

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

Substituted for

DATE: June 15, 2016

SUBJECT: **LAND USE AND DEVELOPMENT COMMITTEE MEETING OF JUNE 15, 2016**

A meeting of the Land Use and Development Committee has been scheduled for June 15, 2016 at 3:00 p.m. in the City Commission Chambers.

ACTION ITEMS

1. **Ordinance Amendments For Transit Intermodal Facilities: A). CDMP Amendment Implementing The Transit Intermodal Facilities Component Of The Transportation Master Plan; And B). Amendments To The Land Development Regulations Of The City Code Regarding Height And Accessory Use Requirements For Main Use Parking Structures And Transit Intermodal Facilities.**

(Sponsored by City Commission
June 8, 2016 City Commission Meeting, Item C4N)

DISCUSSION ITEMS

2. **Discussion Pertaining to Development Regulations And Guidelines for New Construction In the Palm View Historic District To Address Resiliency, Sustainability and Adaptation.**

(Returning from the May 18, 2016 LUDC Meeting
Sponsored by Commissioner Joy Malakoff
March 9, 2016 City Commission Meeting, Item C4K)

3. **Discussion Regarding Future Rooftop And Deck Accessory Bar Uses In The Sunset Harbour Neighborhood.**

(Continued from the May 18, 2016 LUDC Meeting
Sponsored by Commissioner Michael Grieco
April 13, 2016 City Commission Meeting, Item C4B)

4. **Discussion Regarding Incentivizing The Retention, Raising And/Or Relocation Of Historic/Architecturally Significant Single Family Homes (SFH).**

(Continued from the April 20, 2016 LUDC Meeting
Sponsored by Commissioner Michael Grieco
April 13, 2016 City Commission Meeting, Item C4E)

- 5. 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.**
(Continued from the May 18, 2016 LUDC Meeting
Sponsored by Commissioner John Elizabeth Alemán
May 11, 2016 City Commission Meeting, Item C4C)
- 6. Discussion Regarding A Proposed Ordinance Change For North Beach Town Center Districts.**
(Continued from the May 18, 2016 LUDC Meeting
Sponsored by Commissioner John Elizabeth Alemán
May 11, 2016 City Commission Meeting, Item C4I)
- 7. Discussion Regarding Revising The Cultural Arts Neighborhood District Overly (CANDO).**
(Continued from the May 18, 2016 LUDC Meeting
Sponsored by Commissioner Ricky Arriola
May 11, 2016 City Commission Meeting, Item C4L)
- 8. 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.**
(Continued from the May 18, 2016 LUDC Meeting
Sponsored by Commissioner Joy Malakoff
May 11, 2016 City Commission Meeting, Item R5F)
- 9. Single Family Demolition Procedures.**
(Continued from the May 18, 2016 LUDC Meeting
Sponsored by Commissioner Joy Malakoff
May 11, 2016 City Commission Meeting, Item R5K)
- 10. Proposed Miami Beach Marina Redevelopment and Associated Legislative Changes.**
(Continued from the May 18, 2016 LUDC Meeting
Sponsored by Commissioner John Elizabeth Aleman
May 11, 2016 City Commission Meeting, Item R9J)
- 11. Discussion Regarding The Recommendation Of The Neighborhood/Community Affairs Committee To Establish More Aggressive Requirements For Employee Transportation Plans.**
(Sponsored by City Commission
June 8, 2016 City Commission Meeting, Item R7X)

VERBAL REPORTS

12. CMB Preparations for Likely Passage of State Medical Marijuana Constitutional Amendment.

(Continued from the April 20, 2016 LUDC Meeting
Sponsored by Commissioner Michael Grieco
February 10, 2016 City Commission Meeting, Item R9F)

13. An Amendment To Sec 142-1111 Of The City Code, To Address The Eligibility Requirements For The Short-Term Rental Of Apartment Units Within The Collins Waterfront Local Historic District.

(Sponsored By Commissioner John Elizabeth Alemán
June 8, 2016 City Commission Meeting, Item C4Q)

14. Discussion Regarding Exploring Limiting Package Store Alcohol Sales To No Earlier Than 10:00 a.m., As Recommended By The Miami Beach Homeless Committee.

(Sponsored by Commissioner Joy Malakoff
June 8, 2016 City Commission Meeting, Item C4X)

2016 Meeting Schedule

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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MIAMI BEACH

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COMMISSION MEMORANDUM

TO: Mayor Philip Levine and Members of the City Commission
FROM: Jimmy L. Morales, City Manager
DATE: June 8, 2016

SUBJECT: **REFERRAL TO THE LAND USE AND DEVELOPMENT COMMITTEE AND THE PLANNING BOARD - ORDINANCE AMENDMENTS FOR TRANSIT INTERMODAL FACILITIES:**

- A. **CDMP AMENDMENT IMPLEMENTING THE TRANSIT INTERMODAL FACILITIES COMPONENT OF THE TRANSPORTATION MASTER PLAN**
- B. **AMENDMENTS TO THE LAND DEVELOPMENT REGULATIONS OF THE CITY CODE REGARDING HEIGHT AND ACCESSORY USE REQUIREMENTS FOR MAIN USE PARKING STRUCTURES AND TRANSIT INTERMODAL FACILITIES**

BACKGROUND

The Miami Beach Transportation Master Plan (TMP) was adopted by the Mayor and City Commission in April 13, 2016, the first comprehensive mobility plan in the City since 1999. A key component of the plan is the modal hierarchy adopted by City Commission at the July 8, 2015 meeting, as part of the plan development process. The adopted modal hierarchy consists of the following prioritization order:

1. Pedestrians
2. Transit, Bicycle, Freight (depending on the corridor)
3. Private Vehicles

The adopted modal hierarchy increases person through-put along City corridors, while at the same time addressing safety and mobility needs for bicyclists and pedestrians. Based on the projects recommended in the TMP consistent with this mode hierarchy, projects that could be implemented in the next 5 years, depending on funding availability, could increase corridor capacity in some corridors by as much as 50% person trips. Increases in bicycle and pedestrian trips also increase the health of the City and further reduce traffic inducing vehicles.

The TMP identified priority transit and bicycle/pedestrian corridors throughout the City and identified the potential areas for future transit facilities throughout the City (Attachment 1). Further, the TMP identified transfers as an essential part of an effective transit system because they maximize the coverage area and diversity of active transportation services. Hence, in order to obtain a successful transit environment, it is of critical importance to provide efficient and attractive transfer stops/centers to improve the quality of transit services as well as support the surrounding community. Transfer stops, transfer center/stations, and park-and-rides (intercept garages) are all defined in the TMP as different types of transit infrastructure.

The TMP defines Transfer Centers/Stations as "a more elaborate transfer facility that may accommodate more than two articulated buses and may include amenities such as retail, restrooms

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Date 6-8-16

and lounge". The locations for the desired transit infrastructure improvement from the TMP are summarized below.



Further, the City Commission has discussed the need for parking facilities at intercept locations throughout the City. Intercept garages have been identified as part of the City's mobility plans for over 15 years. It is recommended that these be incorporated as part of transit intermodal facilities. During discussions with Miami-Dade Transit for a potential Mid Beach transit intermodal facility as recently as last year, it was recommended that the minimum parking space requirement was 75 parking spaces.

The City is in the process of conducting a parallel environmental review and procurement for a Light Rail/Modern Streetcar project in the South Beach area. The Light Rail/Modern Streetcar includes two corridors with tracks in dedicated right-of-way: Phase 1 in the vicinity of 5th Street to Washington Avenue north to Dade Boulevard and Phase 2 in the vicinity of 17th Street to Alton Road south to 5th Street or South Point Drive. The vicinity of Alton and 5th Street has been identified with a need for a transit intermodal facility. Longer term plans, already in the Metropolitan Planning Organizations Long Range Transportation Plan for Miami-Dade County, include extensions from this alignment north on Collins Avenue to the City limits which will similarly require intermodal facilities in the longer term. In addition, the need for a transit intermodal facility in the vicinity of 41st Street and the Julia Tuttle Interchange (I-195) has been endorsed by the Mayor and Commission as recently as March 2016.

The City's consultant for the environmental review for the Miami Beach Light Rail/Modern Streetcar project provided the following general input regarding transit intermodal facilities (major intermodal facilities):

Major intermodal facilities may include multilevel parking garages, and in conjunction with ancillary joint development activities such as the Denver Union Station and

ARTIC in Los Angeles. Analogously transit hubs do not need to be large to be effective, especially if they are sited well so that they use the surrounding street system effectively. Transit hubs as small as one-half (0.5) acre in size are operating in the United States. They can serve well as modestly sized transit hubs providing convenient connections between streetcars, BRT, busways and bus lines, while offering some pedestrian amenities and services.

Accordingly, staff is recommending that Transit Intermodal Facilities be defined as “ a transfer facility that provides convenient connections between streetcars, BRT, busways and bus lines, while offering some pedestrian and bicycle amenities and services; accommodates more than two articulated buses; provides between 75 and 500 parking spaces at intercept locations; and may include amenities such as retail, restrooms and lounge areas.”

The proposed ordinance amendments would address changes to the City code to define Transit Intermodal Facilities, provide for transit intermodal facilities to be allowed as a permitted use in certain land use categories of the comprehensive plan, allow residential use as part of a transit intermodal facility, provide for additional height and accessory uses within a transit intermodal facility sufficient to offset the height needed for the intermodal facility within the development. Samples titles of the proposed ordinances are attached which will be refined through review with the City's Land Use and Development Committee and Planning Board (Attachment 2).

CONCLUSION

The administration recommends the referral of these proposed ordinance changes to Land Use and Development Committee and the Planning Board.


JLM/KGB/JRG/JFD

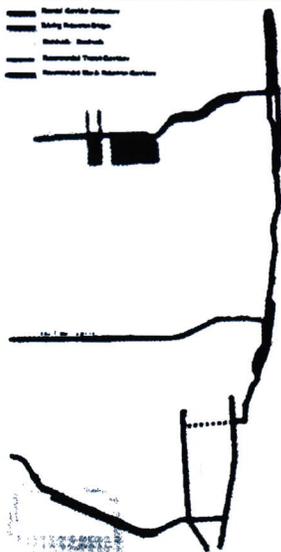
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**ATTACHMENT 1
MODE PRIOTITIZATION CORRIDORS**

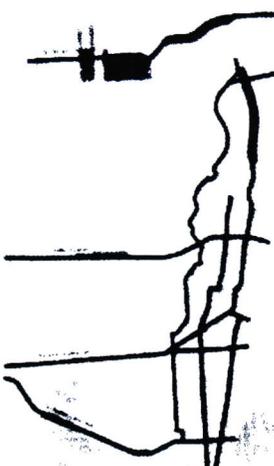


Mode Prioritized Corridors

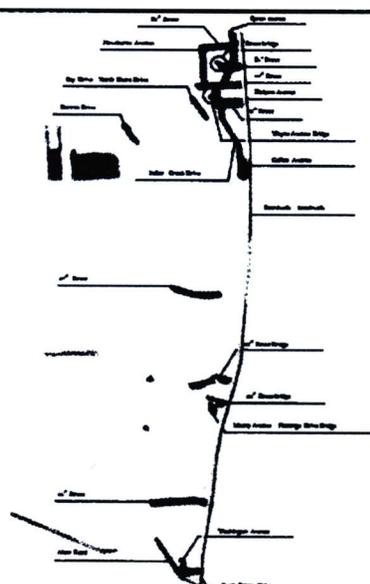
- Regional Center Corridor
- Major Transit Stop
- Transit Station
- Regional Transit Corridor
- Regional Bus & Bicycle Corridor



Transit Corridors



Bike & Pedestrian Corridors



Connecting Links

**ATTACHMENT 2
SAMPLE ORDINANCE TITLES**

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," AT ARTICLE II, "DISTRICT REGULATIONS," TO INCLUDE A "TRANSIT INTERMODAL FACILITY" WITHIN THE LIST OF PERMITTED USES FOR THE FOLLOWING DISTRICTS: COMMERCIAL PERFORMANCE STANDARD, GENERAL MIXED USE (CPS-2), CIVIC AND GOVERNMENT USE (GU), HOSPITAL DISTRICT (HD), COMMERCIAL LOW INTENSITY (CD-1), NORTH BEACH TOWN CENTER CORE (TC-1), NORTH BEACH TOWN CENTER MIXED USE (TC-2), COMMERCIAL, MEDIUM DENSITY (CD-2), COMMERCIAL, HIGH INTENSITY (CD-3); AND TO PROVIDE UP TO FIVE STORIES IN ADDITIONAL HEIGHT (50 FEET) SHOULD A "TRANSIT INTERMODAL FACILITY" BE AN INCLUDED USE WITHIN A PROPERTY OR UNIFIED DEVELOPMENT SITE WITHIN ONE OF THE ABOVE DISTRICTS; AMENDING SECTION 114-1, ENTITLED "DEFINITIONS" TO PROVIDE A DEFINITION FOR A "TRANSIT INTERMODAL FACILITY" AND ASSOCIATED DEFINITIONS; AMENDING CHAPTER 130, "OFF-STREET PARKING," ARTICLE III, "DESIGN STANDARDS," SECTION 130-68, "COMMERCIAL AND NONCOMMERCIAL PARKING GARAGES," TO ALLOW FOR UP TO FIVE STORIES IN ADDITIONAL BUILDING HEIGHT (50 FEET) SHOULD A "TRANSIT INTERMODAL FACILITY" BE AN INCLUDED USE WITHIN A MAIN USE PARKING GARAGE AND TO INCREASE THE ALLOWABLE PERCENTAGE OF ACCESSORY USES FOR MAIN USE PARKING GARAGES; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AN EFFECTIVE DATE; AND A SUNSET DATE.

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE FUTURE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN OF THE CITY OF MIAMI BEACH, FLORIDA, BY AMENDING POLICY 1.2 TO ALLOW "TRANSIT INTERMODAL FACILITIES" AS A PERMITTED USE WITH IN THE FOLLOWING LAND USE CATEGORIES: "GENERAL MIXED USE COMMERCIAL "PERFORMANCE STANDARD" CATEGORY (CPS-2)," "PARKING" (P), "COMMERCIAL HIGH INTENSITY (CD-3), COMMERCIAL, MEDIUM INTENSITY (CD-2), COMMERCIAL, LOW INTENSITY (CD-1), NORTH BEACH TOWN CENTER CORE (TC-1), NORTH BEACH TOWN CENTER MIXED USE (TC-2); AMENDING THE FUTURE LAND USE MAP TO MODIFY THE DESIGNATION "RECREATION OPEN SPACE" (ROS) ALONG THE JULIA TUTTLE TO "PUBLIC FACILITY" (PF); AMENDING THE "PARKING" (P) LAND USE CATEGORY TO ALLOW RESIDENTIAL USES WHEN ASSOCIATED WITH A TRANSIT INTERMODAL FACILITY OR PARKING FACILITY; AMENDING THE TRANSPORTATION ELEMENT OF THE COMPREHENSIVE PLAN OF THE CITY OF MIAMI BEACH, FLORIDA, BY UPDATING AND MODIFYING THE TRANSPORTATION ELEMENT; BY UPDATING OBJECTIVE 6 ENTITLED "MULTI-MODAL TRANSPORTATION; UPDATING POLICY 6/15 RELATING TO "INTERMODAL FEASIBILITY PLAN;" MODIFYING OBJECTIVE 8 ENTITLED "PARKING" AT POLICY 8.6, "PARKING INTERCEPT FACILITIES AND INTERMODAL CENTERS;" OBJECTIVE 9 ENTITLED "TRANSPORTATION CONCURRENCY MANAGEMENT AREAS," CREATING POLICY 4.6.1 ENTITLED "ENHANCED AT POLICIES 9.5 THROUGH 9.9 RELATING TO MULTIMODAL TRANSPORTATION AND TRANSIT INFRASTRUCTURE; AMENDING THE "GLOSSARY OF TERMS" TO INCLUDE THE TERM "TRANSIT INTERMODAL FACILITY" AND RELATED DEFINITIONS; AMENDING OBJECTIVE 10, ENTITLED "TRANSPORTATION COORDINATION WITH OTHER JURISDICTIONS" TO UPDATE POLICIES 10.1 THROUGH 10.6 RELATING TO INCLUDE COORDINATION RELATING TO "TRANSIT INTERMODAL FACILITIES;" AMENDING THE POLICIES WITHIN THE INTERGOVERNMENTAL COORDINATION ELEMENT TO INCLUDE COORDINATION RELATING TRANSIT INTERMODAL FACILITIES

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COMMITTEE MEMORANDUM

TO: Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager

DATE: June 15, 2016

SUBJECT: **DISCUSSION: DEVELOPMENT REGULATIONS AND GUIDELINES FOR NEW CONSTRUCTION IN THE PALM VIEW HISTORIC DISTRICT TO ADDRESS RESILIENCY, SUSTAINABILITY AND ADAPTATION.**

BACKGROUND

On March 9, 2016, at the request of Commissioner Joy Malakoff, the City Commission referred the subject item to the Land Use and Development Committee (Item C4K).

On April 20, 2016, the discussion was deferred to the June 15, 2016 meeting.

ANALYSIS

On June 6, 1999, the City Commission adopted Ordinance No. 99-3186, which amended the Zoning Ordinance by designating the Palm View Local Historic District. The Palm View district is bounded by Dade Boulevard on the north, Lenox Court on the west, 17th Street on the south and Meridian Avenue on the east.

Existing Conditions

The Palm View neighborhood is defined primarily by detached, one and two-story single-family homes and low rise apartment buildings. There are many excellent examples of significant architectural styles that represent the historical development of the area and Miami Beach. The architectural style with the most significant concentration in the historic district is the Mediterranean Revival style, which was popular in the 1920's during the first major land development period. Other architectural styles represented in the district include Masonry Vernacular, Med/Deco Transitional, and Post War Modern. Attached is a table with a description of existing homes in the district.

Neighborhood Development Context

At the time of designation in 1999, the vision for the Palm View Local Historic District was to protect and stabilize an existing urban neighborhood through appropriate and sensitive infill construction and restoration of the existing Contributing homes. The blending of new and old styles was desired, in order to respect the history and character of the neighborhood, maintaining the historic fabric and modest scale of buildings, while allowing for new appropriate development.

The areas surrounding the Palm View Historic District have changed dramatically from the time when the initial Palm View Subdivision was developed. The Palm View area

was originally part of a 200-acre strip of land from Biscayne Bay to the Atlantic Ocean, and north of 14th Street. Developed in the 1920s and 1930s, this entire area contained primarily single family residences north of Lincoln Road.

Overtime, the areas surrounding the existing residential single family (RS-4) portion of the Palm View Historic District have been rezoned and redeveloped with much larger and more intensive development. Surrounding zoning districts now include the CD-2, CD-3, RM-1, RM-2, GU and CCC. Additionally, 17th Street has become a highly traveled east-west corridor and Alton Road has developed into a major north-south commercial corridor.

In addition to these land use factors, the district is likely to experience some difficulties associated with proposed and future modifications that will be required for existing historic homes due to the close proximity of Collins Canal and flooding impacts associated with sea level rise. In light of these issues, several Palm View neighborhood property owners have requested that the City begin to explore options for improvement and for sea level rise adaptation within the neighborhood.

The following is a summary of potential land use options that may be considered for the Palm View area. At this point no recommendations have been formulated.

Zoning Map Designation

The existing single family zoning district within the Palm View neighborhood has undergone several zoning changes in the past, from single-family to Planned Unit Development (PUD), to RM-1 with a Future Land Use Map (FLUM) designation of TH Townhome.

Prior to 1998, the entire single family district had a zoning classification of RM-1, which allowed for multi-family use. In 1998, as part of an extensive Zoning Ordinance amendment, the properties fronting on Jefferson Avenue, Michigan Avenue and Lenox Avenue, located south of Dade Boulevard and North of Seventeenth Street; excluding the Southernmost three (3) lots fronting on each side of Jefferson Avenue, Michigan Avenue and Lenox Avenue North of Seventeenth Street, were rezoned to RS-4, Residential Single Family.

While the area consists largely of single family residences, there are also six legal non-conforming multi-family residential buildings including townhomes, one legal non-conforming assisted living facility, two legal non-conforming parking lots and three vacant lots. Additionally, the area is surrounded by higher intensity zoning districts. The existing uses and surrounding zoning districts are shown in the attached map.

The area could be studied for potential rezoning to allow for new multi-family uses including duplex, townhome, multi-family or even residential offices. This option would require an amendment to the City's Comprehensive Plan and an amendment to the Land Development Regulations, and may require voter approval for any increase in FAR.

Repeal of Ordinance designating the Palm View Historic District

On June 6, 1999 the Chapter 118, Article X, Division 4 was amended designating the Palm View Local Historic District (Ord. 99-3186).

City Charter Issues

The repeal of the designation is affected by City Charter Section 1.06 (c), which states:

Any change to City Code Chapter 118, Article II, Division 4, "Historic Preservation Board," or City Code Chapter 118, Article X, Divisions 1—4, "Historic Preservation," which, whether through amendment, exemption, repeal, or otherwise, reduces the powers and duties of the City's Historic Preservation Board, or creates less stringent historic preservation standards or regulations, shall, before becoming effective be approved by a majority of the voters in a Citywide referendum.

In accordance with the City Charter, the repeal of Ordinance 99-3186 would require a ballot referendum.

Single Family Zoning Incentives

Section 142-108(g)(2) of the Land Development Regulations provides for various incentives that are provided for the retention and preservation of individually designated historic single family homes and 'Architecturally Significant' single family homes. These incentives, which are applicable to homes constructed prior to 1966, include increases in unit size, lot coverage and height for additions. As currently written, these incentives cannot be applied to single family homes located in locally designated historic districts.

A modification to Section 142-108(g)(2) may be considered to allow eligible homes in the Palm View neighborhood to take advantage of similar incentives currently available to individually designated historic single family homes and architecturally significant homes constructed prior to 1966.

Design Guidelines for New Construction

The development of design standards to provide a framework for the design of new construction and for the adaptation of existing structures to address flooding and sea level rise issues may be explored. Design guidelines could help to ensure that the design of new construction within the neighborhood is consistent with the historic building pattern in terms setbacks, yard areas and open space. Guidelines for height, scale, size and massing could be developed to allow new buildings and additions to sensitively co-exist with existing structures, while adhering to current and future code requirements that address sea level rise.

These guidelines may be incorporated into the single family development regulations of the City Code, in a similar manner that design regulations were inserted for the Altos-del-Mar single family district.

CONCLUSION

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

JLM/SMT/TRM/DJT

Palm View Historic District – Single Family Homes

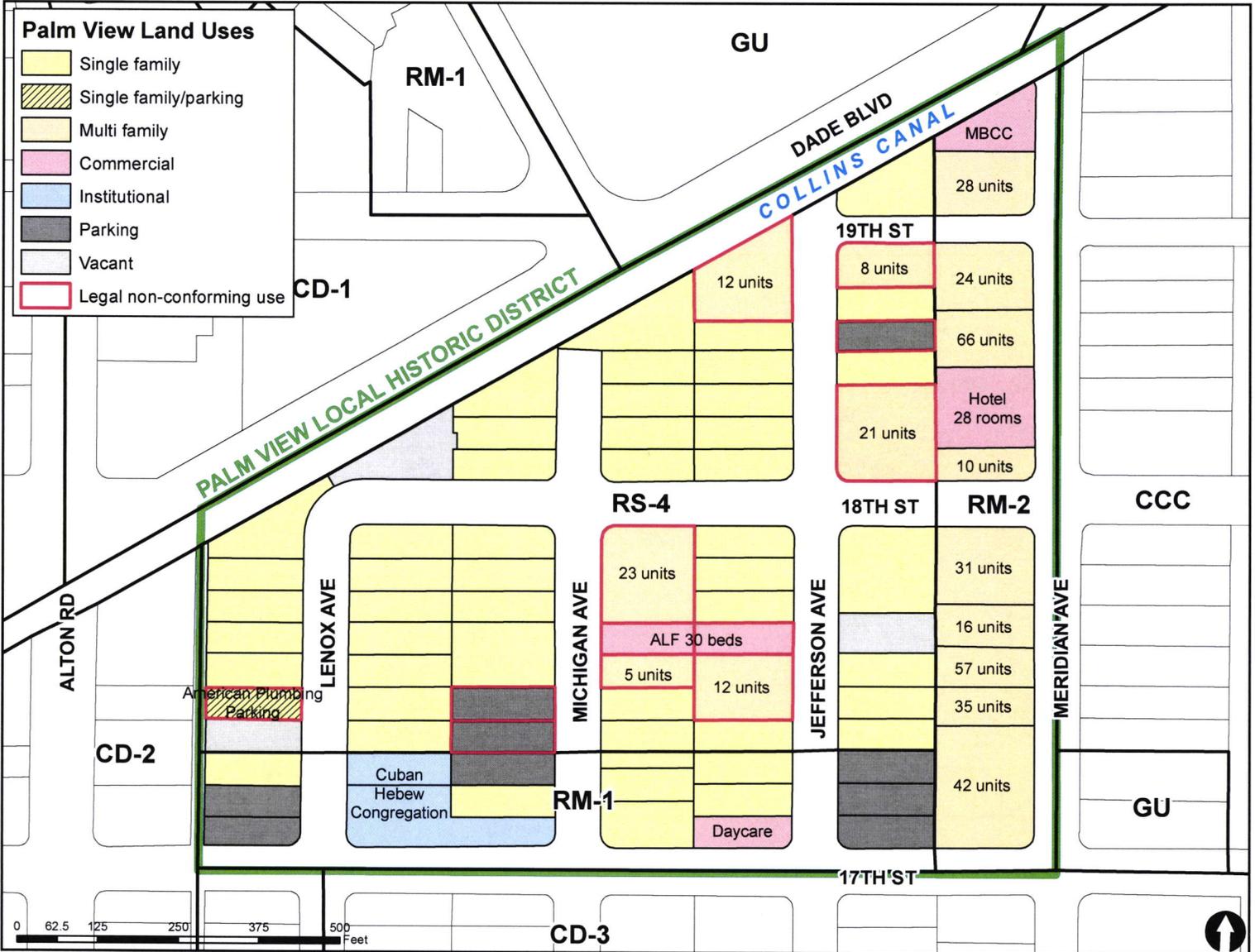
Address	Architectural Style	Original Architect	Year	Status*
1026 18th St	Mediterranean Revival	Victor H. Nellenbogen	1936	C
1039 18th St	Mediterranean Revival	Watson Corporation	1924	C
0841 19th St	Med/Deco Transitional	Robert Collins	1937	C
1700 Jefferson Av	Mediterranean Revival	Lester Avery	1934	C
1710 Jefferson Av	Masonry Vernacular	John L. Pope	1923	C
1722 Jefferson Av	Mission Revival	P.L. Wilson	1924	C
1729 Jefferson Av	Med/Deco Transitional	Lester Avery	1934	C
1730 Jefferson Av	Streamline Moderne	Alexander Lewis	1938	C
1735 Jefferson Av	Post War Modern	Robert Nordin	1949	C
1740 Jefferson Av	Contemporary	Jorge Dorta-Duque	1974	NC
1745 Jefferson Av	Mediterranean Revival	Architect Unknown	1926	C
1750 Jefferson Av	Masonry Vernacular	Albert Anis	1945	C
1760 Jefferson Av	Mediterranean Revival	Architect Unknown	1928	C
1764 Jefferson Av	Mission Revival	Porter V. Skinner	1924	C
1775 Jefferson Av	Mediterranean Revival	John Bullen	1925	C
1776 Jefferson Av	Masonry Vernacular	William Snyder	1938	C
1800 Jefferson Av	Mediterranean Revival	J. & C. Skinner	1936	C
1810 Jefferson Av	Mediterranean Revival	George Bruce	1937	C
1820 Jefferson Av	Masonry Vernacular	Robert M. Nordin	1949	C
1821 Jefferson Av	Contemporary	Jorge Dorta-Duque	1972	NC
1829 Jefferson Av	Mediterranean Revival	Victor H. Nellenbogen	1935	C
1830 Jefferson Av	Masonry Vernacular	Robert M. Nordin	1949	C
1836 Jefferson Av	Mission Revival	Architect Unknown	1930	C
1840 Jefferson Av	Contemporary	Juan Fernandez	1978	NC
1843 Jefferson Av	Mediterranean Revival	Architect Unknown	1926	C
1853 Jefferson Av	Contemporary	Joseph Kailer	1994	NC
1701 Lenox Av	Contemporary	Oscar Sklar	1982	NC
1719 Lenox Av	Masonry Vernacular	Victor H. Nellenbogen	1940	C
1720 Lenox Av	Minimal Traditional	Alexander Lewis	1934	C

Address	Architectural Style	Original Architect	Year	Status*
1729 Lenox Av	Med/Deco Transitional	Stefan H. Zachar	1936	C
1735 Lenox Av	Med/Deco Transitional	Lester Avery	1936	C
1736 Lenox Av	Post War Modern	Harry O. Nelson	1951	C
1744 Lenox Av	Med/Deco Transitional	Henry Hohausser	1935	C
1745 Lenox Av	Post War Modern	Donald J. Reiff	1951	C
1750 Lenox Av	Mediterranean Revival	Lester Avery	1932	C
1753 Lenox Av	Med/Deco Transitional	Russell T. Pancoast	1934	C
1760 Lenox Av	Mediterranean Revival	Victor H. Nellenbogen	1934	C
1761 Lenox Av	Masonry Vernacular	J.E. Petersen	1947	C
1769 Lenox Av	Mediterranean Revival	Mark B. Jones	1928	C
1770 Lenox Av	Masonry Vernacular	T. Hunter Henderson	1947	C
1780 Lenox Av	Masonry Vernacular	H. George Fink	1940	C
1700 Michigan Av	Post War Modern	Robert Law Weed	1948	C
1701 Michigan Av	Med/Deco Transitional	Edward A. Nolan	1941	C
1710 Michigan Av	Mediterranean Revival	William Heatley	1929	C
1711 Michigan Av	Med/Deco Transitional	Frank Wyatt Wood	1946	C
1733 Michigan Av	Med/Deco Transitional	Harold McNeil	1940	C
1735 Michigan Av	Med/Deco Transitional	Victor H. Nellenbogen	1936	C
1743 Michigan Av	Contemporary	Nujim Nepomechie	1992	NC
1750 Michigan Av	Masonry Vernacular	David T. Ellis	1940	C
1753 Michigan Av	Masonry Vernacular	Howard B. Knight	1938	C
1760 Michigan Av	Minimal Traditional	Alexander Lewis	1950	C
1766 Michigan Av	Mediterranean Revival	Architect Unknown	1929	C
1776 Michigan Av	Med/Deco Transitional	Russell T. Pancoast	1934	C
1777 Michigan Av	Contemporary	Jorge Dorta-Duque	1972	NC
1800 Michigan Av	Med/Deco Transitional	Schoeppel & Southwell	1935	C
1801 Michigan Av	Mission Revival	J. Cooper	1924	C
1810 Michigan Av	Mediterranean Revival	Hubbell & Hubbell	1925	C
1815 Michigan Av	Med/Deco Transitional	Victor H. Nellenbogen	1937	C
1818 Michigan Av	Mediterranean Revival	Schultze & Weaver	1925	C

Address	Architectural Style	Original Architect	Year	Status*
1821 Michigan Av	Minimal Traditional	C.E. Haley	1941	C
1827 Michigan Av	Med/Deco Transitional	Schoepl & Southwell	1936	C
1835 Michigan Av	Mediterranean Revival	J. & C. Skinner	1931	C

*Status: C – Contributing, NC – Non-Contributing

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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: June 15, 2016

SUBJECT: **DISCUSSION PERTAINING TO A PROPOSED ORDINANCE AMENDMENT TO CREATE SPECIAL REGULATIONS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS IN THE SUNSET HARBOUR NEIGHBORHOOD.**

HISTORY

April 13, 2016 The City Commission referred a discussion item pertaining to future rooftop and deck accessory bar uses in the Sunset Harbour neighborhood to the Land Use and Development Committee (item C4B). The referral was sponsored by Commissioner Michael Grieco.

April 20, 2016 The Land Use and Development Committee (LUDC) continued the item to the May 18, 2016 LUDC meeting.

May 18, 2016 The LUDC discussed the item on May 18, 2016 and directed staff to bring back a draft ordinance on June 15, 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 the recently adopted legislation for the west side of Alton Road (ORD 2016-4014). These areas of the city have a mixture of residential developments and destination eating and drinking establishments.

ANALYSIS

Currently, the Sunset Harbour neighborhood generally bounded by Purdy Avenue, 20th Street, Alton Road and Dade Boulevard has regulations that require a Conditional Use permit for large restaurants and prohibits stand alone bars, dance and entertainment establishments. The Sunset Harbour neighborhood has expressed a desire to further regulate alcoholic beverage establishments in the area. Mainly, the neighborhood proposes changes to the allowable hours of operation and to prohibit above ground alcohol establishments, as well as accessory outdoor bar counters.

At the direction of the LUDC, a draft ordinance, based on the suggestions of area residents, has been prepared. The following is a summary of the changes proposed by such ordinance for the zoning districts in the Sunset Harbour neighborhood:

- All establishment of any kind serving alcoholic beverages may not operate any outside dining areas or accessory bar counters above the ground floor.

- Outdoor speakers except those required by the building and fire codes shall not be permitted in any establishment serving alcoholic beverages.
- Special events shall not be permitted in any establishment serving alcohol.
- All establishments serving alcohol shall close by 2:00 AM. The exterior portions of alcoholic beverage establishments, including sidewalk cafes, shall cease operations at 12:00 AM.

As a point of clarification, the proposed regulations would only apply to new establishments or any existing establishment that applied to expand its hours or location for seating. Similar operational regulations exist in the South of Fifth neighborhood and in the Alton Road/West Avenue corridor.

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.

In the event that the item is recommended for referral, the City Attorneys office has recommended the following, for inclusion in the version going to the Planning Board:

1. The sidewalk cafe hours should all be moved to Chapter 82; specifically Sec 82-388. Additionally, references to Chapter 82 should be included in the district regulations.
2. Wherever entertainment establishments are listed as a conditional use, it should be noted in the conditional use sections – not in the “special regulations for alcoholic beverage establishments.” This way, all conditional uses are listed in one place and we can include the double-door vestibule requirement in the conditional use section, as well.
3. An applicability section, similar to that proposed for Alton Road and South of Fifth Street, shall be incorporated.

JLM/SMT/TRM/TUI

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**SUNSET HARBOUR
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 5, "CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT," SECTION 142-302, "MAIN PERMITTED USES," SECTION 142-304, "ACCESSORY USES," AND SECTION 142-310, "SPECIAL REGULATIONS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS"; AND (2) AT DIVISION 11, "I-1 LIGHT INDUSTRIAL DISTRICT," SECTION 142-482, "MAIN PERMITTED USES," AND SECTION 142-488 "SPECIAL REGULATIONS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS," TO AMEND THE HOURS OF OPERATION, LOCATION AND USE RESTRICTIONS FOR PROPERTIES IN THE SUNSET HARBOUR NEIGHBORHOOD, GENERALLY BOUNDED BY PURDY AVENUE, 20TH STREET, ALTON ROAD, AND DADE BOULEVARD; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the Sunset Harbour neighborhood is composed of a mixture of residential, light industrial, and low intensity service, restaurant and retail uses, which primarily serve City residents; and

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

WHEREAS, residential uses in the Sunset Harbour neighborhood are divided only by the width of a street from the CD-2 commercial, medium intensity and the I-1 light industrial zoning districts; and

WHEREAS, the City Code permits certain uses within the CD-2 and I-1 zoning districts, which, absent mitigation, could be incompatible with adjacent residential uses in the Sunset Harbour neighborhood; and

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

WHEREAS, the Mayor and City Commission desire to encourage uses that are compatible with the scale and 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 5, "CD-2 Commercial, Medium Intensity District," is hereby amended as follows:

**CHAPTER 142
ZONING DISTRICTS AND REGULATIONS**

* * *

ARTICLE II. – DISTRICT REGULATIONS

* * *

DIVISION 5. - CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT

* * *

Sec. 142-302. - Main permitted uses.

The main permitted uses in the CD-2 commercial, medium intensity district are commercial uses; apartments; apartment/hotels; hotels; religious institutions with an occupancy of 199 persons or less and alcoholic beverages establishments pursuant to the regulations set forth in Chapter 6. The following ~~Alcoholic~~ alcoholic beverage establishments located within the CD-2 commercial, medium intensity district shall be subject to the additional requirements set forth in section 142-310:

- (a) Alcoholic beverage establishments located on the west side of Alton Road and east of Alton Court, between 6th Street and 11th Street, and between 14th Street and Collins Canal; and ~~properties~~ alcoholic beverage establishments on the east side of West Avenue, between Lincoln Road and 17th Street, except alcoholic beverage establishments fronting Lincoln Road between West Avenue and Alton Road, shall be subject to the additional requirements set forth in section 142-310.
- (b) Alcoholic beverage establishments located in the Sunset Harbour neighborhood, which is generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south.

* * *

Sec. 142-304. - Accessory uses.

The accessory uses in the CD-2 commercial, medium intensity district are as required in article IV, division 2 of this chapter; and 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. The following Alcoholic alcoholic beverage establishments located within the CD-2 commercial, medium intensity district shall be subject to the additional requirements set forth in section 142-310:

- (a) Alcoholic beverage establishments located on the west side of Alton Road and east of Alton Court, between 6th Street and 11th Street, and between 14th Street and Collins Canal; and ~~properties~~ alcoholic beverage establishments on the east side of West Avenue, between Lincoln Road and 17th Street, except alcoholic beverage establishments fronting Lincoln Road between West Avenue and Alton Road, ~~shall be subject to the additional requirements set forth in section 142-310.~~
- (b) Alcoholic beverage establishments located in the Sunset Harbour neighborhood, which is generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south.

* * *

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

- (a) The following additional requirements shall apply to alcoholic beverage establishments, whether as a main use, conditional use, or accessory use, that are located on the west side of Alton Road and east of Alton Court, between 6th Street and 11th Street, and between 14th Street and Collins Canal; and properties on the east side of West Avenue, between Lincoln Road and 17th Street, except alcoholic beverage establishments fronting Lincoln Road between West Avenue and Alton Road:
 - 1. Operations shall cease no later than 2:00 a.m.
 - 2. Establishments with sidewalk 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 12:00 a.m., and shall not be permitted to have outdoor speakers.
 - 3. Commercial uses on rooftops shall be limited to restaurants only, shall cease operations no later than 11:00 p.m. on weekdays and 12:00 a.m. on weekends, and shall only be permitted to have ambient, background music.
 - 4. Entertainment establishments shall be required to obtain conditional use approval from the planning board, in accordance with the requirements and procedures of chapter 118, article IV. Additionally, if approved as a conditional use, entertainment establishments shall be required to install a double door vestibule at all access points from the sidewalk, with the exception of emergency exits.

5. Outdoor bar counters shall be prohibited.

6. No special event permits shall be issued.

(b) This section (a) ~~above~~ shall not apply to any valid, pre-existing permitted use with a valid business tax receipt (BTR) for an alcoholic beverage establishment that (i) is in application status prior to April 14, 2016; or (ii) issued prior to May 21, 2016; or (iii) to an establishment that has obtained approval for an alcoholic beverage establishment from a land use board, and which land use board order is active and has not expired, prior to May 21, 2016. Any increase to the approved hours of operation shall meet the requirements of this section (a).

(b) Sunset Harbour Neighborhood. The following additional requirements shall apply to alcoholic beverage establishments, whether as a main use, conditional use, or accessory use, that are located in the Sunset Harbour neighborhood, which is generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south.

1. Operations shall cease no later than 2:00 a.m., except that outdoor operations (including sidewalk cafe operations) shall cease no later than 12:00 a.m.

2. Alcoholic beverage establishments may not operate any outside dining areas or accessory bar counters above the ground floor of the building in which they are located.

3. Except as may be required by any applicable fire prevention code or building code, outdoor speakers shall not be permitted in any alcoholic beverage establishment.

4. Special events shall not be permitted in any alcoholic beverage establishment.

* * *

SECTION 2. Chapter 142, "Zoning Districts and Regulations," Article II, "District Regulations," Division 11, "I-1 Light Industrial District," is hereby amended as follows:

DIVISION 11. – I-1 LIGHT INDUSTRIAL DISTRICT

* * *

Sec. 142-482. - Main permitted uses.

The main permitted uses in the I-1 urban light industrial district are those uses that are consistent with the district purpose including the following:

* * *

(13) Commercial uses that provide support services to the light industrial uses and to the adjacent RM-3 residents, including, but not limited to, retail sales, photocopying, coffee shops, video rentals, banks, restaurants, and alcoholic beverage establishments pursuant to the regulations set forth in Chapter 6. Alcoholic beverage establishments located in the

Sunset Harbour neighborhood, which is generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south, shall be subject to the additional requirements set forth in section 142-488.

* * *

Sec. 142-485. - Prohibited uses.

The prohibited uses in the I-1 urban light industrial district are accessory outdoor bar counters, bars, dance halls, or entertainment establishments (as defined in section 114-1 of this Code) and residential uses, except as provided for in subsection 142-483(10).

* * *

Sec. 142-488. Special regulations for alcohol beverage establishments.

(a) Sunset Harbour Neighborhood. The following additional requirements shall apply to alcoholic beverage establishments, whether as a main use, conditional use, or accessory use, that are located in the Sunset Harbour neighborhood, which is generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south.

1. Operations shall cease no later than 2:00 a.m., except that outdoor operations (including sidewalk cafe operations) shall cease no later than 12:00 a.m.
2. Alcoholic beverage establishments may not operate any outside dining areas or accessory bar counters above the ground floor of the building in which they are located.
3. Except as may be required by any applicable fire prevention code or building code, outdoor speakers shall not be permitted in any alcoholic beverage establishment.
4. Special events shall not be permitted in any alcoholic beverage establishment.

* * *

SECTION 3. REPEALER.

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

SECTION 4. CODIFICATION.

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

SECTION 5. SEVERABILITY.

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

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and **ADOPTED** this _____ day of _____, 2016.

Philip Levine
Mayor

ATTEST:

Rafael E. Granado
City Clerk

(Sponsored by Commissioner Joy Malakoff)

Underline denotes additions
~~Strike through~~ denotes deletions

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

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

**ITEM
FOUR**

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: June 15, 2016

SUBJECT: **A DISCUSSION REGARDING INCENTIVIZING THE RETENTION, RAISING AND/OR RELOCATION OF HISTORIC / ARCHITECTURALLY SIGNIFICANT SINGLE-FAMILY HOMES (SFH).**

BACKGROUND

On April 13, 2016, at the request of Commissioner Michael Grieco, the City Commission referred this item to the Land Use and Development Committee (item C4E). April 20, 2016, the Land Use and Development Committee discussed the item and directed staff to research additional incentives that would encourage single-family homeowners to renovate and elevate existing homes.

ANALYSIS

On February 14, 2014, the City Commission adopted Ordinance No. 2014-3836, which amended the standards and review requirements for new construction, additions and modifications to properties that contain an architecturally significant single-family home not located within a designated historic district. The ordinance created more substantial and tangible incentives for the substantial retention and renovation of architecturally significant single-family homes.

At the direction of the Land Use Committee, staff revisited the current single family retention incentives approved in 2014 and researched similar land use incentives adopted by other coastal communities. These included communities in Florida, Louisiana, Texas, Mississippi, Pennsylvania, Maryland and Alabama. Staff found that, for the most part, a number of coastal communities offer financial assistance, design guidelines, and greater heights as a way to incentivize the retention of historic single-family home, specifically as it would require the raising of the home to reduce risks associated with floods. Some of these communities were recently affected by a natural disaster and were able to offer additional assistance to home owners through FEMA grants and other federal grant programs. Most of the single-family neighborhoods with incentives were also historically designated single-family home neighborhoods that are also eligible for additional grants and financial assistance for renovation of designated structures. Unfortunately, the FEMA funding model is still for the most part post disaster recovery; not pre-disaster planning.

The City's current single family incentive ordinance does not require the renovated homes to be raised to meet FEMA Mandated Minimum Flood Elevation Requirements

unless the renovation exceeds the value as identified by the Florida Building Code. The recent development pattern within the City's single-family home districts and residential neighborhoods has consisted of a mix of appropriately scaled new homes and the restoration and retention of existing 'Architecturally Significant' homes. This blending of new and old allows for the history and character of the City's single neighborhoods to foster by maintaining the modest scale of buildings, while still allowing for new appropriate development.

From our experience in the Planning Department, the following are the most common issues that impact the decision, or desire, for owners of properties that contain older single family homes to retain, renovate and build additions to existing 'architecturally significant' homes rather than demolish the structure and build new:

- Sea Level Rise concerns
- FEMA Mandated Minimum Flood Elevation Requirements
- Flood Insurance
- The Structural Conditions of Some Older Homes

Many of the City's pre-1966 architecturally significant homes were built below what the FEMA flood maps would identify as the corresponding BFE. In 1968, Congress created the National Flood Insurance Program (NFIP) to help provide a means for property owners to financially protect themselves. If there are changes to this program in the future, the retention of a home built below flood elevation may affect the ability to obtain flood insurance.

At the direction of the Land Use Committee, staff put together a list of potential additional incentives for the retention and elevation of architecturally significant single family homes. The following is a summary of the current Code regulations and additional potential incentives for consideration:

Lot Coverage

Current Incentives:

2-Story Home

- Maximum 40% Lot Coverage at staff level review when an 'Architecturally Significant' home is proposed to be retained. Currently the maximum lot coverage is 30% if an 'Architecturally Significant' home is demolished; the DRB does not have the authority to increase the lot coverage beyond 30%.

1-Story Home

- No current incentives; maximum 50% of the lot area.

Potential Additional Incentives:

2-Story Home

- *Courtyards enclosed on three sides will **not** count towards lot coverage calculation.*

1-Story Home

- *Maximum 65% Lot Coverage at Staff Level when Architecturally Significant home is retained and raised to BFE + Freeboard.*

- *Courtyards enclosed on three sides will **not** count towards lot coverage calculation, as currently required under Sec 142-105 of the City Code. This would allow for more enclosed floor area, when large, internal courtyards are proposed.*

Unit Size:

Current Incentives:

- Maximum unit size of 60% at Staff Level when an Architecturally Significant home is retained. Currently, the maximum unit size is 50% if an Architecturally Significant home is demolished; the DRB would not have the authority to increase the unit size beyond 50%.

Potential Additional Incentives:

- *The maximum unit size is 70% at Staff Level when an Architecturally Significant home is retained and raised to BFE + Freeboard.*
- *Exterior terraces and balconies will **not** count towards unit size, as currently required under Sec 142-105 of the City Code. This would allow for more larger terraces and balconies*

Height

Current Incentives (2 Stories Maximum):

- When an architecturally significant home is retained, the following applies at Staff Level:
 - Ground level additions (not roof-top additions), zoned RS-4 with a minimum lot width of 60 feet, or zoned RS-3, may be increased up to 26 feet for a flat roof structure and 29 feet for a sloped roof structure for up to 10% of the property's lot coverage; currently the max height is 24 feet for flat roof structures and 27 feet for sloped roof structures in RS-3 & RS-4 at Staff Level.
 - Properties zoned RS-1 and RS-2 may be increased up to 30 feet for a flat roofed structure and 33 feet for a sloped roof structure for up to 10 % of the property's lot coverage; currently the max height is 28 feet for flat roof structures and 31 feet for sloped roof structures in RS-1 & RS-2 at Staff Level.

Potential Additional Incentives:

- *Partial 3-story addition for up to 30% of the property's lot coverage:*
 - *Max Height of 36'-0" for flat roof structures and 40'-0" for sloped roof structures (measured from BFE + Freeboard to the mid-point) in RS-1 & RS-2 zoning districts through staff level review.*
 - *Max Height of 34'-0" for flat roof structures and 38'-0" for sloped roof structures (measured from BFE + Freeboard to the mid-point) in RS-3 zoning district through staff level review.*
 - *Max Height of 32'-0" for flat roof structures and 36'-0" for sloped roof structures (measured from BFE + Freeboard to the mid-point) in RS-4 zoning district through staff level review.*

These increases in height will afford more interior space and design flexibility for the home owner.

Accessory Structures

Current Code:

There are currently no incentives associated with accessory structures, regardless of whether an architecturally significant home is retained; proposed accessory structures must comply with the Current Code as follows:

- Accessory structures are only permitted in the required rear yard and cannot occupy more than 25% of the rear yard.
- Height is limited to 12 feet for a one-story structure and 20 for a two-story structure measured from adjusted grade.
- The structure cannot exceed 10 percent of the main house or 1,500 sq.ft.
- Second floor is limited to 50% of the enclosed space below.
- Setbacks:
 - One-Story structure
 - i. Interior side or rear yard: 7'-6"
 - ii. Street side yard: 15'
 - iii Rear yard (waterfront): Half the required yard—whichever is greater.
 - Two-Story structure
 - i. Interior side yard: 10' or required side yard—whichever is greater.
 - ii. Street side yard: 15'
 - iii Rear yard: 15' or half the required yard—whichever is greater.

Potential Additional Incentives:

When an architecturally significant home is retained, the following will apply to existing and proposed accessory structures:

- *Accessory buildings can occupy up to 30% of the area of the required rear yard or maintain the current footprint.*
- *Maximum Height of 12'-0" for a one-story structure and 20'-0" for a two-story structure through staff level review.*
- *Accessory buildings can exceed 10% of the main home or 1, 500 SF through staff level review.*
- *The 50% limitation of the second floor may be waived through staff level review.*

Fees

- *A separate 'Demolition Fee' for pre-1966 homes determined to be architecturally significant may be created. The funds generated would go toward a grant program for homeowners to elevate 'Architecturally Significant' homes.*

SUMMARY

These possible incentives are intended to address the neighborhood context issues noted. While expansive, staff wanted to provide as wide a range as possible for the Land Use Committee to discuss. In addition to these, and other potential incentives, the creation of additional Design Guidelines would also be necessary to address the transitional space and the massing of additions to existing homes.

CONCLUSION

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

JLM/SMT/TRM/LC

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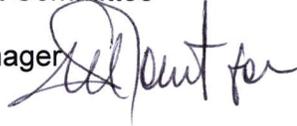
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MIAMI BEACH

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: June 15, 2016

SUBJECT: **DISCUSSION PERTAINING TO A PROPOSED ORDINANCE AMENDMENT TO ALCOHOLIC BEVERAGE ESTABLISHMENTS REGULATIONS ON 41ST STREET TO ADDRESS COMPATIBILITY ISSUES WITH THE SURROUNDING RESIDENTIAL DISTRICTS.**

HISTORY

May 11, 2016 The City Commission referred a discussion item pertaining to operational regulations for alcoholic beverage establishments in the CD-3 zoning district on 41st Street to address compatibility issues with the surrounding residential district to the Land Use and Development Committee (item C4C). The referral was sponsored by Commissioner John Elizabeth Alemán.

May 18, 2016 The Land Use and Development Committee (LUDC) discussed the item and directed staff to bring back a draft ordinance based upon the language in recent Alton Road amendment on June 15, 2016.

BACKGROUND

The CD-3 districts are the highest commercial zoning districts in the city allowing for dense urban development. The entire length of 41st Street from Alton Road on the west to the Indian Creek Waterway on the east is zoned CD-3 except for one block which is zoned RM-3 residential multifamily high intensity. Directly north and south of 41st Street are residential zoning districts mostly comprised of single family homes and residential multifamily buildings buffered on the south by the CD-1 low-intensity zoning district.

Special regulations for alcoholic beverage establishments exist for the South of Fifth neighborhood, North Beach, Sunset Harbour, and most recently the west side of Alton Road. These areas of the city have a mixture of residential developments and destination eating and drinking establishments. Although presently there are not many large restaurants or bars on 41st Street, both the CD-1 and the CD-3 zoning districts allow for such uses.

ANALYSIS

Currently, in the CD-1 and CD-3 zoning districts alcoholic beverage establishments are listed as permitted uses pursuant to the regulations set forth in Chapter 6 of the City Code. Only alcoholic beverage establishments that exceed neighborhood impact establishment (NIE) thresholds would be subject to operational conditions set by the Planning Board through the Conditional Use process.

At the direction of the LUDC, the draft ordinance contained herein is based on the regulations proposed for the west side of Alton Road. The following is a summary of the changes proposed for alcoholic beverage establishments generally bounded by 40th Street to the south and 42nd Street to the north from Alton Road to the Indian Creek waterway:

- 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 12:00 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 11:00 p.m. on weekdays and 12:00 a.m. on weekends, 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.
- No special event permits shall be issued.

As a point of clarification, the proposed regulations would only apply to new establishments or any existing establishment that applied to expand its hours or location for seating. Similar operational regulations exist in the South of Fifth neighborhood and in the Alton Road/West Avenue corridor.

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.

In the event that the item is recommended for referral, the City Attorneys office has recommended the following, for inclusion in the version going to the Planning Board:

1. The sidewalk cafe hours should all be moved to Chapter 82; specifically Sec 82-388. Additionally, references to Chapter 82 should be included in the district regulations.
2. Wherever entertainment establishments are listed as a conditional use, it should be noted in the conditional use sections – not in the “special regulations for alcoholic

beverage establishments.” This way, all conditional uses are listed in one place and we can include the double-door vestibule requirement in the conditional use section, as well.

3. An applicability section, similar to that proposed for Alton Road and South of Fifth Street, shall be incorporated.

JLM/SMT/TRM/TUI

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**41st STREET CD-1 AND CD-3 DISTRICTS
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 4, "CD-1 COMMERCIAL LOW INTENSITY DISTRICT," SECTION 142-272, "MAIN PERMITTED USES;" SECTION 142-273, "CONDITIONAL USES;" SECTION 142-274, "ACCESSORY USES;" AND SECTION 142-279 "SPECIAL REGULATIONS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS;" AND (2) AT DIVISION 6, "CD-3 COMMERCIAL HIGH INTENSITY DISTRICT," SECTION 142-332, "MAIN PERMITTED USES;" SECTION 142-334, "ACCESSORY USES;" AND SECTION 142-340, "SPECIAL REGULATIONS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS;" TO AMEND THE HOURS OF OPERATION, LOCATION, AND USE RESTRICTIONS FOR PROPERTIES GENERALLY BOUNDED BY 40TH STREET TO THE SOUTH AND 42nd STREET ON THE NORTH FROM ALTON ROAD TO INDIAN CREEK; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, the 41st 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, surrounding the 41st Street corridor is a neighborhood comprised mainly of single family homes and residential uses that are only divided by the distance of a street from the CD-1, low intensity and CD-3, high intensity commercial zoning districts; and

WHEREAS, the City Code allows certain uses within the CD-1, and CD-3 districts, which, absent mitigation, could be incompatible with adjacent residential uses in surrounding 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 4, "CD-1, Commercial, Low Intensity District," is hereby amended as follows:

**CHAPTER 142
ZONING DISTRICTS AND REGULATIONS**

* * *

ARTICLE II. – DISTRICT REGULATIONS

* * *

DIVISION 4. - CD-1 COMMERCIAL, LOW INTENSITY DISTRICT

Sec. 142-272. - Main permitted uses.

The main permitted uses in the CD-1 commercial, low intensity district are commercial uses; apartments; bed and breakfast inn (pursuant to Section 142-1401); religious institutions with an occupancy of 199 persons or less, and alcoholic beverages establishments pursuant to the regulations set forth in Chapter 6. Alcoholic beverage establishments located in two geographic areas within the CD-1 commercial, medium intensity district shall be subject to the additional requirements set forth in section 142-279:

- (a) On the west side of Alton Road and east of Alton Court, between 11th Street and 14th Street, shall be subject to the additional requirements set forth in section 142-279.
- (b) Areas adjacent to the CD-3 zoning district along the 41st Street corridor from Alton Road to the Indian Creek waterway.

Sec. 142-273. - Conditional Uses.

The conditional uses in the CD-1 commercial, low intensity district are adult congregate living facilities; nursing homes; religious institutions with an occupancy greater than 199 persons; public and private institutions; schools; day care facility; pawnshops; video game arcades; warehouses; any use selling gasoline; 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; neighborhood impact

establishment; 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. See section 142-1103. Alcoholic beverage establishments located in two geographic areas within the CD-1 commercial, medium intensity district shall be subject to the additional requirements set forth in section 142-279:

- (a) ~~On the west side of Alton Road and east of Alton Court, between 11th Street and 14th Street, shall be subject to the additional requirements set forth in section 142-279.~~
- (b) Areas adjacent to the CD-3 zoning district along the 41st Street corridor from Alton Road to the Indian Creek waterway.

Sec. 142-274. - Accessory uses.

The accessory uses in the CD-1 commercial, low intensity district are as required in article IV, division 2 of this chapter. Alcoholic beverage establishments in two geographic areas within the CD-1 commercial, medium intensity district shall be subject to the additional requirements set forth in section 142-279:

- (a) ~~On the west side of Alton Road and east of Alton Court, between 11th Street and 14th Street, shall be subject to the additional requirements set forth in section 142-279.~~
- (b) Areas adjacent to the CD-3 zoning district along the 41st Street corridor from Alton Road to the Indian Creek waterway.

* * *

Sec. 142-279. - Special regulations for alcoholic beverage establishments.

- (a) The following additional regulations shall apply to alcoholic beverage establishments, whether as a main use, conditional use, or accessory use, that are located on the west side of Alton Road and east of Alton Court, between 11th Street and 14th Street:
 - 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 12:00 a.m., and shall not be permitted to have outdoor speakers.
 - 3. Commercial uses on rooftops shall be limited to restaurants only, shall cease operations no later than 11:00 p.m. on weekdays and 12:00 a.m. on weekends, and shall only be permitted to have ambient, background music.
 - 4. Entertainment establishments shall be required to obtain conditional use approval from the planning board, in accordance with the requirements and procedures of chapter 118, article IV. Additionally, if approved as a conditional use, entertainment establishments shall be required to install a double door vestibule at all access points from the sidewalk, with the exception of emergency exits.
 - 5. Outdoor bar counters shall be prohibited.
 - 6. No special event permits shall be issued.

- (b) This Section (a) above shall not apply to any valid, pre-existing permitted use with a valid business tax receipt (BTR) for an alcoholic beverage establishment that (i) is in application status prior to April 14, 2016; or (ii) issued prior to May 21, 2016; or (iii) to an establishment that has obtained approval for an alcoholic beverage establishment from a land use board, and which land use board order is active and has not expired, prior to May 21, 2016. Any increase to the approved hours of operation shall meet the requirements of this section.
- (c) The following additional regulations shall apply to alcoholic beverage establishments, whether as a main use, conditional use, or accessory use, that are located in areas adjacent to the CD-3 zoning district along the 41st Street corridor from Alton Road to the Indian Creek waterway:
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 12:00 a.m., and shall not be permitted to have outdoor speakers.
 3. Commercial uses on rooftops shall be limited to restaurants only, shall cease operations no later than 11:00 p.m. on weekdays and 12:00 a.m. on weekends, and shall only be permitted to have ambient, background music.
 4. Entertainment establishments shall be required to obtain conditional use approval from the planning board, in accordance with the requirements and procedures of chapter 118, article IV. Additionally, if approved as a conditional use, entertainment establishments shall be required to install a double door vestibule at all access points from the sidewalk, with the exception of emergency exits.
 5. Outdoor bar counters shall be prohibited.
 6. No special event permits shall be issued.

SECTION 2. 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 generally bounded by 40th Street to the south and 42nd Street to the north from Alton Road to the Indian Creek waterway 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 generally bounded by 40th Street to the south and 42nd Street to the north from Alton Road to the Indian Creek waterway shall be subject to the additional requirements set forth in section 142-340.

* * *

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

The following additional requirements shall apply to alcoholic beverage establishments, whether as a main use, conditional use, or accessory use, that are generally bounded by 40th Street to the south and 42nd Street to the north from Alton Road to the Indian Creek waterway:

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 12:00 a.m., and shall not be permitted to have outdoor speakers.
3. Commercial uses on rooftops shall be limited to restaurants only, shall cease operations no later than 11:00 p.m. on weekdays and 12:00 a.m. on weekends, and shall only be permitted to have ambient, background music.
4. Entertainment establishments shall be required to obtain conditional use approval from the planning board, in accordance with the requirements and procedures of chapter 118, article IV. Additionally, if approved as a conditional use, entertainment establishments shall be required to install a double door vestibule at all access points from the sidewalk, with the exception of emergency exits.
5. Outdoor bar counters shall be prohibited.

6. No special event permits shall be issued.

* * *

SECTION 3. REPEALER.

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

SECTION 4. CODIFICATION.

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

SECTION 5. SEVERABILITY.

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

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and **ADOPTED** this _____ day of _____, 2016.

Philip Levine
Mayor

ATTEST:

Rafael E. Granado
City Clerk

(Sponsored by Commissioner John Elizabeth Alemán)

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: June 15, 2016

SUBJECT: **DISCUSSION: PROPOSED ORDINANCE CHANGE FOR NORTH BEACH TOWN CENTER DISTRICT**

BACKGROUND

On May 11, 2016, at the request of Commissioner Aleman, the City Commission referred the subject item to the Land Use and Development Committee (Item C4I). On May 18, 2016, the Land Use Committee directed staff to review the draft ordinance prepared by the proposer, and continued the item to June 15, 2016.

ANALYSIS

The owner of the property at Collins Avenue and 72nd Street has submitted the attached draft ordinance for discussion. The proposal would amend the TC-1 development regulations by increasing the maximum allowable building height from 7 stories / 75 feet to 10 stories / 125 feet for properties fronting 72nd Street.

At the time of finalizing this memorandum the North Beach Master Planner, Dover-Kohl, was finalizing its initial recommendations for the North Beach study area. These recommendations are expected to include a proposal to increase height strategically in the Town Center area. Staff has no objection to the proposal put forward, but would recommend that a larger area be considered for a height increase, in order to provide more balance within the higher density area close to 71st Street. Additionally, it is recommended that as height request are reviewed, consideration should be given to the broader issue of sea level rise. As new development adapts to sea level rise planning scenarios, alternative uses of the first floor and the need for some height should be vetted.

CONCLUSION

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

JLM/SMT/TRM

M:\\$CMB\CCUPDATES\Land Use and Development Committee\2016\June 15, 2016\NB TC1 Heights - MEM Jun 2016 LUDC SMT.docx



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

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	Maximum Building Height	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, b Buildings fronting on 71st Street shall not exceed 50 feet in height <u>subject to the additional setbacks below.</u> e 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 <u>(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.

ATTEST:

CITY CLERK

MAYOR

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

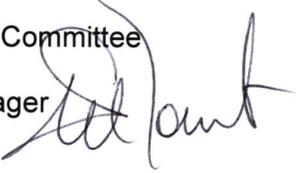
ITEM SEVEN

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: June 15, 2016

SUBJECT: **Discussion Regarding Revising the Cultural Arts Neighborhood District Overlay (CANDO).**

HISTORY

On May 11, 2016, at the request of Commissioner Ricky Arriola, the City Commission referred the subject item to the Land Use and Development Committee (Item C4L). On May 18, 2016, the Land Use and Development Committee continued the item to the June 15, 2016 meeting, and directed the administration to bring back a draft ordinance in accordance with the proposal submitted by the Collins Park Neighborhood Association.

BACKGROUND

On October 17, 2007, the City established the Cultural Arts Neighborhood District Overlay (CANDO). The purpose of this overlay district was to provide land-use incentives to property owners, developers and commercial businesses to create affordable housing for cultural workers and encourage arts-related businesses to establish within the district, and to create definitions and mandatory requirements for new construction and rehabilitation of housing units.

However, few developments have taken advantage of the CANDO incentives for cultural arts worker housing. Since the overlay has not fully had the intended effect, the Collins Park Neighborhood Association has suggested the modifications in this memorandum to the overlay in order to further encourage arts and entertainment related uses through different measures. Staff has not performed any additional research on incentives or regulation to encourage arts and entertainment uses at this time.

ANALYSIS

The Collins Park Neighborhood contains some of the City's premier cultural institutions including the Bass Museum of Art, the Miami City Ballet, and the Miami Beach Regional Library. As such, it is an appropriate location to encourage the establishment of arts and entertainment related uses.

The attached ordinance includes several modifications that are intended to encourage arts and entertainment related uses within a smaller area than what is covered by the current CANDO boundaries. Since the change in the boundary will limit the overlay to the Collins Park neighborhood, it is proposed that the overlay be renamed the *Collins*

Park Arts and Entertainment District Overlay. Maps of the existing CANDO and the proposed Collins Park Arts and Entertainment District Overlay boundaries are attached to the memorandum.

Since the City is presently working on an ordinance to create incentives and regulations for the creation of workforce housing citywide, the proposed amendment removes CANDO's regulations regarding housing for cultural workers, which to date have not been utilized. This will prevent any potential conflicts and redundancy should a citywide workforce-housing ordinance be adopted.

The ordinance amendment generally proposes the following incentives and regulations to encourage art and entertainment uses within the proposed boundaries:

- Allow Outdoor Entertainment Establishments as a main permitted or accessory use in areas with an underlying CD-3 zoning designation subject to the following:
 - Outdoor entertainment shall commence no earlier than 10:00 a.m.
 - Outdoor entertainment shall cease no later than 10:00 p.m. on Sundays through Thursdays, and midnight on Fridays and Saturdays.
 - For purposes of this subsection, outdoor entertainment shall be limited to non-amplified, string instruments, solo vocalists, or DJ's playing recorded music at background levels.

- Allow Restaurants, Sidewalk Cafes, and Outdoor Entertainment as a permitted accessory use to a hotel uses, in areas with an underlying RM-2 zoning designation, subject to the following:
 - Sidewalk cafes shall be limited to 30 seats.
 - Restaurants shall not exceed 3,000 square feet.
 - Outdoor entertainment shall commence no earlier than 10:00 a.m.
 - Outdoor entertainment shall cease no later than 10:00 p.m. on Sundays through Thursdays, and midnight on Fridays and Saturdays.
 - For purposes of this subsection, outdoor entertainment shall be limited to non-amplified, string instruments, solo vocalists or DJ's playing recorded music at background levels.

- Encourage that Visual Art be incorporated into ground floor commercial uses, subject to the review and approval of the Planning Director

- Exemption of Concurrency Fees for Sidewalk Cafes containing up to 30 seats

- Exemption of Permit Fees for Sidewalk Cafés containing up to 30 seats

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 proposed ordinance be transmitted to the City Commission for referral to the Planning Board.

JLM/SMT/TRM/RAM

Collins Park Arts and Entertainment District Overlay



0 250 500 1,000 Feet



CANDO & Collins Park Arts and Entertainment District Overlay



Collins Park Arts and Entertainment District Overlay



0 250 500 1,000 Feet



COLLINS PARK ARTS AND ENTERTAINMENT DISTRICT OVERLAY

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE III, "OVERLAY DISTRICTS," DIVISION 7, "CULTURAL ARTS NEIGHBORHOOD DISTRICT OVERLAY (CANDO)," BY RENAMING THE DISTRICT AS THE "COLLINS PARK ARTS AND ENTERTAINMENT DISTRICT OVERLAY," REDUCING THE BOUNDARIES OF THE OVERLAY DISTRICT, PERMITTING OUTDOOR ENTERTAINMENT ESTABLISHMENTS AS A MAIN PERMITTED USE WITHIN AREAS WITH AN UNDERLYING CD-3 "COMMERCIAL, HIGH INTENSITY DISTRICT" ZONING DESIGNATION, PERMITTING RESTAURANTS, SIDEWALK CAFES, AND OUTDOOR ENTERTAINMENT AS ACCESSORY USES FOR HOTELS WITHIN AREAS WITH AN UNDERLYING RM-2, "RESIDENTIAL MULTIFAMILY, MEDIUM INTENSITY" ZONING DESIGNATION, ENCOURAGING THE INCORPORATION OF VISUAL ART IN GROUND FLOOR COMMERCIAL USES, AND REMOVING REGULATIONS FOR MINIMUM AND AVERAGE UNIT SIZE AND MIXED USE FLOOR AREA RATIO (FAR) INCENTIVES; AMENDING CHAPTER 122 OF THE CITY CODE, ENTITLED "CONCURRENCY MANAGEMENT," AUTHORIZING THE CITY COMMISSION TO EXEMPT TEMPORARY USES IN THE PUBLIC RIGHT OF WAY IN THE COLLINS PARK ARTS AND ENTERTAINMENT DISTRICT OVERLAY FROM CONCURRENCY REQUIREMENTS BY RESOLUTION; AMENDING CHAPTER 82 OF THE CITY CODE, "PUBLIC PROPERTY," ARTICLE IV, "USES IN PUBLIC RIGHTS-OF-WAY;" DIVISION 5, "SIDEWALK CAFES," SUBDIVISION II, ENTITLED "PERMIT," EXEMPTING SIDEWALK CAFES LOCATED IN THE COLLINS PARK ARTS AND ENTERTAINMENT DISTRICT OVERLAY FROM SQUARE FOOTAGE SIDEWALK CAFÉ FEES; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; APPLICABILITY; AND AN EFFECTIVE DATE.

WHEREAS, on October 17, 2007, the City established the Cultural Arts Neighborhood District Overlay (CANDO); and

WHEREAS, few developments have taken advantage of the CANDO incentives for cultural arts worker housing; and

WHEREAS, the Collins Park Neighborhood Association has expressed a desire to further encourage art and entertainment related uses; and

WHEREAS, the City desires to encourage the establishment of arts and entertainment related establishments within the Collins Park Neighborhood within close proximity to the Bass Museum of Art and the Miami City Ballet, which are some of the City's primary cultural institutions; and

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

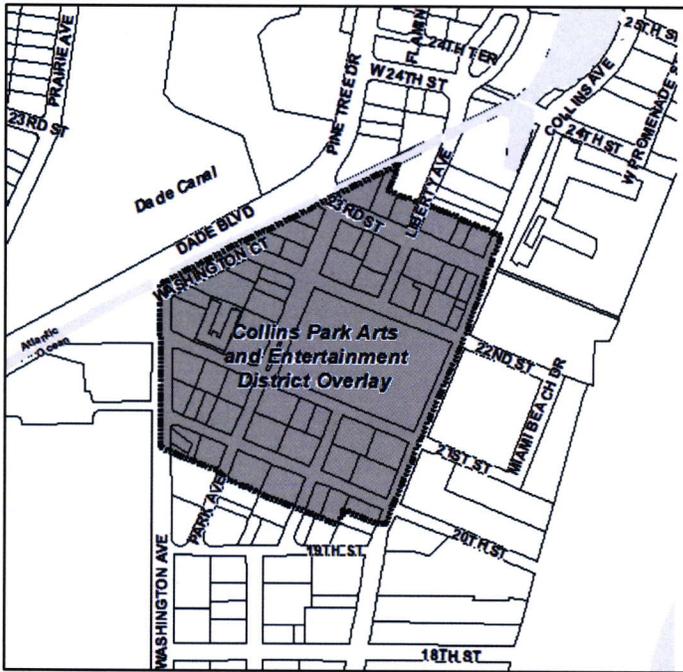
NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

SECTION 1. That Chapter 142 of the City Code, entitled "Zoning Districts and Regulations," Article III, "Overlay Districts," Division 7 is hereby amended as follows:

DIVISION 7. - CULTURAL—COLLINS PARK ARTS AND ENTERTAINMENT NEIGHBORHOOD-DISTRICT OVERLAY (CANDO)

Sec. 142-854. - Location and purpose.

- (a) The overlay regulations of this division shall apply to properties within the following boundaries, which shall be known as the cultural—Collins Park arts and entertainment neighborhood district overlay (CANDO): 24th Street and North Lincoln Lane on the north; Meridian Avenue and Lenox Avenue on the west; South Lincoln Lane on the south and the Atlantic Ocean on the east. The southern lot lines of properties fronting the south side of 20th Street on the south; the Dade Canal and Washington Avenue on the west; the northern lot lines of properties fronting the north side of 23rd Street on the north; and properties fronting the west side of Collins Avenue on the east; as depicted in the map below.



- (b) The purpose of this overlay district is to provide land-use incentives to property owners, developers and commercial businesses to ~~create affordable housing for cultural workers,~~ encourage arts-related businesses to establish within the district, ~~and to create mandatory requirements for new construction and rehabilitation of housing units.~~

Sec. 142-855. - Definitions.

For purposes for this division, the following definitions shall apply:

Visual Art is a work that includes, but is not limited to drawings, paintings, photographs, or sculptures that may be judged to have aesthetic value.

~~Affordable housing is housing available at a cost of no more than 30 percent of gross household income to households at or below 120 percent of the Area Median Income (AMI), as reported by HUD. However, this does not preclude an individual household with an income less than 120 percent of AMI from devoting more than 30 percent of their income for housing.~~

~~Artist is a person who creates art as an occupation, or who works in an art-related non-profit field, which sponsors, creates or exhibits art or artists as an occupation. This includes any museum, theater or similar institution sponsoring art. Activities shall include but not be limited to drawing, painting, sculpture, acting, dancing, writing, filmmaking, photography and music—people who use imagination, talent or skill to create works that may be judged to have aesthetic value and, those who produce art within a recognized or recognizable discipline.~~

~~Cultural arts workers is defined as anyone who is an artist, or who works in any capacity within a visual or performing arts organization, who meets United States Department of Housing and Urban Development (HUD) and State of Florida guidelines for income eligibility for affordable housing.~~

Sec. 142-856. - Compliance with regulations.

The following overlay regulations shall apply to the CANDO-Collins Park Arts and Entertainment Overlay district. All development regulations in the underlying zoning district shall apply, except as follows, and for any regulations in conflict, the following shall control:

(a) Outdoor entertainment establishments shall be a main permitted or accessory use in areas with an underlying CD-3 zoning designation, subject to the following:

- (1) Outdoor entertainment shall commence no earlier than 10:00 a.m.
- (2) Outdoor entertainment shall cease no later than 10:00 p.m. on Sundays through Thursdays, and midnight on Fridays and Saturdays.
- (3) For purposes of this subsection, outdoor entertainment shall be limited to non-amplified string instruments and solo vocalists, or disk jockeys playing recorded music; music cannot exceed ambient, background levels.

(b) Restaurants, Sidewalk Cafes, and Outdoor Entertainment shall be a permitted as an accessory use to a hotel uses, in areas with an underlying RM-2 zoning designation, subject to the following:

- (1) Sidewalk cafes shall be limited to 30 seats.
- (2) Restaurants shall not exceed 3,000 square feet.
- (3) Outdoor entertainment shall commence no earlier than 10:00 a.m.
- (4) Outdoor entertainment shall cease no later than 10:00 p.m. on Sundays through Thursdays, and midnight on Fridays and Saturdays.

- (5) For purposes of this subsection, outdoor entertainment shall be limited to non-amplified string instruments and solo vocalists, or disk jockeys playing recorded music; music cannot exceed ambient, background levels.
- (c) Notwithstanding subsections (a) and (b) above, neighborhood impact establishment occupancy thresholds, as defined in Section 142-1361, shall not be exceeded without approval from the Planning Board.
- (d) Ground floor commercial uses are encouraged to incorporate visual art throughout their interior and exterior. Art located on the exterior of the building shall be subject to review and approval of the planning director pursuant to certificate of appropriateness criteria in section 118-564.
- ~~(1) Where the underlying zoning district regulations provide for an allowable increase in the floor area ratio (FAR) for mixed use projects, 50 percent of such allowable FAR increase shall be set aside for affordable housing for cultural arts workers.~~
- ~~(2) Existing units being rehabilitated, where the cost of construction would require the units to comply with the minimum of 400 square feet and minimum average size of 550 square feet, shall be exempt from meeting the average unit size of 550 square feet if 25 percent of the units are reserved for affordable housing units for cultural arts workers.~~
- ~~(3) New construction of mixed use projects, where the underlying zoning regulations provide for an allowable increase in FAR for mixed use projects, shall be exempt from meeting the average unit size of 800 square feet if 50 percent of such allowable FAR increase is reserved for affordable housing units for cultural workers.~~
- ~~(4) New construction of "live-work" projects in the CD-2 zoning district shall meet the residential parking requirements for zoning purposes if at least 25 percent of the "live-work" units are reserved for affordable housing units for cultural workers. For purposes of this section, a "live-work" unit is defined as a unit containing both a residential and commercial component within the same unit.~~

Sec. 142-857. -- Mandatory criteria.

~~Developments qualifying for the exceptions under this division shall meet all of the following mandatory criteria:~~

- ~~(1) At the time of development review, the property owner shall submit a statement of intent to construct affordable housing for cultural arts workers in accordance with this division.~~
- ~~(2) The owner of the property shall execute and record in the public records of Miami-Dade County a covenant running with the land restricting the use of the property for affordable housing for cultural arts workers as provided for in this division for a period of no less than 30 years, approved as to form and content by the city attorney, prior to the issuance of a building permit. The declarations within the covenant are not severable. A condition of the covenant shall preclude parties to it, and their successors, from challenging its validity. The covenant, condominium documents and purchase and sale agreements, shall include these mandatory criteria. If a subsequent judicial determination invalidates the type of population,~~

~~or the covenant, the city shall not issue a certificate of use and occupancy for the structure until the property owner corrects the invalidity, or satisfies the then applicable unit size regulations under this Code.~~

- ~~(3) Should the property change from affordable housing for cultural arts workers during the covenant period, or other income-eligible population, the property shall comply with all applicable development regulations existing at the time of the proposed change, including but not limited to minimum and average unit sizes and parking requirements.~~
- ~~(4) If after a two-year period, residential units set aside for cultural arts workers have not been rented or sold, they shall be reserved for other income-eligible population.~~
- ~~(5) The profits of the re-sale of residential units sold to cultural arts workers or other income-eligible population shall be restricted to increases in the Consumer Price Index (CPI) from the date of purchase through the date of resale, during the covenant period. Each buyer and seller shall acknowledge compliance with this section in the closing documents.~~

SECTION 2. That Chapter 122 of the City Code, entitled "Concurrency Management," is hereby amended as follows:

Sec. 122-5. - Exemptions from concurrency.

The following types of development are not required to obtain a preliminary concurrency determination or a final concurrency reservation certificate:

- (9) Temporary uses in public rights-of-way, as determined by the city commission by resolution, specifying geographic areas, criteria, and duration of exemption, where such uses front on or are north of 63rd Street, ~~or on Washington Avenue from 6th Street to Lincoln Road,~~ or in the Collins Park Arts and Entertainment District Overlay as defined in Section 142-854.

SECTION 3. That Chapter 82 of the City Code, entitled "Public Property;" Article IV, entitled "Uses in Public Rights-of-Way;" Division 5, entitled "Sidewalk Cafes;" Subdivision II, entitled "Permit;" is hereby amended as follows:

Sec. 82-383. - Permit fee; penalties for late payment; review of fee; exception.

- (a) The annual permit fee for operation of a sidewalk cafe shall be as set forth in appendix A, and shall be based on a per square foot calculation of permitted sidewalk area (including the area between the tables and chairs).

* * *

- ~~(3) No square footage fee as required by this section shall be required for the operation of sidewalk cafes that contain up to 30 seats within the Collins Park Arts and Entertainment District Overlay as defined in Section 142-854 are exempt from paying the square foot fee identified herein.~~

SECTION 4. REPEALER.

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

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 re-numbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

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. APPLICABILITY

The limitations in this ordinance shall not apply to any valid, pre-existing permitted use with a valid business tax receipt (BTR) for an open air entertainment establishment or outdoor entertainment establishment that (i) is in application status prior to the effective date of this ordinance; or (ii) issued prior to prior to the effective date of this ordinance; or (iii) to an establishment that has obtained approval for an open air entertainment establishment or outdoor entertainment establishment from a land use board, and which land use board order is active and has not expired, prior to the effective date of this ordinance. Any increase to the approved hours of operation shall meet the requirements of this section.

SECTION 8. 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

(Sponsored by Commissioner Ricky Arriola)

Underline denotes additions

~~Strike through~~ denotes deletions

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

TO: Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager

DATE: June 15, 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. On May 18, 2016, the Land Use Committee continued this item to June 15, 2016.

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.

UPDATE

The proposed 100 foot distance separation would only affect a very limited number of properties. As such, the Administration would recommend that the Land Use Committee further study and discuss a more defined, and manageable boundary. Such a boundary may include the area south of 17th Street and north of Lincoln Lane North, between Lenox and Meridian Avenue.

Although a larger area of commercial properties could be affected, the revised operational regulations are not expected to negatively impact existing or future restaurant uses, as a 2:00 am closing time would be applied across the board. This would include all indoor, as well as outdoor areas, including roof-tops and sidewalk cafes. As 17th Street is a heavily travelled roadway, and the first 3 lots north of 17th are zoned RM-1, the revised proposal would still provide an improved buffer to the single family homes in Palm View.

CONCLUSION

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

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 _____, 2016 or issued prior to _____, 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 _____, 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: June 15, 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.

On May 18, 2016 the Land Use Committee continued the item to June 15, 2016.

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\June 15, 2016\Demolition Procedures SF Homes - MEMO June 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, regardless of year of construction, 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 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) The demolition permit shall indicate that the entire property shall be raised to sidewalk grade, or the crown of the road, upon the completion of demolition, with approved base material.
 - (iii) The demolition permit shall indicate that sod shall be installed on the entire site and hedge material shall be installed along the entire perimeter of the property.
 - (iv) Fencing for the property, if any, shall only consist of aluminum picket along the entire perimeter of the property.
 - (v) The raising of the site to sidewalk grade and the installation of all required landscaping must be completed within 10 days of the completion of demolition. All landscaping shall be maintained as required by the demolition permit, and the City's Landscaping Code.

(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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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: June 15, 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 (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).

On May 18, 2016, the Land Use and Development Committee discussed the item and continued it to the June 15, 2016 meeting so that additional public outreach could take place and for the Planning and Transportation Departments to prepare an analysis of the proposed code amendments.

PROPOSAL

Proposed Amendment to the Land Development Regulations:

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%
- o *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; the abutting zoning of the subject site, which is used to is CPS-4 (Commercial Performance Standard District-4 district). As such, the property at 300 Alton Road is guided by the regulations in the CPS-4 district.

Proposed Amendment to the 2025 Comprehensive Plan

The subject site has a Comprehensive Plan Future Land Use category designation of “*Public Facility: Government Uses (PF)*”. Please see the Future Land Use map at the end of the memorandum. 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 proposed 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 was submitted by the proposer:

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.

ANALYSIS

At the direction of the Land Use Committee, staff has analyzed the proposal from a proprietary, land use planning, urban design and transportation standpoint. The following are the initial findings by staff:

Existing Marina Lease Agreement

The City of Miami Beach ("City") and Miami Beach Marina, Ltd. ("Marina") are parties to a Lease Agreement, dated June 24, 1983, as subsequently amended, ("Lease Agreement") for the Miami Beach Marina located at 344 Alton Road ("Marina"). The Marina is located adjacent to Government Cut and offers dockage and other marina related services for the use and benefit of the public. With 400 boat slips, the marina can accommodate vessels up to 250 feet in length. Also available on site are casual and formal dining facilities, marine hardware suppliers, dive charters, boat sales and other retailers.

Under the terms of the Lease Agreement, the City is required to provide a total of 715 parking spaces for use by the Marina. In order to fulfill this requirement, the City is a party, as tenant, to four (4) separate lease agreements with the adjacent four (4) condominiums. Under the terms of the condominium lease agreements, the City leases parking spaces on the ground floor of the condominium buildings as follows:

- 108 spaces in the Murano @ Portofino;
- 115 spaces in the Yacht Club @ Portofino;
- 142 spaces in the Murano Grande;

- 206 spaces in the Murano ICON.

The Murano Grande and Yacht Club also contain restroom, shower and laundry facilities. For parking spaces in the condominium garages, City does not pay for parking spaces, but paid for initial capital cost, and also pays for real estate taxes, special assessment or other similar charges, and any pass through fees or costs or insurance imposed by landlord/condominium association. The Marina pays for maintenance, including repainting, electricity, water and telephones, maintenance of revenue and/or security control equipment and systems used in said parking facility, adjoining baywalk and baywalk landscaping. The additional parking spaces required to fulfill the 715 space requirement are provided as surface parking on the marina property.

Land Use and Zoning Data:

	Current Condition	Proposed Condition
Zoning:	GU (Government Use)	
Future Land Use (FLUM):	PF (Public Facilities)	
Lot Size:	~155,000 SF ***	
Grade:	+ 8.0' NGVD *	
Base Flood Elevation (BFE):	+9.00' NGVD *	
Built FAR:	~70,000 SF*	~775,000 SF*
Maximum FAR:	387,500 SF / 2.0 (per FLUM)	775,000 SF** / 5.0
Maximum Height:	150 feet / 16-stories	410 feet / 38-stories*
Highest Projection:	175 feet	435 feet*
Residential Units:	N/A	~250**
Commercial Area:	~55,940 SF***	~71,000 SF*
Parking spaces required:	N/A	~ 700
Parking spaces provided:	N/A	~614 spaces Within 2 level underground garage*
Commercial loading spaces required:	N/A	~5 spaces
Residential loading spaces required:	N/A	~4 spaces
First Floor Elevation:	N/A	+9.0' *
Lowest Parking Level:	N/A	-11.0' (20 feet below sidewalk elevation) *

*As indicated in proposal documents, or represented verbally

** As estimated from proposal documents

***As indicated by Miami Dade Property Appraiser

(See the Zoning and Future Land Use Maps at the end of the memorandum)

Surrounding Properties

North – CPS-4 (Intensive mixed-use phased bayside commercial)

Murano Grande - 23 – 36 Story multifamily residential

South – CPS-4 (Intensive mixed-use phased bayside commercial)

Housing Authority, multifamily residential – Two 13-story buildings

East – GU (Government Use)

South Point Elementary – One and Two story building, parking lot, recreation field; eastward of the school are the lower density residential performance standard districts of RPS-1 and RPS-2, with mostly low density residential buildings, typically 2-5 stories and a max FAR of 1.25 – 1.5

West – Biscayne Bay

(See the Surrounding Uses map at the end of the memorandum)

Comparisons

- Under the current CPS-4 regulations, in order to construct 700,000 SF of floor area, as proposed, a lot size of 280,000 SF (approximately 6.4 acres) would be required.
- The current lot size is ~155,000. An additional 400 feet of frontage would be required to get to achieve a lot size of 280,000 SF.
- At a total height of 435 feet, the proposed towers would be the 6th tallest building in Miami Beach.

Potential Inconsistencies with the 2025 Comprehensive Plan

The 2025 Comprehensive Plan provides policies and regulations for the future growth, development, and management of the City. The proposed Comprehensive Plan amendment may be inconsistent with the Objective 3, Water-Dependent and Related Uses, Objective 7, Shoreline Uses, and Objective 9, Density Limits. Additional review will be required to ensure that the proposed amendment is consistent with the adopted plan to ensure that the amendment would not be subject to challenges pursuant to the regulations in Section 163.3184, Florida Statutes.

It should also be noted that this is the same future land use designation as the Bass Museum/Collins Park, the Miami City Ballet, Miami Beach Police Station, South Shore Community Center, and the adjacent Housing Authority residences. The construction of private residential units on-site may impact future adaptation to other uses and construction, which may be unforeseen now could be challenging in the future.

Transportation

The Environmental Analysis for the Miami Beach Light Rail/Modern Streetcar Project, including recommend alignments, stops, etc. will have transportation and traffic impacts that will likely impact the background conditions for the proposed 300 Alton Road development project. The draft environmental report for the project is anticipated in September of 2016. It is important to note that roadway geometry, lane configuration, and traffic patterns in the vicinity of the 300 Alton Road project will be modified from their existing conditions as a result of the light rail/modern streetcar project.

The intersection of Alton Road and 5th Street is currently one of the most congested and critical intersections in the City. Transportation Department staff has had longstanding concerns with queuing and Level of Service at the intersection. Increased traffic volumes, if not properly mitigated, can further degrade the operating conditions of this critical junction and increase travel times along both corridors. Additionally, given the geometric characteristics of the intersection and the current lack of safe pedestrian and bicycle facilities, access, and connectivity, additional traffic volumes along the Alton Road corridor are expected to exacerbate the known pedestrian and bicycle safety concerns.

As such, if the development proposal were to move forward, the Transportation Department would need to work closely with the traffic team associated with the 300 Alton Road project to develop a comprehensive methodology for the required traffic impact study that would take into consideration the above traffic concerns and the appropriate mitigation required. Until such time as a traffic impact study is prepared, the impacts of the proposed development will not be known. It is anticipated that any mitigation required would be funded and implemented by the Developer.

In addition to the typical business terms that would need to be considered for the proposed Marina Lease, there are a number of transportation-specific items that should be addressed; these would include, but not be limited to, the following:

- The City is pursuing an Intelligent Transportation System (ITS) and Smart Parking System (SPS) project. Additionally, the procurement of a Design/Build/Operate/Maintain Contractor is anticipated to be initiated in the fall of 2016. Due to the proximity of the 300 Alton Road project to the critical intersection of Alton Road/5th Street, should the City desire to install communication devices on the rooftop of the building, consideration should be given to require the developer to allow the City and its ITS/SPS contractor to have unlimited rooftop access for installation, operation, and maintenance as well as control of any communication equipment.
- Through a Concession Agreement, the City is planning to launch a permanent water taxi service that would operate from the Miami Beach Marina. Currently, the water taxi operates a limited service to/from the Miami Beach Marina; however, the operator is restricted in terms of docking schedule and priority. As part of the Marina lease requirements, consideration should be given to providing a dedicated dock for the water taxi service, and for the water taxi service to have the ability to operate at all times as determined by the City for the normal operating schedule and during extended hours for special events, high impact periods, etc.

Policy Considerations for the Site

- Approximately 90% of the available FAR is proposed for private residential uses.
- The remaining 10% is proposed for commercial uses, and only to replace the existing commercial uses on site.
- Policy consideration and deliberation should be given for other uses needed and/or desired by the City, including, but potentially not limited to:
 - Use of the site for a water-taxi and expanded marina services
 - Integration of workforce housing (not privately owned)
 - Storm water retention/management
 - Structured parking to consolidate footprint and enhance public access and view corridors from Alton Road to the Bay and Bay Walk.

Construction / Site Planning / Urban Design Issues

- Because the proposed underground parking occupies the entirety of the site, there will be no room for substantial landscaping in the form of shade or palm trees on top of the garage, unless raised planters are utilized or the garage is further depressed

into the ground. The use of raised planters would impede open views from Alton Road to the Bay.

- The use of underground spaces for the storage of vehicles, in one of the lowest areas of the City, creates potential future constraints with regard to resiliency and flooding. In this regard, with advances in technology, the use of underground spaces may be better suited for water storage and cisterns, as opposed to storage and/or habitable uses
- The initial proposal for a completely transparent first floor, at sidewalk level, will not be possible unless all of the retail and accessory commercial space (e.g. Monty's) is located vertically within the proposed towers.
- The current site provides a significant area of open space in between the larger residential towers to the north and south. This open space has mitigated the 'canyon' effect along Alton Road and South Pointe Drive that has resulted from the residential tower construction since 1997. While the proposed new towers would not be inconsistent with the established scale of buildings in the area, the open space currently provided by the GU site provides a much needed air, light and view corridor. Tangible methods of maximizing the open space on the site should be analyzed.
- The proposal has the potential to allow for reduced setbacks that may have an adverse impact on surrounding residential buildings to the south of the site.

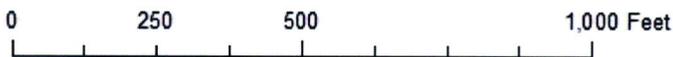
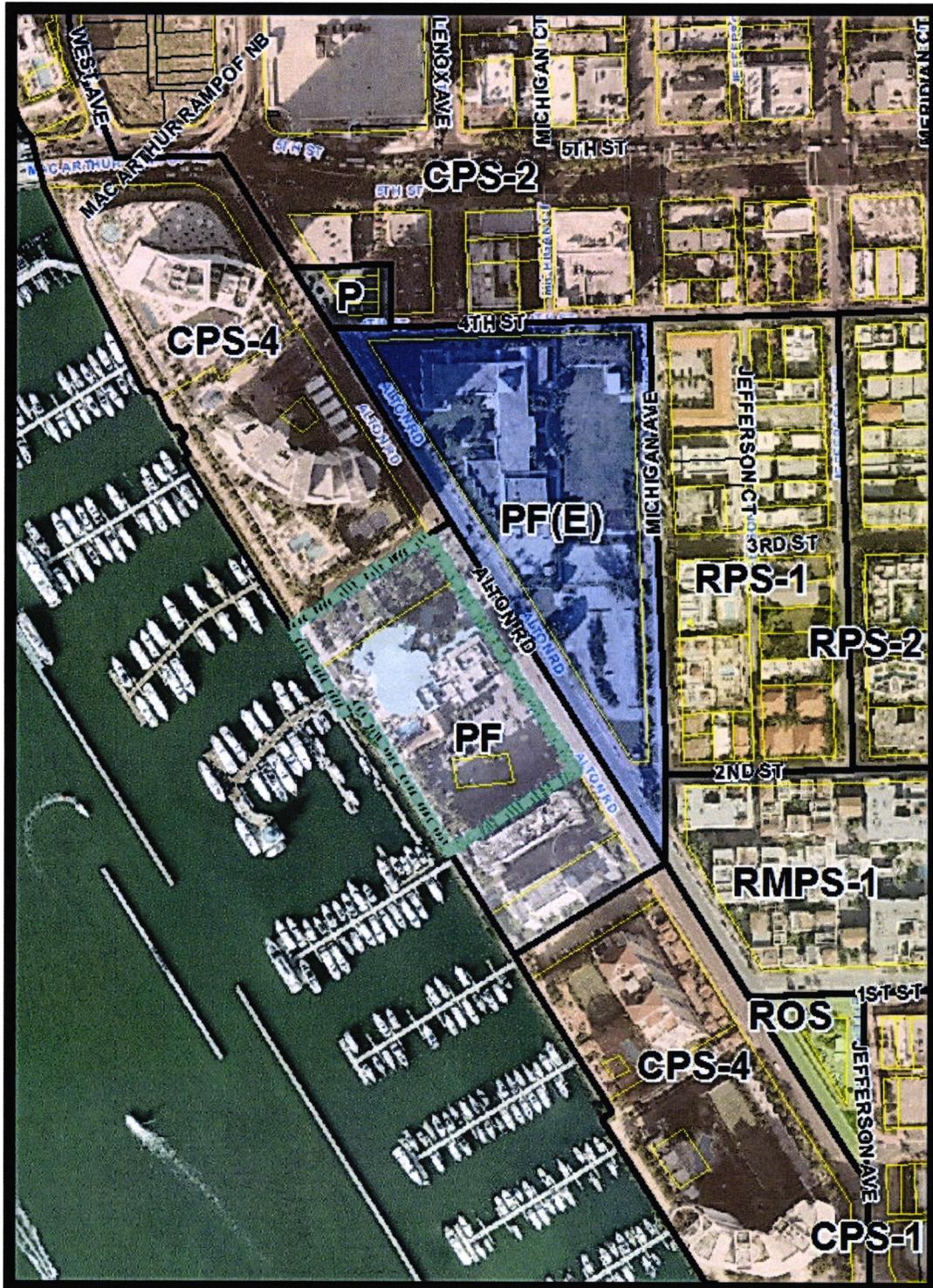
CONCLUSION

The Administration recommends that the Land Use and Development Committee discuss the proposed ordinance amendment, deliberate the policy issues outlined in this memorandum and provide appropriate policy direction. Should the Committee wish to consider advancing the proposal, the administration recommends the following:

1. The incorporation of minimum setback requirements for subterranean levels in order to allow for substantive perimeter planting.
2. Providing of a minimum interior side pedestal and tower setback of 60 feet and a sum of side yards of at least 40%.
3. Providing a minimum tower separation; specifically a minimum 60 foot separation should be required between portions of the building above 40 feet in height, inclusive of all allowable projections.
4. Providing a maximum floor plate limitation; specifically, the maximum floor plate size for the individual tower portions of a building should be limited to 17,000 square feet per floor, including all allowable projections (e.g. balconies).
5. Further study of the proposed underground parking; if the use of underground parking advances, best available technologies should be utilized to ensure that the parking can withstand the effects of sea level rise.

JLM/SMT/TRM/MAS/MAB/RAM

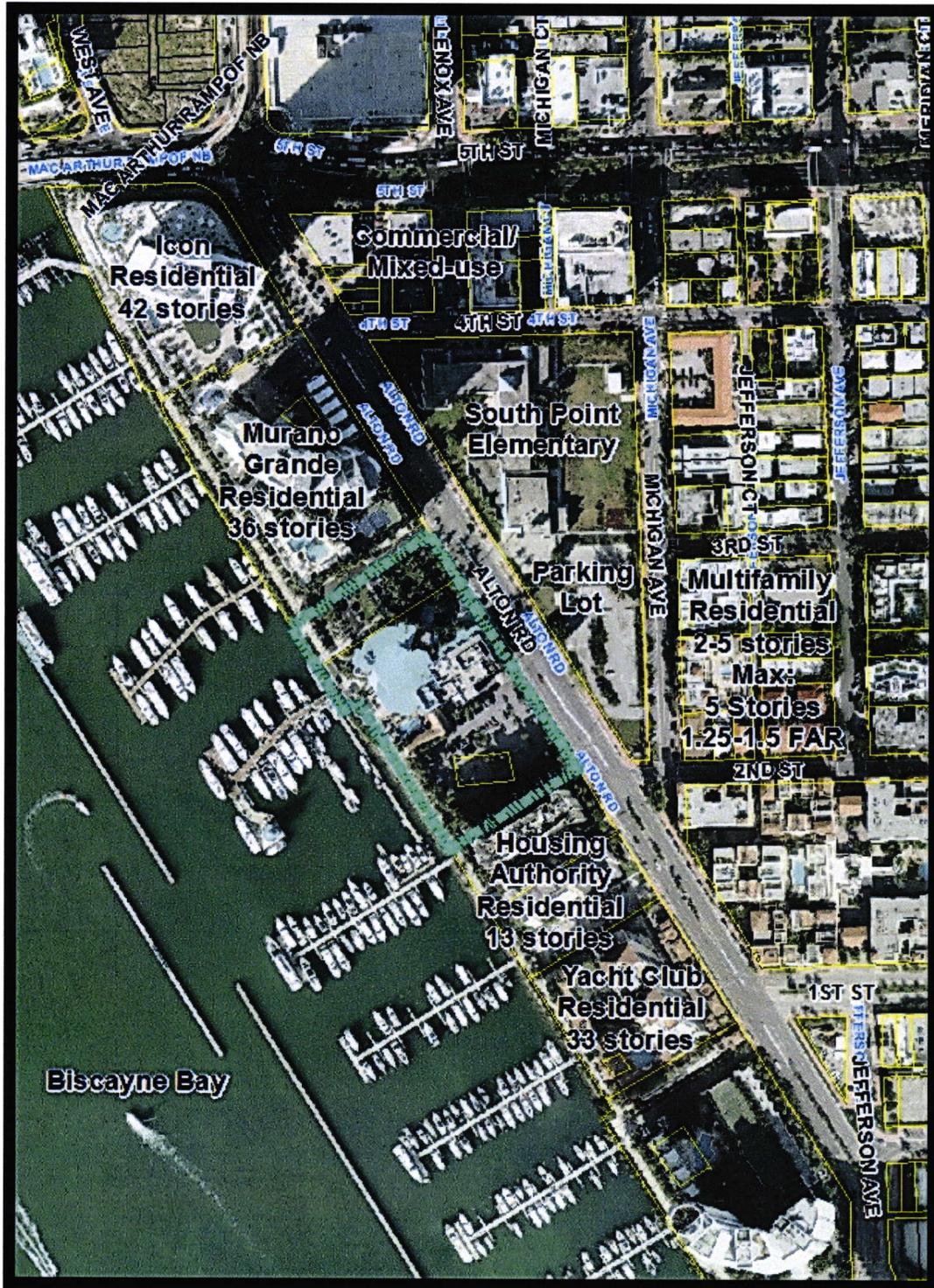
FUTURE LAND USE



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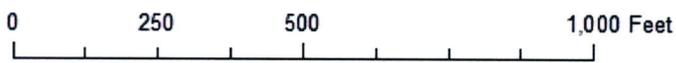
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Condensed Title:

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE NEIGHBORHOOD/COMMUNITY AFFAIRS COMMITTEE TO ESTABLISH MORE AGGRESSIVE REQUIREMENTS FOR EMPLOYEE TRANSPORTATION PLANS AND REFERRING THE ITEM TO THE LAND USE AND DEVELOPMENT COMMITTEE FOR FURTHER DISCUSSION AND INPUT

Key Intended Outcome Supported:

Ensure Comprehensive Mobility Addressing All Modes Throughout The City

Supporting Data (Surveys, Environmental Scan, etc): N/A

Item Summary:

The City of Miami Beach Staff reviews Transportation Impact Studies as part of Planning Board applications and some Historic Preservation Board and Design Review Board applications. Currently, the City Code does not require development applicants to provide a Transportation Plan unless the Plan is part of a traffic study that has to be submitted for a development application. Even in instances when a Transportation Plan is required from a development, guidelines are vague as to requirements. As part of the City's review of traffic studies for development applications, applicants are requested to provide a Transportation Plan for employees that will work at the site. The Transportation Plan consists of outlining how the employer proposes to incentivize employees to utilize alternative modes of transportation to commute, using modes other than the personal automobile. Transportation Plans approved by the City, as part of the review of traffic studies, include some of the following alternatives:

- Convenient and safe bicycle parking
- Financial assistance with membership to Citibike
- MDT transit pass subsidy
- Participation in the Commuter Services of South Florida Carpool or Vanpool Program

However, when a transportation plan is required from a development, guidelines are vague as to requirements which may result in plans that have little or no real impact.

In addition, as part of the Transportation Plan, the applicant is required to provide the contact information of the person that will administer the Plan at the site and provide a follow-up report to the City once the business opens and the Transportation Plan is implemented (approximately after six months of opening date). Given that this process is not codified, there is no real requirement for employers to comply with Transportation Plans and the implementation of these Plans is not being enforced. The City does not have any penalties for employers that do not fully implement the Plans as proposed as part of the application's traffic study. Since receiving support from the Neighborhood/Community Affair Committee (NCAC) at the May 13, 2016 meeting, the City has conducted research in other local and nationwide municipalities that have policies addressing Employee Transportation Plans. Local examples include the City of Delray Beach and the City of Boca Raton. The City of Boca Raton has implemented an ordinance addressing the Transportation Management Program. The plan requires that all developments exceeding 50 employees or 30 residential units in the downtown area provide a Transportation Plan. The Transportation Plan can include various initiatives such as flex time, compressed work weeks, telecommuting, car pooling and van pooling, use of transit, and providing secure indoor bicycle parking. In addition, the City of Boca Raton Transportation Demand Management Ordinance required that all existing developments above the established threshold would be required to participate in the program prior to an established date. As a further step, the ordinance also established that developments above the established threshold would need to provide van pooling to employees by the 5th Year of Certificate of Occupancy or entering the Employee Transportation Program. It is worth noting that some other Cities also require developers to include bicycle lockers and showers for employees traveling by bicycle.

In order to implement these practices for developments in the City, the City would need to develop an ordinance requiring that all developments above a previously determined threshold be required to provide an Employee Transportation Plan. To ensure the success of the program, the City will have to develop a method for training and oversight of the program, as well as require developments to provide annual reports on their Employee Transportation Program.

Based on the positive results found in other cities, it is recommended that the City of Miami Beach Commission accept the recommendation of the NCAC to establish more aggressive requirements for employee transportation plans and refer the item to the Land Use and Development Committee for further discussion and input.

Advisory Board Recommendation:

Financial Information:

Source of Funds:	Amount	Account
OBPI	Total	

Financial Impact Summary:

City Clerk's Office Legislative Tracking:

Jose R. Gonzalez, P.E.

Sign-Offs:

Department Director	Assistant City Manager	City Manager
JRG <i>JRG</i>	KGB <i>KGB</i>	JLM <i>JLM</i>



MIAMIBEACH

AGENDA ITEM R7 X
DATE 6-8-16

MIAMI BEACH

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

COMMISSION MEMORANDUM

TO: Mayor Philip Levine and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: June 8, 2016

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE NEIGHBORHOOD/COMMUNITY AFFAIRS COMMITTEE TO ESTABLISH MORE AGGRESSIVE REQUIREMENTS FOR EMPLOYEE TRANSPORTATION PLANS AND REFERRING THE ITEM TO THE LAND USE AND DEVELOPMENT COMMITTEE FOR FURTHER DISCUSSION AND INPUT.**

BACKGROUND

The City of Miami Beach Staff reviews Transportation Impact Studies as part of Planning Board applications and some Historic Preservation Board and Design Review Board applications. Currently, the City Code does not require development applicants to provide a Transportation Plan unless the Plan is part of a traffic study that has to be submitted for a development application. As part of the City's review of traffic studies for development applications, applicants are requested to provide a Transportation Plan for employees that will work at the site. The Transportation Plan consists of outlining how the employer proposes to incentivize employees to utilize alternative modes of transportation to commute, using modes other than the personal automobile. Transportation Plans approved by the City, as part of the review of traffic studies, include some of the following alternatives:

- Convenient and safe bicycle parking
- Financial assistance with membership to Citibike
- MDT transit pass subsidy
- Participation in the Commuter Services of South Florida Carpool or Vanpool Program

However, when a Transportation Plan is required from a development, guidelines are vague as to requirements which may result in plans that have little or no real impact.

In addition, as part of the Transportation Plan, the applicant is required to provide the contact information of the person that will administer the Plan at the site and provide a follow-up report to the City once the business opens and the Transportation Plan is implemented (approximately after six months of opening date)

Given that this process is not codified, there is no real requirement for employers to comply with Transportation Plans and the implementation of these Plans is not being enforced. The City does not have any penalties for employers that do not fully implement the Plans as proposed as part of the application's traffic study.

ANALYSIS

Since receiving support from the Neighborhood/Community Affair Committee (NCAC) at the May 13, 2016 meeting, the City has conducted research in other local and nationwide municipalities that have policies addressing Employee Transportation Plans. Local examples include the City of Delray Beach and the City of Boca Raton. The City of Boca Raton has implemented an ordinance addressing the Transportation Program. The plan requires that all developments exceeding 50 employees or 30 residential units in the downtown area provide a Transportation Plan. The Transportation Plan can include various initiatives such as flex time, compressed work weeks, telecommuting, car pooling and van pooling, use of transit, and providing secure indoor bicycle parking. In addition, the City of Boca Raton Transportation Demand Management Ordinance required that all existing developments above the established threshold would be required to participate in the program prior to an established date. As a further step, the ordinance also established that developments above the established threshold would need to provide van pooling to employees by the 5th Year of Certificate of Occupancy or entering the Employee Transportation Program. It is worth noting that some other Cities also require developers to include bicycle lockers and showers for employees traveling by bicycle.

In order to implement these practices for developments in the City, the City would need to develop an ordinance requiring that all developments above a previously determined threshold be required to provide an Employee Transportation Plan. To ensure the success of the program, the City will have to develop a method for training and oversight of the program, as well as require developments to provide annual reports on their Employee Transportation Program.

If approved by City Commission, staff will commence work on the proposed ordinance to comprehensively address the thresholds and requirements for a City of Miami Beach Employee Transportation Program.

RECOMMENDATION

Based on the positive results found in other cities, it is recommended that the City of Miami Beach Commission accept the recommendation of the NCAC to establish more aggressive requirements for employee transportation plans and refer the item to the Land Use and Development Committee for further discussion and input.


JLM/KGB/JRG/JFD

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATIONS OF THE NEIGHBORHOOD/COMMUNITY AFFAIRS COMMITTEE TO ESTABLISH MORE AGGRESSIVE REQUIREMENTS FOR DEVELOPERS TO PROVIDE EMPLOYEE TRANSPORTATION PLANS AND TO REFER THIS MATTER TO THE LAND USE AND DEVELOPMENT COMMITTEE FOR FURTHER DISCUSSION AND INPUT.

WHEREAS, City of Miami Beach staff reviews Transportation Impact Studies as part of Planning Board applications and some Historic Preservation Board and Design Review Board applications; and

WHEREAS, currently, the City Code only requires certain applications to the Planning Board, Historic Preservation Board, or the Design Review Board seeking land development approvals to provide an employee transportation plan; and

WHEREAS, an employee transportation plan consists of outlining how an employer would incentivize employees to utilize alternative modes of transportation to commute to and from work, other than personal automobiles; and

WHEREAS, employee transportation plans currently recommended by staff, as part of staff's review of traffic studies, include some of the following alternatives:

- Convenient and safe bicycle parking,
- Financial assistance with Citibike membership,
- MDT transit pass subsidy, and
- Participation in the Commuter Services of South Florida Carpool or Vanpool Program; and

WHEREAS, given that this process is not codified, there is currently no legal requirement for employers to provide or comply with employee transportation plans, and the implementation of these plans is not currently enforced unless a plan is specifically required by a land development board order; and

WHEREAS, pursuant to direction from the Neighborhood/Community Affair Committee (NCAC) at its May 13, 2016 meeting, the City researched municipalities with policies addressing employee transportation plans for land developments; and

WHEREAS, such municipalities include the City of Boca Raton, which adopted an ordinance implementing such requirements; and

WHEREAS, the Program in Boca Raton requires that all developments exceeding 50 employees or 30 residential units in the downtown area provide a Transportation Demand Management Plan including one or various demand management strategies, such as flex time, compressed work weeks, telecommuting, car pooling and van pooling, use of transit, and secure indoor bicycle parking; and

WHEREAS, as a further step, the Boca Raton ordinance also requires that developments larger than the established threshold provide van pooling to employees by the fifth year after the issuance of a Certificate of Occupancy or the entering of a Transportation Demand Management Program; and

WHEREAS, in order to implement these practices for developments in the City of Miami Beach, the City would need to develop an ordinance requiring that all developments larger than a previously determined threshold be required to provide an employee transportation plan; and

WHEREAS, to ensure the success of the program, the City would need to develop a method for training and oversight of the program, as well as require developments to provide annual reports on their employee transportation plan; and

WHEREAS, at its May 13, 2016 meeting, the NCAC recommended that the City develop more aggressive requirements for employee transportation plans and that this matter be referred to the Land Use and Development Committee for further input ; and

WHEREAS, City staff will prepare a proposed ordinance to comprehensively address the thresholds and requirements for a City of Miami Beach employee transportation plan program.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby accept the recommendations of the Neighborhood/Community Affairs Committee to establish more aggressive requirements for employee transportation plans and to refer this matter to the Land Use and Development Committee for further discussion and input.

PASSED and ADOPTED this 8th day of June, 2016.

ATTEST:

Philip Levine, Mayor

Rafael E. Granado, City Clerk

T:\AGENDA\2016\June\Transportation\ACCEPTING THE RECOMMENDATION OF THE NCAC TO ESTABLISH MORE AGGRESSIVE REQUIREMENTS FOR EMPLOYEE TRANSPORTATION PLANS RESO.doc

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**

Rafael E. Granado 6/1/16
City Attorney Date

NK

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VERBAL REPORT

Cardillo, Lilia

From: Granada, Rafael
Sent: Wednesday, January 20, 2016 8:25 PM
To: Cardillo, Lilia
Subject: Fwd: February agenda
Attachments: image001.jpg; ATT00001.htm; Dania Beach, FL Code of Ordinances.pdf; ATT00002.htm

Sent from my iPhone

Begin forwarded message:

From: "Grieco, Michael" <MichaelGrieco@miamibeachfl.gov>
Date: January 20, 2016 at 8:22:28 PM EST
To: "Granada, Rafael" <RafaelGranado@miamibeachfl.gov>
Subject: February agenda

Please place on agenda:

Discussion item and referral to Land Use Committee Regarding CMB Preparations for Likely Passage of State Medical Marijuana Constitutional Amendment

Please include this email and the attached Dania Beach Ordinance with the item

Sec. 19-1. - Definitions.

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

Applicant. An individual or business entity desiring to operate a medical marijuana retail center within the city limits.

Business operating name. The legal or fictitious name under which a medical marijuana retail center conducts its business with the public.

Employee. A person authorized to act on behalf of the medical marijuana retail center, whether that person is an employee or a contractor, and regardless of whether that person receives compensation.

Identification tag. A tamperproof card issued by the city to the persons involved with a medical marijuana retail center as evidence that they have passed the background checks and other requirements of this chapter and are authorized to be present on the premises.

Marijuana. Any strain of marijuana or cannabis, in any form, that is authorized by state law to be dispensed or sold in the State of Florida. Also referred to as "medical marijuana."

Medical marijuana permit. A permit issued by the city pursuant to this chapter authorizing a business to sell marijuana in the city. Also referred to as "permit."

Medical marijuana retail center. A retail establishment, licensed by the Florida Department of Health as a "medical marijuana treatment facility," "medical marijuana treatment center," "dispensing organization," "dispensing organization facility" or similar use, that sells and dispenses medical marijuana, but does not engage in any other activity related to preparation, wholesale storage, distribution, transfer, cultivation, or processing of any form of marijuana or marijuana product, and does not allow on-site consumption of marijuana. A medical marijuana treatment center shall not be construed to be a medical marijuana retail center.

Medical marijuana treatment center. Any facility licensed by the Florida Department of Health to acquire, cultivate, possess, process (including but not limited to development of related products such as food, tinctures, aerosols, oils, or ointments), transfer, transport, sell, distribute, dispense, store, or administer marijuana, products containing marijuana, related supplies, or educational materials, as authorized by state law. A medical marijuana treatment center may include retail sales or dispensing of marijuana. A facility which provides only retail sales or dispensing of marijuana shall not be classified as a medical marijuana treatment center under this chapter. Also may be referred to as a "medical marijuana treatment facility" or "dispensing organization" or other similar term recognized by state law.

Owner. Any person, including any individual or other legal entity, with a direct or indirect ownership interest of five (5) percent or more in the applicant, which interest includes the possession of stock, equity in capital, or any interest in the profits of the applicant.

Premises. The building, within which a medical marijuana retail center is permitted to operate by the city, including the property on which the building is located, all parking areas on the property or that are utilized by the medical marijuana retail center and sidewalks and alleys within one hundred (100) feet of the property on which the medical marijuana retail center is located.

Qualified registered patient/qualified patient. A resident of the State of Florida who has been added to the state's compassionate use registry by a physician licensed under F.S. Ch. 458 or Ch. 459, to receive medical marijuana from a dispensing organization or medical marijuana treatment center or similar use as defined in Florida Statutes.

(Ord. No. 2014-015, § 3, 10-28-14)

Sec. 19-2. - Medical marijuana permit and identification tag required.

- (1) It shall be unlawful for any business or person to operate a medical marijuana retail center, or to otherwise offer for sale or in any way participate in the conduct of any activities upon the premises within the city without first obtaining a medical marijuana permit.
- (2) Each person employed in the conduct of such activity shall be screened and approved pursuant to this chapter and required to obtain an identification tag before the medical marijuana retail center opens for business or, for persons who become involved with the center after it is open, before having any involvement in center's activities.
- (3) No medical marijuana permit or identification tag shall be transferable; each person must obtain a medical marijuana permit or identification tag directly from the city.

(Ord. No. 2014-015, § 3, 10-28-14)

Sec. 19-3. - Applications for permit; investigation and issuance; term.

- (1) Applications for a medical marijuana permit shall be made by the applicant in person to the city clerk during regular business hours upon such forms and with such accompanying information as may be established by the city. Such application shall be sworn to or affirmed. Every application shall contain at least the following:
 - (a) The business operating name and all applicant and owner information. If the applicant or owner is:
 1. An individual, his or her legal name, aliases, home address and business address, date of birth, copy of driver's license or a state or federally issued identification card;
 2. A partnership, the full and complete name of the partners, dates of birth, copy of driver's license or state or federally issued identification card of all partners, and all aliases used by all of the partners, whether the partnership is general or limited, a statement as to whether or not the partnership is authorized to do business in the State of Florida and, if in existence, a copy of the partnership agreement (if the general partner is a corporation, then the applicant shall submit the required information for corporate applicant in addition to the information concerning the partnership);
 3. A corporation, the exact and complete corporate name, the date of its incorporation, evidence that the corporation is in good standing, the legal names and dates of birth, driver's license numbers or state or federally issued identification card numbers of all officers, and directors, and all aliases used, the capacity of all officers, and directors, and, if applicable, the name of the registered corporate agent, and the address of the registered office for service of process, and a statement as to whether or not each corporation is authorized to do business in the State of Florida;

4. The addresses required by this section shall be physical locations, and not post office boxes. The name, home address, and business address of the applicant and the name and an address of all owner(s), if any, other than the applicant. The addresses required by this section shall be physical locations, and not post office boxes.
- (b) A complete copy of the business' application to the State of Florida and all related exhibits, appendices, and back up materials for approval and licensure as a medical marijuana treatment center.
- (c) A statement as to whether the applicant or any owner or employee has previously received a medical marijuana permit or identification tag from the city.
- (d) A statement as to whether the applicant or any owner holds other permits or licenses under this Code and, if so, the names and locations of such other permitted or licensed establishments.
- (e) A statement as to whether the applicant or any owner has been a partner in a partnership or an officer or director of a corporation whose permit or license issued under this Code has previously been suspended or revoked, including the name and location of the establishment for which the permit or license was suspended or revoked, as well as the date of the suspension or revocation.
- (f) A statement as to whether or not the applicant or any owner has lost any privilege or had any permit or license to do business revoked by any local, state or federal government and, if so, the nature of such privilege, permit or license and the reason for such revocation.
- (g) A statement as to whether or not the applicant or any owner has lost any privilege or had any permit or license to do business suspended by any local, state or federal government and, if so, the nature of such privilege, permit or license and the reason for such suspension.
- (h) A statement as to whether or not the applicant or any owner or employee has been found guilty of or has pleaded guilty or nolo contendere to a felony relating to any business in this state or in any other state or federal court, regardless of whether a judgment of conviction has been entered by the court having jurisdiction of such cases.
- (i) A statement as to whether or not the applicant or any owner or employee has been found guilty of, or have pleaded guilty or nolo contendere to, a felony relating to a battery or a physical violence on any person in this state or in any other state or federal court, regardless of whether a judgment of conviction has been entered by the court having jurisdiction of such cases.
- (j) A statement as to whether or not the applicant or any owner has filed a petition to have their respective debts discharged by a bankruptcy court having jurisdiction of such cases.
- (k) Written documentation that the applicant, every owner, and each employee has successfully completed level 2 background screening within the year.
- (l) A passport photograph of the applicant, every owner, and each employee.
- (m) A notarized, signed, and sworn statement that the information within the application is truthful, independently verifiable, and complete and that the photocopies of the attached driver's licenses or state or federally issued identification cards are true and correct copies of the originals.
- (2) *Rejection of application.* In the event the city determines that the applicant has not satisfied the application requirements for a proposed medical marijuana retail center, the applicant shall be notified of such fact; and the application shall be denied.
- (3) *Fees.* In addition to demonstrating compliance with this article, the applicant shall pay a nonrefundable application fee in an amount established by resolution of the city commission for each applicant, each owner, and each employee to cover its administrative costs and expenses incurred in reviewing and

administering the permit and identification tag program, irrespective of the issuance or denial of the application. Each applicant shall also pay an annual nonrefundable, nonproratable permit fee in an amount established by resolution of the city commission before receiving a medical marijuana permit.

(4) *Application review.*

- (a) *Investigation.* The city shall refer the application to the chief of police, who shall review the application and documentation provided, and conduct a background screening of the applicant, each owner and employee. Upon receipt of the appropriate documentation, the chief of police shall forward the information and application to the city manager, together with any recommendations and other relevant information from the files regarding the applicant.
- (b) *City manager determination.* Upon receipt of such material from the chief of police, the city manager shall, within thirty (30) days, either:
 - 1. Notify the applicant that the permit has been denied and the reason for such denial; or
 - 2. Issue a permit, with or without conditions.
- (c) *Duration.* Permits shall be issued for a one-year period for a term commencing October 1 or the date of issuance, and ending the following September 30.
- (d) *Denial.* The city shall deny an applicant's application for a medical marijuana permit if:
 - 1. The applicable permit or licensing fees have not been paid in full;
 - 2. The application violates or fails to meet the provisions of this Code, any building, fire or zoning code, statute, ordinance, or regulation;
 - 3. The application contains material false information, or information material to the decision was omitted; failure to list an individual required to be listed, and whose listing would result in a denial, is presumed to be material false information for purposes of denial of the application; the certification that the applicant owns, possesses, operates and exercises control over the proposed or existing medical marijuana retail center is a material representation for purposes of this section;
 - 4. The applicant or any owner has a permit or license under this Code, or has had a permit or license under this Code, which has been suspended or revoked;
 - 5. The granting of the application would violate a statute or ordinance, or an order from a court of law that prohibits effectively the applicant from obtaining a medical marijuana permit;
 - 6. The applicant, an employee, or any owner has been convicted of fraud or felony by any state or federal court within the past five (5) years or less than five (5) years has elapsed since the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a felony offense; or
 - 7. The applicant, an employee, or any owner has obtained any governmental permit by fraud or deceit.
- (e) *Background checks, photograph and identification tag.* In connection with the issuance of a medical marijuana permit by the city, the chief of police shall, upon verification of successful level 2 background screening, cause an identification tag to be issued to each approved applicant for a permit as well as for each owner and each employee. on the face of each identification tag, there shall be placed the following:
 - 1. A photograph of the applicant/owner/employee;
 - 2. The permit number;
 - 3. The permit holder's name and address;

4. The name and address of the medical marijuana retail center that the applicant/owner/employee represents or is employed by; and
 5. The expiration date of the permit.
- (f) *Reapplication.* If a person applies for a medical marijuana permit at a particular location within a period of one (1) year from the date of denial of a previous application for a medical marijuana permit at the location, and there has not been an intervening change in the circumstances material to the decision regarding the former reason(s) for denial, the application shall not be accepted for consideration.
- (g) *Renewal.* Medical marijuana permits shall be entitled to renewal annually subject to the provisions of this chapter. Before the October 1 expiration date, the annual medical marijuana permit may be renewed by presenting the permit for the previous year, and:
1. Paying the appropriate permit fee;
 2. Updating the information supplied with the latest application or certifying that the information supplied previously remains unchanged; and
 3. Providing proof of continued compliance with all state and city licenses, operational and zoning requirements.
- (h) *Permit transferability.*
1. The medical marijuana permit is specific to the applicant and the location and shall not be transferred.
 2. An attempted transfer of a medical marijuana permit either directly or indirectly in violation of this section is hereby declared void, and in that event the medical marijuana permit shall be deemed abandoned, and the medical marijuana permit shall be forfeited.
- (i) *Violation of regulations.* In the event of a Code violation, violation of the conditions of the medical marijuana permit or special exception approval, or other violation of the laws applicable to the medical marijuana retail center, the city shall issue a warning notice and the applicant shall, no later than twenty (20) business days after receipt of the notice, provide a copy of a corrective action plan and timeframes and completion date to address the identified issues to the city.
- (j) *Illegal transfer.* If a medical marijuana permit is transferred contrary to this chapter, the city shall suspend the medical marijuana permit and notify the permittee of the suspension. The suspension shall remain in effect until all of the requirements of this chapter have been satisfied and a new medical marijuana permit has been issued by the city.
- (k) *Grounds for revocation.* Any medical marijuana permit issued under this article shall be revoked if any one or more of the following occurs:
1. The applicant provides false or misleading information to the city;
 2. Anyone on the premises knowingly dispenses, delivers, or otherwise transfers any marijuana or marijuana product to an individual or entity not authorized by state law to receive such substance or product;
 3. The applicant, an owner or a manager is convicted of a felony offense;
 4. Any applicant, owner, manager or employee is convicted of any drug-related crime under Florida Statutes;
 5. The applicant fails to correct any City Code violation or to otherwise provide an action plan to remedy the violation acceptable to the city manager within twenty (20) days of citation;
 - 6.

The applicant fails to correct any state law violation or address any warning in accordance with any corrective action plan required by the state within the timeframes and completion date the applicant provided to the city;

7. The applicant's state license or approval authorizing the dispensing of medical marijuana expires or is revoked; or
 8. Any special exception approval granted by the city for the use of a medical marijuana retail center at a particular location expires or is revoked.
- (l) *Revocation.* In the event the city determines there are grounds for revocation as provided in this chapter, the city shall notify the permittee of the intent to revoke the medical marijuana permit and the grounds upon which such revocation is proposed. The permittee shall have ten business days in which to provide evidence of compliance with this chapter. If the permittee fails to show compliance with this chapter within ten (10) business days, the city shall schedule a hearing before the special magistrate. If the special magistrate determines that a permitted medical marijuana retail center is not in compliance with this chapter the city shall revoke the medical marijuana permit and shall notify the permittee of the revocation. nothing in this section shall take away other enforcement powers of the special magistrate or any other agency provided by the Code or statute.
- (m) *Effect of revocation.*
1. If a medical marijuana permit is revoked, the permittee shall not be allowed to obtain another medical marijuana permit for a period of two (2) years, and no medical marijuana permit shall be issued during that time period to another applicant for the location and premises upon which the medical marijuana retail center was situated.
 2. The revocation shall take effect fifteen (15) days, including Saturdays, Sundays, and holidays, after the date the city mails the notice of revocation to the permittee or on the date the permittee surrenders his or her medical marijuana permit to the city, whichever occurs first.

(Ord. No. 2014-015, § 3, 10-28-14)

Sec. 19-4. - General requirements.

Each medical marijuana retail center shall observe the following general requirements:

- (1) Conform to all applicable building statutes, codes, ordinances, and regulations, whether federal, state, or local;
- (2) Conform to all applicable fire statutes, codes, ordinances, and regulations, whether federal, state, or local;
- (3) Conform to all applicable health statutes, codes, ordinances, and regulations, whether federal, state, or local;
- (4) Conform to all applicable zoning regulations and land use laws, whether state or local, including but not limited to the City Land Development Code;
- (5) Keep the original of the medical marijuana permit posted in a conspicuous place at the premises at all times, which medical marijuana permit shall be available for inspection upon request at all times by the public.

(Ord. No. 2014-015, § 3, 10-28-14)

Sec. 19-5. - Medical marijuana permit operation requirements.

Any business operating under a medical marijuana permit shall comply with the following operational guidelines.

- (1) *Hours of operation.*
 - a. Operation is permitted only between the hours of [8:00 a.m. and 5:00 p.m. Monday through Saturday].
 - b. No operation is permitted on Sundays or state or federal holidays.
- (2) *On-site consumption of marijuana.* No medical marijuana retail center shall allow any marijuana to be smoked, ingested or otherwise consumed on the premises. The medical marijuana retail center shall take all necessary and immediate steps to ensure compliance with this paragraph. No person shall smoke, ingest or otherwise consume marijuana on the premises.
- (3) *Alcohol prohibited.* No medical marijuana retail center shall allow the sale, service, or consumption of any type of alcoholic beverages on the premises including in the surrounding rights-of-way. The medical marijuana retail center shall take all necessary and immediate steps to ensure compliance with this paragraph. No person shall consume an alcoholic beverage on the premises, including the surrounding rights-of-way.
- (4) *Outdoor activity.* There shall be no outdoor displays, sales, promotions, or activities of any kind permitted on the premises, including the surrounding rights-of-way. All activities and business shall be conducted within the confines of the permanent building containing the medical marijuana retail center.
- (5) *On-site storage.* There shall be no on-site storage of any form of marijuana or marijuana product, except as reasonably necessary for the conduct of the medical marijuana retail center's on-site business.
- (6) *Live plant materials.* No living marijuana plants are permitted on the site of a medical marijuana retail center.
- (7) *Maintenance of premises.* A medical marijuana retail center shall actively remove litter at least twice each day of operation on the premises, from the premises, the area in front of the premises, from any parking lot used by its patrons, and, if necessary, from public sidewalks or rights-of-way within one hundred (100) feet of the outer edge of the premises used by its patrons.
- (8) *Garbage.* Refuse or waste products incident to the distribution of marijuana shall be destroyed on-site at least once every twenty-four (24) hours.
- (9) *Delivery.* All deliveries to the medical marijuana retail center shall be made during regular operating hours while on-site security personnel are present.
- (10) *Security.* With the application, the applicant shall submit a security plan demonstrating compliance with F.S. § 381.986, and all other applicable statutes and State administrative rules.
 - a. In addition to proving compliance with all state requirements, the security plan shall, at a minimum, provide the following:
 1. Fully operational lighting and alarms reasonably designed to ensure the safety of persons and to protect the premises from theft, both in the premises and in the surrounding rights-of-way, including:
 - a. A silent security alarm that notifies the police department or a private security agency that a crime is taking place;
 - b. A vault, drop safe or cash management device that provides minimum access to the cash receipts; and

- c. A security camera system capable of recording and retrieving an image which shall be operational at all times during and after business hours. The security cameras shall be located:
 - (i) At every ingress and egress to the dispensary, including doors and windows;
 - (ii) On the interior where any monetary transaction shall occur; and
 - (iii) At the ingress and egress to any area where medical marijuana is stored;
- 2. Traffic management and loitering controls;
- 3. Cash and inventory controls for all stages of operation on the premises, and during transitions and delivery.
- 4. On-site armed security personnel during business hours.
- b. The chief of police shall review the applicant's operational and security plan using Crime Prevention Through Environmental Design (CPTED) principles. The chief may impose site and operational revisions as are deemed reasonably necessary for the health, safety and general welfare of the applicant, owner(s), employees, customers, adjacent property owners and residents, which may include items such as methods and security of display and storage of marijuana and cash, limitations on window and glass door signage, illumination standards, revisions to landscaping, and any other requirement designed to enhance the safety and security of the premises.
- (c) Any instance of breaking and entering at a medical marijuana retail center, regardless of whether marijuana or marijuana-based products are stolen, shall constitute a violation of this chapter if the security alarm fails to activate simultaneous with the breaking and entering.
- (11) *Odor and air quality.* A complete air filtration and odor elimination filter and scrubber system shall be provided ensuring the use will not cause or result in dissemination of dust, smoke, or odors beyond the confines of the building, or in the case of a tenant in a multi-tenant building, beyond the confines of the occupied space. A double door system shall be provided at all entrances to mitigate odor intrusion into the air outside the medical marijuana retail center.
- (12) *Delivery vehicle identification.* For security purposes, no vehicle used in the operation of or for the business purposes of a medical marijuana retail center shall be marked in such a manner as to permit identification with the medical marijuana retail center.
- (13) *Signage.* Notwithstanding other provisions of the Code, signage for a medical marijuana retail center shall be limited as follows:
 - a. Graphics, logos and symbols shall be prohibited;
 - b. Neon shall be prohibited;
 - c. Signs shall not be internally illuminated;
 - d. Signs may be externally illuminated consistent with the requirements of section 505-30, only during hours of operation;
 - e. A medical marijuana retail center shall post, at each entrance to the medical marijuana retail center the following language:
 ONLY INDIVIDUALS WITH LEGALLY RECOGNIZED MARIJUANA OR CANNABIS QUALIFYING PATIENT OR CAREGIVER IDENTIFICATION CARDS OR A QUALIFYING PATIENT'S LEGAL GUARDIAN MAY OBTAIN MARIJUANA FROM A MEDICAL MARIJUANA RETAIL CENTER.

The required text shall be in letters one-half inch in height.

- (14) *On-site community relations contact.* The medical marijuana retail center shall provide the city manager, and all property owners and tenants located within one hundred (100) feet of the entrance to its premises, with the name, phone number, and e-mail or facsimile number of an on-site community relations staff person to whom they can provide notice during business hours and after business hours to report operating problems. The medical marijuana retail center shall make every good faith effort to encourage neighbors to call this person to try to solve operating problems, if any, before any calls or complaints are made to the police department or other city officials.
- (15) *Employment restrictions.* It shall be unlawful for any medical marijuana retail center to employ any person who:
- a. Is not at least twenty-one (21) years of age; and
 - b. Has not passed a level 2 background screening.
- (16) *Persons allowed to enter the premises.*
- a. *Underage entry.* It shall be unlawful for any medical marijuana retail center to allow any person who is not at least eighteen (18) years of age on the premises during hours of operation, unless that person is authorized by state law to purchase medical marijuana, whether as a qualified patient with a valid identification card or primary caregiver or legal guardian of a qualified patient with a valid identification card.
 - b. *Entry by persons authorized by state law.* It shall be unlawful for any medical marijuana retail center to allow any person on the premises during the hours of operation if that person is not authorized by state law to be there. Authorized persons, such as owners, managers, employees and qualified registered patients, their legal guardians, qualified registered caregivers must wear an identification tag, and authorized inspectors and authorized visitors must wear a visitor identifying badge and be escorted and monitored at all times by a person who wears his or her identification tag.
- (17) *Product visibility.* No marijuana or product of any kind may be visible from any window or exterior glass door.
- (18) *Sole business.* No business other than the dispensing of medical marijuana shall be permitted to be conducted from the premises.
- (19) *Loitering.*
- a. A medical marijuana retail centers shall provide adequate indoor seating for its customers, clients, patients and business invitees.
 - b. Customers, clients, patients or business invitees shall not be directed, encouraged or allowed to stand, sit (including in a parked car for any period of time longer than reasonably required for a person's passenger to conduct their official business and depart), or gather or loiter outside of the building where the center is operating, including in any parking areas, sidewalks, rights-of-way, or neighboring properties.
 - c. Pedestrian queuing or loitering at any time, including prior to business hours, outside of the center's building is prohibited.
- (20) *Compliance with state regulations and licensure requirements.* A medical marijuana retail center must comply with all federal and state laws, licensing and regulatory requirements.
- a. A medical marijuana retail center shall notify the city within five (5) business days of receipt of any notice of violation or warning from the state or of any changes to its state licensing approvals.
 - b.

If a medical marijuana retail center receives a notice of violation or warning from the state, it shall, no later than twenty (20) business days after receipt of the notice, provide a copy of the corrective action plan and timeframes and completion date to address the identified issues to the city.

- (21) *Prohibited activities.* A medical marijuana retail center shall not engage in any activity other than those activities specifically defined herein as an authorized part of the use. The preparation, wholesale storage, cultivation, or processing of any form of marijuana or marijuana product, and on-site consumption of any marijuana or marijuana product is specifically prohibited at a medical marijuana retail center. On-site storage of any form of marijuana or marijuana product is prohibited, except to the extent reasonably necessary for the conduct of the on-site retail business.

(Ord. No. 2014-015, § 3, 10-28-14)

**ITEM
THIRTEEN**

VERBAL REPORT



MIAMI BEACH

OFFICE OF THE MAYOR AND COMMISSION

MEMORANDUM

TO: Jimmy Morales, City Manager
 FROM: John Elizabeth Alemán, Commissioner
 DATE: May 31, 2016
 SUBJECT: Agenda item for June 8, 2016 City Commission Meeting

Please place the following item on the June 08, 2016 City Commission Meeting Agenda:

Referral To The Land Use And Development Committee And The Planning Board An Amendment To Sec 142-1111 Of The City Code To Address The Eligibility Requirements For The Short-Term Rental Of Apartment Units Within The Collins Waterfront Local Historic District.

This item was on the agenda as item C4G at the 4/13/2016 Commission Meeting. **I bring this item back on the agenda for additional consideration. All of the background information may not have been readily available for the Commission to digest when it was initially reviewed in April. Furthermore, the issue may have been understood as encompassing the entire neighborhood, transforming it into a full blown transient rental district. It should be emphasized that the matter is being considered as being applicable to the current limited area of the Collins Waterfront District, which includes the Mantell Plaza.** For additional information, I include a letter to the City Commission from 47 Mantell Condominium owners and neighborhood friends regarding the altering of the building's short-term rental status.

At the 4/13/2016 Commission Meeting, Planning Department Director Thomas Mooney introduced the item. Tom explained that in 2014 the short-term rental Ordinance was amended to allow transient rentals in the Collins Waterfront Historic District, specifically geared towards the Tradewinds building complex that had been renovated. There were a list of benchmarks that needed to be addressed by that specific building. There was some confusion, however, by owners of the Mantell Plaza, across the street, and that building did not go through the necessary benchmarks that would allow the entire building to have short-term rentals. Approximately 7 apartments are currently legally used for transient rentals. The window has now passed for the Mantell Plaza to do what is necessary to allow short-term rentals, but the owners are asking to amend the Code to allow them to go through the necessary procedures to have short-term rentals.

Many residents in the Collins Waterfront Local Historic district believe that the property should be grandfathered in as a hotel or transient rental property. The majority of the Mantell Plaza's 77 units are very small, not making them ideal or readily rentable for long-term living. It should be noted that unit owners in the Mantell were under the impression that they were already legally permitted to rent units on a short term basis and were hence not given the option to comply with the same benchmarks as the Tradewinds was and to license their units at that time.

The Mantell Plaza does not include a restaurant or a bar on its property and many residents have shared a mutual belief that the renting out of these very tiny units has not led to a negative impact on the neighborhood as may be felt in other areas of our city. It is important to highlight that the Bresaro Suites currently possess a valid license acquired before February 2015 allowing the practice in the seven units they own within the Mantell Plaza and that the nearby Tradewinds Apartments Hotel, where the average studio sizes are 500 sq. ft., is also currently permitted to carry out short-term rentals.

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

Thank you!

MIAMI BEACH

Commissioner John Elizabeth Alemán

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Agenda Item C4Q
 Date 6-8-16

LUDC # 114

To: The Miami Beach Mayor Levine and City Commissioners, Steinberg, Grieco, Malakoff, Gonzalez, Arriola, and Aleman

From: The owners and neighborhood friends for fair consideration and due process for the Mantell Condominium Association, Inc., 255 W. 24th St.

RE: Item C4G on the City Commissions docket of April 13, 2016, Referral to the Land Use and Development Committee and The Planning Board, An Amendment to Sec 142-1111 of the City Code to Address The Eligibility Requirements for the Short Term Rental of Apartment Units Within the Collins Waterfront Local Historic District. (Sponsored by Commissioner Michael Grieco).

Dear Commissioners,

We the undersigned hereby request that the City Commission's vote taken on April 13, 2016, on C4G blocking review of eligibility requirements for Short Term Apartment Rentals in the Collins Waterfront District be voided. We also request then that Commissioner Grieco re-sponsor and place Item C4G appropriately on the next City Commission (Commission) agenda, as soon as possible in order that the Land Use and Development Committee and the Planning Board appropriately and fairly considers eligibility in the District as required by due process.

The Commission's abrupt and cavalier dismissal of C4G is onerous in its implications and applications to many owners in the Mantell Condominium Association (Mantell). This request is due to Commission irregularities related to a lack of due process and transparency, confusing and conflicting information, long standing short-term rental precedence at the Mantell, contradictory ordinance interpretation, and Commissioner conflict of interest. In this interim period we further request that the Commission continue to recognize the Mantell Condominium Association (Mantell) as a grandfathered exception to the provisions of the ordinance prohibiting short-term rentals, on the basis of the following:

1. City Ordinance #2015-3925 adopted February 11, 2015, page 13, lists The Mantell as "previously grandfathered for short-term rentals." The term "previously" is ambiguous in this context. If the term *previously* means *designated in the past as grandfathered and therefore exempt from RM1*, then the Commission's vote on C4G taken April 13, 2016, effectively prohibiting the Mantell from short-term rentals clearly contradicts the status and language of Ordinance #2015-3925. If "previously" means *formerly grandfathered but status changed*, then when was the status changed and under what process was the status discussed, defended and challenged – that is, was any formal process attempted or undertaken on the part of the Commission?
2. The City Commission's use of the grandfathered short-term rental status of the Mantell as the basis for opening to review and allow for the short-term

rental status of the Tradewinds Complex demonstrates the Commission's recent recognition of the Mantell's grandfathered status. If the Commission in fact got the Mantell's status wrong when approving Tradewinds then denying Mantell owners redress in the matter is also wrong. *Two wrongs don't make a right.*

3. It is understood that the seven (7) apartment units in the Mantell owned by Bresaro Suites are grandfathered under the Ordinance because they were licensed well prior to February 2015. No notice was received by the owners or the Association of the three (3) month window period regarding any altered grandfathered status of the Mantell and no indication of the consequential nature of the deadline's implications.
4. Denying review of eligibility for the Mantell effectively denies appropriate consideration of the design and living existence of this building of more than 70 years. The Mantell was built and operated as a hotel; it converted to condominium without design alteration that would provide for long-term residency or tenancy in the overwhelming majority of units. In the case of the Mantell, precedence relates to appropriate livable living intentions. Many Mantell owners purchased apartments with the intention and knowledge that they could use the units on short-term basis and rent in similar fashion to defray costs of ownership. Simply put, many of the small units in the building are not well designed for long-term tenancy; the majority are less than 300 square feet in size.
5. Letters cited "from the District" that oppose allowing the Mantell short-term rental status because it would alter the neighborhood are clearly uninformed that the Mantell has been conducting short-term rentals for over twenty years, and many years prior to that as a hotel without complaint. We have to question whether actual residents of our small-defined District (Tradewinds/Museum Walk, Mantell, Golden Gate, and 2382 Flamingo Drive) submitted these letters since those letters have not been made public.

Commissioner Malakoff made mention of several calls she had received from District neighbors opposing short-term rentals, yet failed to identify the so-called "callers" in specific number of calls, identity or residence of those individuals. The comments could only be taken as anecdotal and prejudicial.

Most notably, Commissioner Steinberg failed to declare herself in conflict and recuse herself from discussion and voting due to the fact that her mother is an owner at the Mantell.

The above factors and the specious conditions under which the Commission abruptly voted to prohibit review of the ordinance eligibility for the Mantell is the very definition of an arbitrary and capricious action. The Commission should be aware that many Mantell owners have incurred substantial monetary losses due to this action. The undersigned individuals represent years of responsible,

conscientious, tax-paying citizen ownership in the Collins Waterfront District of Miami Beach. We deserve and demand a fair, reasonable, honest and accountable hearing and response on the part of the City Commission in this matter.

Mantell owners	47 Unit(s)
Mark Schork	103
Carl Bishop & Christian Grov	107
TFT Properties	108
James Whittaker	109
Werner Dreher	136
Arthur Herrmann	207 & 342
Suhana Meharchand	208
Jack Buchman & Annette Mincer	220
FRGA Properties, One, LLC	221
Susan Rosler	222, 432 & 433
Paradise Properties America, LLC	231
Prairie Sun, LLC	233 & 304
Machefertmiami, LLC	234
Antastasia Phillips	236
Mireille Corriveau	301 & 308
Martin Hanan	303 & 320
Gerald Lapeyre & Dominique Texier	305
Christopher & Mary Breslin	321 & 322
Steve & Jane Sutton	331 & 332
Roger Besecker	334
Gail Spinelli & Rahel Schellenberg	405
Isaac Wilchfort	409
Estaban Vaquiro	421
Lina Hargrett	431
Dan Boe	435 & 503
James Hodgkin & Gretchen Merkle	440
Gretchen Merkle	441
Simon Farkas	501 & 542
Mary & Nello McDaniel	535 & 536

Bresaro Suites, 7 units currently have a license to rent

District Neighbors

Sue Breslin	Golden Gate Condominium
Paul Venette	Golden Gate Condominium

**ITEM
FOURTEEN**

VERBAL REPORT

MIAMIBEACH

OFFICE OF THE MAYOR AND COMMISSION

MEMORANDUM

TO: Jimmy L. Morales, City Manager
FROM: Joy V. W. Malakoff, Commissioner
DATE: June 7, 2016
SUBJECT: Referral to Land Use and Development Committee: Motion to explore limiting package store alcohol sales to no earlier than 10:00 a.m. as recommended by the Miami Beach Homeless Committee

Please place the above item on the Consent Agenda for the Commission Meeting of June 8, 2016.

If you have any questions, please contact me at extension 6622.

Thank you.

JVWM

