of, or has their principal place of business in Miami-Dade or Broward County.
- A quorum of two (2) members would be required to consider an application and a simple majority will be necessary to approve any application. In the case of a tie vote for a two (2) member panel, the matter will be continued to the next meeting.
- The MBPOA Panel would meet on a twice monthly basis, quorum permitting, and such meetings shall not occur on a regularly scheduled HPB, DRB, PB or BOA monthly meeting day. The Planning Department would schedule all meetings of the Panel, coordinate attendance, as well as provide administrative and staff

- support. The City Attorney's office shall provide legal counsel, as may be needed from time to time.
- The MBPOA meeting would be open to the public, but it would not a public hearing. The member serving as the Chairperson to the Panel would have the discretion whether or not to allow public comments and limit the time per presenter.
 - Any matter heard by the MBPOA Panel would not be quasi-judicial and would not replace the quasi-judicial hearing of the DRB that may be requested by the Applicant or an Affected Person following a Panel's decision.
 - The MBPOA would review all applications in accordance with the applicable criteria and requirements of section 142-105 of the land development regulations of the City Code, and would not have the authority to approve any variances or grant any waivers of any portions of the City Code.
 - All applications for review by the MBPOA must be filed with the Planning Department no later than fourteen (14) calendar days before the meeting date.
 - Notice procedures for Miami Beach Panel of Architects would be limited to the posting of the subject property – ministerial review and not quasi-judicial at least five (5) days prior to the MBPOA meeting.
 - An appeal of a decision of the Miami Beach Panel of Architects would be to the Design Review Board, which appeal shall be quasi-judicial, and a de novo review of the decision of the MBPOA. An appeal shall be submitted to the planning director on or before the 15th day after the date on which the decision by the Panel is reached.
 - Parties eligible to file an appeal of a MBPOA decision would be limited to the following:
 - (i) Original applicant/property owner.
 - (ii) The city manager on behalf of the city administration
 - (iii) An affected person, which for purposes of this section shall mean a person owning property within 100 feet of the Application.

CONCLUSION

The Administration recommends that the Land Use and Development Committee discuss the matter further and provide appropriate policy direction. If there is consensus on the attached ordinance, it is further recommended that the item be transmitted to full City Commission for referral to the Planning Board.

JLM/SMT/TRM/JGM

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," DIVISION 2, "RS-1, RS-2, RS-3, RS-4 SINGLE-FAMILY RESIDENTIAL DISTRICTS," BY CREATING AT SECTION 118-33, TO ESTABLISH THE MIAMI BEACH PANEL OF ARCHITECTS (MBPOA); AND BY AMENDING THE CRITERIA AND PROCEDURAL THRESHOLDS FOR THE REVIEW AND APPROVAL OF NEW SINGLE-FAMILY RESIDENTIAL CONSTRUCTION BY AUTHORIZING THE MBPOA TO CONDUCT CERTAIN REVIEWS; AND CREATING DIVISION 6, ENTITLED "MIAMI BEACH PANEL OF ARCHITECTS," AT SECTIONS 118-139 THROUGH 118-149, PROVIDING FOR PURPOSE, COMPOSITION OF BOARD, MEMBERSHIP, QUALIFICATIONS, QUORUM, MEETING PROCEDURES, POWERS AND DUTIES, FEES AND APPLICATIONS; AND MODIFYING SEC. 118-8, ENTITLED "NOTICE PROCEDURES FOR QUASI-JUDICIAL, PUBLIC HEARING QUASI-JUDICIAL LAND USE BOARD ACTIONS" TO INCLUDE NOTICE PROCEDURES FOR PROCEEDINGS BEFORE THE MIAMI BEACH PANEL OF ARCHITECTS; PROVIDING CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, new homes that are compatible with the prevailing character of existing residential neighborhoods should be encouraged and promoted; and

WHEREAS, the privacy, attractive pedestrian streetscapes and human scale and character of the City's single-family neighborhoods, are important qualities to protect; and

WHEREAS, the Design Review Board reviews new construction for those structures constructed prior to 1942 and determined to be architecturally significant, in accordance with section 142-108; and

WHEREAS, the Mayor and Commission deem it appropriate to protect the significant architectural history, existing building scale, and unique character of the single family residential neighborhoods in Miami Beach; and

WHEREAS, the Mayor and Commission deem it in the best interest and welfare of the City to adopt revised procedures for the review and issuance of new building permits for all new single family homes constructed and located outside of a designated historic district; and

WHEREAS, these regulations will accomplish these goals and ensure that the public health, safety and welfare will be preserved in the City's single-family districts.

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

SECTION 1. That Section 118-33, entitled "Reserved" be amended as follows:

Secs. 118-~~343~~—118-50. - Reserved.

Sec. 118-33. Miami Beach Panel of Architects (MBPOA).

There shall be created a Miami Beach Panel of Architects (MBPOA), which shall be a single-family residential review panel for all single-family homes replacing post 1942 homes, that are not heard before the Board of Adjustment, Historic Preservation Board or Design Review Board. The MBPOA shall not be a quasi-judicial board, and shall not hear waivers or variance applications. The powers and duties of the Board shall be established in Division 6, entitled "Miami Beach Panel of Architects (MBPOA)" at section 118-150, et seq.

* * *

SECTION 2. That **Division 6, entitled "Miami Beach Panel of Architects" be created, and that Section 118-150 through 188-156, entitled "Reserved" be amended as follows:**

Secs. 118-139—~~118-149~~118-160. - Reserved.

DIVISION 6
MIAMI BEACH PANEL OF ARCHITECTS (MBPOA)

Sec. 118-150. – Purpose.

The Miami Beach Panel of Architects (MBPOA) is a decision-making and recommending board established for the review of new single family residential construction, including substantial additions, on RS-zoned lots which are vacant or currently contain a post-1942 single family residence or a non-architecturally significant pre-1942 single family residence.

Sec. 118-151 Composition and term of MBPOA.

The MBPOA shall consist of the following:

1. A total of up to fifteen (15) design professionals, each appointed to serve for a term of one (1) year.
2. The members of the MBPOA shall serve on a rotating basis.
3. A Panel shall consist of three (3) members, serving on a rotating basis.

Sec. 118-152 Membership and qualification.

MBPOA members shall be appointed by the City Manager, with the consent of the City Commission. The minimum qualifications of a member are as follows:

1. Each member shall be a State of Florida registered architect or State of Florida registered landscape architect.
2. Each member shall have demonstrated experience in the design and construction of projects or landscape design within the City of Miami Beach during the last five (5) years.
3. Each member shall either be a resident of, or have their principal place of business in the City of Miami Beach. At the discretion of the City Manager, and with the consent of the City Commission, this residency requirement may be waived, provided that the applicant is a resident of, or has their principal place of business in Miami-Dade or Broward County.

Sec. 118-153 Quorum and approvals

For a panel to convene, a quorum of two (2) shall be required. A simple majority will be necessary to approve any application. In the case of a tie vote for a two (2) member panel, the matter will be continued to the next meeting.

Sec. 118-154 Meetings

The MBPOA shall have regularly scheduled meetings in accordance with the following:

1. The MBPOA Panel shall meet on a twice monthly basis, quorum permitting, and such meetings shall not occur on a regularly scheduled HPB, DRB, PB or BOA monthly meeting day.
2. The Planning Department shall schedule all meetings of the Panel, coordinate attendance, as well as provide administrative and staff support. The City Attorney's office shall provide legal counsel, as may be needed from time to time.
3. The MBPOA shall review an application after the applicant attends a pre-application meeting with the Planning Director, or designee, pursuant to the criteria of Section 118-155.
4. The MBPOA meeting is open to the public, but it is not a public hearing. The member serving as the Chairperson to the Panel has the discretion whether or not to allow public comments and limit the time per presenter.
5. Any matter heard by the MBPOA Panel is not quasi-judicial and does not replace the quasi-judicial hearing of the DRB that may be requested by the Applicant or an Affected Person following a Panel's decision.

Sec. 118-155 Powers and Duties.

1. The Panel, when reviewing submitted plan(s) may approve, approve with conditions, continue, continue with comments or reject the plan(s). An approval is a prerequisite for the issuance of a building permit. Revised plan(s) resulting from a continuance may be presented at a subsequent meeting and the Applicant may request that said plan(s) be reviewed by the same Panel that conducted the initial review, and subject to member availability. If the Panel rejects the Plan(s), the Applicant may submit a new Application, with revised plans and with prescribed application fee(s).
2. In addition to approving or denying an application, the MBPOA may recommend changes to the conceptual plans and specifications. The MBPOA shall consider the recommendations of Planning Department staff, if any, and/ or the comments written or otherwise from any member of the public during its deliberation of the item.
3. The MBPOA shall review all applications in accordance with the applicable criteria and requirements of section 142-105 of the land development regulations of the City Code.
4. The MBPOA shall not have the authority to approve any variances or grant any waivers of any portions of the City Code.

Sec. 118-156 Fees and applications.

- (a) Fees shall be set as per Appendix A, as may be amended from time to time.
- (b) Application shall comply with Section 118-1, relating to site plan requirements.
- (c) All applications for review by the MBPOA must be filed with the Planning Department no later than fourteen (14) calendar days before the meeting date.

SECTION 3. That Section 118-8 relating to notice procedures be amended as follows:

Sec. 118-8. - Notice procedures for quasi-judicial, public hearing quasi-judicial land use board actions; and notice procedures for Miami Beach Panel of Architects.

(1) Quasi-judicial, public hearing, applications for land use board actions (Board of Adjustment, Design Review Board, Historic Preservation Board, and Planning Board) that require notice shall be noticed in accordance with the following provisions, unless otherwise more specifically provided for in these Land Development Regulations, and shall pay a fee pursuant to Section 118-7, and Appendix A:

- (a) *Advertisement.* At least 30 days prior to the quasi-judicial, public hearing date, a description of the request, and the date, start time of the meeting and location of the hearing shall be noticed in a newspaper of general circulation. Applicant shall be required to pay all associated costs relating to the advertisement.
- (b) *Mail notice.* At least 30 days prior to the quasi-judicial, public hearing date, a description of the request, and the date, start time of the meeting, and location of the hearing shall be given by mail to the owners of record of land lying within 375 feet of the property subject to the application. Applicants shall submit all information and certifications necessary to meet this requirement, as determined by the department. Additionally, courtesy notice shall also be given to any Florida nonprofit community organization which has requested of the director in writing to be notified of board hearings. Applicant shall be required to pay all associated costs relating to the mailed notice.
- (c) *Posting.* At least 30 days prior to the quasi-judicial, public hearing date, a description of the request, and the date, time and place of such hearing shall be posted on the property. Such posting shall be a minimum dimension of 11 inches by 17 inches, and located in a visible location at the front of the property, and shall not be posted on a fence or wall that would be obstructed by the operation of a gate. Applicant shall be required to pay all associated costs relating to the posting.

* * *

(2) Notice procedures for Miami Beach Panel of Architects – ministerial review and not quasi-judicial.

(a) Posting. In every case where the MBPOA is scheduled to review an application for single family residential construction, a notice of the meeting shall be given in the following manner:

(i) The property shall be posted at least five (5) days prior to the MBPOA meeting. Such posting shall consist of a sign, the face surface of which shall be a minimum dimension of 11 inches by 17 inches and located in a visible location at the front of the property and shall not be posted on a fence or wall that would be obstructed by the operation of a gate. Applicant shall be required to pay all associated costs relating to the posting.

(ii) The notice shall contain the address and applicant, a description of the request, and the date, time and place of such meeting.

SECTION 4. That Section 118-9 relating to appeals shall be amended as follows:

Sec. 118-9. - Rehearing and appeal procedures.

* * *

(d) Appeal of Miami Beach Panel of Architects.

(1) *Deadline for Appeal.* An appeal of any decision of the MBPOA Panel shall be to the Design Review Board, which appeal shall be quasi-judicial, and a de novo review of the decision of the MBPOA, and the application. An appeal shall be submitted to the planning director on or before the 15th day after the date on which the decision by the Panel is reached. All documents required pursuant to subsection (3) below, shall be part of the initial filing. Failure to provide the necessary documents shall result in an administrative dismissal of the appeal, with no right of appeal. An appeal of the Design Review Board determination shall comply with 118-9(b)(2) and (3).

(2) *Eligible parties.* Parties eligible to file an application for an administrative appeal to the Design Review Board are limited to the following:

- (i) Original applicant/property owner.
- (ii) The city manager on behalf of the city administration
- (iii) An affected person, which for purposes of this section shall mean a person owning property within 100 feet of the Application.

(3) *Application requirements.* The following shall be required for a MBPOA appeal:

- (i) The petition to the board shall be in writing; and
- (ii) Shall be submitted by or on behalf of an eligible party; and
- (iii) Shall set forth the factual, technical, architectural, historic and legal bases for the appeal; and
- (iv) The party filing the appeal shall be responsible for providing all plans and exhibits, subject to planning department procedures, as well as the duplication of all pertinent plans and exhibits.

(4) *Notice requirements.* An appeal of an MBPOA decision to the Design Review Board shall be subject to the same noticing requirements as an application for a public hearing, in accordance with section 118-8(1), "Notice Procedures for Quasi-Judicial Land Use Board Actions and for Administrative Decisions Requiring Notice." The appeal hearing applicant shall be responsible for all associated costs and fees.

(5) *Outside Counsel to the Planning Department.* In the event of a MBPOA appeal to the Design Review Board, the planning director may engage the services of an attorney, or utilize a separate, independent, attorney from the city attorney's office, for the purpose of representing the administrative officer who made the decision that is the subject of the appeal.

(6) *Design Review Board Decisions on MBPOA Appeals.* The Design Review Board may, upon appeal, reverse or affirm, wholly or partly, the order, requirement, decision,

or determination, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of five members of the Design Review Board shall be necessary to reverse any order, requirement, decision, or determination of the MBPOA Panel or to decide in favor of the applicant on any matter upon which the Board is required to pass under these land development regulations.

(7) No permit shall be issued for work prior to expiration of the appeal period or final disposition of any appeal.

(8) Stay of Work and Proceedings on Appeal. An appeal of a MBPOA decision to the Design Review Board stays all work on the premises and all proceedings in furtherance of the action appealed from, unless one of the exceptions below applies:

A. The official from whom the appeal was taken shall certify to the Design Review Board that, by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such a case, proceedings or work shall not be stayed except by a restraining order, which may be granted by the board or by a court of competent jurisdiction, upon application, with notice to the officer from whom the appeal is taken and for good cause shown; or

B. The hearing before the board to which application was made may proceed, provided any approval does not vest. The final order shall contain appropriate conditions to stay its effectiveness until the final resolution of all administrative and court proceedings. No building permit, or certificate of occupancy, or business tax receipt, dependent upon such hearing approval, shall be issued until the final resolution of all administrative and court proceedings as certified by the city attorney. The applicant for the Design Review Board hearing shall hold the city harmless and agree to indemnify the city from any liability or loss resulting from such proceedings. Notice of the final resolution of administrative and court proceedings shall be provided as required for notice of hearings under these land development regulations.

SECTION 5. That Section 142-105, "Development regulations and area requirements", is hereby amended as follows:

Sec. 142-105. - Development regulations and area requirements.

(a) The review criteria and application requirements for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

(1) *Compliance with Regulations and Review Criteria*

a. Permits for new construction, alterations or additions to existing structures shall be subject to administrative (staff level) review by the planning director or designee, the design review board (DRB), or historic preservation board (HPB) as applicable, or in certain instances subject to the review and approval by the Miami Beach Panel of Architects

(MBPOA), in order to determine consistency with the review criteria listed in this section.

- b. In complying with the review criteria located in this section, the applicant may choose either to adhere to the development regulations identified in sections 142-105 and 142-106 administratively through staff level review or seek enhancements of the applicable development regulations as specified therein, where permitted, through approval from the historic preservation board or design review board, in accordance with the applicable design review or appropriateness criteria.
- c. Notwithstanding the foregoing, for those structures located within a locally designated historic district, or individually designated as an historic structure or site, the review and approval of the historic preservation board (HPB) may be required.
- d. Notwithstanding the foregoing, for those structures constructed prior to 1942 and determined to be architecturally significant, in accordance with section 142-108 herein, the review and approval of the design review board (DRB) shall be required.
- e. Notwithstanding the foregoing, for those structures constructed post-1942, in accordance with requirements of section 142-108 the review and approval of the Miami Beach Panel of Architects (MBPOA), shall be required.

(2) Review criteria. Staff level review shall encompass the examination of architectural drawings for consistency with the review criteria below:

- a. The existing conditions of the lot, including, but not limited to, topography, vegetation, trees, drainage, and waterways shall be considered in evaluating the proposed site improvements.
- b. The design and layout of the proposed site plan inclusive of the location of all existing and proposed buildings shall be reviewed with particular attention to the relationship to the surrounding neighborhood, impact on contiguous and adjacent buildings and lands, and view corridors. In this regard, additional photographic and contextual studies that delineate the location of adjacent buildings and structures shall be required in evaluating compliance with this criterion.
- c. The selection of landscape materials, landscaping structures and paving materials shall be reviewed to ensure a compatible relationship with and enhancement of the overall site plan design and the surrounding neighborhood.
- d. The dimensions of all buildings, structures, setbacks, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district.

- e. The design and construction of the proposed structure, and/or additions or modifications to an existing structure, indicates sensitivity to and compatibility with the environment and adjacent structures and enhances the appearance of the surrounding neighborhood.
 - f. The proposed structure is located in a manner that is responsive to adjacent structures and the established pattern of volumetric massing along the street with regard to siting, setbacks and the placement of the upper floor and shall take into account the established single family home context within the neighborhood.
 - g. The construction of an addition to main existing structure shall be architecturally appropriate to the original design and scale of the main existing structure; the proposed addition may utilize a different architectural language or style than the main existing structure, but in a manner that is compatible with the scale and massing of the main existing structure.
 - h. The construction shall be in conformance with the requirements of article IV, division 7 of this chapter with respect to exterior facade paint and material colors.
- (3) Application requirements for DRB or HPB review.
- a. DRB or HPB applications shall follow the application procedures and review criteria, specified in chapter 118, article VI, design review procedures or article X, historic preservation, of these land development regulations (as applicable), board by-laws, or as determined by the planning director, or designee. ~~However, the fee for applications to the DRB for non-architecturally significant homes constructed prior to 1942 and all homes constructed after 1942 shall be \$150.00.~~
- (4) Miami Beach Panel of Architects (MBPOA). The MBPOA shall use the same criteria listed above for review of an application.

SECTION 6. REPEALER.

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

SECTION 7. 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 8. APPLICABILITY.

Notwithstanding the provisions of Section 118-168(a) of the City Code regarding the enforcement of amendments to the land development regulations, for purposes of this ordinance, applications for building permits for new construction or renovations of single-family homes that have received a process number from the City of Miami Beach Building Department by *(the effective date of this ordinance)*, may obtain a full building permit based upon the plans originally submitted, as long as the plans are in substantial compliance with the originally submitted plans as modified through the effective date of the ordinance.

SECTION 9. SEVERABILITY.

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

SECTION 10. EFFECTIVE DATE

This Ordinance shall take effect ten days following adoption.

PASSED and ADOPTED this _____ day of _____, 2016.

Mayor

ATTEST:

City Clerk

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

City Attorney _____
Date

First Reading: _____, 2016

Second Reading: _____, 2016

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

Underline denotes new language
~~Strikethrough~~ denotes deleted language

[Sponsored by Commissioner]

TRM/JGM

M:\\$CMB\CCUPDATES\Land Use and Development Committee\2016\May 18, 2016\SF Dev Regs MBPOA - ORD
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APPENDIX A

Section of this Code	Description	Amount
Section 142-	Applications to the MBPOA	\$2,500
	Square Footage	\$0.50 per square foot of new construction
	Mailing Label	\$4.00, per label
	Posting (site)	\$100

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COMMITTEE MEMORANDUM

TO: Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager 

DATE: May 18, 2016

SUBJECT: **Proposed Comprehensive Plan Amendment Related to Sea Level Rise and Compliance with 2015 Florida Senate Bill 1094, Entitled "Peril of Flood".**

BACKGROUND

On July 1, 2014, the City hired AECOM as a Flood Mitigation Consultant, to perform an analysis of City regulations and practices that can be improved or established in order to mitigate the impacts of anticipated sea level rise.

On April 24, 2015, the Florida Legislature approved Senate Bill 1094, entitled "Peril of Flood," requiring the inclusion of development and redevelopment strategies that reduce flood risks in coastal areas which result from high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea level rise within Comprehensive Plan Coastal Management elements.

At the March 15, 2016 meeting of the Mayors Blue Ribbon Panel on Seal Level Rise, the Panel endorsed the proposed amendments to the City's Comprehensive Plan, as recommended by AECOM. On April 13, 2016, the City Commission referred to the proposed Comprehensive Plan amendment to the Land Use and Development Committee (Item C4L). The item was simultaneously referred to the Planning Board. Commissioner Malakoff is sponsoring the proposed amendment.

On April 20, 2016, the Land Use and Development Committee discussed the item and continued it to May 18, 2016.

ANALYSIS

Since mid-2014, the administration has been working with AECOM to prepare climate adaptation plans and strategies as a result of sea level rise. A major component of this analysis has been to review the City's 2025 Comprehensive Plan and to propose amendments that will reduce the City's risks related to sea level rise. AECOM is recommending several amendments to improve storm sewer and drainage levels of service, including the use of landscaping techniques to enhance storm water management and incorporating minimum freeboard requirements into the Land Development Regulations.

In 2015, the Florida Legislature adopted Senate Bill 1094, entitled “Peril of Flood”, which requires the Coastal Management elements of local government Comprehensive Plans to include regulations related to the mitigation and reduction of flood risks in coastal areas. The requirements of the Bill include the following:

1. *Include development and redevelopment principles, strategies, and engineering solutions that reduce the flood risk in coastal areas which results from high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea-level rise.*
2. *Encourage the use of best practices development and redevelopment principles, strategies, and engineering solutions that will result in the removal of coastal real property from flood zone designations established by the Federal Emergency Management Agency.*
3. *Identify site development techniques and best practices that may reduce losses due to flooding and claims made under flood insurance policies issued in this state.*

Additionally, in 2011 the Florida Legislature passed the Community Planning Act (CPA), which amended Section 163.3177, Florida Statutes, which allows local governments the option of planning for coastal hazards and the potential impacts of sea level rise within the Comprehensive Plan. This provided local governments with the option of designating Adaptation Action Areas (AAA). The designation is for areas that experience coastal flooding and that are vulnerable to the related impacts of rising sea levels, with the purpose of prioritizing funding for infrastructure and adaptation planning. Local governments that adopt an adaptation action area are able to incorporate policies within the coastal management element of their comprehensive plan to improve resilience to coastal flooding. Criteria for AAA designation includes: areas below, at, or near mean higher high water; areas which have a hydrological connection to coastal waters; or areas designated as evacuation zones for storm surge. Since the entire City meets the designation criteria, it is recommended that the entire City be designated an AAA.

In order to improve the City’s ability to mitigate the impacts of sea level rise and comply with Senate Bill 1094, the amendment concerns the following elements of the Miami Beach 2025 Comprehensive Plan:

- **Future Land Use Element**
 - Amend Policy 3.6 to encourage the use of landscaping techniques that enhance stormwater management
 - Amend Policy 6.2 to modify the level of service for storm sewer capacity.
- **Infrastructure Element**
 - Amend Policy 4.1 to require that the Land Development Regulations include a freeboard requirement in order to raise the ground floors of new construction to reduce losses due to flooding.
 - Amend Policy 5 to modify the level of service for the drainage facilities design storm standard.

- Establish Policy 5.5 to incorporate the use of stormwater storage and infiltration techniques in infrastructure replacement activities.
- **The Conservation/Coastal Zone Management Element**
 - Amend Policy 2.12 to encourage the use of highly water-absorbent native and Florida friendly plants.
 - Establish Objective 13 to designate the City of Miami Beach as an AAA pursuant to section 163.3177(6)(g)(10), Florida Statutes and establish resiliency strategies.

It is anticipated that the plan amendments would follow this timeline:

Date	Process Step
4/13/2016	<i>CC Referral to LUDC and Planning Board</i>
5/18/2016	<i>LUDC Hearing, May 18</i>
5/24/2016	<i>Planning Board Hearing</i>
6/8/2016	<i>CC Transmittal Hearing</i>
6/9/2016	Transmit to State
6/15/2016	Notice from State of Complete Transmittal
7/15/2016	Review Agency Comments Due
9/14/2016	<i>CC Adoption Hearing</i>
9/15/2016	Submit Adoption Package to Review Agencies
9/20/2016	Notice from State of Complete Submittal
10/21/2016	Appeal Period Ends

CONCLUSION

The Administration recommends that the Land Use and Development Committee discuss the proposed Comprehensive Plan Amendment and provide appropriate policy direction. If there is consensus on the draft ordinance, it is further recommended that the Committee transmit a favorable recommendation to the Planning Board.



JLM/SMT/TRM/RAM

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COMPREHENSIVE PLAN – PERIL OF FLOOD

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE COMPREHENSIVE PLAN PURSUANT TO THE PROCEDURES IN SECTION 163.3184(3), FLORIDA STATUTES, BY MODIFYING CHAPTER 1, FUTURE LAND USE ELEMENT, TO ENCOURAGE THE USE OF LANDSCAPING TECHNIQUES THAT ENHANCE STORMWATER MANAGEMENT AND TO MODIFY THE LEVEL OF SERVICE FOR STORM SEWER CAPACITY; CHAPTER 5, INFRASTRUCTURE ELEMENT, TO REQUIRE THAT THE LAND DEVELOPMENT REGULATIONS INCLUDE A FREEBOARD REQUIREMENT FOR NEW CONSTRUCTION, TO MODIFY THE LEVEL OF SERVICE FOR DRAINAGE FACILITIES DESIGN STORM STANDARD, AND TO INCORPORATE THE USE OF STORMWATER STORAGE AND INFILTRATION IN INFRASTRUCTURE REPLACEMENT ACTIVITIES; CHAPTER 6, CONSERVATION/ COASTAL ZONE MANAGEMENT ELEMENT TO ENCOURAGE THE USE OF HIGHLY WATER-ABSORBENT NATIVE PLANTS AND TO DESIGNATE THE CITY OF MIAMI BEACH AS AN ADAPTATION ACTION AREA (AAA) PURSUANT TO SECTION 163.3177(6)(g)(10), FLORIDA STATUTES; CHAPTER 8, INTERGOVERNMENTAL COORDINATION ELEMENT, TO REQUIRE COORDINATION BETWEEN AGENCIES ADDRESSING ISSUES RELATED TO SEA LEVEL RISE AND CLIMATE CHANGE; PROVIDING FOR INCLUSION IN THE COMPREHENSIVE PLAN; TRANSMITTAL; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, In 2011, the Florida Legislature passed the Community Planning Act, allowing local governments the option of planning for coastal hazards and the potential impacts of sea level rise within the Comprehensive Plan through the designation of Adaptation Action Areas; and

WHEREAS, On July 1, 2014, the City hired AECOM as a Flood Mitigation Consultant, to perform an analysis of City regulations and practices that can be improved or established in order to mitigate the impacts of anticipated sea level rise; and

WHEREAS, In 2015 the Florida Legislature adopted Senate Bill 1094, "Peril of Flood," requiring the inclusion of development and redevelopment strategies that reduce flood risks in coastal areas which results from high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea level rise within Comprehensive Plan Coastal Management elements; and

WHEREAS, On March 15, 2016 the City of Miami Beach Mayor's Blue Ribbon Panel on Seal Level Rise, the Panel endorsed the proposed amendments to the City's Comprehensive Plan, as recommended by AECOM; and

WHEREAS, The City of Miami Beach Planning Board, which serves as the local planning agency, transmitted the amendments to the City Commission with a favorable recommendation; and

WHEREAS, the City Commission held a duly noticed public hearing, at which time it voted to transmit the text amendments for review by state, regional and local agencies as required by law; and

WHEREAS, the City Commission after careful consideration of this matter deems it advisable and in the best interest of the general welfare of the City of Miami Beach and its inhabitants to amend the 2025 Comprehensive Plan as hereinafter set forth; 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. The following amendment to the City's 2025 Comprehensive Plan Future Land Use Element is hereby adopted:

FUTURE LAND USE ELEMENT

* * *

Policy 3.6

Maximize unpaved landscape to allow for more stormwater infiltration. Encourage planting of vegetation that is highly water absorbent, can withstand the marine environment, and the impacts of tropical storm winds. Encourage development measures that include innovative climate adaption and mitigation designs with creative co-benefits where possible.

* * *

Policy 6.2

Land Development Regulations pertaining to concurrency management shall be amended to reflect Ch. ~~9J-5.0055~~ FAC 163.3180, Florida Statutes and this policy. No development permit shall be issued unless the public facilities necessitated by the project (in order to meet level of service standards specified in the Policies of the Transportation, Recreation, Public Schools and Infrastructure Elements, and the Water Supply Plan) will be in place concurrent with the impacts of the development or the permit is conditional to assure that they will be in place, but no later than the issuance of a certificate of occupancy or its functional equivalent. The requirement that no development permit shall be issued unless public facilities necessitated by the project are in place concurrent with the impacts of development shall be effective immediately:

Acceptable Level of Service Standards for public facilities in the City of Miami Beach are:

* * *

d. Storm Sewer Capacity – One-in-five-ten-year storm event.

SECTION 2. The following amendment to the City’s 2025 Comprehensive Plan Infrastructure Element is hereby adopted:

INFRASTRUCTURE: SANITARY SEWER, SOLID WASTE, DRAINAGE AND POTABLE WATER

* * *

Policy 2.4

Incorporate stormwater storage and infiltration into all infrastructure replacement activities.

* * *

Policy 4.1

Continue site plan review for new construction with the requirement that the minimum first floor elevation for living quarters habitable space in residential and commercial buildings be at least at the minimum City of Miami Beach Freeboard, as adopted in the Code of the City of Miami Beach, above the minimum FEMA requirement, to allow for maximum protection during flood conditions and from sea level rise.

* * *

Policy 5.1

The following City-wide Level of Service Standards shall be used as the basis for determining the availability of facility capacity for residential uses; the systems shall be able to provide/accommodate at least the minimums specified:

* * *

Drainage Facilities Design Storm Standard per 25-year frequency, 24-hour duration; see rainfall intensity curve zone 10, DOT Drainage Public Works Manual as updated from time to time.

SECTION 3. The following amendment to the City’s 2025 Comprehensive Plan Conservation/Coastal Zone Management Element is hereby adopted:

CONSERVATION/COASTAL ZONE MANAGEMENT

* * *

Policy 2.12

Salt tolerant landscaping and highly water-absorbent, native or Florida friendly plants shall continue to be given preference over ~~traditional~~ other planting materials in the plant materials list used in the administration of the landscape section of the Land Development Regulations and the design review process.

* * *

Objective 13:

Increase the City's resiliency to the impacts of climate change and rising sea levels by developing and implementing adaptation strategies and measures in order to protect human life, natural systems and resources and adapt public infrastructure, services, and public and private property.

Policy 13.1:

Based on evolving rising seas data and associated vulnerabilities, to allow for flexible adjustments, preserve future strategic adaptation implementation options to maintain maximum resiliency in response to new risks and vulnerabilities. The City will take advantage of new emerging data and technological opportunities. The City's basis for measuring sea level rise shall be as per the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time.

Policy 13.2:

The City will identify public investments and infrastructure at risk to sea level rise and other climate related impacts. The City will assess the vulnerability to public facilities and services, including but not limited to water and wastewater facilities, stormwater systems, roads, bridges, governmental buildings, hospitals, transit infrastructure and other assets.

Evaluation Measure: Collaborating with regional partners, City shall identify public investments, infrastructure and assets at risk from rising sea levels by 2018. Thereafter, this assessment will be performed every five (5) years.

Policy 13.3:

As per Section 163.3164(1) and Section 163.3177(6)(g)(10), Florida Statutes, an Adaptation Action Area (AAA) is an optional designation within the coastal management

element of a local government's comprehensive plan which identifies one or more areas that experience coastal flooding due to extreme high tides and storm surge, and that are vulnerable to the related impacts of rising sea levels for the purpose of prioritizing funding for infrastructure and adaptation planning.

The entire City is hereby designated an AAA, as all areas meet considerations for AAA designation, which include the following:

- a. Areas which experience tidal flooding, storm surge, or both
- b. Areas which have an hydrological connection to coastal waters
- c. Locations which are within areas designated as evacuation zones for storm surge
- d. Other areas impacted by stormwater/flood control issues

Policy 13.4:

The City will develop and implement adaptation strategies for areas vulnerable to coastal flooding, tidal events, storm surge, flash floods, stormwater runoff, salt water intrusion and other impacts related to climate change or exacerbated by sea level rise, with the intent to increase the community's comprehensive adaptability and resiliency capacities.

Policy 13.5:

Adaptation strategies may apply to the following:

- a. Public infrastructure planning, siting, construction, replacement, operation and maintenance
- b. Emergency management
- c. Stormwater management
- d. Land development regulations
- e. Building codes
- f. Comprehensive planning
- g. Other functions

Policy 13.6:

AAAs adaptation strategy options include:

- a. Protection: Strategies that involve "hard" and "soft" structurally defensive measures to mitigate impacts of rising seas in order to decrease vulnerability while allowing structures and infrastructure to remain unaltered. Two examples are shoreline armoring and beach renourishment. Protection strategies may be targeted for areas of a community that are location-dependent and cannot be significantly altered or relocated, such as areas of historical significance, or water-dependent uses.
- b. Accommodation: Strategies that do not act as a barrier, but rather alter the design through measures such as elevation or stormwater improvements, to allow the structure of infrastructure system to stay intact. Rather than preventing flooding or inundation, these strategies aim to reduce potential risks.

- c. Management Strategies: Strategies that involve the actual removal of existing development, their possible relocation to other areas, and/or prevention of further development in high-risk areas.
- d. Avoidance: Strategies that involve ensuring development does not take place in areas subject to coastal hazards associated with sea level rise or where the risk is low at present but will increase over time.
- e. Other options

Policy 13.7:

The City shall pursue funding sources for the implementation of AAA associated adaptation strategies including the following:

- a. Federal and State grants and technical expertise assistance (in-kind)
- b. Local Stormwater Utility Fees and CIP (Capital Improvement Plan) prioritization
- c. Public/Private Partnerships
- d. Other sources

Policy 13.8:

The City shall integrate AAAs into existing and future City processes and city-wide plans and documents which may include:

- a. Strategic Plan
- b. Sustainability Plan
- c. Resiliency Plan
- d. Stormwater Master Plan
- e. Emergency Management Plan
- f. Land Development Regulations
- g. Capital Improvement Plan
- h. Local Mitigation Strategy
- i. Other processes, plans and documents.

Policy 13.9:

The City shall align and be consistent with, to the extent possible, relevant and current national, state, and regional adaptation strategy documents such as the Miami-Dade County GreenPrint, Southeast Florida Regional Climate Action Plan, and The President's Climate Action Plan as well as other regional strategic plans, disaster mitigation plans, water management plans, transportation/transit plans, and climate change plans.

Policy 13.10:

The City shall participate in, when appropriate, coordinated governmental, non-governmental and other appropriate agencies' proposed application requests for funding adaptation implementation projects.

Policy 13.11:

The City shall collaborate and coordinate with appropriate local, regional, state, and national governmental agencies, to the extent possible, toward the implementation of AAA adaptation strategies and to identify risks, vulnerabilities and opportunities associated with coastal hazards and the impacts from sea level rise.

SECTION 4. The following amendment to the City's 2025 Comprehensive Plan Intergovernmental Coordination Element is hereby adopted:

INTERGOVERNMENTAL COORDINATION ELEMENT

* * *

Policy 1.10

The City will collaborate and coordinate with appropriate local, regional, state, and national governmental agencies, to the extent possible, toward the implementation of Adaptation Action Areas adaptation strategies and to identify risks, vulnerabilities and opportunities associated with coastal hazards and the impacts from sea level rise and participate in, when appropriate, coordinated governmental, non-governmental and other appropriate agencies' proposed application requests for funding adaptation implementation projects.

SECTION 5. REPEALER.

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

SECTION 6. SEVERABILITY.

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

SECTION 7. CODIFICATION.

It is the intention of the City Commission that this Ordinance be entered into the Comprehensive Plan, and it is hereby ordained 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. The Exhibits to this Ordinance shall not be codified, but shall be kept on file with this Ordinance in the City Clerk's Office.

SECTION 8. 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 9. EFFECTIVE DATE.

This ordinance shall take effect 31 days after the state land planning agency notifies the City that the plan amendment package is complete pursuant to Section 163.3184(3), Florida Statutes.

PASSED and ADOPTED this _____ day of _____ 2016.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM
AND LANGUAGE
AND FOR EXECUTION

City Attorney Date

First Reading/Transmittal: _____, 2016
Second Reading/Adoption: _____, 2016

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

Underline = new language
~~Strikethrough~~ = deleted language

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MIAMI BEACH

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

TO: Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager

DATE: May 18, 2016

SUBJECT: **DISCUSSION PERTAINING TO A PROPOSED ORDINANCE AMENDMENT TO CREATE OPERATIONAL REGULATIONS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS SOUTH OF FIFTH STREET.**

HISTORY

On April 13, 2016, the City Commission referred a discussion item pertaining to operational regulations for alcoholic beverage establishments south of Fifth Street to the Land Use and Development Committee (item C4C). The referral was sponsored by Commissioner Michael Grieco.

The Land Use and Development Committee (LUDC) discussed the item on April 20, 2016 and directed staff to bring back a draft ordinance on May 18, 2016.

BACKGROUND

Certain regulations specific to alcoholic beverage establishment exist for the South of Fifth neighborhood and other parts of the City including North Beach, Sunset Harbour and pending legislation for the west side of Alton Road. These areas of the City have a mixture of residential developments and destination eating and drinking establishments.

Currently, alcoholic beverage establishments located south of Fifth Street that do not exceed neighborhood impact establishment (NIE) thresholds have very few operational restrictions and are permitted to stay open until 5:00 am. The south of fifth neighborhood has expressed a desire to further regulate hours of operation for all alcoholic beverage establishments. At the direction of the LUDC, the draft ordinance contained herein is based on the regulations proposed for the west side of Alton Road.

ANALYSIS

The following is a summary of the changes proposed for the zoning districts south of Fifth Street:

- All alcoholic beverage establishments shall close by 2:00 AM.
- All outdoor or open air areas of an alcoholic beverage establishment shall close by 12:00 AM.
- Outdoor bar counters shall be prohibited.
- Alcoholic beverage establishments with sidewalk café permits shall only serve alcoholic beverages at sidewalk cafes during hours when food is

served in the restaurant, and shall cease sidewalk café operations no later than 12:00 AM and shall not be permitted to have outdoor speakers.

- Special events permits shall not be permitted.

As drafted, the proposed regulations would only apply to new establishments. There would be exceptions for establishments that have submitted an application for a BTR, or have received land use board approval, by a date to be determined. However, existing outdoor or open air areas of an alcoholic beverage establishment which may be currently licensed to operate until 5:00 AM would be required to close by 2:00 AM. Preliminary research shows that this would impact six (6) establishments.

CONCLUSION

The Administration recommends that the Land Use and Development Committee discuss the item further and provide appropriate policy direction. If there is consensus on the matter, it is further recommended that the Land Use Committee recommend to the full City Commission that the attached draft ordinance be referred to the Planning Board.


JLM/SMT/TRM/TUI

Attachment

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**SOUTH OF FIFTH
ALCOHOLIC BEVERAGE ESTABLISHMENT OPERATIONAL REGULATIONS**

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS", ARTICLE II, "DISTRICT REGULATIONS," DIVISION 18, "PS PERFORMANCE STANDARD DISTRICT," SECTION 142-693, "PERMITTED USES," TO AMEND THE HOURS OF OPERATION, LOCATION AND USE RESTRICTIONS FOR PROPERTIES SOUTH OF FIFTH STREET; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, the south of Fifth Street area has historically been composed of mixed use residential, hotel, retail, recreational and alcohol beverage establishments, which primarily serve City residents and tourist; and

WHEREAS, alcoholic beverage establishments in Miami Beach have been historically concentrated in the commercial and mixed-use entertainment districts along Washington Avenue, Collins Avenue, and Ocean Drive; and

WHEREAS, alcoholic beverage establishments in the South of Fifth neighborhood are in close proximity to residential uses; and

WHEREAS, the City Code allows certain uses within the zoning districts south of Fifth Street, which, absent mitigation, could be incompatible with adjacent residential uses; and

WHEREAS, large restaurants, stand-alone bars, outdoor seating areas and sidewalk cafés can sometimes be incompatible with the quality of life of adjacent residential neighborhoods if not regulated; and

WHEREAS, the Mayor and City Commission desire to encourage uses that are compatible with the character of the neighborhood; and

WHEREAS, pursuant to Section 562.14, Florida Statutes, a municipality may, by ordinance, establish hours of sale for alcoholic beverages; and

WHEREAS, Florida courts have rejected equal protection and due process challenges to Section 562.14, Florida Statutes (*See Wednesday Night, Inc. v. City of Fort Lauderdale* (Fla. 1973)); and

WHEREAS, in *State ex rel. Floyd v. Noel* (Fla. 1936), the Florida Supreme Court recognized that "[i]t is so well settled that no citation of authority is required to support the statement that a municipality exercising the powers inherent in municipal corporations may reasonably regulate the sale of intoxicating liquors and in providing such reasonable

regulations may prohibit the sale of such liquors within certain hours, and also may prohibit the sale of liquors within certain zones”; and

WHEREAS, in *Makos v. Prince* (Fla. 1953), the Florida Supreme Court recognized that a county may establish separate zones for the hours of sale of alcoholic beverages, and that the regulation of hours need not be uniform throughout the county as a whole; and

WHEREAS, Florida courts have consistently held that alcoholic beverage establishments are not entitled to grandfather status as to hours of sale for alcoholic beverages (See *Village of North Palm Beach v. S & H Foster's, Inc.* (Fla. 4th DCA 2012); *Other Place of Miami, Inc. v. City of Hialeah Gardens* (Fla. 3d DCA 1978)); and

WHEREAS, Chapter 1, of the Land Use Element, Objective 2, “Land Use Compatibility,” of the City’s 2025 Comprehensive Plan (hereinafter “Plan”), specifies that the City’s land development regulations will be used to address the location, type, size and intensity of land uses and to ensure adequate land use compatibility between residential and non-residential land uses; and

WHEREAS, Policy 2.1 of the Plan provides that the land development regulations shall continue to address the location and extent of nonresidential land uses in accordance with the Future Land Use map and the policies and descriptions of types, sizes and intensities of land uses contained in [the Future Land Use] Element; and

WHEREAS, Policy 2.2 of the Plan provides that development in land use categories which permit both residential and non-residential uses shall be regulated by formalized land development regulations which are designed to ensure adequate land use compatibility; and

WHEREAS, compatibility shall be achieved by one or more of the following: (1) enumeration of special land uses which may be particularly incompatible with residential uses and may be prohibited in specified areas or zoning districts; (2) enumeration of special land use administrative procedures such as Conditional Use approval, which require public hearings prior to special land use approval; (3) enumeration of special land use criteria such as minimum required distance separations from residential districts or uses or allowable hours of operation, to ensure that non-residential special land uses are properly located with respect to any residential uses to which they may be incompatible; and (4) the vertical separation of residential and non-residential uses within mixed use buildings through the use of land use regulations on accessory uses within residential buildings, and the identification of those types of commercial uses which are particularly incompatible with residential uses and which shall therefore NOT be permitted in mixed use buildings; and,

WHEREAS, in determining incompatibility, consideration shall be given to noise, lighting, shadows, access, traffic, parking, height, bulk, landscaping, hours of operation, buffering and any other criteria that may be important to ensure that necessary safeguards are provided for the protection of surrounding property, persons, and neighborhood values; and

WHEREAS, in accordance with Chapter 1, Objective 2, Policies 2.1 and 2.2 of the Plan, is it is desirable to encourage uses in commercial districts that are properly balanced and compatible with the scale, character and context of adjacent residential neighborhoods; and

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

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

SECTION 1. Chapter 142, "Zoning Districts and Regulations," Article II, "District Regulations," Division 18," PS Performance Standard District" is hereby amended as follows:

**CHAPTER 142.
ZONING DISTRICTS AND REGULATIONS**

* * *

ARTICLE II. DISTRICT REGULATIONS

* * *

DIVISION 18. PS PERFORMANCE STANDARD DISTRICT

* * *

Sec. 142-693. Permitted uses.

* * *

(a) The following uses are permitted in the performance standard districts:

* * *

<i>General Use Category</i>	<i>R-PS 1,2</i>	<i>R-PS 3,4</i>	<i>C-PS 1,2,3,4</i>	<i>RM-PS1</i>
* * *	* * *	* * *	* * *	* * *
Accessory outdoor bar counters, provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for an accessory outdoor bar counter which is adjacent to a property with an apartment unit, the accessory outdoor bar counter may not be operated or utilized between 8:00 p.m. and 8:00 a.m.	N	N However, accessory outdoor bar counters are permitted in oceanfront hotels with at least 100 hotel units in the R-PS4 district*.	P* <u>North of 5th Street Only.</u>	N
* * *	* * *	* * *	* * *	* * *

* * *

(i) The following additional regulations shall apply to alcoholic beverage establishments, whether as a main use, conditional use, or accessory use, that are located south of 5th Street:

- (1) Operations shall cease no later than 2:00 a.m., except as otherwise provided herein.
- (2) Operations in outdoor or open air areas of a premises shall cease no later than 12:00 a.m., except as otherwise provided herein.
- (3) Establishments with sidewalk café permits shall only serve alcoholic beverages at sidewalk cafes during hours when food is served in the restaurant, shall cease sidewalk café operations no later than 12:00 a.m., except as otherwise provided herein, and shall not be permitted to have outdoor speakers.
- (4) Outdoor bar counters shall be prohibited.
- (5) No special events permits shall be issued.
- (6) The provisions of this subsection (j) shall not apply, to the extent the requirements of this subsection are more restrictive, to an alcoholic beverage establishment with a valid business tax receipt that is in application status prior to _____, 2016 or issued prior to _____, 2016; or 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 _____, 2016. **Notwithstanding any prior approval to the contrary, in no event may operations on outdoor or open air areas of a premises continue beyond 2:00 a.m.** Any increase to an alcoholic beverage establishment's approved hours of operation shall meet the requirements of this section. Additionally, existing sidewalk cafes issued a sidewalk cafe permit as of _____, 2016 for alcoholic beverage sales after 12:00 a.m. may continue to be renewed, with food service, but shall not serve alcoholic beverages later than 2:00 a.m., provided the establishment has neither been issued nor found liable for any City Code violations during the preceding twelve-month period and is not delinquent in any payment obligation to the City. Nothing in the foregoing shall limit the authority of the city commission to establish or modify hours of operation for sidewalk cafes.

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 re-numbered or re-lettered 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 _____, 2016.

Philip Levine
Mayor

ATTEST:

Rafael E. Granado
City Clerk

First Reading:, 2016

Second Reading: , 2016

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

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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: Jimmy L. Morales, City Manager

DATE: May 18, 2016

SUBJECT: **DISCUSSION: TRANSIT HUB ON THE 500 BLOCK OF ALTON ROAD**

BACKGROUND

On April 13, 2016, at the request of Commissioner Arriola, the City Commission referred the subject item to the Land Use and Development Committee (Item C4Q). On April 20, 2016, the Land Use Committee discussed the proposal, including a draft ordinance prepared by the 500 Alton Road property owner, and continued the item to May 18, 2016.

ANALYSIS

The owner of the property at 500 Alton Road has submitted the attached draft ordinance for discussion. The proposal would amend the CPS-2 development regulations for properties west of Alton Road that incorporate a City multi-modal transit hub. These proposed modifications include amending setback and first floor activation requirements, as well as a proposal to increase the maximum allowable building height from the current 7 stories / 75 feet to 30 stories / 300 feet.

Chapter 114 of the Land Development Regulations is also proposed to be modified by creating an FAR exception for 'City transit facilities when incorporated into private development'. As this would result in an increase in FAR, voter approval would be required. Additionally, the following definition for 'Developments that incorporate a City multi-modal transit hub' is proposed:

A private development that has dedicated an area of at least 20,000 square feet in size at no cost to the public to accommodate the City's development of facilities for passenger boarding and transfer for one or more transit modes, including, but not limited to, bus, trolley, streetcar, or train.

Finally, the property owner has filed a private application with the Planning Board for the same ordinance amendment, as well as required comprehensive plan amendments.

CONCLUSION

The Administration recommends that the Land Use and Development Committee discuss the matter further and provide appropriate policy direction.

JLM/SMT/TRM

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CPS-2 Transit Hubs

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 II, "DISTRICT REGULATIONS," DIVISION 18 "PS PERFORMANCE STANDARD DISTRICT" AND CHAPTER 114, "GENERAL PROVISIONS," BY AMENDING SECTIONS 142-698 AND 142-699 REGARDING MAXIMUM BUILDING HEIGHT AND SETBACKS REQUIREMENTS FOR THE CPS-2 DISTRICT; AMENDING SECTION 114-1 REGARDING DEFINITIONS; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, the Mayor and City Commission have recognized the need to encourage the development of transit infrastructure in the City, especially in southern areas of the City; and

WHEREAS, the Mayor and City Commission desire to encourage innovative and compatible redevelopment that provides public benefits in the form of significant transit improvements;

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 II, "Zoning Districts and Regulations," Division 18 "Performance Standard District", Section 142-698 is hereby amended as follows:

Sec. 142-698. Commercial performance standard area requirements.

b) The commercial performance standard area requirements are as follows:

Performance Standard	Commercial Subdistricts			
	CPS-1	CPS-2	CPS-3	CPS-4
Minimum lot area	6,000 square feet	6,000 square feet	6,000 square feet	6,000 square feet
Minimum lot width	50 feet	50 feet	50 feet	50 feet
Maximum building height	40 feet; 75 feet for the Block 51 Properties, the Block 51 Swap Property, Block 52 Properties; Block 1	50 – East of Lenox Avenue 75 – West of Lenox Avenue 300 – <u>Developments</u> west of Alton	Non-oceanfront – 80 Oceanfront – 100	150

	Properties	<u>Road that incorporate a City multi-modal transit hub as defined by Section 114-1</u>		
Maximum Number of Stories	4; 8 for the Block 51 Properties, the Block 51 Swap Property, Block 52 Properties; Block 1 Properties	5 – East of Lenox Avenue 7 – West of Lenox Avenue 30 – <u>Developments west of Alton Road incorporate a City multi-modal transit hub as defined by Section 114-1</u>	Non-oceanfront – 8 Oceanfront – 11	16
Maximum floor area ratio	1.0; 1.5 for the Block 51 Properties, the Block 51 Swap Property, Block 52 Properties; and 2.0 for the Block 1 Properties	2.0	2.5	2.5
Residential and/or hotel development	Pursuant to all R-PS2 district regulations, except maximum building height for residential and mixed use buildings shall be 75 feet.	Pursuant to all R-PS3 district regulations, except maximum building height for residential and mixed use buildings shall be 75 feet. <u>Developments west of Alton Road that incorporate a City multi-modal transit hub as defined by Section 114-1 may be developed as provided by the CPS-2 district regulations.</u>	Pursuant to all R-PS4 district regulations except maximum floor area ratio shall be 2.5; on the Goodman Terrace and Hinson Parcels, the FAR shall be that necessary to achieve 305,500 sq. ft. (estimated at 3.2 FAR), 30 stories and 300 ft. height maximum for the Goodman Terrace and Hinson Parcels, and open space ratio 0.60 measured at or above grade	Pursuant to all R-PS4 district regulations, except maximum floor area ratio shall be 2.5, and open space ratio 0.60 measured at or above grade.

Minimum apartment unit size (square feet)	New construction -- 650 Rehabilitated buildings -- 400	New construction -- 600 Rehabilitated buildings -- 400	New construction -- 550 Rehabilitated buildings -- 400	New construction -- 550 Rehabilitated buildings -- 400
Average apartment unit size (square feet)	New construction—900 Rehabilitated buildings —550	New construction—850 Rehabilitated buildings —550	New construction—800 Rehabilitated buildings —550	New construction—800 Rehabilitated buildings —550
Minimum floor area per hotel unit (square feet)	15% = 300—335 square feet; 85% = 335 + square feet in all districts.			
Minimum parking requirements	Pursuant to chapter 130 and section 142-702 requirement.			
Minimum off-street loading	Pursuant to chapter 130			
Signs	Pursuant to chapter 138			

* * *

SECTION 2. Chapter 142 of the City Code, entitled "Zoning Districts and Regulations," Article II, "Zoning Districts and Regulations," Division 18 "Performance Standard District", Section 142-699 is hereby amended as follows:

Sec. 142-699. Setback requirements in the C-PS1, 2, 3, 4 districts.

a) The setback requirements in the C-PS1, 2, 3, 4 districts are as follows:

	Front	Side-Interior	Side, Facing a Street	Rear
Subterranean	0 feet	0 feet	0 feet	0 feet
Pedestal and tower (non-oceanfront)	0 feet; for residential, 5 feet; 20 feet from adjacent streets above the first 40 feet in height for the Block 1 Properties, Block 51 Properties (except lots 11 and 12), Block 51 Swap	7.5 feet when abutting a residential district, otherwise none. Residential uses shall follow the R-PS1, 2, 3, 4 setbacks (See section 142-697), 10 feet for developments west of Alton Road that incorporate a City	0 feet Residential uses shall follow the R-PS1, 2, 3, 4 setbacks (See section 142-697) 10 feet for developments that incorporate a City multi-modal transit hub as defined by Section 114-1	10 feet when abutting a residential district, otherwise—5 feet; 3.5 feet for the Block 1 Properties, Block 51 Properties (except lots 11 and 12), Block 51 Swap Property and Block 52

	Property and Block 52 Properties 0 feet for developments that incorporate a City multi-modal transit hub as defined by Section 114-1	multi-modal transit hub as defined by Section 114-1		Properties; unless separated by a waterway—None
Pedestal and tower (oceanfront)	Pedestal—15 feet Tower—20 feet plus one foot for every one foot increase in height above 50 feet, to a maximum of 50 feet, then shall remain constant	Commercial uses—10 feet Residential uses shall follow the R-PS1, 2, 3, 4 setbacks (See section 142-697)	Commercial uses—10 feet Residential uses shall follow the R-PS1, 2, 3, 4 setbacks (See section 142-697)	25% of lot depth, 75 feet minimum
Parking lots and garages	If located on the same lot as the main structure the above setbacks shall apply, if primary use the setbacks are listed in section 142-1132(n)			

- b) All required setbacks shall be considered as minimum requirements except for the pedestal front yard setback and the pedestal side yard facing a street setback, which shall be considered as both a minimum and maximum requirements, except for the Goodman Terrace and Hinson Parcels and developments west of Alton Road that incorporate a City multi-modal transit hub as defined by Section 114-1
- c) For lots greater than 100 feet in width the front setback shall be extended to include at least one open court with a minimum area of three square feet for every linear foot of lot frontage, except for those properties located in the C-PS1 district described in section 142-698(a) and developments west of Alton Road that incorporate a City multi-modal transit hub as defined by Section 114-1.

SECTION 3. Chapter 142 of the City Code, entitled "Zoning Districts and Regulations," Article II, "Zoning Districts and Regulations," Division 18 "Performance Standard District", Section 142-695 is hereby amended as follows:

Sec. 142-695. Performance standard regulations generally.

* * *

- c) In the C-PS districts, all floors of a building containing parking spaces shall incorporate the following:
- (1) Residential or commercial uses, as applicable, at the first level along every facade facing a street, sidewalk or waterway. For properties not

having access to an alley, the required residential space shall accommodate entrance and exit drives. Developments that incorporate a City multi-modal transit hub as defined by Section 114-1 are not required to incorporate residential or commercial uses but shall incorporate other architectural elements to create a pedestrian scale at the first level.

- (2) Residential or commercial uses above the first level along every facade facing a waterway.
- (3) For properties less than 60 feet in width, the total amount of commercial space at the first level along a street side shall be determined by the design review or historic preservation board, as applicable. All facades above the first level, facing a street or sidewalk, shall include a substantial portion of residential or commercial uses; the total amount of residential or commercial space shall be determined by the design review or historic preservation board, as applicable, based upon their respective criteria.

SECTION 4. Chapter 114 of the City Code, entitled "General Provisions," Section 114-1 is hereby amended as follows:

Sec. 114-1. Definitions.

* * *

Developments that incorporate a City multi-modal transit hub means a private development that has dedicated an area of at least 20,000 square feet in size at no cost to the public to accommodate the City's development of facilities for passenger boarding and transfer for one or more transit modes, including, but not limited to, bus, trolley, streetcar, or train.

* * *

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.

- (10) Enclosed garbage rooms, enclosed within the building on the ground floor level.
- (11) City transit facilities when incorporated into private development.

* * * *

SECTION 5. 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 6. 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 7. SEVERABILITY. If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 8. EFFECTIVE DATE. This Ordinance shall take effect ten days following adoption.

PASSED and ADOPTED this _____ day of _____, 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

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MIAMI BEACH

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

TO: Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager

DATE: May 18, 2016

SUBJECT: **PROPOSED ORDINANCE: OPERATIONAL REGULATIONS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS ALONG THE SOUTH SIDE OF 17TH STREET.**

HISTORY

At the February 10, 2016 City Commission meeting, while discussing item R5F, concerning the consolidation ordinance for alcoholic beverages, the Commission referred a discussion item to the Land Use and Development Committee (LUDC) pertaining to separate alcohol regulations for Alton Road and 17th Street. This proposal was sponsored by Commissioner Joy Malakoff.

On February 17, 2016, the LUDC discussed the item and continued the matter to March 30, 2016. Staff was instructed to prepare a draft ordinance in accordance with the discussion, for review on March 30, 2016. On March 30, 2016, the Land Use Committee reviewed the proposed ordinance and transmitted it to the City Commission with a favorable recommendation.

Initially the proposed modifications were to be located in Chapter 6 of the City Code. Subsequent to the recommendation of the Land Use Committee, it was determined that the modifications needed to be in Chapter 142 of the Land Development Regulations, so that all regulations regarding alcohol hours of operation and conditional use criteria be located within the same chapter.

On April 13, 2016, the City Commission approved the proposed ordinance at First Reading and set a Second Reading Hearing for May 11, 2016. The City Commission also referred the item to the Planning Board, prior to Second Reading. Additionally, the City Commission requested that the Planning Board further study the 17th Street portion of the legislation, particularly as it pertains to a 100 foot distance separation from single family uses.

On April 19, 2016, the Planning Board reviewed the proposed Ordinance and took the following action:

1. The Alton Road portion of the ordinance was transmitted with a favorable recommendation (6-1).
2. The 17th Street portion of the ordinance was transmitted with an unfavorable recommendation (7-0) and the Board further recommended that this portion of the legislation be bi-furcated for further study.

On May 11, 2016, the City Commission approved the Alton Road portion of the legislation, and referred the 17th Street part back to the Land Use Committee for further study.

ANALYSIS

The south side of 17th Street is commercially zoned (CD-3), between Meridian Avenue and Lenox Avenue; therefore, there is the potential for more intense commercial development. This area is directly across the street from residential uses (RM-1 and RS-4) in the Palm View Historic District, which is comprised of low-rise apartment buildings and single family homes. Certain operational standards and regulations exist in the zoning code for the other parts of the City (e.g. North Beach, South of Fifth, and Sunset Harbor) that have a mixture of residential development and destination eating and drinking establishments. However, new establishments along 17th Street do not currently have the same type of regulations.

Currently, alcoholic beverage and entertainment establishments not exceeding specified occupational load thresholds do not require Conditional Use review by the Planning Board in the commercial zoning districts along 17th Street. These thresholds are less than 300 persons for eating and drinking establishments without entertainment or less than 200 persons for establishments with entertainment as determined by the Fire Marshall. Additionally, 5:00 am liquor licenses are permitted.

The CD-3 district between Lincoln Lane North and 17th Street, from Meridian Avenue to Lenox Avenue, borders low intensity, non-transient residential districts. As such, residents from these areas have been expressing a strong desire for operational restrictions on eating and drinking establishments, particularly with regard to the hours of operation, outdoor areas, and entertainment uses.

At the direction of the City Commission on May 11, 2016, staff drafted the attached, revised ordinance, specific to the 17th Street area. This revised ordinance proposes the following operational requirements and hours restrictions on alcoholic beverage establishments and outdoor areas for properties south of 17th Street, from Meridian to Lenox Avenues, the entrance door of which is located within 100 feet of a single family residential use:

- Operations shall cease no later than 2:00 a.m.
- Establishments with sidewalk café permits shall only serve alcoholic beverages at sidewalk cafés during hours when food is served in the restaurant, shall cease sidewalk café operations at 2:00 a.m., and shall not be permitted to have outdoor speakers.
- Commercial uses on rooftops shall be limited to restaurants only, shall cease operations no later than 2:00 a.m., and shall only be permitted to have ambient, background music.
- 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.

- Outdoor bar counters shall be prohibited.

CONCLUSION

The Administration recommends that the Land Use and Development Committee discuss the item further and provide appropriate policy direction. If there is consensus on the matter, it is further recommended that the Land Use Committee transmit the ordinance to the City Commission for referral to the Planning Board.

JLM/SMT/TRM

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**17TH STREET SOUTH
ALCOHOLIC BEVERAGE ESTABLISHMENT REGULATIONS**

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS," (1) AT DIVISION 6, "CD-3 COMMERCIAL, HIGH INTENSITY DISTRICT," SECTION 142-332, "MAIN PERMITTED USES"; (2) SECTION 142-333, "CONDITIONAL USES"; (3) SECTION 142-334, "ACCESSORY USES"; AND (4) SECTION 142-340, "ADDITIONAL REGULATIONS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS," TO AMEND THE HOURS OF OPERATION, LOCATION, AND USE RESTRICTIONS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS LOCATED SOUTH OF 17TH STREET, BETWEEN LENOX AVENUE AND MERIDIAN AVENUE, THAT ARE LOCATED WITHIN 100 FEET OF A SINGLE FAMILY RESIDENTIAL USE; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, the 17th Street corridor has historically been composed of low intensity retail, service and retail establishments, which primarily serve City residents; and

WHEREAS, alcoholic beverage establishments in Miami Beach have been historically concentrated in the commercial and mixed-use entertainment districts along Washington Avenue, Collins Avenue, and Ocean Drive; and

WHEREAS, the Palm View neighborhood, located to the north of 17th Street and to the south of the Collins Canal, is comprised of mainly single family residential uses and is divided by 17th Street from a CD-3 commercial high intensity district; and

WHEREAS, the City Code allows certain uses within the CD-3 district, which, absent mitigation, could be incompatible with adjacent residential uses in the Palm View neighborhood; and

WHEREAS, large restaurants, stand-alone bars, entertainment establishments, and dance halls can sometimes be incompatible with the low scale character and quality of life of adjacent residential neighborhoods if not regulated; and

WHEREAS, the Mayor and City Commission desire to encourage uses that are compatible with the low-scale character of the neighborhood; and

WHEREAS, pursuant to Section 562.14, Florida Statutes, a municipality may, by ordinance, establish hours of sale for alcoholic beverages; and

WHEREAS, Florida courts have rejected equal protection and due process challenges to Section 562.14, Florida Statutes (*See Wednesday Night, Inc. v. City of Fort Lauderdale* (Fla. 1973)); and

WHEREAS, in *State ex rel. Floyd v. Noel* (Fla. 1936), the Florida Supreme Court recognized that “[i]t is so well settled that no citation of authority is required to support the statement that a municipality exercising the powers inherent in municipal corporations may reasonably regulate the sale of intoxicating liquors and in providing such reasonable regulations may prohibit the sale of such liquors within certain hours, and also may prohibit the sale of liquors within certain zones”; and

WHEREAS, in *Makos v. Prince* (Fla. 1953), the Florida Supreme Court recognized that a county may establish separate zones for the hours of sale of alcoholic beverages, and that the regulation of hours need not be uniform throughout the county as a whole; and

WHEREAS, Florida courts have consistently held that alcoholic beverage establishments are not entitled to grandfather status as to hours of sale for alcoholic beverages (*See Village of North Palm Beach v. S & H Foster’s, Inc.* (Fla. 4th DCA 2012); *Other Place of Miami, Inc. v. City of Hialeah Gardens* (Fla. 3d DCA 1978)); and

WHEREAS, Chapter 1, of the Land Use Element, Objective 2, “Land Use Compatibility,” of the City’s 2025 Comprehensive Plan (hereinafter “Plan”), specifies that the City’s land development regulations will be used to address the location, type, size and intensity of land uses and to ensure adequate land use compatibility between residential and non-residential land uses; and

WHEREAS, Policy 2.1 of the Plan provides that the land development regulations shall continue to address the location and extent of nonresidential land uses in accordance with the Future Land Use map and the policies and descriptions of types, sizes and intensities of land uses contained in [the Future Land Use] Element; and

WHEREAS, Policy 2.2 of the Plan provides that development in land use categories which permit both residential and non-residential uses shall be regulated by formalized land development regulations which are designed to ensure adequate land use compatibility; and

WHEREAS, compatibility shall be achieved by one or more of the following: (1) enumeration of special land uses which may be particularly incompatible with residential uses and may be prohibited in specified areas or zoning districts; (2) enumeration of special land use administrative procedures such as Conditional Use approval, which require public hearings prior to special land use approval; (3) enumeration of special land use criteria such as minimum required distance separations from residential districts or uses or allowable hours of operation, to ensure that non-residential special land uses are properly located with respect to any residential uses to which they may be incompatible; and (4) the vertical separation of residential and non-residential uses within mixed use buildings through the use of land use regulations on accessory uses within residential buildings, and the identification of those types of commercial uses which are particularly incompatible with residential uses and which shall therefore NOT be permitted in mixed use buildings; and,

WHEREAS, in determining incompatibility, consideration shall be given to noise, lighting, shadows, access, traffic, parking, height, bulk, landscaping, hours of operation, buffering and any other criteria that may be important to ensure that necessary safeguards

are provided for the protection of surrounding property, persons, and neighborhood values; and

WHEREAS, in accordance with Chapter 1, Objective 2, Policies 2.1 and 2.2 of the Plan, is it is desirable to encourage uses in commercial districts that are properly balanced and compatible with the scale, character and context of adjacent residential neighborhoods; and

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

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

SECTION 1. Chapter 142, "Zoning Districts and Regulations," Article II, "District Regulations," Division 6, "CD-3, Commercial, High Intensity District," is hereby amended as follows:

DIVISION 6. - CD-3 COMMERCIAL, HIGH INTENSITY DISTRICT

* * *

Sec. 142-332. - Main permitted uses.

The main permitted uses in the CD-3 commercial, high intensity district are commercial uses; apartments; apartment/hotels; hotels, alcoholic beverage establishments pursuant to the regulations set forth in Chapter 6, and religious institutions with occupancy of 199 persons or less. Offices are prohibited on the ground floor on that portion of Lincoln Road which is closed to traffic, unless the office area is located in a mezzanine, or at least 75 feet back from the storefront; also apartments, apartment/hotels and hotels located on that portion of Lincoln Road shall comply with section 142-335. Dance halls (as defined in section 114-1 of this Code) not also operating as restaurants with full kitchens and serving full meals and licensed as alcoholic beverage establishments are prohibited on properties having a lot line adjoining Lincoln Road, from the Atlantic Ocean to Biscayne Bay, unless the dance hall is located within a hotel with a minimum of 100 hotel units. Alcoholic beverage establishments located south of 17th Street, between Lenox Avenue and Meridian Avenue, the entrance door of which is located within 100 feet of a single family residential use, shall be subject to the additional requirements set forth in section 142-340.

* * *

Sec. 142-333. - Conditional uses.

The conditional uses in the CD-3 commercial, high intensity district are adult living congregate facilities; new construction of structures 50,000 square feet and over (even when divided by a district boundary line), which review shall be the first step in the process before the review by any of the other land development boards; outdoor entertainment establishment, neighborhood impact establishment, open air entertainment establishment, nursing homes; religious institutions with an occupancy greater than 199 persons; video game arcades; public and private institutions; schools and major cultural dormitory facilities as specified in section 142-1332; and storage and/or parking of commercial vehicles on a site other than the site at which the associated commerce, trade or business is located, except such storage and/or parking of

commercial vehicles shall not be permitted on lots with frontage on Lincoln Road, Collins Avenue, 41st Street and 71st Street. See subsection 142-1103(c). When located on that portion of Lincoln Road that is closed to traffic, these uses shall comply with section 142-335. Alcoholic beverage establishments located south of 17th Street, between Lenox Avenue and Meridian Avenue, the entrance door of which is located within 100 feet of a single family residential use, shall be subject to the additional requirements set forth in section 142-340.

Sec. 142-334. - Accessory uses.

The accessory uses in the CD-3 commercial, high intensity district are as follows:

- (1) Those uses permitted in article IV, division 2 of this chapter.
- (2) Accessory outdoor bar counters, provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for an accessory outdoor bar counter which is adjacent to a property with an apartment unit, the accessory outdoor bar counter may not be operated or utilized between 8:00 p.m. and 8:00 a.m.
- (3) Alcoholic beverage establishments south of 17th Street, between Lenox Avenue and Meridian Avenue, the entrance door of which is located within 100 feet of a single family residential use, shall be subject to the additional requirements set forth in section 142-340.

* * *

Sec. 142-340. - Special regulations for alcohol beverage establishments.

- (a) The following additional requirements shall apply to any alcoholic beverage establishments, whether as a main use, conditional use, or accessory use, that is located south of 17th Street, between Lenox Avenue and Meridian Avenue, the entrance door of which is located within 100 feet of a single family residential use:
 1. Operations shall cease no later than 2:00 a.m.
 2. Establishments with sidewalk café permits shall only serve alcoholic beverages at sidewalk cafés during hours when food is served in the restaurant, shall cease sidewalk café operations at 2:00 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 2:00 a.m., and shall only be permitted to play 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.

(b) This section shall not apply to any valid, pre-existing permitted use with a valid business tax receipt (BTR) for an alcoholic beverage establishment that is in application status prior to June 9, 2016 or issued prior to July 23, 2016, or 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 July 23, 2016. Any increase to the approved hours of operation shall meet the requirements of this section.

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 re-numbered or re-lettered 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 _____, 2016.

Philip Levine
Mayor

ATTEST:

Rafael E. Granado
City Clerk

First Reading: _____, 2016
Second Reading: _____, 2016

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

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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: Jimmy L. Morales, City Manager 
DATE: May 18, 2016
SUBJECT: **Proposed Ordinance: Single Family Home Demolition Procedures.**

HISTORY

On February 10, 2016, at the request of Commissioner Joy Malakoff, the City Commission referred this item to the Land Use and Development Committee (Item C4J). On February 17, 2016, the Land Use Committee discussed procedures for the issuance of demolition permits for single family homes, and continued the matter to March 30, 2016.

On March 30, 2016, the Land Use and Development Committee recommended approval of the proposed ordinance, including a modification that would also allow plans for proposed site improvements to satisfy the demolition review criteria for construction plans, when such improvements are part of an aggregated lot with an existing single family home. This ordinance does not require the review of a new replacement home by the Design Review Board when a post-1942 home is demolished.

On April 19, 2016, the Planning Board (by a 5-2 vote) transmitted the proposed Ordinance to the City Commission with an unfavorable recommendation. Additionally, the Planning Board recommended that the City Commission study expanding the definition and year of eligibility for architecturally significant homes, to include review and eligibility criteria beyond the current date of 1942.

On May 11, 2016, the City Commission considered the proposed ordinance and referred the matter back to the Land Use Committee for further discussion. Specifically, the City Commission requested that an alternative standard for minimum property maintenance standards be developed as part of the legislation.

ANALYSIS

Currently, the Land Development Regulations (LDRs) in the City Code do not provide a process for the review of a demolition permit for a single family home, with the exception of the following:

- Homes located within the boundaries of a Local Historic District;
- Homes individually designated as a Historic Site or Historic Structure;
- Homes constructed prior to 1942 and determined to be 'Architecturally Significant'.

Section 142-108(f) of the City Code currently requires that the following benchmarks be met, prior to the issuance of a demolition permit for a pre-1942, Architecturally Significant home:

1. The issuance of a building permit process number for new construction;
2. The building permit application and all required plans for the new construction shall be reviewed and approved by the Planning Department;
3. All applicable fees for the new construction shall be paid, including, but not limited to, building permit and impact fees, as well as applicable concurrency and parking impact fees;
4. A tree survey, if required, shall be submitted and a replacement plan, if required, shall be reviewed and approved by the Urban Forestry in the Environment & Sustainability Department;

The subject ordinance proposes to modify Sec. 142-108(f) of the City Code by extending the current demolition approval procedures for pre-1942 homes to all single family homes. This proposal does not mandate a different level of review for new construction, but requires that the issuance of a demolition permit be predicated upon meeting the same benchmarks currently required for pre-1942, architecturally significant single family homes. An additional modification to Sec 142-108(f)(2)d is also proposed, to clarify the regulatory responsibility for required tree surveys and mitigation. In this regard, Urban Forestry in the Environment & Sustainability Department has replaced the Green Space Management as the regulatory authority.

Pursuant to the direction of the City Commission on May 11, 2016, a second option for landscaping and improving the appearance of vacant lots created by the demolition of single family homes has been drafted. In this regard, for homes constructed after 1942, a property owner would have the option of complying with the following, in lieu of the building permit benchmarks:

1. Raise the entire property to sidewalk grade, or the crown of the road, with approved base material;
2. Install sod on the entire site and hedge material along the entire perimeter of the property;
3. Fencing for the property, if any, shall consist of aluminum picket along the entire perimeter.

Additionally, the failure to maintain the landscaping and sod on the property shall be deemed a violation of this section of the code and the following civil fines are proposed in the event of a violation of this section:

- a. First violation within a 12-month period: \$2,500.00;
- b. Second violation within a 12-month period: \$5,000.00;
- c. Third violation within a 12-month period: \$7,500.00;
- d. Fourth or subsequent violation within a 12-month period: \$10,000.00.

The attached draft ordinance includes the above noted revised language.

CONCLUSION

The Administration recommends that the Land Use and Development Committee discuss the matter further and provide appropriate policy direction. If there is consensus on the item, it is further recommended that the revised ordinance be transmitted to the City Commission with a recommendation for referral to the Planning Board.

JLM/SMT/TRM

M:\\$CMB\CCUPDATES\Land Use and Development Committee\2016\May 18, 2016\Demolition Procedures SF Homes - MEMO
May 2016 LUDC.docx

**SINGLE FAMILY HOME – NON ARCHITECTURALLY SIGNIFICANT -
DEMOLITION PROCEDURES**

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS (LDR's) OF THE CITY CODE, BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS," DIVISION 2, "RS-1, RS-2, RS-3, RS-4 SINGLE-FAMILY RESIDENTIAL DISTRICTS," SECTION 142-108, "PROVISIONS FOR THE DEMOLITION OF SINGLE-FAMILY HOMES LOCATED OUTSIDE OF HISTORIC DISTRICTS;" BY AMENDING THE REQUIREMENTS AND PROCEDURES FOR THE ISSUANCE OF A DEMOLITION PERMIT FOR SINGLE FAMILY HOMES THAT ARE NOT ARCHITECTURALLY SIGNIFICANT; CREATING SUBSECTION (j), ENTITLED ISSUANCE OF DEMOLITION PERMITS FOR SINGLE FAMILY HOMES THAT ARE NOT ARCHITECTURALLY SIGNIFICANT; PROVIDING FOR FINES , APPEALS AND ENFORCEMENT; 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, the City of Miami Beach Land Development Regulations ("LDRs") provides for the regulation of land within the City; and

WHEREAS, the City's LDRs do not currently provide for any formal demolition rules or procedures when a total demolition permit is requested for a single family structure that is not located within the boundaries of a Local Historic District, not individually designated as an Historic Site or Historic Structure or has not been determined to be an Architecturally Significant Pre-1942 Single Family Home; and

WHEREAS, it is appropriate for the City to adopt criteria in the LDRs by which formal demolition rules and procedures are codified for all single family structures located within the City; and

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

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

SECTION 1. Chapter 142, "Zoning Districts and Regulations," Article II, "District Regulations," Division 2, "Single Family Residential Districts," of the Land Development Regulations of the Code of the City of Miami Beach, Florida is hereby amended as follows:

DIVISION 2. RS-1, RS-2, RS-3, RS-4 SINGLE-FAMILY RESIDENTIAL DISTRICTS

Sec. 142-108. - Provisions for the demolition of single-family homes located outside of historic districts.

* * *

- (f) Issuance of demolition permits for architecturally significant single family homes.
- (1) Emergency demolition orders. This section shall not supersede the requirements of the applicable building code with regard to unsafe structures and the issuance of emergency demolition orders, as determined by the building official.
 - (2) A demolition permit for the total demolition of an architecturally significant single-family home constructed prior to 1942, shall not be issued unless all of the following criteria are satisfied:
 - a. the issuance of a building permit process number for new construction;
 - b. the building permit application and all required plans for the new construction shall be reviewed and approved by the Planning Department;
 - c. all applicable fees for the new construction shall be paid, including, but not limited to, building permit and impact fees, as well as applicable concurrency and parking impact fees;
 - d. a tree survey, if required, shall be submitted and a replacement plan, if required, shall be reviewed and approved by the ~~the Greenspace Management Division~~ Urban Forestry in the Environment & Sustainability Department.

* * *

(j) Issuance of demolition permits for single family homes that are not architecturally significant.

- (1) Emergency demolition orders. This section shall not supersede the requirements of the applicable building code with regard to unsafe structures and the issuance of emergency demolition orders, as determined by the building official.
- (2) A demolition permit for the total demolition of any single-family home that is not architecturally significant shall not be issued unless all of the following criteria are satisfied:
 - a. Obtain a building permit process number, which shall require:
 - (i) obtain a building permit process number the issuance of a building permit process number for new construction;
 - (ii) the building permit application and all required plans for the new construction or proposed improvements to a lot that is abutting an aggregated lot with an existing single family home, shall be reviewed and approved by the Planning Department;
 - (iii) all applicable fees for the new construction or proposed improvements to a lot that is abutting an aggregated lot with an existing single family home, shall be paid, including, but not limited to, building permit and impact fees, as well as applicable concurrency and parking impact fees;
 - (iv) a tree survey, if required, shall be submitted and a replacement plan, if required, shall be reviewed and approved by the Urban Forestry in the Environment & Sustainability Department.

- b. Or, alternatively, be required to comply with the following:
- (i) a tree survey, if required, shall be submitted and a replacement plan, if required, shall be reviewed and approved by the Urban Forestry in the Environment & Sustainability Department
 - (ii) Raise the entire property to sidewalk grade, or the crown of the road, with approved base material;
 - (iii) Install sod on the entire site and hedge material along the entire perimeter of the property;
 - (iv) Fencing for the property, if any, shall consist of aluminum picket along the entire perimeter.

(3) Penalties and enforcement. For a violation of subsection 142-108(j)(2)b., each day of noncompliance shall constitute a separate offense. The code compliance department is empowered and authorized to require compliance with this section within 30 days of written notice to violators.

(4) The following civil fines shall be imposed for a violation of this subsection 142-108(j)(2)b.:

- a. First violation within a 12-month period: \$2,500.00;
- b. Second violation within a 12-month period: \$5,000.00;
- c. Third violation within a 12-month period: \$7,500.00;
- d. Fourth or subsequent violation within a 12-month period: \$10,000.00.

(5) Enforcement of subsection 142-108(j)(2)b.. The code compliance department shall enforce subsection 142-108(j)(2)b.. The notice of violation shall inform the violator of the nature of the violation, amount of fine for which the violator is liable, instructions and due date for paying the fine, that the violation may be appealed by requesting an administrative hearing before a special master within ten (10) days after service of the notice of violation, and that the failure to appeal the violation within ten (10) days of service shall constitute an admission of the violation and a waiver of the right to a hearing.

(6) Rights of violators of subsection 142-108(j)(2)b.; payment of fine; right to appear; failure to pay civil fine or to appeal; appeals from decisions of the special master.

- a. A violator who has been served with a notice of violation must elect to either
 - (i) pay the civil fine in the manner indicated on the notice of violation; or
 - (ii) request an administrative hearing before a special master to appeal the notice of violation, which must be requested within ten (10) days of the service of the notice of violation.
- b. The procedures for appeal by administrative hearing of the notice of violation shall be as set forth in sections 30-72 and 30-73 of this Code.

Applications for hearings must be accompanied by a fee as approved by a resolution of the city commission, which shall be refunded if the named violator prevails in the appeal.

- c. The failure to pay the civil fine, or to timely request an administrative hearing before a special master, shall constitute a waiver of the violator's right to an administrative hearing before the special master, and shall be treated as an admission of the violation, for which fines and penalties shall be assessed accordingly.
- d. A certified copy of an order imposing a fine may be recorded in the public records, and thereafter shall constitute a lien upon any real or personal property owned by the violator, which may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the violator's real or personal property, but shall not be deemed to be a court judgment except for enforcement purposes. Three (3) months after the recording of any such lien which remains unpaid, the city may foreclose or otherwise execute upon the lien, for the amount of the lien plus accrued interest.
- e. The special master shall be prohibited from hearing the merits of the notice of violation or considering the timeliness of a request for an administrative hearing if the violator has failed to request an administrative hearing within ten (10) days of the service of the notice of violation.
- f. The special master shall not have discretion to alter the penalties prescribed in this section.
- g. Any party aggrieved by a decision of a special master may appeal that decision to a court of competent jurisdiction.

* * *

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 _____, 2016.

Mayor

ATTEST:

City Clerk

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

City Attorney

Date

First Reading: _____, 2016

Second Reading: _____, 2016

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

Underline denotes new language
~~Strikethrough~~ denotes deleted language

[Sponsored by Commissioner Malakoff]

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2016\Demolition Procedures SF Homes - ORD May 2016 LUDC.docx

ITEM SEVEN

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: Jimmy L. Morales, City Manager

DATE: May 18, 2016

SUBJECT: **Discussion: Ordinance Amendment related to 300 Alton Road**



BACKGROUND

On May 11, 2016, at the request of Commissioner Alemán, the City Commission referred the subject Ordinance to the Land Use and Development Committee (LUDC) (Item R9J). A companion item related to a modification of the long-term lease for the Miami Beach Marina, and a proposed transfer of air rights from the City was referred to the Finance and Citywide Projects Committee, at the request of Commissioner Arriola (Item C4D).

ANALYSIS

The Proposal

The operators of the Miami Beach Marina are proposing to modify the development regulations for properties that have a zoning designation of "*GU Government Use District*" and that incorporate a city-owned marina with public green space and underground parking. The proposed modification would also require that eligible properties have an underlying Comprehensive Plan Future Land Use Designation of "*Public Facility: Government Uses (PF)*".

The attached amendment, which was drafted by the proposer, would apply to the Miami Beach Marina site located at 300 Alton Road. Specifically, the proposed amendment includes the following development regulation modifications:

- **Floor Area Ratio (FAR):** An increase from the current maximum of 2.5 to a maximum of 5.0.
- **Height:** An increase from the current maximum of 16 stories / 150 feet to a maximum of 38 stories / 410 feet.
- **Setbacks:** The average of the requirements contained in the surrounding zoning districts would remain, with the following new exceptions:
 - *Subterranean parking structures* shall have no front, interior side, or side street setbacks

- *Pedestal*: minimum interior side setback is zero (0) feet adjacent to other publicly owned property as long as sum of side yards is at least 30%
- *Tower*: minimum interior side setback is zero (0) feet adjacent to other publicly owned property as long as sum of side yards is at least 30%

The development regulations for properties with a GU designation are contingent upon the surrounding zoning districts. As such, the property at 300 Alton Road is guided by the regulations in the CPS-4 district (Commercial Performance Standard District-4).

Consistency with the Comprehensive Plan

The subject area has a Comprehensive Plan Future Land Use category designation of "Public Facility: Government Uses (PF)". The PF category provides for the following:

Public Facility: Governmental Uses (PF)

Purpose: To provide development opportunities for existing and new government uses.

Uses which may be permitted: Government 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 2.0.

Since the amendment to the Land Development Regulations would increase the permissible floor area ratio (FAR) and allow for additional uses, a Comprehensive Plan amendment would be required in order to maintain consistency between the two documents as required by Section 163.3201, Florida Statutes.

In order to maintain consistency between the Comprehensive Plan and the Land Development Regulations the following Comprehensive Plan amendment is proposed:

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 2.0, except as provided below.

Marina Redevelopment.

Public-private developments incorporating City-owned marina property, and including significant public green space and significant underground parking, in the PF designation shall be subject to the following:

Permitted Non-Governmental Uses: Retail sales and service establishments, eating and drinking establishments; apartment residential uses; and recreational uses.

Floor Area Ratio: Maximum of 5.0.

City Charter Issues

The proposed amendments to the Comprehensive Plan and Land Development Regulations are affected by City Charter Sections 1.03 (c), which partially states:

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 zone 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.

In review of the FAR limitation on the subject site, which is currently zoned GU (Government Use), the following applies:

Sec. 142-425 (a). Development regulations.

The development regulations (setbacks, floor area ratio, signs, parking, etc.) in the GU government use district shall be the average of the requirements contained in the surrounding zoning districts as determined by the planning and zoning director, which shall be approved by the city commission.

The abutting zoning of the subject site, which is used to calculate the FAR, is CPS-4, which allows for a maximum FAR of 2.5. As the proposed amendment to the GU district increases the established FAR for the subject site to 5.0, the requested amendment will require approval of the voters of the City of Miami Beach in a general referendum before final consideration by the City Commission.

CONCLUSION

The Administration recommends that the Land Use and Development Committee discuss the proposed ordinance amendment and provide appropriate policy direction.

JLM/SMT/TRM/RAM

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GU Zoning -- Marina Redevelopment

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," CHAPTER 142, ENTITLED "ZONING DISTRICTS AND REGULATIONS," AMENDING DIVISION 9, ENTITLED "GU GOVERNMENT USE DISTRICT" BY AMENDING SECTION 142-425, ENTITLED "DEVELOPMENT REGULATIONS," IN ORDER TO ESTABLISH DEVELOPMENT STANDARDS FOR PUBLIC-PRIVATE DEVELOPMENTS INCORPORATING CITY-OWNED MARINA PROPERTY AND INCLUDING SIGNIFICANT PUBLIC GREEN SPACE AND SIGNIFICANT UNDERGROUND PARKING IN THE CITY'S PUBLIC FACILITY (PF) COMPREHENSIVE PLAN DESIGNATION; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the Mayor and City Commission have recognized the need to encourage the redevelopment of City-owned marina property; and

WHEREAS, the Mayor and City Commission desire to encourage innovative and compatible redevelopment that provides public benefits in the form of significant public green space and significant underground parking;

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 II, "Zoning Districts and Regulations," Division 9 "GU Government Use District", Section 142-425 is hereby amended as follows:

Sec. 142-425. - Development regulations.

The development regulations (setbacks, floor area ratio, signs, parking, etc.) in the GU government use district shall be the average of the requirements contained in the surrounding zoning districts as determined by the planning and zoning director, which shall be approved by the city commission. Notwithstanding the above, public-private marina redevelopments incorporating City-owned marina property, and including significant public green space and significant underground parking, in the City's Public Facility (PF) comprehensive plan designation may be developed as follows:

Floor Area Ratio: Maximum of 5.0

Height: Maximum of 410 feet or thirty-eight (38) stories.

Setbacks: Average of the requirements contained in the surrounding zoning districts, except as follows:

Subterranean parking structures shall have no front, interior side, or side street setbacks.

Pedestal: minimum interior side setback is 0 feet adjacent to other publicly owned property as long as sum of side yards is at least 30%.

Tower: minimum interior side setback is 0 feet adjacent to other publicly owned property as long as sum of side yards is at least 30%.

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: _____
Thomas Mooney, AICP
Planning Director

Underscore denotes new language

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Comprehensive Plan Text Amendment – PF

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE 2025 COMPREHENSIVE PLAN LAND USE ELEMENT, BY AMENDING POLICY 1.2 TO PERMIT PUBLIC-PRIVATE DEVELOPMENT IN THE “PUBLIC FACILITY: GOVERNMENTAL USE (PF)” DESIGNATION AND ESTABLISHING PERMITTED USES, DENSITIES, AND INTENSITIES FOR PUBLIC-PRIVATE DEVELOPMENTS INCORPORATING CITY-OWNED MARINA PROPERTY THAT INCLUDE SIGNIFICANT PUBLIC GREEN SPACE AND SIGNIFICANT UNDERGROUND PARKING; AND PROVIDING FOR REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the Mayor and City Commission have recognized the need to encourage the redevelopment of City-owned marina property; and

WHEREAS, the Mayor and City Commission desire to encourage innovative and compatible redevelopment that provides public benefits in the form of significant public green space and significant underground parking;

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

SECTION 1. Policy 1.2 of the Land Use Element of the 2025 Miami Beach Comprehensive Plan is hereby amended as follows:

* * *

Public Facility: Governmental Use.

Purpose: To provide development opportunities for existing and new government uses, as well as public-private marina redevelopments.

Uses which may be permitted: Government uses and public-private marina redevelopments.

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 2.0, except as provided below.

Marina Redevelopment.

Public-private developments incorporating City-owned marina property, and including significant public green space and significant underground parking, in the PF designation shall be subject to the following:

Permitted Non-Governmental Uses: Retail sales and service establishments, eating and drinking establishments; apartment residential uses; and recreational uses.

Floor Area Ratio: Maximum of 5.0.

* * * *

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. 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. 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: _____
Thomas Mooney, AICP
Planning Director

Underscore denotes new language.



MIAMIBEACH

OFFICE OF THE MAYOR AND COMMISSION

MEMORANDUM

TO: Jimmy Morales, City Manager
FROM: John Elizabeth Alemán, Commissioner
DATE: April 26, 2016
SUBJECT: Agenda item for May 11, 2016 City Commission Meeting

Please place the following item on the May 11, 2016 City Commission Meeting Agenda:

A discussion item for referral to the Land Use and Development committee and the Planning Board: proposed Miami Beach Marina redevelopment and associated legislative changes.

If you have any questions please do not hesitate to call our office at ext.6437.

Thank you!

MIAMIBEACH

Commissioner John Elizabeth Alemán

OFFICE OF MAYOR AND COMMISSION

1700 Convention Center Drive, Miami Beach, FL 33139

Tel: 305-673-7102 / Fax: 305-673-7096 / www.miamibeachfl.gov

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VERBAL REPORT

C4B Referral To The Land Use And Development Committee To Discuss Future Rooftop And Deck Accessory Bar Uses In The Sunset Harbour Neighborhood.
(Sponsored by Commissioner Michael Grieco)

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VERBAL REPORT



MIAMIBEACH

OFFICE OF THE MAYOR AND COMMISSION

MEMORANDUM

TO: Jimmy Morales, City Manager
FROM: John Elizabeth Alemán, Commissioner
DATE: April 22, 2016
SUBJECT: Agenda item for May 11, 2016 City Commission Meeting

Please place the following item on the May 11, 2016 City Commission Meeting Agenda:

A referral to the Land Use and Development Committee: an Ordinance amendment pertaining to alcoholic beverage establishments in the CD-3 district on 41st Street, in order to address compatibility issue with surrounding residential districts.

Recently the West Avenue, Palm View, Sunset Harbor and South of 5th neighborhoods have expressed concern over possible nuisances that could be brought on by alcoholic beverage establishments in their vicinity. With this referral, I would like to take a proactive approach for the CD-3 district on 41st street, as it is surrounded by mostly single-family residential districts. This would allow for residents in close proximity to 41st Street to have adequate safeguards from the potential negative impacts associated with late-night establishments.

If you have any questions please do not hesitate to call our office at ext.6437.

Thank you!

MIAMIBEACH

Commissioner John Elizabeth Alemán

OFFICE OF MAYOR AND COMMISSION

1700 Convention Center Drive, Miami Beach, FL 33139

Tel: 305-873-7102 / Fax: 305-873-7096 / www.miamibeachfl.gov

We are committed to providing excellent public service and safety to all who live, work, and play in our vibrant, tropical, historic community.

LUDC#77

Agenda Item CYC
Date 5-11-16

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VERBAL REPORT



MIAMIBEACH

OFFICE OF THE MAYOR AND COMMISSION

MEMORANDUM

TO: Jimmy Morales, City Manager
FROM: John Elizabeth Alemán, Commissioner
DATE: April 26, 2016
SUBJECT: Agenda item for May 11, 2016 City Commission Meeting

Please place the following item on the May 11, 2016 City Commission Meeting Agenda:

A discussion item for referral to the Land Use and Development committee and the Planning Board: a proposed ordinance change for North Beach Town Center Districts.

If you have any questions please do not hesitate to call our office at ext.6437.

Thank you!

MIAMIBEACH

Commissioner John Elizabeth Alemán

OFFICE OF MAYOR AND COMMISSION

1700 Convention Center Drive, Miami Beach, FL 33139

Tel: 305-673-7102 / Fax: 305-673-7096 / www.miamibeachfl.gov

TC NORTH BEACH TOWN CENTER DISTRICTS

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS" ARTICLE II "DISTRICT REGULATIONS", DIVISION 20 " TC NORTH BEACH TOWN CENTER DISTRICTS ", TO INCREASE THE ALLOWABLE HEIGHT FOR BUILDINGS ON LOTS OR A UNIFIED DEVELOPMENT SITE THAT ABUTS 72ND STREET IN THE TC-1 TOWN CENTER CORE DISTRICT TO 125 FEET; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

WHEREAS, a codified purpose of the North Beach Town Center districts is to promote development of a compact, pedestrian-oriented town center consisting of a high-intensity employment center, vibrant and dynamic mixed-use areas and attractive residential living environments with compatible office uses and neighborhood-oriented commercial services; and

WHEREAS, a codified purpose of the North Beach Town Center districts is to encourage pedestrian-oriented development within walking distance of transit opportunities at densities and intensities that will help to support transit usage and town center businesses; and

WHEREAS, a codified purpose of the North Beach Town Center districts is to create a place that represents a unique, attractive and memorable destination for residents and visitors; and

WHEREAS, a codified purpose of the North Beach Town Center districts is to enhance the community's character through the promotion of high-quality urban design; and

WHEREAS, a codified purpose of the TC-1 Town Center Core District is to promote high-intensity compact development that will support the town center's role as the hub of community-wide importance for business, office, retail, governmental services, culture and entertainment; and

WHEREAS, the North Beach Town Center area has seen limited improvement over the years and has faced financial constraints and neighborhood adjustments that have diminished the general condition of the neighborhood; and

WHEREAS, the City of Miami Beach seeks to encourage and incentivize new development within the North Beach Town Center area; and

WHEREAS, the City desires to encourage private property owners to assemble and redevelop properties comprehensively rather than in a piecemeal fashion; and

WHEREAS, the City of Miami Beach desires to allow additional height for buildings abutting 72nd Street, which may assist in improving the neighborhood by providing stimulus to the community through new commercial and residential uses; and

{37667990;3}

WHEREAS, additional height for buildings abutting 72nd Street will improve the overall urban design of the 72nd Street corridor; 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. That Chapter 142, Article II entitled "District Regulations", Division 20 "TC North Beach Town Center Districts" is hereby amended as follows:

* * *

Sec. 142-737. Development Regulations.

(a) The development regulations in the TC-1, TC-2 and TC-3 town center districts are as follows:

District	Maximum Floor Area Ratio (FAR)	Maximum Building Height	Maximum Number of Stories
TC-1 Town Center Core	For lots equal to or less than 45,000 sq. ft.—2.25 For lots greater than 45,000 sq. ft.—2.75	75 feet. <u>Buildings on lots or a unified development site that abuts 72nd Street are permitted up to 125 feet.</u> however, <u>Buildings fronting on 71st Street shall not exceed 50 feet in height subject to the additional setbacks below.</u> <u>Except that any portion of the building above 50 feet shall be set back an additional 1 foot for every 1 foot in height above 50 feet (not applicable to buildings on lots or a unified development site that abuts 72nd Street).</u>	7 stories. <u>Buildings on lots or a unified development site that abut 72nd Street — 10 stories.</u>

SECTION 2. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and, the word "ordinance" may be changed to "section", "article", or other appropriate word.

SECTION 3. REPEALER.

All ordinances or parts of ordinances 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 _____, 2016.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

Eve Boutsis, City Attorney _____
Date

First Reading: _____

Second Reading: _____

Verified by: _____

Thomas Mooney, AICP
Planning Director

Underscore denotes new language
~~Strikethrough~~ denotes removed language

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VERBAL REPORT

MIAMIBEACH

OFFICE OF THE MAYOR AND COMMISSION

MEMORANDUM

TO: Jimmy Morales, City Manager
FROM: Ricky Arriola, Commissioner
DATE: May 4, 2016
SUBJECT: **REFERRAL TO THE LAND USE AND DEVELOPMENT COMMITTEE TO DISCUSS REVISING THE CULTURAL ARTS NEIGHBORHOOD DISTRICT OVERLAY (CANDO).**

Please add the above subject as a consent agenda item to the May 11, 2016 City Commission agenda.

The City Commission approved an ordinance establishing a Cultural Arts Neighborhood District Overlay in October 2007. The intent was to invigorate the Collins Park neighborhood by using arts & culture as its anchor. The area is now a vibrant arts community. I propose the CANDO be revisited so the Collins Park neighborhood can continue to mature.

Sincerely,
Ricky Arriola

MIAMIBEACH

Ricky Arriola, Commissioner

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LAND USE AND DEVELOPMENT COMMITTEE PENDING ITEMS
FOR INFORMATIONAL PURPOSES ONLY

	Referral Date	Title	Referred By	Date Last On LUDC Agenda	Automatic Withdrawl Date Per Reso No. <u>2013-28147</u>	Comments
1.	09-02-15 Item C4I	Discussion on Air Rights and Alley Vacation for Alton Court South of 17 th Street.	Commissioner Joy Malakoff	03-30-16	March 2016	Item Withdrawn