

MIAMI BEACH

Land Use and Development Committee Meeting
City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive
May 10, 2017 - 3:00 PM

LAND USE AND DEVELOPMENT COMMITTEE MEETING AGENDA COMMISSION CHAMBERS 1700 CONVENTION CENTER DRIVE 3RD FL. Wednesday, May 10, 2017, 3:00 PM

DISCUSSION ITEMS

1. Discussion: North Beach Master Plan Recommendations for the Town Center (TC) Zoning Districts
**Land Use and Development Committee
January 18, 2017 LUDC Meeting**
2. Zoning Overlay and Conservation Districts for the Entire Boundaries of the North Shore and Normandy Isles National Register Districts
**Commissioner John Elizabeth Aleman
December 9, 2016 (Item R9A)**
3. Discussion: North Beach Yard
**Commissioner Ricky Arriola
April 26, 2017 City Commission Meeting, Item R9AG**

VERBAL REPORTS

4. Discussion Pertaining to Development Regulations And Guidelines for New Construction In the Palm View Historic District To Address Resiliency, Sustainability and Adaptation.
**Commissioner Joy Malakoff
March 9, 2016 City Commission Meeting, Item C4 K (Continued from April 19, 2017)**
5. Discussion Regarding The Recommendation Of The Neighborhood/Community Affairs Committee To Establish More Aggressive Requirements For Employee Transportation Plans.
**City Commission
June 8, 2016 City Commission Meeting, Item R7 X (Continued from March 8, 2017)**
6. Discussion Regarding Adaptive Reuse Along The Tatum Waterway.
**Commissioner Ricky Arriola
April 26, 2017 City Commission Meeting, Item C4 X**

ADDENDUM

7. Ordinance Clarifying that Entertainment is Not Permitted in the City's Performance Standard Districts
**Commissioner Michael Grieco
April 26, 2017 City Commission Meeting, Item C4O**
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Item 1. **COMMITTEE MEMORANDUM**

TO: Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager

DATE: May 10, 2017

TITLE: **DISCUSSION: NORTH BEACH MASTER PLAN RECOMMENDATIONS FOR THE TOWN CENTER (TC) ZONING DISTRICTS**

HISTORY:

On January 18, 2017, the Land Use and Development Committee requested that a separate discussion item be placed on the February 15, 2017 agenda regarding regulations for the Town Center area as recommended in the North Beach Master Plan.

On February 15, 2017 the Land Use Committee discussed the item and continued it to April 19, 2017. Additionally, the Land Use Committee recommended that the North Beach Steering Committee discuss the item and address the following:

- Revisit the original 2014 Town Center FAR Analysis by Allan Shulman;
- Discuss the appropriate manner for establishing a valuation of FAR units;
- Further discuss the potential for an FAR pool administered by a trust fund and grant committee.

On April 19, 2017 the Land Use Committee discussed the item and continued it to a date certain of May 10, 2017.

Analysis

On October 19, 2016, the City Commission approved the North Beach Master Plan that was prepared by Dover Kohl and Partners. The North Beach Master Plan recommended several changes to the zoning regulations for the North Beach Town Center (TC-1) District. The recommendations are the following, which are primarily related to height and FAR:

1. Consider increasing the height limit for properties within the Town Center. To begin with, height should be increased to 125 feet; this will allow a slender tower. Keeping the height lower will yield “boxy” buildings that block out a large portion of the sky as opposed to a smaller vertical portion of the sky.
2. As an alternative to height as measured in feet, consider changing the height requirement as measured in the number of stories. A height limit measured in feet may penalize a developer who wants to provide luxury units with a higher floor to ceiling height. Other communities such as Miami

and Miami-Dade County have ordinances that define a story as no taller than 14 feet and then there is cap in the number of stories. If a building has a floor taller than that, it counts as two stories. Most codes that regulate height in this manner allow at least one story to have a higher floor to ceiling height to accommodate retail spaces on the ground floor.

3. Change the restrictions to enable larger buildings in the Town Center. Since FAR is used as a massing limit that does not describe building form in any way, most communities that want more control over the form of future growth remove it as a criteria and use only limitations in height accompanied by setbacks on the ground, and vertical setbacks on upper floors. Based on the heights shown in the 'North Beach: Town Centre District Intensity Increase Study' conducted by Shulman + Associates in 2014, the community should consider using parameters based on this study. Heights could be increased to 12 stories maximum along 71st Street. If FAR must remain as a criteria in the zoning ordinance, then it should be increased to 3.5. A regulatory change of this kind will require a referendum.

4. If the community is increasing the FAR, then at the same time the boundaries of the zones: TC-1, TC-2, and TC-3 could be combined into one 'Town Center (TC)' district.

The primary difference between these zones is a variation in FAR and height limits, yet almost all of the other rules are the same, irrespective of a property's TC designation. Given that some of the boundaries are very close together, simplifying the design parameters will save time for both applicants and the City. If the community still feels that there should be some variation in height based on geographic location, then a separate regulating map can be created to identify height limits within the combined Town Center District.

5. Consider standardizing FAR limits for all lot sizes. In Sec. 142-737. (a), "Development Regulations", of City's Code of Ordinances, Chapter 142, Zoning Districts, Division 20, there is a table that specifies FAR limits. In TC-1, the FAR varies based on lot size. This is a system that rewards those who have aggregated multiple parcels and penalizes the small lot owner. If changes to the heights are modified, then this table will need to be adjusted accordingly. And, if the TC zones are consolidated, the table could be collapsed into a paragraph of text or into a smaller table.

6. Consider using a TDR program to transfer surplus air rights from historic properties to the Town Center. This will require a revision to the City's existing code of Ordinances, Sec. 118-222, "Transfer of Development Rights", to list the Town Center as a receiving district.

7. The City could consider attaching requirements for the use of a Transfer of Development Rights program. For instance, the City can create an inclusionary zoning mechanism that would require a developer to allocate a certain percentage of units at below market-rate in exchange for the additional FAR, so as to increase the supply of affordable housing. This is one example of how a transfer of development rights might work; there are several other options. It is recommended that the exact system for implementing a transfer of development rights is studied further, in order to incorporate the system into local ordinances.

8. The City could use a Historic Preservation Fund to sell bonus FAR to developers, and use those funds to fund grants to property owners to help restore historic elements of their buildings or

help adapt the structures for SLR.

On September 14, 2016, the City adopted an amendment to the Land Development Regulations that implemented the first recommendation regarding the modification to height. The second recommendation is listed as an alternative to the first recommendation and may not require action at this time.

The remaining recommendations (3 through 8) are related to an increase in FAR of the Town Center area that would require approval in a general referendum, pursuant to the requirements of Section 1.03 (c) of the City Charter.

SUMMARY

On April 6, 2017, the North Beach Master Plan Steering Committee discussed the item and recommended that the following:

1. Adopt the setback proposals from the 2014 Allan Shulman Massing Study.
2. Between Dickens and Abbott Avenues, expand the TC-1 zoning district boundaries north to 72nd Street to replace the existing TC-3(c) district boundaries.
3. Between Carlyle Avenue / Indian Creek Drive and Harding Avenue, expand the TC-1 zoning district boundaries south to 69th street to replace the existing TC-3 and TC-3(c) boundaries. As part of this TC-1 expansion, include a minimum required setback from 69th street of at least 50' for building height in excess of 4 stories / 45'.
4. The City should use a Historic Preservation Fund to sell bonus FAR to developers, and use those funds to fund grants to property owners to help restore historic elements of their buildings or help adapt the structures for SLR.
5. The maximum FAR for any proposed increase within a particular district should be 3.5, with added FAR as a bonus.

It should be noted that recommendations 2 – 5 above are related to an increase in FAR that would require approval in a general referendum, pursuant to the requirements of Section 1.03 (c) of the City Charter.

CONCLUSION:

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

ATTACHMENTS:

Description	Type
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No Attachments Available

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Item 2. **COMMITTEE MEMORANDUM**

TO: Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager

DATE: May 10, 2017

TITLE: ZONING OVERLAY AND CONSERVATION DISTRICTS FOR THE ENTIRE BOUNDARIES OF THE NORTH SHORE AND NORMANDY ISLES NATIONAL REGISTER DISTRICTS

HISTORY:

On October 11, 2016, the Historic Preservation Board (HPB) reviewed preliminary evaluation reports for the proposed North Shore and Normandy Isles Local Historic Districts. The HPB recommended Historic Designation Reports be prepared in accordance with the boundaries recommended in the North Beach Master Plan.

On December 9, 2016, the Mayor and City Commission held a Special City Commission meeting and modified the boundaries of the proposed Local Historic Districts recommended by the Historic Preservation Board. Additionally, at the request of Commissioner John Elizabeth Alemán, the City Commission referred a discussion regarding a zoning overlay and conservation districts for the North Shore and Normandy Isles National Register Districts to the Land Use and Development Committee (Item R9A).

On January 18, 2017 the Land Use and Development Committee discussed the first draft agenda item prepared by staff. The item was continued to a date certain of February 15, 2017. On February 15, 2017 the item was continued to a date certain of March 8, 2017. The Committee also referred the item to the North Beach Master Plan Steering Committee for further discussion and recommendation.

The North Beach Master Plan Steering Committee discussed the proposed Overlay Ordinance on February 24, 2017. On March 8, 2017, an update on the discussion at the Steering Committee was provided to the LUDC, and the item was continued to the April 19, 2017 Land Use Committee meeting. On April 19, 2017, the item was continued to the May 10, 2017 Land Use Committee meeting.

On March 10, 2017 and April 6, 2017, the North Beach Master Plan Steering Committee further discussed the proposal. On April 27, 2017, the Steering Committee met and adopted specific recommendations, which are included in the attached May 1, 2017 summary memo from the Planning Director to the Steering Committee.

BACKGROUND

The "Normandy Isles National Register District" was listed on the National Register of Historic

Place on November 12, 2008. This district is generally bounded by Biscayne Bay to the south, Ray Street, Rue Notre Dame and Rue Versailles to the west, Normandy Shores Golf Course to the north, and the western bulkhead of Indian Creek to the east.

The “North Shore National Register District” was listed on the National Register of Historic Places on November 18, 2009. This district is generally bounded by 73rd Street to the south, Dickens Avenue, Hawthorne Avenue and Crespi Boulevard to the west, 87th Street to the north, and Collins Court to the east.

Each of these National Register Districts has a designation report, which contains detailed information and data on the history, architecture and building types in the district. Additionally, a comprehensive local historic district designation report, for the local district boundaries authorized by the City Commission, is being prepared by Planning Department staff.

Analysis

The proposed ordinance would create an overlay for the RM-1 zoning district within the North Beach National Register Districts. The proposed Conservation District overlay is comprised of area specific regulations that are intended to incentivize the retention of existing ‘Contributing’ buildings, as well as ensure that new infill buildings are compatible with their surroundings. The proposed draft ordinance includes specific development regulations for:

- Lot area and width;
- Lot aggregation;
- Unit size requirements;
- Off-street parking;
- Building heights and roof-top additions;
- Setbacks
- Design and resiliency standards.

The proposal varies slightly from a traditional ‘Neighborhood Conservation District’ (NCD), as the same development regulations and standards that would be part of an NCD would be implemented in the form of a zoning overlay. This overlay would be applicable to the entire boundary of each National Register District, regardless of whether the property is located inside or outside of a locally designated historic district.

The reason for this approach is to apply consistent standards for new construction within the entirety of the National Register District boundaries, including the areas being considered for local historic designation. This will ensure cohesion of future development within the larger National Register areas.

Additionally, demolition standards, as well as incentives for the retention of ‘Contributing’ buildings, are proposed. The following is a summary of such demolition standards and incentive proposals, which were contained within the first draft of the ordinance:

- Demolition of contributing structures within the overlay shall not be permitted for purposes of creating a vacant lot or a surface parking lot.
- For the demolition of a ‘Contributing Building’, no demolition permit shall be issued prior to the

review and approval for the new construction or site improvements by the Design Review Board (DRB) or Historic Preservation Board (HPB) as applicable, and until certain minimum criteria are satisfied.

- The minimum and average unit size is reduced for sites containing a 'Contributing' buildings, as well as additions to 'Contributing' buildings which are substantially retained and restored.
- For existing apartment, apartment-hotel and hotel buildings, which are classified as 'Contributing' and which are being substantially retained, preserved and restored, there is no parking requirement for the existing structure, and any new additions, whether attached or detached, regardless of lot width and number of units.
- For properties that contain at least one 'Contributing' building, the maximum building height can be up to five stories and 60 feet for the lot depth in excess of 30 feet from the front setback, provided that at least 33% of the existing 'Contributing' building, as measured from the front elevation, is substantially retained and restored.
- Up to two-story rooftop additions to existing 'Contributing Buildings' may be approved at the administrative level when the construction does not call for the demolition of original significant architectural features and a minimum of 75 percent of the front and street side building elevations are retained.
- For rooftop additions located on 'Contributing' buildings, any non-conforming interior side or rear setback may be extended to the new construction.
- For properties that contain at least one 'Contributing' building, the aggregation of 3 lots may be proposed, provided that at least 33% of all existing 'Contributing' buildings, as measured from the front elevation, are substantially retained and restored.

SUMMARY

The initial draft of the overlay ordinance presented to the Land Use Committee on January 18, 2017 was the first step in a comprehensive process for creating tangible development regulations for the larger North Beach National Register areas. As indicated previously, and reiterated on multiple occasions, the Administration believes that continued stakeholder input, including the Master Plan Steering Committee, residents, property owners and businesses, will be beneficial to the continued refinement of these regulations.

On January 18, 2017, the item was discussed in detail and substantial public input was provided. Pursuant to this discussion, and the feedback from the Land Use Committee, the following updates were incorporated into a slightly revised draft ordinance, which was reviewed by the Land Use Committee on February 15, 2107:

1. The CD-1 districts located within the National Register Boundaries have been included;
2. The lot aggregation regulations have been further tightened to only permit the aggregation of a third lot when a contributing building is substantially retained;

3. Latitude has been provided for the DRB/HPB to waive roof encroachments of stair and elevator bulkheads.

On February 8, 2017, the City Commission authorized the Administration to engage the North Beach Master Planner (Dover-Kohl) in a review and assistance capacity for the conservation overlay district ordinance. Staff engaged Dover-Kohl in this regard, and as part of the evaluation by the North Beach Master Plan Steering Committee. Dover-Kohl participated in staff discussions regarding the ordinance, attended meetings of the North Beach Master Plan Steering Committee, and put together a series of drawings and renderings illustrating existing conditions and the impact of the proposed conservation district regulations. These drawings and illustrations are attached.

On February 24, 2017, the North Beach Master Plan Steering Committee convened and discussed the draft ordinance proposal. The Steering Committee continued the discussion to March 10, 2017, and recommended that the following issues be further addressed:

- Removing the Commercial Districts (CD-2) from the overlay regulations;
- Further study of the proposal to reduce minimum unit size requirements, particularly the allowance of 300 square feet within contributing buildings;
- Identifying different setback requirements for the various neighborhoods, including view corridors for waterfront properties, as well as establishing minimum lot coverage requirements;
- Summarizing the proposed Incentives and presenting them in one document for purposes of review and comment;
- Creating visual illustrations for different off-street parking options.
- A presentation by the City Engineer regarding how streets and sidewalks will be elevated within the overlay area.

The Steering Committee discussed the proposal, including the above noted issues, on March 10, 2017, and continued the discussion to their April 6, 2017 meeting. On April 6, 2017, the Steering Committee discussed the conservation district briefly and, due to time limits, continued their discussion of the proposal to April 27, 2017.

NORTH BEACH MASTER PLAN STEERING COMMITTEE RECOMMENDATIONS:

On April 27, 2017, the Steering Committee discussed the proposed overlay and adopted a number of recommendations. These specific recommendations have been summarized in the attached May 1, 2017 memo from the Planning Director to the Steering Committee members.

UPDATE

Staff has, and will continue to have meetings and dialogue with all interested stakeholders with regard to the proposed legislation, in order to provide as much information, clarity and transparency as possible. On April 3, 2017, at the invitation of the North Beach Alliance, the Planning Director made a presentation regarding the proposed ordinance and participated in a question and answer session.

The items outlined in the attached May 1, 2017 memo that were recommended by the Steering Committee have been included in the revised draft ordinance for consideration by the Land Use Committee. For the 'Courtyards' and 'Lot Coverage' items, where consensus was not reached, and no recommendation was made, they were not included in the draft ordinance.

CONCLUSION:

The Administration recommends that the Land Use Committee discuss the proposal further, including the recommendations of the North Beach Master Plan Steering Committee outlined in the attached May 1, 2017 memo. If there is consensus on the item, it is further recommended that the Land Use Committee transmit the revised draft Conservation District Overlay Ordinance, with any additional recommended changes, to the City Commission for referral to the Planning Board.

Additionally, the following is recommended as it pertains to Parking, Courtyards and Lot Coverage:

1. Parking:

In the event that the Land Use Committee recommends that new construction and additions to non-contributing buildings contain a minimum off-street parking requirement, regardless of lot width or number of units, the following is suggested:

- All parking shall be located at grade; no ramps or parking above the first floor shall be permitted. However, mechanical lifts may be proposed at the first level, provided all lifts are fully screened from view and not visible from adjacent properties, the public ROW or any waterfront.
- All parking and driveway surface areas shall be composed of pervious material such as concrete or grass pavers, set in sand;
- Required wheel stops shall be low profile and not exceed 5 feet in width;
- All parking areas shall meet minimum front and rear yard setback requirements for buildings;
- A maximum of one driveway curb cut per development site may be permitted, and the maximum width of such driveway curb cut shall not exceed 10 feet;
- On waterfront lots, parking areas shall only be secured by substantially open, picket fencing within required front yards and rear waterfront yards;
- Landscaping within view corridors, with the exception of canopy trees, shall be maintained at a height not to exceed 3 feet from sidewalk elevation;

The above noted parking standards could also be included regardless of whether parking is required or not.

2. Courtyards:

In the event a requirement for courtyard standards is recommended by the Land Use Committee, it is suggested that such courtyard requirement be limited to aggregated lots, and that a reduction in the minimum interior side yard be included (e.g. 5 feet).

3. Lot Coverage:

The Administration recommends that a lot coverage requirement not be imposed at this time.

ATTACHMENTS:

Description	Type
□ Draft NCD Ordinance - May 10 2017	Memo
□ May 1 2017 Memo to Steering Committee	Memo
□ Dover Kohl Diagrams	Memo
□ Dover Kohl - Elevations	Memo
□ Dover Kohl - Perspectives	Memo

**NORTH BEACH NATIONAL REGISTER CONSERVATION DISTRICT
OVERLAY**

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," BY AMENDING ARTICLE II, "DISTRICT REGULATIONS", DIVISION 3 "RESIDENTIAL MULTIFAMILY DISTRICTS", SUBDIVISION II, "RM-1 RESIDENTIAL MULTIFAMILY LOW INTENSITY", BY AMENDING SECTION 142-155 TO REFERENCE THE NORTH BEACH NATIONAL REGISTER CONSERVATION OVERLAY; BY AMENDING ARTICLE III, "OVERLAY DISTRICTS," BY CREATING DIVISION 12, "NORTH BEACH NATIONAL REGISTER CONSERVATION DISTRICT OVERLAY" TO MODIFY THE APPLICABLE DEVELOPMENT REGULATIONS; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS,

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 3 "Residential Multifamily Districts", Subdivision II, "RM-1 Residential Multifamily Low Intensity", is hereby amended as follows:

Sec. 142-155. - Development regulations and area requirements.

(a) The development regulations in the RM-1 residential multifamily, low density district are as follows:

* * *

(4) For properties located in the North Shore and Normandy Isles National Register Historic Districts, see Chapter 142, Article III, Division 12.

SECTION 2. Chapter 142, "Zoning Districts And Regulations," Article III, "Overlay Districts", Division 12 "North Beach National Register Overlay" is hereby created as follows:

DIVISION 12. NORTH BEACH NATIONAL REGISTER CONSERVATION DISTRICT OVERLAY

Sec. 142-880. Location and purpose

(a) The overlay regulations of this division shall apply to all new and existing properties located in the RM-1 Residential Multifamily Low Intensity zoning district, which are located within the boundaries of either the North Shore

National Register Historic District or the Normandy Isles National Register Historic District.

- (b) In the event of a conflict with the regulations of the underlying RM-1 zoning district, the provisions herein shall control.
- (c) The purpose of this overlay district is to:
 - 1. Provide land-use regulations that encourage the retention and preservation of existing 'Contributing' buildings within the National Register Districts.
 - 2. To promote walking, bicycling and public transit modes of transportation.
 - 3. To ensure that the scale and massing of new development is consistent with the established context of the existing residential neighborhoods and maintains the low-scale, as-built character of the surrounding neighborhoods.

Sec. 142-881. Compliance with regulations

- (a) Applications for a building permit shall be reviewed and approved in accordance with all applicable development procedures specified in chapter 118.
- (b) Existing structures shall be rehabilitated in general accordance with the Post-War Modern / MiMo Design Guidelines as adopted by the Design Review Board and Historic Preservation Board.
- (c) The Demolition of buildings within the North Beach National Register Overlay, not located within a local historic district or site, shall comply with the following:
 - 1. The demolition of a 'Contributing' building shall not be permitted for purposes of creating a vacant lot or a surface parking lot.
 - 2. No demolition permit for a 'Contributing' building shall be issued prior to the review and approval for the new construction or site improvements by the Design Review Board (DRB), and until all of the following criteria are satisfied:
 - i. The issuance of a building permit process number for the new construction;
 - ii. The building permit application and all required plans for the new construction shall be reviewed and approved by the Planning Department;
 - iii. 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;
 - iv. A tree survey, if required, shall be submitted and a replacement plan, if required, shall be reviewed and approved by the Greenspace Management Division;
 - v. All debris associated with the demolition of the structure shall be recycled, in accordance with the applicable requirements of the Florida Building Code.

3. The aforementioned demolition requirements shall not supersede the regulations and requirements set forth in Chapter 118, Article X. In the event of a conflict, the regulations in Chapter 118, Article X shall control.

Sec. 142-882. Development regulations and area requirements.

The following overlay regulations shall apply to the North Beach National Register Overlay. All development regulations in the underlying CD-1 and RM-1 regulations shall apply, except as follows:

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

<u>Minimum Developable Lot Area (Square Feet)</u>	<u>Minimum Developable Lot Width (Feet)</u>	<u>Maximum Developable Lot Area (Square Feet)</u>	<u>Maximum Developable Lot Width (Feet)</u>	<u>Maximum Developable Aggregation (Platted Lots)</u>
<u>5,000 SF</u>	<u>50 feet</u>	<u>15,000 SF</u>	<u>150 feet</u>	<u>Subject to Sec. 142-883 2/3 if there is at least one 'Contributing' building and all 'Contributing' buildings on the aggregated site are substantially retained and restored. There shall be no variances from this maximum lot aggregation restriction.</u>

- (b) The unit size requirements for the North Beach National Register Overlay district are as follows:

<u>Minimum Developable Unit Size (Square Feet)</u>	<u>Average Developable Unit Size (Square Feet)</u>

<u>New construction—400</u>	<u>New construction—500</u>
<u>Non-elderly and elderly low and moderate income housing: See section 142-1183</u>	<u>Non-elderly and elderly low and moderate income housing: See section 142-1183</u>
<u>'Contributing' buildings which are substantially retained and restored—300</u>	<u>'Contributing' buildings which are substantially retained and restored —400</u>
<u>Additions to 'Contributing' buildings which are substantially retained and restored - 300.</u>	<u>Additions to 'Contributing' buildings which are substantially retained and restored - 400.</u>

(c) Notwithstanding the requirements in Chapter 130, the off-street parking requirements for the North Beach National Register Overlay district are as follows:

(1) Apartment building and apartment-hotel:

- a. Buildings on lots that are 60 feet in width or less: 0 spaces per unit.
- b. Buildings on lots that are greater than 60 feet in width: 1 space per unit. In the event that the property owner can substantiate that the proposed new construction will not need to provide off-street parking, the design review board or historic preservation board, as applicable, may waive the parking requirement.
- c. Development sites with 6 units or less, regardless of lot width: 0 spaces per unit.
- d. For existing apartment, apartment-hotel and hotel buildings, which are classified as 'Contributing' and of which at least 75% of the front and street side elevations, and 25% of interior side elevations, are substantially retained, preserved and restored, there shall be no parking requirement for the existing structure, and any new additions, whether attached or detached, regardless of lot width and number of units. Any proposed addition to the existing structure shall be subject to the review and approval of the Design Review Board or Historic Preservation Board, whichever has jurisdiction, and shall include a renovation plan for the existing structure that is fully consistent with the Secretary of the Interior Guidelines and Standards for the Rehabilitation of Historic Buildings.
- e. Any building or structure erected in the North Beach Overlay District may provide required parking on site as specified in Parking District No. 1. Such required parking, if provided, shall be exempt from FAR, in accordance with the regulations specified in chapter 114 of these land development regulations.

(2) All other uses shall follow the parking requirements set forth in chapter 130.

(d) The height requirements for RM-1 properties within the North Beach National Register Overlay district are as follows:

1. For properties with a lot depth of 126 feet or greater, the maximum building height for new construction shall be 3 stories / 30 feet for the first 30 feet of building depth, as measured from the minimum required front setback and a maximum of 4 stories / 40 feet for the remainder of the lot depth. For properties that contain at least one 'Contributing' building, and provided that at least 50% of ALL existing 'Contributing' buildings on site, as measured from the front elevation, are substantially retained and restored, the following shall apply for the remainder of the building depth beyond 30 feet:
 - a. A maximum of 5 stories and 50 feet may be permitted on **non-waterfront** lots by the DRB or HPB for the remainder of the lot depth.
 - b. A maximum of 5 stories and 60 feet may be permitted on **waterfront** lots by the DRB or HPB for the remainder of the lot depth.

2. For properties with a lot depth of 125 feet or less, the maximum building height for new construction shall be 3 stories / 30 feet for the first 25 feet of building depth, as measured from the minimum required front setback and a maximum of 4 stories / 40 feet for the remainder of the lot depth. For properties that contain at least one 'Contributing' building, and provided that at least 50% of ALL existing 'Contributing' buildings on site, as measured from the front elevation, are substantially retained and restored, the following shall apply for the remainder of the building depth beyond 25 feet:
 - a. A maximum of 5 stories and 50 feet may be permitted on **non-waterfront** lots by the DRB or HPB for the remainder of the lot depth.
 - b. A maximum of 5 stories and 60 feet may be permitted on **waterfront** lots by the DRB or HPB for the remainder of the lot depth.

3. In the event that the existing building exceeds 30 feet in height, that existing height shall control.

4. Rooftop additions to existing 'Contributing' buildings may be reviewed and approved at the administrative level, in accordance with the following:
 - a. The proposed roof-top addition shall not exceed one story, with a maximum floor-to-ceiling height of 10 feet.
 - b. There shall be no demolition of original significant architectural features, as determined by the Planning Director or designee.
 - c. The subject roof-top addition shall be setback a minimum of 20 feet from the front façade.
 - d. A minimum of 75 percent of the front and street side building elevations shall be retained.

e. In the event of a conflict with the requirements of chapter 118, article X, the requirements of chapter 118, article X shall control.

5. Elevator and stairwell bulkheads extending above the main roofline of a building shall be required to meet the line-of-sight requirements set forth in section 142-1161 herein and such line-of-sight requirement, unless waived by either the historic preservation board or design review board, as may be applicable.

6. Shade structures, including awnings, trellises and canopies may be permitted as an allowable height exception, provided they do not exceed 10 feet in height above the associated roof deck, and shall be subject to the review and approval of the historic preservation board or design review board, as applicable.

(e) The setback requirements for the pedestal portions of all buildings located in the RM-1 district within the North Beach National Register Overlay district are as follows.

	<u>Front</u>	<u>Interior Side</u>	<u>Street Side</u>	<u>Rear</u>
<u>North Shore</u>	10 feet	<p>Non-Waterfront: Lot width of 60 feet or less: 5 feet. Lot width of 61 feet or greater: 7.5 feet, or 8% of lot width, whichever is greater.</p> <p>Waterfront: 7.5 feet, or 8% of lot width, whichever is greater. Additionally, regardless of lot width, at least one interior side shall be 10 feet or 10% of lot width, whichever is greater.</p>	5 feet	Non waterfront lots - 5 feet Waterfront lots – 10% of lot depth
<u>Biscayne Beach</u>	10 feet	<p>Non-Waterfront: Lot width of 60 feet or less: 5 feet. Lot width of 61 feet or greater: 7.5 feet, or 8% of lot width, whichever is greater.</p> <p>Waterfront: 7.5 feet, or 8% of lot width, whichever is greater.</p>	5 feet	10% of lot depth

		Additionally, regardless of lot width, at least one interior side shall be 10 feet or 10% of lot width, whichever is greater.		
<u>Normandy Isle and Normandy Shores</u>	20 feet Waterfront: 25 Feet	Non-Waterfront: Lot width of 60 feet or less: 5 feet. Lot width of 61 feet or greater: 7.5 feet, or 8% of lot width, whichever is greater. Waterfront: 7.5 feet, or 8% of lot width, whichever is greater. Additionally, regardless of lot width, at least one interior side shall be 10 feet or 10% of lot width, whichever is greater.	5 feet	5 feet Waterfront: 10% of lot depth, maximum 20 feet

- (1) Setbacks for at-grade parking and subterranean levels, if permitted, shall be the same as set forth in Section 142-156.
- (2) Notwithstanding the above, for rooftop additions located on 'Contributing' buildings, any non-conforming interior side or rear setback may be extended to the new construction.

Sec. 142-883. Lot Aggregation Guidelines.

- (a) Where a development is proposed on two lots, new construction shall acknowledge the original platting of the assembled parcels through architectural treatment within the building's façade.
- (b) Where a development is proposed on three lots, there shall be at least one 'Contributing' structure. Additionally, the following shall be required:
 1. At least 33% of all existing 'Contributing' buildings, as measured from the front elevation, shall be substantially retained and restored.
 2. New construction shall acknowledge the original platting of the assembled parcels through architectural treatment within the building's façade.
 3. A view corridor though the parcel, open to the sky, shall be required above the 2nd floor of the building.
 4. The width of any new building shall not exceed 85 feet.
 5. A courtyard or semi-public outdoor area, comprised of at least 500 square feet, shall be required. Private terraces at the ground level may be

included within this 500 square feet, provided individual units can be accessed directly from the exterior of the terrace.

Sec. 142-884. Design and Resiliency Standards.

- (a). All levels of an existing structure located below Base Flood Elevation plus 1 foot (BFE +1') may be repurposed with non-habitable uses.
- (b). Subterranean levels shall only be permitted in the event that the space is purposed and designed as part of a storm water management plan, including but not limited to storm water collection and cisterns for reuse of captured water.
- (c). All dwelling units in new construction shall be designed to incorporate exposure to natural light from at least two elevations of the building volume.
- (c). New construction shall be designed to incorporate naturally landscaped areas at the ground level, which is equal to or greater than 5% of the total lot area.
- (d). For new construction using common vertical circulation and access corridors, a non-emergency, convenience stair, accessing all residential floors, shall be required. Such stair shall be designed in an open manner, and shall connect directly to the exterior of the building, or to the entrance lobby.
- (e). For raised yards requiring a retaining wall, the exterior of such wall, on all sides, shall be designed and finished in a manner that result in a high quality appearance when seen from adjoining properties.

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 _____, 2017.

Philip Levine
Mayor

ATTEST:

Rafael E. Granado
City Clerk

First Reading: _____, 2017
Second Reading: _____, 2017

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

M:\\$CMB\CCUPDATES\Land Use and Development Committee\2017\May 10, 2017\North Beach NR NCD Overly
Regulations - ORD May 2017 LUDC.docx

MIAMI BEACH

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

COMMITTEE MEMORANDUM

TO: North Beach Master Plan Steering Committee

FROM: Thomas R. Mooney, AICP
Planning Director



DATE: May 1, 2017

SUBJECT: **Proposed National Register Conservation District Overlay for the North Shore and Normandy Isles - Summary of April 27, 2017 Recommendations of the North Beach Master Plan Steering Committee.**

The North Beach Master Plan Steering Committee discussed the proposed National Register Conservation District Overlay Ordinance on April 27, 2017. The following is a summary of the pertinent areas of the proposed regulations that have previously been discussed at the Steering Committee, as well as those proposed by the Planning Department. The recommendations of the Steering Committee are contained within each category.

PARKING FOR APARTMENT BUILDING AND APARTMENT-HOTEL:

Planning Staff Recommendations:

- Buildings on lots that are 60 feet in width or less: 0 spaces per unit.
- Buildings on lots that are greater than 60 feet in width: 1 space per unit. The design review board or historic preservation board, as applicable, may waive the parking requirement.
- Development sites with 6 units or less, regardless of lot width: 0 spaces per unit.
- Existing 'Contributing' buildings that are being substantially retained, including any additions: 0 spaces per unit.
- Any building or structure erected in the North Beach Overlay District may provide required parking on site as specified in Parking District No. 1. Such required parking, if provided, shall be exempt from FAR.

Optional Parking Requirement:

If it is recommended that new construction and additions to non-contributing buildings contain a minimum off-street parking requirement, regardless of lot width or number of units, the following is suggested:

- All parking shall be located at grade; no ramps or parking above the first floor shall be permitted. However, mechanical lifts may be proposed at the first level, provided all lifts are fully screened from view and not visible from adjacent properties, the public ROW or any waterfront.
- All parking and driveway surface areas shall be composed of pervious material such as concrete or grass pavers, set in sand;
- Required wheel stops shall be low profile and not exceed 5 feet in width;
- All parking areas shall meet minimum front and rear yard setback requirements

for buildings;

- A maximum of one driveway curb cut per development site may be permitted, and the maximum width of such driveway curb cut shall not exceed 10 feet;
- On waterfront lots, parking areas shall only be secured by substantially open, picket fencing within required front yards and rear waterfront yards;
- Landscaping within view corridors, with the exception of canopy trees, shall be maintained at a height not to exceed 3 feet from sidewalk elevation;

Steering Committee Recommendation: Adopt the proposal recommended by Planning Department Staff.

LOT AGGREGATION:

Planning Staff Recommendations:

- Lot aggregation limited to a maximum of 2 platted lots (new construction shall acknowledge the original platting of the assembled parcels through architectural treatment within the building's façade).
- An additional lot could be added for a total of 3 aggregated platted lots, under the following circumstances:
 - At least 33% of all existing 'Contributing' buildings, as measured from the front elevation, must be substantially retained and restored.
 - New construction shall acknowledge the original platting of the assembled parcels through architectural treatment within the building's façade.
 - A view corridor though the parcel, open to the sky, shall be required above the 2nd floor of the building.
 - The width of any new building shall not exceed 85 feet.
 - A courtyard or semi-public outdoor area, comprised of at least 500 square feet, shall be required. Private terraces at the ground level may be included within this 500 square feet, provided individual units can be accessed directly from the exterior of the terrace

Steering Committee Recommendation: Adopt the proposal recommended by Planning Department Staff.

COURTYARDS:

Planning Staff Recommendations:

- Where a development is proposed on a combination of more than one lot, that contains a 'contributing building' with an existing courtyard, no new construction shall be permitted within the existing historic courtyard. For purposes of this subsection, a courtyard shall be defined as a grade level space, open to the sky, which is enclosed on at least two sides by an existing building or structure on the same property or by pairs of individual buildings that face each other and is an established architectural or historic component of the site or building design by virtue of significant features and/or finishes, including, but not limited to, paving patterns, fountains, terraces, walkways or landscaping. This shall not apply to individual adjacent buildings that contain different and/or distinct architectural designs on separate lots that are separately owned that may create the appearance of a common courtyard between them.
- Where a development is proposed on a combination of more than one lot that

contains a 'contributing building' with an existing courtyard, no division of land/lot split may occur.

- The retention of existing open courtyards within waterfront lot aggregations may count towards a "Sliding Scale of Retention" for contributing buildings; this may consist of a 35%-45%-60% minimum retention sequence when more than one 'contributing structure' is in the waterfront lot aggregation.

Steering Committee Recommendation: NO RECOMMENDATION.

SETBACKS:

Planning Staff Recommendations:

- For rooftop additions located on 'Contributing' buildings, any non-conforming interior side or rear setback may be extended to the new construction.
- Minimum Setback Requirements:

	<u>Front</u>	<u>Interior Side</u>	<u>Street Side</u>	<u>Rear</u>
<u>North Shore</u>	10 feet	<p>Non-Waterfront: Lot width 60 feet or less: 5 feet. Lot width 61 feet or greater: 7.5 feet, or 8% of lot width, whichever is greater.</p> <p>Waterfront: 7.5 feet or 8% of lot width, whichever is greater; Additionally, at least one interior side shall be 10 feet or 10% of lot width, whichever is greater.</p>	5 feet	<p>Non waterfront lots - 5 feet Waterfront lots – 10% of lot depth</p>
<u>Biscayne Beach</u>	10 feet	<p>Non-Waterfront: Lot width 60 feet or less: 5 feet. Lot width 61 feet or greater: 7.5 feet, or 8% of lot width, whichever is greater.</p> <p>Waterfront: 7.5 feet or 8% of lot width, whichever is greater; Additionally, at least one interior side shall be 10 feet or 10% of lot width, whichever is greater.</p>	5 feet	10% of lot depth

<p><u>Normandy Isle and Normandy Shores</u></p>	<p>20 feet Waterfront: 25 Feet</p>	<p>Non-Waterfront: Lot width 60 feet or less: 5 feet. Lot width 61 feet or greater: 7.5 feet, or 8% of lot width, whichever is greater. Waterfront: 7.5 feet or 8% of lot width, whichever is greater; Additionally, at least one interior side shall be 10 feet or 10% of lot width, whichever is greater.</p>	<p>5 feet</p>	<p>5 feet Waterfront: 10% of lot depth, maximum 20 feet</p>
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Steering Committee Recommendation: Adopt the proposal recommended by Planning Department Staff.

HEIGHT:

Planning Staff Recommendations:

- The maximum building height for new construction shall be 3 stories / 30 feet for the first 30 feet of building depth, as measured from the minimum required front setback and a maximum of 4 stories / 40 feet for the remainder of the lot depth.
- For properties that contain at least one 'Contributing' building, the maximum building height shall be 3 stories / 30 feet for the first 30 feet of building depth, as measured from the minimum required front setback. Provided that at least 50% of ALL existing 'Contributing' buildings on site, as measured from the front elevation, are substantially retained and restored:
 - a. A maximum of 5 stories and 50 feet may be permitted on *non-waterfront* lots by the DRB or HPB for the remainder of the lot depth;
 - b. A maximum of 5 stories and 60 feet may be permitted on *waterfront* lots by the DRB or HPB for the remainder of the lot depth

Steering Committee Recommendation: Adopt the proposal recommended by Planning Department Staff, with the following modifications:

- For properties with a lot depth of 126 feet or greater, the maximum building height for new construction shall be 3 stories / 30 feet for the first 30 feet of building depth, as measured from the minimum required front setback.
- For properties with a lot depth of 125 feet or less, the maximum building height for new construction shall be 3 stories / 30 feet for the first 25 feet of building depth, as measured from the minimum required front setback.

MINIMUM AND AVERAGE UNIT SIZE (SQ FT PER UNIT):

Planning Staff Recommendations:

Minimum Unit Size:

- Existing Buildings and New construction - 400
- Additions to 'Contributing' buildings - 300

Average Unit Size

- Existing Non-Contributing Buildings and New construction - 500
- 'Contributing' buildings which are substantially retained and restored -400
- Additions to 'Contributing' buildings - 400.

Steering Committee Recommendation: Adopt the proposal recommended by Planning Department Staff.

ROOFTOP ADDITIONS:

Planning Staff Recommendation:

Up to 2 story rooftop additions to existing 'Contributing' buildings may be reviewed and approved at the administrative level, in accordance specific review criteria.

Steering Committee Recommendation: Adopt the proposal recommended by Planning Department Staff, but limit the allowable roof-top addition that can be review administratively to one (1) story.

DEMOLITION CRITERIA:

Planning Staff Recommendations:

- The demolition of a 'Contributing' building shall not be permitted for purposes of creating a vacant lot or a surface parking lot.
- or the demolition of a 'Contributing Building' in a National Register District, no demolition permit shall be issued prior to the following:
 1. The review and approval for the new construction or site improvements by the Design Review Board (DRB);
 2. The issuance of a building permit process number for the new construction;
 3. The building permit application and all required plans for the new construction shall be reviewed and approved by the Planning Department;
 4. 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;
 5. A tree survey, if required, shall be submitted and a replacement plan, if required, shall be reviewed and approved by the Greenspace Management Division;
 6. All debris associated with the demolition of the structure shall be recycled, in accordance with the applicable requirements of the Florida Building Code.

Steering Committee Recommendation: Adopt the proposal recommended by Planning Department Staff.

COMMERCIAL DISTRICTS:

Planning Staff Recommendations:

The CD-2 District shall be removed from the Conservation District Overlay regulations.

Steering Committee Recommendation: Adopt the proposal recommended by Planning Department Staff, but bi-furcate for further discussion at the Steering Committee.

LOT COVERAGE:

Planning Staff Recommendation:

The maximum lot coverage for a lot or lots greater than 65 feet in width shall not exceed 45%. In addition to the building areas included in *lot coverage*, as defined in section 114-1, impervious parking areas and impervious driveways shall also be included in the lot coverage calculations. The design review board or historic preservation board, as applicable, may waive the lot coverage requirements in accordance with the design review or certificate of appropriateness criteria, as applicable.

Steering Committee Recommendation: No Lot Coverage requirement at this time; further study needed.

The recommendations herein will be transmitted to the Land Use and Development Committee, for consideration at their May 10, 2017 meeting.

TRM/JGM

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Miami Beach Conservation Design Guidelines

A Comparison of Regulations Using Potential Scenarios

How does neighborhood character change when parking is required?

SINGLE LOTS



EXISTING CONDITIONS

North Beach homes sometimes have off-street parking (in the form of driveways and small lots) but not always. Often on-street parking is used.



REQUIRED ON-SITE PARKING

When you require parking on-site...

... parking is typically located under the building and in front of the building.

One-story structures are likely to become multi-story and more parking spaces will be needed. Parked cars may become a dominant visual image.



PARKING NOT REQUIRED

When you don't require parking on-site...

... site designers have more flexibility. Planted forecourts, courtyards, and front doors which address the street are more likely.

However, note that even when the City doesn't require on-site parking it is often added anyway as an amenity for unit owners.

MULTIPLE LOTS



EXISTING CONDITIONS

North Beach blocks sometimes have lots with curb-cuts (breaks in the sidewalk that allow cars to reach on-site parking) and sometimes have no on-site parking and uninterrupted sidewalks.



REQUIRED ON-SITE PARKING

On-site parking facilities need access and this creates curb-cuts (breaks in the sidewalks that allow cars to access on-site parking). In the example above the sidewalk is more often a driveway than not.



PARKING NOT REQUIRED

When parking is not required and not provided then sidewalks are uninterrupted and this is safer for pedestrians (especially children). However, again, not requiring parking doesn't mean it will not be provided as an amenity.

How do transitions occur between streets and front yards when streets are raised?



EXISTING CONDITIONS

Lots are often slightly higher than the streets they front.

Existing Conditions



STREETS ELEVATED

When you elevate streets...

... topography (of a kind) is created. Height differences will vary, but when streets are lifted one or two feet transition areas involving planted strips and underground storage can be used to ameliorate the difference and absorb some of the water. Cars traverse slight rises to reach the street.

Raising the Street Two Feet



STREETS, LOTS & BUILDINGS ELEVATED

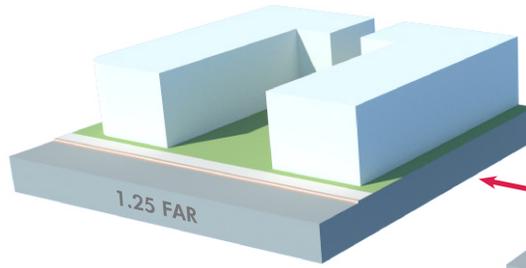
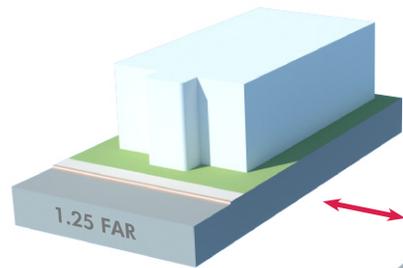
Under the existing regulations when lots are redeveloped both the lots and the buildings rise to meet current Resilience regulations.

Raising the Street Two Feet



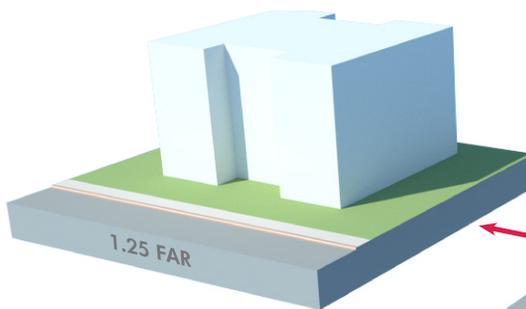
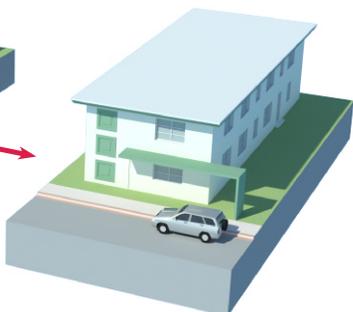
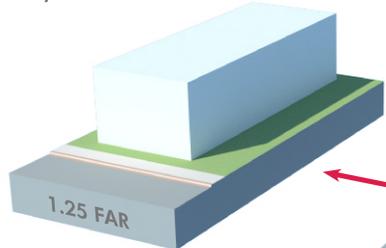
Will the Design Requirements in the Conservation District prevent redevelopment?

No. Buildable square footage [which is measured by a Floor Area Ratio (FAR) calculation] ultimately determines the number of dwelling units that can be built on a lot and this is the prime determinant of redevelopment. The City of Miami Beach currently does not allow increases of FAR without voter approval. The design guidelines may affect the distribution of FAR and the shapes FAR may take but they will not eliminate the total amount of FAR allowed.



All of these variations express roughly the same Floor Area Ratio (FAR). FAR is defined as the total gross area of a building on any lot divided by the area of the lot. The FAR expresses the mathematical relation between the volume of buildings and the size of land.

We are able to change allowable heights, setbacks, parking requirements, lot aggregation, building orientation, and so forth, without adding to or taking away from the number of units that can be developed.



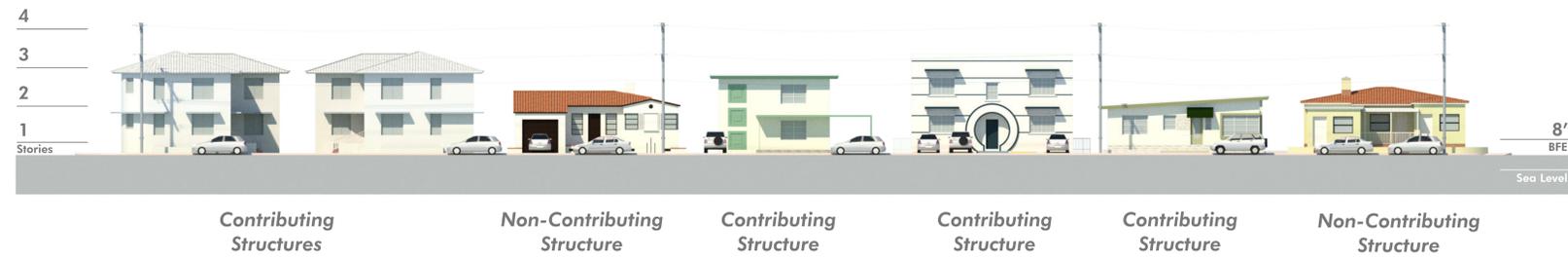
Miami Beach Conservation Design Guidelines

A Comparison of Regulations Using Potential Scenarios

Existing Conditions

(Before)

This graphic shows a hypothetical, but typical street in North Beach in the North Shore neighborhood. The graphic is composed with buildings actually found in the North Shore National Register District.



Contributing Structures were identified as part of the survey of National Historic Districts and involved rigorous architectural and historical analysis. Contributing structures demonstrate the significance of the district through architectural expression, time of construction, historic contribution, and association with people of civic and cultural importance.

Evaluation

NOBE Character

Climate Adaptation

Availability of Off-Street Parking

Current Regulations

(After)

Under the current regulations historic structures can be demolished without special approvals. Single-family homes become multi-story, multiple properties are aggregated and there is no limit to the number of lots that can be aggregated. Surface parking lots are created. Every redevelopment creates a "curb-cut" break in the sidewalk, without trees, for cars to enter the lots and park.



There are no protections against demolitions. However, the highest-quality contributing structures may remain if Floor Area Ratio and Parking requirements continue to make redevelopment financially unattractive versus conversion from rental units to condominiums.

Single-family homes become two story apartments with eight units and parking below. Units are accessed from side.

Four lots of Contributing & Non-Contributing structures are aggregated to amass the Floor Area Ratio necessary to build three stories of units on three lots. The fourth lot becomes a surface parking structure for the building. Flood elevation requirements incentivize parking on the bottom floor. Note that a similar concept was approved for Harding Avenue (lots 8011, 8017, 8021, and 8035), though that project retained one facade.

Evaluation

NOBE Character

Climate Adaptation

Availability of Off-Street Parking

Plan NoBe Recommended Regulations

(After)

Plan NoBe (adopted by City Council 10.19.16) made three recommendations for the Conservation Districts: no curb cuts, no lot aggregation, and "maintain existing scale and orientation of surrounding neighborhoods." It should be noted that Plan NoBe covered a variety of topics, it was a general plan, and a more thorough discussion of the Conservation District was anticipated. In this scenario, buildings are redeveloped with compatible heights, massing, setbacks, and building-to-street relationships.



Additional sellable or rentable units are created without aggregation or curb cuts. Buildings are lifted to comply with Resiliency requirements (sometimes 11' elevation), however, parking does not become the dominant visual image at the street level. The existing scale of buildings is maintained. Streets are reconstructed with street trees for shade and stormwater retention (for resiliency) as a requirement of development approvals. Because redevelopment is minimized, more units remain rentals or are converted to condominiums, potentially increasing home ownership in North Beach.

Evaluation

NOBE Character

Climate Adaptation

Availability of Off-Street Parking

Proposed Regulations (February 15, 2017)

(After)

Under the February 15th Proposed Regulations historic structures can be demolished after approval from DRB and HPB. Single family homes become multi-story. Multiple properties are aggregated (limited to three lots) however the front facade of one-in-three historic buildings is preserved.



A demolition permit for Contributing Structures must be obtained by the Design Review Board (DRB) and Historic Preservation Board (HPB). No formal protections exist. Parking is not required, however, parking for some units are provided because buildings must be lifted.

Single-family homes become two story apartments with eight units and parking below. Units are accessed from side.

Three lots with Contributing Structures are aggregated and one facade preserved. Width of new structures limited to 85'. Parking isn't required, but Resiliency Standards (the need to lift buildings) incentivize some parking on the 1st floor. New building face acknowledges the original platting (with a three-part building).

Single-family homes become two story apartments with eight units and parking below. Units are accessed from side.

Evaluation

NOBE Character

Climate Adaptation

Availability of Off-Street Parking

Synthesis Regulations (Combining the February 15 regs with Plan NoBe)

(After)

All the attributes of the Plan NoBe Recommended Regulations apply, however, in this scenario, multiple lots can be aggregated. Aggregation is limited to two buildings.



Additional sellable or rentable units are created without aggregation or curb cuts. Buildings are lifted to comply with Resiliency requirements (between 8'-11' elevation), however, parking does not become the dominant visual image at the street level. The existing scale of buildings is maintained. Streets are reconstructed with street trees for shade and stormwater retention (for resiliency) as a requirement of development approvals. Because redevelopment is minimized, more units remain rentals or are converted to condominiums, potentially increasing home ownership in North Beach.

Evaluation

Character

Climate Adaptation

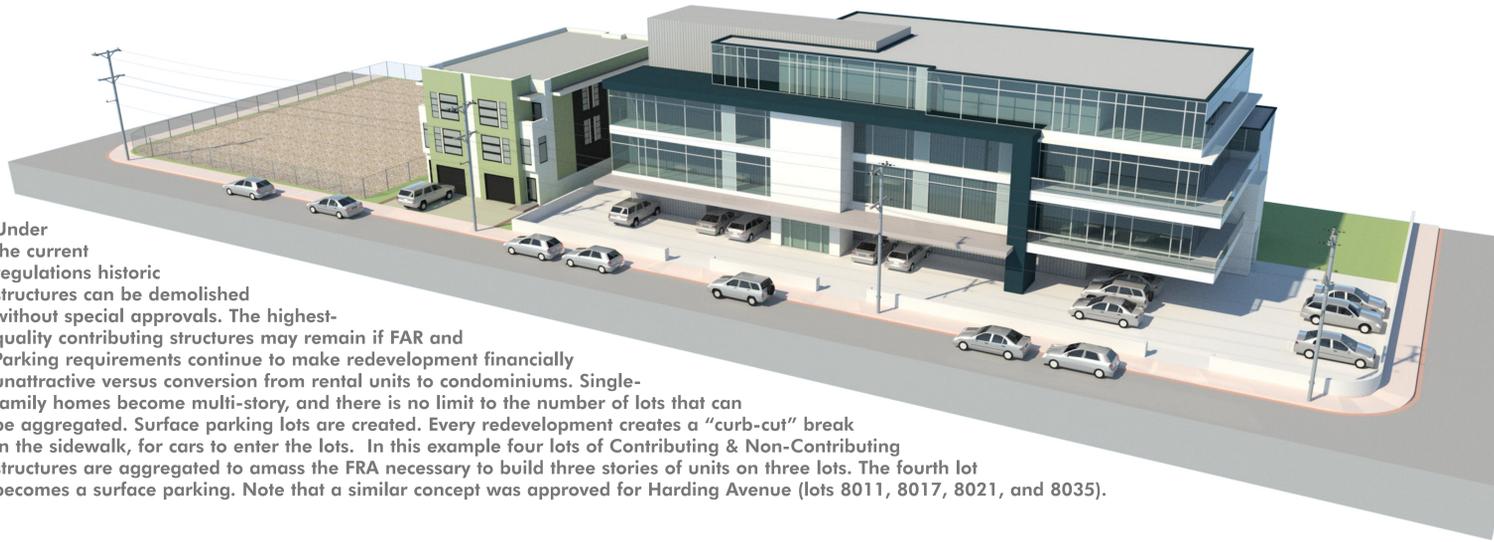
Availability of Off-Street Parking

Miami Beach Conservation Design Guidelines

A Comparison of Regulations Using Potential Scenarios

Current Regulations

(After)



Under the current regulations historic structures can be demolished without special approvals. The highest-quality contributing structures may remain if FAR and Parking requirements continue to make redevelopment financially unattractive versus conversion from rental units to condominiums. Single-family homes become multi-story, and there is no limit to the number of lots that can be aggregated. Surface parking lots are created. Every redevelopment creates a "curb-cut" break in the sidewalk, for cars to enter the lots. In this example four lots of Contributing & Non-Contributing structures are aggregated to amass the FRA necessary to build three stories of units on three lots. The fourth lot becomes a surface parking. Note that a similar concept was approved for Harding Avenue (lots 8011, 8017, 8021, and 8035).

Evaluation

NOBE Character



Climate Adaptation



Availability of Off-Street Parking



Plan NoBe Recommended Regulations

(After)



Plan NoBe (adopted by City Council 10.19.16) made three recommendations for the Conservation Districts: no curb cuts, no lot aggregation, and "maintain existing scale and orientation of surrounding neighborhoods." In this scenario, buildings are redeveloped with compatible heights, massing, setbacks, and building-to-street relationships. Additional sellable or rentable units are created without aggregation or curb cuts. Buildings are lifted to comply with Resiliency requirements (sometimes 11' elevation), however, parking does not become the dominant visual at the street level. The existing scale of buildings is maintained. Streets are reconstructed with street trees for shade and stormwater retention (for resiliency) as a requirement of development approvals. Because redevelopment is minimized, more units remain rentals or are converted to condominiums, potentially increasing home ownership in North Beach.

Evaluation

NOBE Character



Climate Adaptation



Availability of Off-Street Parking



Proposed Regulations (February 15, 2017)

(After)



Under the February 15th Proposed Regulations historic structures can be demolished after approval from DRB and HPB. A demolition permit for Contributing Structures must be obtained by the Design Review Board (DRB) and Historic Preservation Board (HPB). No formal protections exist. Parking is not required, however, parking for some units are provided because buildings must be lifted for Resiliency. Single-family homes become two story apartments with eight units and parking below. Units are accessed from side. Three lots with Contributing Structures are aggregated and one facade is preserved. Width of new structures limited to 85'. Parking isn't required, but Resiliency Standards (the need to lift buildings) incentivizes some parking on the 1st floor. New building face acknowledges original platting (with a three-part building).

Evaluation

NOBE Character



Climate Adaptation



Availability of Off-Street Parking



Synthesis Regulations (Combining the February 15 regs with Plan NoBe)

(After)



All the attributes of the Plan NoBe Recommended Regulations apply, however, in this scenario, multiple lots can be aggregated. Aggregation is limited to two buildings. Additional sellable or rentable units are created without aggregation or curb cuts. Buildings are lifted to comply with Resiliency requirements (between 8'-11' elevation), however, parking does not become the dominant visual image at the street level. The existing scale of buildings is maintained. Streets are reconstructed with street trees for shade and stormwater retention (for resiliency) as a requirement of development approvals. Because redevelopment is minimized, more units remain rentals or are converted to condominiums, potentially increasing home ownership in NoBe.

Evaluation

Character



Climate Adaptation



Availability of Off-Street Parking



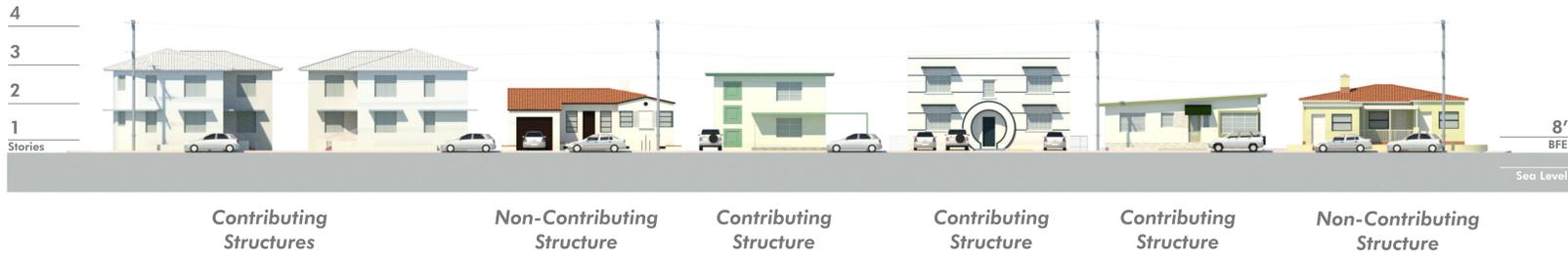
Miami Beach Conservation Design Guidelines

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Evaluation

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Availability of Off-Street Parking

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Evaluation

NOBE Character

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Availability of Off-Street Parking

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Evaluation

NOBE Character

Climate Adaptation

Availability of Off-Street Parking

Proposed Regulations (February 15, 2017)

(After)

Under the February 15th Proposed Regulations historic structures can be demolished after approval from DRB and HPB. Single family homes become multi-story. Multiple properties are aggregated (limited to three lots) however the front facade of one-in-three historic buildings is preserved.



A demolition permit for Contributing Structures must be obtained by the Design Review Board (DRB) and Historic Preservation Board (HPB). No formal protections exist. Parking is not required, however, parking for some units are provided because buildings must be lifted.

Single-family homes become two story apartments with eight units and parking below. Units are accessed from side.

Three lots with Contributing Structures are aggregated and one facade preserved. Width of new structures limited to 85'. Parking isn't required, but Resiliency Standards (the need to lift buildings) incentivize some parking on the 1st floor. New building face acknowledges the original platting (with a three-part building).

Single-family homes become two story apartments with eight units and parking below. Units are accessed from side.

Evaluation

NOBE Character

Climate Adaptation

Availability of Off-Street Parking

Synthesis Regulations (Combining the February 15 regs with Plan NoBe)

(After)

All the attributes of the Plan NoBe Recommended Regulations apply, however, in this scenario, multiple lots can be aggregated. Aggregation is limited to two buildings.



Additional sellable or rentable units are created without aggregation or curb cuts. Buildings are lifted to comply with Resiliency requirements (between 8'-11' elevation), however, parking does not become the dominant visual image at the street level. The existing scale of buildings is maintained. Streets are reconstructed with street trees for shade and stormwater retention (for resiliency) as a requirement of development approvals. Because redevelopment is minimized, more units remain rentals or are converted to condominiums, potentially increasing home ownership in North Beach.

Evaluation

Character

Climate Adaptation

Availability of Off-Street Parking

Miami Beach Conservation Design Guidelines

A Comparison of Regulations Using Potential Scenarios

Current Regulations

(After)



Under the current regulations historic structures can be demolished without special approvals. The highest-quality contributing structures may remain if FAR and Parking requirements continue to make redevelopment financially unattractive versus conversion from rental units to condominiums. Single-family homes become multi-story, and there is no limit to the number of lots that can be aggregated. Surface parking lots are created. Every redevelopment creates a "curb-cut" break in the sidewalk, for cars to enter the lots. In this example four lots of Contributing & Non-Contributing structures are aggregated to amass the FRA necessary to build three stories of units on three lots. The fourth lot becomes a surface parking. Note that a similar concept was approved for Harding Avenue (lots 8011, 8017, 8021, and 8035).

Evaluation

NOBE Character



Climate Adaptation



Availability of Off-Street Parking



Plan NoBe Recommended Regulations

(After)



Plan NoBe (adopted by City Council 10.19.16) made three recommendations for the Conservation Districts: no curb cuts, no lot aggregation, and "maintain existing scale and orientation of surrounding neighborhoods." In this scenario, buildings are redeveloped with compatible heights, massing, setbacks, and building-to-street relationships. Additional sellable or rentable units are created without aggregation or curb cuts. Buildings are lifted to comply with Resiliency requirements (sometimes 11' elevation), however, parking does not become the dominant visual at the street level. The existing scale of buildings is maintained. Streets are reconstructed with street trees for shade and stormwater retention (for resiliency) as a requirement of development approvals. Because redevelopment is minimized, more units remain rentals or are converted to condominiums, potentially increasing home ownership in North Beach.

Evaluation

NOBE Character



Climate Adaptation



Availability of Off-Street Parking



Proposed Regulations (February 15, 2017)

(After)



Under the February 15th Proposed Regulations historic structures can be demolished after approval from DRB and HPB. A demolition permit for Contributing Structures must be obtained by the Design Review Board (DRB) and Historic Preservation Board (HPB). No formal protections exist. Parking is not required, however, parking for some units are provided because buildings must be lifted for Resiliency. Single-family homes become two story apartments with eight units and parking below. Units are accessed from side. Three lots with Contributing Structures are aggregated and one facade is preserved. Width of new structures limited to 85'. Parking isn't required, but Resiliency Standards (the need to lift buildings) incentivize some parking on the 1st floor. New building face acknowledges original platting (with a three-part building).

Evaluation

NOBE Character



Climate Adaptation



Availability of Off-Street Parking



Synthesis Regulations (Combing the February 15 regs with Plan NoBe)

(After)



All the attributes of the Plan NoBe Recommended Regulations apply, however, in this scenario, multiple lots can be aggregated. Aggregation is limited to two buildings. Additional sellable or rentable units are created without aggregation or curb cuts. Buildings are lifted to comply with Resiliency requirements (between 8'-11' elevation), however, parking does not become the dominant visual image at the street level. The existing scale of buildings is maintained. Streets are reconstructed with street trees for shade and stormwater retention (for resiliency) as a requirement of development approvals. Because redevelopment is minimized, more units remain rentals or are converted to condominiums, potentially increasing home ownership in NoBe.

Evaluation

Character



Climate Adaptation



Availability of Off-Street Parking



MIAMI BEACH

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

Item 3. **COMMITTEE MEMORANDUM**

TO: Land Use and Development Committee
FROM: Jimmy L. Morales, City Manager
DATE: May 10, 2017
TITLE: **DISCUSSION: NORTH BEACH YARD**

HISTORY:

On April 26, 2017, at the request of Commissioner Ricky Arriola, the City Commission referred the subject discussion item to the Land Use and Development Committee and the Planning Board (Item R9AG).

Analysis

The subject discussion item pertains to a proposal to create the 'North Beach Yard', which is a community based, culinary incubator. The endeavor has been put forward by the operator of the existing 'Wynwood Yard' in Miami, which is located in the Wynwood area and provides an open area for food trucks, as well as other community based activities such as gardens, music, yoga and performances. The site identified for this concept in North Beach is located on the west side of Collins Avenue, between 81st and 82nd Street. All of the City owned lots on the west side of Collins Avenue from 79th-87th Streets are zoned 'Government Use (GU)' and the future land use category is 'Residential, Low Intensity (RM-1)'.

The following is a summary of the pertinent City Code and Comprehensive Plan amendments that will be needed for the North Beach Yard proposal to move forward:

Comprehensive Plan:

Under Sec 142-425(d) of the LDR's, "*no GU property may be used in a manner inconsistent with the comprehensive plan*". Under the current RM-1 Future Land Use Category of the Comprehensive Plan, commercial type uses such as that proposed by the North Beach Yard would be inconsistent with the Comprehensive Plan. In order to address this inconsistency, the following attached amendments have been drafted:

1. Change the current Future Land Use Map (FLUM) category from RM-1 to **Public Facility (PF)**
1. Amend the **Public Facility (PF)** portion of the Comprehensive Plan to allow for commercial uses as a permitted use.

This change would also bring previously approved uses (e.g. Ocean Rescue) into compliance with the comprehensive plan, as well as provide more flexibility for future uses.

City Code Development Regulations (LDR Chapter 142):

The proposal for the North Beach Yard could conflict with certain provisions of the Land Development Regulations of the City Code. In order to address any inconsistencies with the LDR's, rather than

pursuing a number of single section ordinance amendments and variances, the attached text amendment to Sec. 142-425(d) of the City Code has been drafted. This amendment would allow for the City Commission to grant waivers for certain private uses located on GU properties.

Currently, GU waivers are limited to government facilities/uses, cultural organizations and not-for-profits. The proposed amendment would allow for private uses approved by the City Commission for a period of 10 years or less to be eligible for a City Commission waiver of development regulations, except for the historic preservation and design review processes. This amendment would also provide the City Commission with additional flexibility in the future.

Concurrency (LDR Chapter 122):

The proposal for the North Beach Yard would generate a concurrency requirement, which can only be satisfied by paying an expensive mitigation fee. Under Chapter 122 of the City Code, only very specific uses and areas of the City are eligible for concurrency waivers. The City Commission has recently amended this Chapter of the LDR's to allow for concurrency waivers for sidewalk cafes in North Beach, as well as waivers for the North Beach Bandshell and the Botanical Gardens.

In order to address the aforementioned inconsistencies with the concurrency requirements of the code, the attached amendment to Chapter 122 has been drafted to give the City Commission the ability to waive concurrency requirements on the GU Lots located on Collins Avenue from 79th Street to 87th Street. Assuming this ordinance amendment is adopted, a subsequent Resolution formally waiving concurrency requirements would still be required.

SUMMARY

The item was a dual referral to both the Land Use Committee and the Planning Board. At the request of the City Commission, the Planning Board will only discuss the proposed amendments at their May meeting, and consider transmittal action in June. Since all of the west lots (from 79-87 streets) are 14 acres, the attached draft amendments would be applicable to properties greater than 10 acres, and therefore not require a 30 day mail notice.

CONCLUSION:

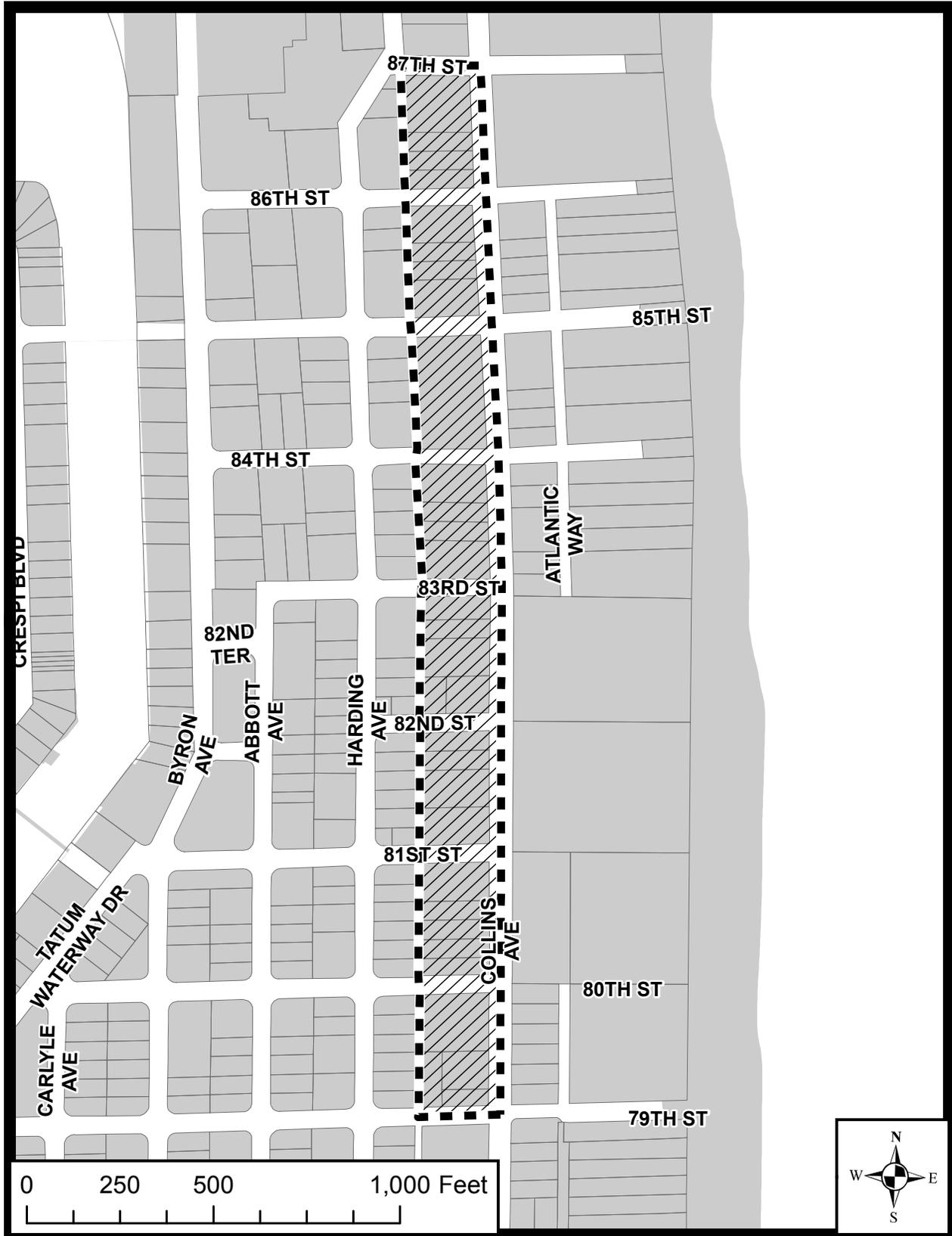
The Administration recommends that the Land Use and Development Committee discuss the proposal and provide appropriate policy direction. If there is consensus on the proposal herein, it is further recommended that the draft ordinances be recommended for approval at the Planning Board.

ATTACHMENTS:

Description	Type
☐ Exhibit B	Memo
☐ DRAFT LDR Ordinance	Memo
☐ DRAFT CP Ordinance	Memo

"Exhibit B"

Properties located between
79th Street on the South, Collins Avenue on the East
87th Street on the North, and Collins Court on the West



LAND DEVELOPMENT REGULATIONS – NORTH BEACH YARD

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 122, ENTITLED "CONCURRENCY MANAGEMENT," SECTION 122-5, ENTITLED "EXEMPTIONS FROM CONCURRENCY" TO ALLOW THE CITY COMMISSION TO WAIVE USES ON LOTS WITH A GU ZONING DESIGNATION FRONTING COLLINS AVENUE BETWEEN 79TH STREET AND 87TH STREET FROM CONCURRENCY REQUIREMENTS BY RESOLUTION; BY AMENDING CHAPTER 142, ENTITLED "ZONING DISTRICTS AND REGULATIONS", ARTICLE II, ENTITLED "DISTRICT REGULATIONS", DIVISION 9, ENTITLED "GU GOVERNMENT USE DISTRICT," IN ORDER TO ALLOW THE CITY COMMISSION TO WAIVE DEVELOPMENT REGULATIONS FOR PRIVATE USES APPROVED BY THE CITY COMMISSION FOR A PERIOD OF 10 YEARS OR LESS ON GU LOTS; PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach seeks to activate the city-owned "West Lots" generally located west of Collins Avenue between 79th Street and 87th Street; and

WHEREAS, the City of Miami Beach seeks to allow private commercial uses for periods of 10 years or less on a block of the West Lots in order to encourage economic development in North Beach; and

WHEREAS, in order to encourage commercial uses that will exist for periods of less than 10 years, waivers from the development regulations will be necessary; and

WHEREAS, exemptions from concurrency requirements will encourage the development of commercial uses that will exist for periods of less than 10 years; 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 122, entitled "Concurrency Management," Section 122-5, entitled "Exemptions from concurrency," of the Land Development Regulations of the Code of the City of Miami Beach, Florida 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:

* * *

- (11) Uses located on lots with a GU zoning designation fronting Collins Avenue between 79th Street and 87th Street, as determined by the city commission by resolution.

SECTION 2. That Chapter 142, entitled "Zoning Districts and Regulations", Article II, entitled "District Regulations", Division 9, entitled "GU Government Use District" of the Land Development Regulations of the Code of the City of Miami Beach, Florida is hereby amended as follows:

Sec. 142-425. - Development regulations.

* * *

(d) Following a public hearing, the development regulations required by these land development regulations, except for the historic preservation and design review processes, may be waived by a five-sevenths vote of the city commission for developments pertaining to governmental owned or leased buildings, uses and sites which are wholly used by, open and accessible to the general public, or used by not-for-profit, educational, or cultural organizations, or for convention center hotels, or convention center hotel accessory garages, or city utilized parking lots, provided they are continually used for such purposes. Notwithstanding the above, no GU property may be used in a manner inconsistent with the comprehensive plan. In all cases involving the use of GU property by the private sector, or joint government/private use, development shall conform to all development regulations in addition to all applicable sections contained in these land development regulations and shall be reviewed by the planning board prior to approval by the city commission. All such private or joint government/private uses are allowed to apply for any permittee variances ~~Private or joint government/private uses~~ and shall not be eligible to waive any regulations as described in this paragraph. ~~except for~~ However, not-for-profit, educational, or cultural organizations as set forth herein, or private uses approved by the City Commission for a period of 10 years or less, shall be eligible for a City Commission waiver of development regulations as described in this paragraph, except for the historic preservation and design review processes.

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 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 _____, 2017.

Philip Levine, Mayor

ATTEST:

CITY CLERK

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

City Attorney Date

First Reading: _____, 2017

Second Reading: _____, 2017

Verified By: _____

Thomas R. Mooney, AICP
Planning Director

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COMPREHENSIVE PLAN – NORTH BEACH YARD

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING POLICY 1.2 OF THE FUTURE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN PURSUANT TO THE PROCEDURES IN SECTION 163.3184(3), FLORIDA STATUTES, BY MODIFYING THE PUBLIC FACILITIES: GOVERNMENTAL USES (PF) CATEGORY IN ORDER TO ALLOW FOR COMMERCIAL AND RESIDENTIAL USES AS MAIN PERMITTED USES; AND AMENDING THE FUTURE LAND USE MAP DESIGNATION FOR THE PROPERTIES LOCATED IN THE AREA BOUNDED BY COLLINS AVENUE ON THE EAST, 87TH STREET ON THE NORTH, COLLINS COURT ON THE WEST, AND 79TH STREET ON THE SOUTH FROM “LOW DENSITY MULTI FAMILY RESIDENTIAL CATEGORY (RM-1)” TO “PUBLIC FACILITY: GOVERNMENTAL USES (PF);” PROVIDING FOR INCLUSION IN THE COMPREHENSIVE PLAN, TRANSMITTAL; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach seeks to activate the city-owned “West Lots” generally located west of Collins Avenue between 79th Street and 87th Street; and

WHEREAS, the West Lots currently have a future land use designation of RM-1; and

WHEREAS, the RM-1 is intended to allow for residential uses, which may be beneficial in the long-term; however, in the near term, additional uses are necessary to activate the sites; and

WHEREAS, commercial and residential uses may complement government uses and facilities and facilitate the delivery of public services; and

WHEREAS, the amendment set forth below is necessary to accomplish all of the above objectives.

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

SECTION 1. The following amendment to the “Public Facility: Governmental Uses (PF)” category in Policy 1.2 of the City’s Comprehensive Plan Future Land Use Element is hereby adopted:

Public Facility: Governmental Uses (PF)

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

Uses which may be permitted: Government uses, various types of commercial uses including business and professional offices, retail sales and service establishments, eating and drinking establishments, and apartment residential 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.

SECTION 2. The following amendment to the destinations for the property described herein are hereby approved and adopted and the Planning Director is hereby directed to make the appropriate changes to the City's Future Land Use Map:

The parcels of land located in the area bounded by Collins Avenue on the east, 87th Street on the north, Collins Court on the west, and 79th Street on the south, as depicted in Exhibit "B," from the current "Low Density Multi Family Residential Category (RM-1)" to "Public Facility: Governmental Uses (PF)."

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. CODIFICATION.

It is the intention of the City Commission that this Ordinance be entered into the Comprehensive Plan, and it is hereby ordained that the sections of this Ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word. The Exhibits to this Ordinance shall not be codified, but shall be kept on file with this Ordinance in the City Clerk's Office.

SECTION 6. TRANSMITTAL.

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

SECTION 7. EFFECTIVE DATE.

This ordinance shall take effect 31 days after adoption pursuant to Section 163.3184(3) Florida Statutes.

PASSED and ADOPTED this _____ day of _____ 2017.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM
AND LANGUAGE
AND FOR EXECUTION

City Attorney

Date

First Reading/Transmittal: _____, 2017
Second Reading/Adoption: _____, 2017

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

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

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ORD May 10 LUDC.docx

MIAMI BEACH

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Item 4.
COMMITTEE MEMORANDUM

TO: Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager

DATE: May 10, 2017

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

HISTORY:

Analysis

CONCLUSION:

ATTACHMENTS:

Description	Type
□ C4K	Memo

MIAMI BEACH

OFFICE OF THE MAYOR AND COMMISSION

MEMORANDUM

TO: Jimmy L. Morales, City Manager
FROM: Joy V. W. Malakoff, Commissioner
DATE: March 7, 2016
SUBJECT: Referral to the April 20, 2016 Land Use and Development Committee – Discussion pertaining to Development Regulations and Guidelines for New Construction in the Palm View Historic District to address Resiliency, Sustainability and Adaptation.

Please place the above item on the Consent Agenda for the Commission Meeting of March 9, 2016.

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

Thank you.

JVWM

MIAMI BEACH

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

Item 5.
COMMITTEE MEMORANDUM

TO: Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager

DATE: May 10, 2017

TITLE: **Discussion Regarding The Recommendation Of The Neighborhood/Community Affairs Committee To Establish More Aggressive Requirements For Employee Transportation Plans.**

HISTORY:

Analysis

CONCLUSION:

ATTACHMENTS:

Description	Type
□ R7X Referral	Memo

Jose Gonzalez, Transportation Director, introduced the item. Many ideas were generated out of the Transportation Workshop. Last month some of those initiatives and ideas were discussed at Neighborhood/Community Affairs Committee (NCAC) and one of those initiatives was establishing transportation plans for special events, with the goal of reducing the number of cars traveling into the City during special events from the causeway. One of the proposals is to provide parking in remote locations outside the City limits and then provide public transportation to and from those parking locations to the event. They are recommending identifying a suitable event as a model and transmitting the results via LTC.

Vice-Mayor Steinberg stated that this was a no brainer and she moved the item.

3:30:34 p.m.

R7X A Resolution Accepting The Recommendation 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.

(Transportation)

ACTION: Resolution 2016-29459 adopted. Item referred to LUDC. Motion made by Commissioner Malakoff; seconded by Commissioner Steinberg. Voice-vote: 7-0. **Thomas Mooney to place on the Committee Agenda. Jose Gonzalez to handle.**

REFERRAL:

Land Use and Development Committee for further discussion and input.

Commissioner Grieco stated that this is the next progression from the parking plans already required of the developers. When there is a new project that exceeds over \$250,000, before building plans are approved, a builder or developer needs to submit a parking plan for the workers, and this is the next step, which is developing an actual transportation plan. They should have a high threshold as to the requirements that they need to meet.

Jose Gonzalez, Transportation Director, clarified that this item pertains more to development, and not necessarily to construction workers (See Item R7Y), but more so for employees to take transit, to commute and carpool, etc. It is geared more to those types of initiatives that they would like to establish by Ordinance.

3:33:23 p.m.

R7Y A Resolution Accepting The Recommendation Of The Neighborhood/Community Affairs Committee To Expand The City's Current Construction Parking Plan Requirements To Include Construction Transportation Plan Requirements.

(Transportation)

ACTION: Resolution 2016-29460 adopted. Motion made by Commissioner Grieco; seconded by Commissioner Alemán. Voice-vote: 7-0. **Jose Gonzalez to handle.**

Commissioner Malakoff stated that this is for construction projects over \$250,000. She asked if this is for single-family homes as well.

Jose Gonzalez, Transportation Director, recommended establishing requirements by Ordinance and answered that all single family homes will also have a construction parking plan.

MIAMI BEACH

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Item 6.
COMMITTEE MEMORANDUM

TO: Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager

DATE: May 10, 2017

TITLE: **Discussion Regarding Adaptive Reuse Along The Tatum Waterway.**

HISTORY:

Analysis

CONCLUSION:

ATTACHMENTS:

Description	Type
□ Tatum Waterway Referral	Memo

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Commissioner Ricky Arriola
DATE: April 26, 2017

SUBJECT: REFERRAL TO THE LAND USE AND DEVELOPMENT COMMITTEE TO
DISCUSS ADAPTIVE REUSE ALONG THE TATUM WATERWAY.

ANALYSIS

Please place this referral item on the April 26, 2017 Commission agenda.

I ask the Land Use and Development Committee consider incentivizing adaptive reuse along the Tatum Waterway, in an effort to promote the retention and restoration of contributing historic waterfront buildings while adding amenities for neighborhood residents.

Legislative Tracking

Commissioner Ricky Arriola

ATTACHMENTS:

Description

- Accessory Use along Tatum Waterway - RM-1

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," OF THE LAND DEVELOPMENT REGULATIONS, AT 142-154, "ACCESSORY USES" FOR RM-1 PROPERTIES ALONG TATUM WATERWAY DRIVE, BYRON AVENUE, AND CRESPI BOULEVARD IN ORDER TO ALLOW FOR ACCESSORY RESTAURANT, OFFICE, FOOD AND BEVERAGE, CONVENIENCE STORE AND NON-MOTORIZED WATERCRAFT RENTAL USES; AND AMENDING SECTION 130-31 ENTITLED "OFF STREET PARKING: TO PROVIDE FOR AN EXCEPTION TO OFF STREET PARKING FOR ACCESSORY USES WITHIN THE ABOVE DESCRIBED AREA; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; 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 seeks to encourage and incentivize the retention and restoration of contributing historic waterfront structures within the North Shore National Register District in the North Beach area; and

WHEREAS, the City of Miami Beach seeks to enhance the pedestrian-friendly allure, and promote the unique sense of place and community culture along North Beach's historic Tatum Waterway through low-intensity and compatible mixed-uses while providing greater accessibility to neighborhood amenities for residents; 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, Section 142-154 is hereby amended as follows:

* * *

Sec. 142-151. - Purpose.

The RM-1 residential multifamily, low density district is designed for low intensity, low rise, single-family and multiple-family residences.

Sec. 142-152. - Main permitted uses.

The main permitted uses in the RM-1 residential multifamily, low density district are single-family detached dwelling; townhomes; apartments; hotels, for properties fronting Harding Avenue or Collins Avenue, from the City line on the north, to 73rd Street on the south; and bed and breakfast inn (pursuant to article V, division 7 of this chapter).

Sec. 142-153. - Conditional uses.

(a) The conditional uses in the RM-1 residential multifamily, low density district are adult congregate living facility; day care facility; nursing home; religious institutions; private and public institutions; schools; commercial or noncommercial parking lots and garages.

(b) For properties located in the Collins Waterfront Local Historic District, which are designated as a Local Historic Site, a hall for hire use within the interior of an existing building shall require conditional use approval and shall comply with the following:

(1) The conditional use shall only be permitted within an existing structure that is on a property designated as a "Historic Site" and such limitation shall be recorded in the Public Records;

(2) Dance halls, entertainment establishments and neighborhood impact establishments may only be permitted as part of a hall for hire;

(3) The hall for hire use shall close by 11:00 p.m. Sunday through Thursday, and by 12:00 a.m. Friday and Saturday;

(4) Events at the hall for hire shall be for the exclusive use of the property owner (and its subsidiaries) and invited guests. Events at the hall shall not be for the general public, with the exception of adjacent schools and community organizations within the Collins Park and Flamingo Drive areas, which may use the hall until 9:00 p.m.;

(5) Restaurants, stand-alone bars and alcoholic beverage establishments, not functioning as a hall-for-hire, shall be prohibited;

(6) Outdoor dining, outdoor entertainment and open-air entertainment uses shall be prohibited;

(7) Private or valet parking for any event at the hall shall be prohibited from using Flamingo Drive, Flamingo Place or Lake Pancoast Drive to facilitate access to the site.

There shall be no variances from the provisions of Section 142-153(b).

Sec. 142-154. - Accessory uses.

(a) The accessory uses in the RM-1 residential multifamily, low density district are as required in article IV, division 2 of this chapter.

(b) RM-1 waterfront structures located along Tatum Waterway Drive, Byron Avenue, and Crespi Boulevard, that are designated "Contributing" under the Nomination on the North Shore National Register, as accepted by the US Secretary of the Interior (2009 list), may have accessory restaurant, eating and drinking establishments, convenience store, office use, or watercraft rental, provided no more than 25 percent of the structure is dedicated to the accessory use. These accessory uses shall comply with the following:

1. Hours of operation: 12:00 to 10:00 p.m.

2. Ambient music (live or recorded) only.
3. No exterior speakers, except as may be required under the Florida Life Safety Code.

SECTION 2. Chapter 130, entitled "Off Street Parking", at Section 130-31 is hereby amended as follows:

* * *

Sec. 130-31 Parking District Established.

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

* * *

(b) There shall be no off-street parking requirement for main or accessory uses associated with buildings that existed prior to October 1, 1993, which are:

- (1) Located within the architectural district,
- (2) A contributing building within a local historic district, or
- (3) Individually designated historic building.

This provision shall not apply to renovations and new additions to existing buildings which create or add floor area, or to new construction which has a parking requirement.

(c) There shall be no off-street parking requirement for accessory uses associated with buildings that existed prior to December 31, 2009, which are designated "Contributing" under the Nomination on the North Shore National Register, as accepted by the US Secretary of the Interior (2009 list), and located along and abutting Tatum Waterway and the following streets: Tatum Waterway Drive, Byron Avenue, and Crespi Boulevard.

* * *

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 _____, 2017.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

Eve Boutsis, City Attorney

Date

First Reading: _____

Second Reading: _____

Verified by: _____

Thomas Mooney, AICP
Planning Director

Underscore denotes new language

~~Strikethrough~~ denotes removed language

MIAMI BEACH

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

Item 7.
COMMITTEE MEMORANDUM

TO: Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager

DATE: May 10, 2017

TITLE:

**AN ORDINANCE CLARIFYING THAT ENTERTAINMENT IS NOT PERMITTED IN THE CITY'S PERFORMANCE STANDARD DISTRICTS.
(Memo Attached)**

HISTORY:

Analysis

CONCLUSION:

ATTACHMENTS:

Description	Type
☐ Memo	Memo
☐ Ex.A	Other
☐ Ex.B	Other
☐ Ex.C	Other
☐ Ex.D	Other
☐ Ex.E	Other
☐ Ex.F	Other
☐ Ex.G	Other
☐ Ex.H	Other
☐ Ex.I	Other
☐ Ex.J	Other
☐ Ex.K	Other
☐ Ex.M	Other
☐ Ex.P	Other
☐ Ex.Q	Other
☐ Ex.R	Other
☐ Draft Ordinance	Memo



MIAMI BEACH

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

COMMITTEE MEMORANDUM

TO: Members of the Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager

DATE: May 10, 2017

SUBJECT: **ADDENDUM TO THE LAND USE AND DEVELOPMENT COMMITTEE MEETING AGENDA**

A handwritten signature in black ink, appearing to read "Jimmy L. Morales", is written over the "FROM" field.

DISCUSSION ITEMS

- 3. Discussion Regarding An Ordinance Clarifying That Entertainment Is Not Permitted In The City's Performance Standard Districts.**
(Sponsored by Commissioner Michael Grieco
April 26, 2017 City Commission Meeting, Item C4 O)

MIAMI BEACH

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

COMMITTEE MEMORANDUM

To: Members of the Land Use and Development Committee

From: Jimmy L. Morales
City Manager

Date: May 10, 2017

Subject: **AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 142 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS," DIVISION 18, "PS PERFORMANCE STANDARD DISTRICT," SECTION 142-693, "PERMITTED USES," TO CLARIFY THAT ENTERTAINMENT IS NOT PERMITTED IN THE CITY'S PERFORMANCE STANDARD DISTRICTS; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

I. Administration Recommendation

The Administration recommends that the Land Use and Development Committee transmit this Ordinance to the City Commission with a favorable recommendation.

II. Background

On April 26, 2017, the Mayor and City Commission referred this Ordinance to the Land Use and Development Committee and the Planning Board. The Ordinance amends Section 142-693 of the Land Development Regulations to clarify that entertainment is not permitted in the City's Performance Standard districts. Currently, the City Code allows limited entertainment uses in the C-PS2 zoning district (on the south side of Fifth Street between Michigan Avenue and Alton Road) and in the C-PS3 and C-PS4 zoning districts. The Ordinance would remove these limited exceptions to the general prohibition on

entertainment in the Performance Standard districts, which districts include the entirety of the South of Fifth Street Neighborhood. The use being prohibited is not currently being utilized and would be inconsistent with the multi-family residential-use structures constructed in the area.

III. Current regulations on entertainment establishments in the South of Fifth Street Neighborhood

Over the course of the last two decades, and pursuant to Ordinance Nos. 94-2908, 96-3050, 99-3222, 2003-3417, and 2004-3445, the Mayor and City Commission have adopted a series of incremental land development regulations in an attempt to ameliorate the harms associated with entertainment establishments located South of Fifth Street. Each incremental enforcement regulation has proven to be insufficient in combatting the negative effects that entertainment establishments cause in this residential neighborhood.

In 1994, the Mayor and City Commission adopted Ordinance No. 94-2908, which contained a wide range of amendments to the development regulations for the former South Pointe Redevelopment Area. The City contracted with the University of Miami School of Architecture to analyze the proposed amendments, which were drafted in an effort “to encourage new construction and rehabilitation of existing structures within the Performance Standards Districts which is more consistent and compatible with the character of the area comprising the South Pointe Redevelopment Area.” Among other things, the Ordinance prohibited nightclubs in the South Pointe Redevelopment area; however, in the C-PS3 and C-PS4 districts, a nightclub was permitted as an accessory use within a hotel of 250 rooms or more, with access to the nightclub only from the interior lobby and not from the street. See legislative history, attached as Exhibit A.

In 1996, after the previous scheme proved ineffective, the Mayor and City Commission adopted comprehensive regulations relating to outdoor bar counters, outdoor entertainment establishments, open air entertainment establishments, and neighborhood impact establishments pursuant to Ordinance No. 96-3050.¹ The City Commission found that “certain outdoor entertainment and large alcoholic beverage establishments, if left unregulated in the South Pointe Redevelopment Area, may have an adverse effect on the health, safety and general welfare of the surrounding community.” Specifically as to the Performance Standard districts, the Ordinance

¹ The City Code currently defines “outdoor entertainment establishment” as “a commercial establishment which provides outdoor entertainment as defined in this section” and “open air entertainment establishment” as “a commercial establishment which provides entertainment . . . indoors or in an enclosed courtyard or area which by its design is open to the outside, thereby enabling the entertainment to be audible outdoors.” City Code Section 142-1361.

A “neighborhood impact establishment” is defined as an “alcoholic beverage establishment or restaurant, not also operating as an entertainment establishment or dance hall . . . with an occupant content of 300 or more persons . . .” or “an alcoholic beverage establishment or restaurant, which is also operating as an entertainment establishment or dance hall . . . with an occupant content of 200 or more . . .”

prohibited outdoor entertainment establishments, open air entertainment establishments, and neighborhood impact establishments in the RM-PS1, R-PS1, R-PS2, R-PS3, and R-PS4 zoning districts (with a limited exception for accessory uses to oceanfront hotels with 250 or more hotel units in the R-PS4 district), and listed these uses as conditional uses in the C-PS1, 2, 3, and 4 districts. This regulatory scheme did not solve the problem either. See legislative history, attached as Exhibit B.

In 1999, the Mayor and City Commission adopted Ordinance No. 99-3222, in order to, among other things, delete the definitions of nightclubs and supper clubs, create definitions for dance halls and entertainment establishments, amend the definitions of alcoholic beverage establishments, and amend regulations for entertainment uses in the Performance Standard districts. Specifically, the Ordinance prohibited dance halls and entertainment establishments not also operating as alcoholic beverage establishments and restaurants with full kitchens and serving full meals in the redevelopment area.² The effect of this particular provision was to prohibit standalone entertainment uses and dance halls. This regulatory scheme did not solve the problem either. See legislative history, attached as Exhibit C.

In 2003, and pursuant to Ordinance No. 2003-3417, the Mayor and City Commission prohibited outdoor entertainment establishments and open air entertainment establishments in the R-PS4 and C-PS1, C-PS2, C-PS3, and C-PS4 districts. The Ordinance also listed neighborhood impact establishments as a conditional use, but only in oceanfront hotels with 250 or more hotel units, with access to the establishment only from the interior lobby of the hotel and not from the street.³ (Neighborhood impact establishments were already listed as a conditional use in the C-PS1, C-PS2, C-PS3, and C-PS4 districts.) This regulatory scheme did not solve the problem either. See legislative history, attached as Exhibit D.

Following lengthy public hearings in 2004, the Mayor and City Commission adopted Ordinance No. 2004-3445, which prohibited dance halls and entertainment establishments that also operated as alcoholic beverage establishments and restaurants with full kitchens (that served full meals) located south of Fifth Street. The effect of this was to restrict entertainment establishments to the many areas of the City where it is allowed outside of the South of Fifth Street Neighborhood. In reviewing the Ordinance, the Planning Board determined that restaurants (with accessory entertainment uses) that

² Ordinance No. 99-3222 clarified a provision allowing dance halls and entertainment establishments in the C-PS3 and C-PS4 districts within a hotel of 250 rooms or more with access to the dance hall or entertainment establishment only from the interior lobby and not from the street. The Ordinance proposed herein would delete this limited allowance for entertainment uses.

³ Previously, under Ordinance No. 96-3050, oceanfront hotels with 250 or more units were permitted to have (as an accessory use) an outdoor entertainment establishment, open air entertainment establishment, or neighborhood impact establishment. By requiring conditional use approval for such uses, Ordinance No. 2003-3417 therefore further restricted the entertainment uses that could be associated with an oceanfront hotel with 250 or more units.

were located within districts that prohibited standalone dance halls and entertainment establishments had similar negative impacts on surrounding residential neighborhoods. Finally, this regulation successfully ameliorated the worst of the negative effects of entertainment establishments on the City. See legislative history, attached as Exhibit D, and Report of Ana Sanchez Gelabert, attached as Exhibit F.⁴

In 2015, and pursuant to Ordinance No. 2015-3948, the Mayor and City Commission adopted a limited allowance for entertainment uses in a portion of the C-PS2 district, on the south side of Fifth Street between Michigan Avenue and Alton Road. No business has ever opened taking advantage of this limited exception, and as detailed herein, it is inconsistent with the City’s planning for a residential neighborhood. Therefore, we have considered how to amend the Ordinance to more consistently regulate this neighborhood. See legislative history, attached as Exhibit G.

Proposed Amendments

The proposed Ordinance would amend the City Code as follows, in order to clarify that entertainment is regulated to be allowed in many areas outside the Performance Standard districts:

Sec. 142-693. Permitted uses.

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

General Use Category	R-PS 1, 2	R-PS 3, 4	C-PS 1, 2, 3, 4	RM-PS1
	*	*	*	
<u>Entertainment establishments, Outdoor outdoor entertainment establishments, and open air entertainment establishments</u>	N	N	N	N
	*	*	*	

P—Main permitted use C—Conditional use N—Not permitted

* * *

⁴ The City hired Ana Gelabert-Sanchez, an expert city Planner and Harvard University Professor, to provide her expert opinion regarding the proposed Ordinance. She was tasked with reviewing the City’s Comprehensive Plan, relevant land use and zoning regulations, public service data, and other alternative entertainment regulations, to determine whether the proposed Ordinance is the most appropriate regulation for the South of Fifth Street neighborhood.

~~(c) For purposes of this section, pawnshops and dance halls and entertainment establishments are not permitted as a main permitted or accessory use south of Fifth Street; however, in the C-PS3 and C-PS4 districts dance halls and entertainment establishments shall be permitted as an accessory use within a hotel of 250 rooms or more with access to the dance hall or entertainment establishment only from the interior lobby and not from the street. Additionally, for restaurants located in the C-PS2 district, on the south side of Fifth Street between Michigan Avenue and Alton Road, non-amplified piano or string instruments, played at a volume that does not interfere with normal conversation, may be permitted as a conditional use within the interior of the premises, in accordance with the requirements of Chapter 118, Article IV, and only during periods in which full meals are being served, and no later than 2:00 am.~~

IV. Analysis

A. History of South of Fifth Street Neighborhood

The City of Miami Beach is one of the country's most popular tourist destinations, but it is also a residential community with thousands of permanent residents. In order to ensure their safety and tranquility, the City has enacted a series of comprehensive zoning regulations that, among other things, restricts what types of uses are permitted in residential communities. See 2025 Comprehensive Plan, attached as Exhibit H; Code of the City of Miami Beach §142-693, attached as Exhibit I.

Of particular relevance here, the City's South of Fifth Street Neighborhood is unique and as part of the former South Pointe Redevelopment Area represents the most successful community revitalization area in the United States. This is a result of careful planning to create a residential neighborhood where residents can live alongside light commercial businesses calibrated to support the residents' needs, while directing entertainment and tourism to the area just north of South of Fifth Neighborhood, in the City's Entertainment District (and much of the rest of the City).⁵

Dating to 1912, the South of Fifth Street Neighborhood was the first subdivision of Miami Beach to be developed. The neighborhood demonstrates the Art Deco style of architecture that has made the City famous across the globe, but after the Mariel boatlift in 1980, which disproportionately impacted the South of Fifth area, the area deteriorated into a slum characterized by blight, vagrancy, and crime. The area became known for drug dealing, and the streets were considered unsafe at night. It decayed into a zone of abandoned warehouses, seedy efficiency hotels and boarded-up properties. See Alexei Barrionuevo, *The Quick Change Artist*, N.Y. Times (February 14, 2013), <http://www.nytimes.com/2013/02/17/realestate/a-miami-beach-fla-neighborhood-rises-to-the-height-of-luxury-living-in-just-one-decade.html?emc=eta1> (last visited March 15,

⁵ The Entertainment District, where musical performances and other entertainment are encouraged, runs from Fifth to Fifteenth Street on Ocean Drive, Collins Avenue, and Washington Avenue. Musical performances and other entertainment are also allowed throughout much of the rest of the City.

2017).

In response to this blighted condition in the South of Fifth Street Neighborhood, the Miami Beach City Commission, pursuant to Fla. Stat §163.330 *et seq*, established the South Pointe Redevelopment Area, from 1973-2020, Florida's first community revitalization area ("CRA"). The CRA is authorized by State law to establish and implement a plan to rehabilitate a blighted area such as the former South of Fifth Street Neighborhood. The governmental interests advanced by a CRA include ameliorating the effect of tourism on a neighborhood, increasing property values, reducing crime, reducing traffic, solving parking problems, facilitating housing, and mitigating the "extra services required for police, fire, accident, hospitalization, and other forms of public protection, services, and facilities" in previously blighted areas. Fla. Stat. §163.335(1)-(5). By resolution, the City Commission declared the South of Fifth Street Neighborhood blighted, and approved the redevelopment plan that adopted the interests stated in Fla. Stat. §163.335. See City of Miami Beach Resolutions 75-14624, attached as Exhibit J and 77-15413, attached as Exhibit K.

The City was joined in the 1990's by developers who shared the vision of a new residential neighborhood. City planners and preservationists stepped in to preserve the unique character and ambiance of the neighborhood created by the distinctive existing Art Deco architecture. These divergent interests collaborated over the next two plus decades to create what is now the neighborhood that allows residents to live near the entertainment district, but not in it. The results are demonstrable. While the area where entertainment establishments are allowed has higher vagrancy, more traffic, higher crime, more calls for police, fire rescue, and code compliance, more trash and litter, and requires more parking resources, the areas where entertainment is restricted, including the South of Fifth neighborhood, has flourished. See Alexei Barrionuevo, *The Quick Change Artist*, Feb. 13, 2014.

B. Prior to enacting incrementally restrictive regulations on entertainment, the City attempted to address the negative impacts of entertainment uses through other means, none of which were as successful as the current Code.

The City has historically regulated entertainment uses to preserve the residential character of the South of Fifth Street Neighborhood. Over the past two decades, the City has adopted a series of land development regulations to initially restrict, and ultimately prohibit entertainment establishments in the South of Fifth Neighborhood.

The City originally relied on its Noise Ordinance to regulate entertainment in the South of Fifth Street Neighborhood. However, the Noise Ordinance proved to be difficult to enforce, and did not address the many other harms associated with entertainment establishments, such as, *inter alia*, increased litter and trash, increased traffic, parking problems, crime, and the drain on resources caused by this use. Therefore, the City enacted several, progressively more restrictive, regulations. Those too proved ineffective. See Ordinance Nos. 94-2908, 96-3050, 99-3222, 2003-3417, and 2004-3445.

Only the 2004 ordinance allowing entertainment establishments outside of the South of Fifth Street Neighborhood has proven effective at regulating entertainment and its negative effects.

C. Entertainment Establishments threaten the residential character of the South of Fifth Street Neighborhood:

The City of Miami Beach has traditionally balanced the competing interests of the tourism-driven entertainment district with the residential character of the South of Fifth Street Neighborhood. The City, in its planning discretion, has designated specific areas where entertainment is not only allowed, but encouraged. The City is conscientious of the relevant role that entertainment plays in the City's economy and character. While the City promotes entertainment in some areas, the City also regulates entertainment in the South of Fifth Street Neighborhood. Although entertainment undoubtedly plays a large role in the City, with entertainment comes negative secondary effects, which would negatively affect a residential neighborhood such as the South of Fifth Street Neighborhood.

The City has hired a planning and zoning consultant (the "City's Consultant") to examine the Ordinance and the related impacts of entertainment uses on the South of Fifth Street Neighborhood. The Entertainment Use SoFi Report ("the Report") states that the uses in the Entertainment District have a pronounced impact on City resources as compared to the residential and low-intensity commercial uses in the South of Fifth Neighborhood. Ana Gelabert-Sanchez, Entertainment Use SoFi ("the Report"), page 26 (2017). Specifically, "in an area similar in size, the Entertainment District has over twice as many fire incidents⁶, seven times the sanitation costs⁷, four times the number of vehicle crashes⁸, fifteen times the number of traffic accidents, twice the number of burglary and larceny incidents⁹, and eight times the number of towing incidents¹⁰." Report, at 23-26.¹¹

As examined by the Report, the Entertainment District "has a pronounced impact on City resources as compared to the South of Fifth Neighborhood." Report, at 23-26. The Report reviewed data provided by several City departments including the Police, Code Compliance, Fire, Sanitation, Parking, and Transportation Departments. The data revealed that an exponentially more significant amount of negative effects caused by entertainment establishments, and thus, a larger amount of resources is dedicated to the Entertainment District to combat them. For example, the Police Department has provided

⁶ See Declaration of Joseph Florio, attached as Exhibit L.

⁷ See Declaration of Alberto Zamora, attached as Exhibit M.

⁸ See Declaration of Jose R. Gonzalez, attached as Exhibit N.

⁹ See Declaration of John Babcock, attached as Exhibit O.

¹⁰ See Declaration of Alberto Ventura, attached as Exhibit P.

¹¹ The Report also compared the business makeup of the two areas. The Report noted that there are only 4 dancehalls in the South of Fifth Street Neighborhood and 18 dancehalls in the Entertainment District. Further, the Finance Department provided data showing that there were several businesses in the South of Fifth Area with the potential to disturb the tranquil character of the area. See Declaration of Manny Marquez, attached as Exhibit Q.

data showing that in the South of Fifth Street Neighborhood, there were 713 burglary and larceny cases in 2016, whereas in the Entertainment District there were 2,078 (an increase of 191%). Further, there were exponentially more calls for service in the Entertainment District than in the South of Fifth Street Neighborhood (an increase of 283%). Report, at 23-26.

Similarly, Code Compliance Department data revealed that there were more noise complaints in the Entertainment District than in the South of Fifth Street Neighborhood. For instance, in one week in December 2016, there were 4 noise complaints in the South of Fifth Street Neighborhood, and 18 noise complaints in the Entertainment District. The Sanitation Department provided a breakdown of resources spent in the South of Fifth Street Neighborhood and the Entertainment District. The Sanitation Department spends an annual total of \$321,500.00, and designates a crew of five (5) employees to work the area in the South of Fifth Street Neighborhood. Meanwhile, the Sanitation Department spends an annual \$2,370,500.00 in the Entertainment District, and designates a 33-person day crew and a 10-person night crew to the area. Report, at 23-26

The Parking and Transportation Departments also provided data regarding the impacts of entertainment uses.¹² As in all of the other data reports, both traffic and parking had an increase in services and problems in the Entertainment District. In the South of Fifth Street Neighborhood, due to less traffic, there were 1,406 accidents from 2010-2017. In the Entertainment District, there were 7,256 accidents in the same period (416% increase). Further, according to parking studies, in the Ocean Drive Entertainment District, the overall parking demand in the district is expected to reach deficit levels. “This indicates that the Entertainment District places the highest demand on parking availability of any other Zone in the City of Miami Beach [...]” Report, at 27.

Ultimately, the Report concluded that “together, the numbers in the charts above and the Walker parking studies, provide a strong indication that the character of the SoFi neighborhood would be adversely impacted by allowing Land Use changes that would encourage the formation of an Entertainment district in the SoFi neighborhood.” Report, at 26-28.

D. Evidence considered in support of the proposed Ordinance

After examining the City’s Comprehensive Plan, prior Ordinances, data provided by several City departments, and other cities’ land use regulations, the City’s Consultant concluded that the City’s restrictions on entertainment uses (including the Ordinance proposed herein) are the most appropriate approach to mitigating the negative impacts of entertainment uses in the City’s South of Fifth Street Neighborhood, while promoting the goals and character of the City. The Report makes the following observations:

- The Ordinance is the most appropriate regulation given the issues that remained despite enacting the prior, less restrictive regulations; the City’s planning goals,

¹² See Declaration of Alberto Ventura.

and the negative secondary impacts of entertainment on a residential neighborhood. Report, at 39.

- The City of Miami Beach's Comprehensive Plan, as well as its land development regulations exist to support the wellbeing of its citizens. Report, at 8.
- The City's longstanding planning goals include, but are not limited to: (1) ensuring that the character and location of land uses maximize economic potential while minimizing the threat to the health, safety, and welfare posed by hazards, nuisances, and incompatible land uses; (2) guaranteeing that residential neighborhoods are protected from unnecessary traffic intrusions; and (3) preventing an increase in residential density. Report, at 8-11.
- Based on the background of the Entertainment District and South of Fifth Street Neighborhood (and the respective historic districts), the two were created with markedly different intents. South of Fifth Neighborhood was created with the intent of preserving the character of residential neighborhoods; while the Entertainment District was created to enhance entertainment, tourism and business opportunities. Report, at 21-22.
- The Entertainment District has a noticeable impact on the City's resources in comparison to the South of Fifth Street Neighborhood. "In an area similar in size, the Entertainment District has over twice as many fire incidents, seven times the sanitation costs, four times the number of vehicle crashes, fifteen times the number of traffic incidents, twice the number of burglary and larceny incidents, and eight times the number of towing incidents." Report, at 23-26.
- The data collected from various departments demonstrates that the character of the South of Fifth Street Neighborhood would be adversely impacted by allowing regulations that would encourage the formation of an entertainment district in the South of Fifth Street Neighborhood. Report, at 26-28.
- The language in the City's Comprehensive Plan as well as other land use regulations supports the proposed amendment; and the proposed amendment is directly linked to the City's goal of preserving the residential community. Report, at 39.
- Previous attempts to regulate entertainment have proved to be unable to resolve the existing issues regarding entertainment. Report, at 3. The regulations assisted with incrementally mitigating the effects of entertainment, but did not completely resolve the issues.
- The Ordinance ensures land use compatibility between residential and entertainment uses. The amended ordinance ensures the preservation of the residential character in the South of Fifth Street Neighborhood and does not put a strain on commercial or entertainment in the City. Report, at 39.

Moreover, the City has received numerous complaints from City residents regarding the effects of entertainment on residential neighborhoods. Although the experiences of each of the residents is unique, they include, but are not limited to, the following observations:

- The City has regulated entertainment because of the strain on the quality of life for the City's residents.
- The residents do not want the South of Fifth Street Neighborhood to turn into an entertainment district due to the negative secondary impacts of entertainment. Some of the concerns are traffic, noise, violence, parking, sanitation and pedestrian safety. On one specific occasion, a resident's condominium building was struck with three bullets, from a gang fight that occurred at the intersection of Fifth Street and Ocean Drive.
- Before the City regulated entertainment in the South of Fifth Street Neighborhood, the residents suffered from the secondary effects of entertainment coming from restaurants that turned into nightclubs in the evening. The gradual increase in enforcement restrictions benefited the tranquility and residential character of the South of Fifth Street Neighborhood.

The evidence provided by the City departments, the Report, and the residents' declarations support enacting the Ordinance.

E. Alternative solutions for consideration

The Administration has considered several alternatives for resolving the problems associated with entertainment uses in the South of Fifth Street Neighborhood. The City tasked its expert with considering other planning regulations employed by other municipalities across the nation.

Other cities have regulated entertainment by imposing alcohol use restrictions and/or distance requirements between a specific use and other uses such as schools, churches, or residential districts or uses. The expert examined both alcohol restrictions and distance requirements to analyze whether the proposed Ordinance was the most appropriate means to accomplish the City's planning goals.

The expert analyzed the regulations of Jefferson Parish, LA, Orlando, FL, Roseville, CA, and San Francisco, CA; ultimately concluding that the proposed Ordinance is the most appropriate means to accomplish the City's legitimate governmental interests in the South of Fifth Street Neighborhood. Report, at 31-38.

Jefferson Parrish, Louisiana regulates entertainment by requiring a 200-foot distance between an entertainment establishment and any residential district. The planning department applied this hypothetical ordinance to the South of Fifth Neighborhood and produced a map to show where entertainment establishments would be allowed under this scheme. As the attached map shows, entertainment establishments would be prohibited under this scheme in almost the entirety of the neighborhood. Thus, the net effect would be almost identical. Additionally, our expert opined that this regulatory scheme would not be successful in South of Fifth Street Neighborhood because it would restrict entertainment but leave inconsistent and arbitrary slivers of land where entertainment establishments were allowed, resulting in conflicting land uses in one district. Report, at 31.

City of Orlando, Florida requires a 200-foot distance between an establishment serving alcohol and providing live entertainment and schools and churches, and a 1,000-foot distance requirement between establishments selling alcoholic beverages and schools and churches. We deem this regulatory scheme unacceptable because it does not regulate entertainment establishments near residential areas, thereby not serving the City's interests. Our planning consultant recommended the City's proposed ordinance over this solution because the City of Miami Beach treats entertainment establishments separately from alcoholic beverage establishments. The City of Miami Beach regulates the actual impact of the uses, and the compatibility with, nearby properties, thereby encouraging a range of commercial uses that serve the neighborhood such as restaurants that may serve alcohol. Report, at 32-35.

Roseville, California requires a 500-foot distance requirement between nightclubs and residential uses. The planning department created a map of the South of Fifth Neighborhood applying this rule and found that this regulatory scheme would prohibit all entertainment in the South of Fifth Street Neighborhood because all properties are within 500 feet of a residential area. So, while this regulation would have roughly the same regulatory impact as the proposed amendment, our planning consultant considers our proposed Ordinance superior because it is consistent with our comprehensive plan and speaks more clearly to the intent of protecting the residential nature of the neighborhood. Report, at 36-37.

City of San Francisco, California regulations for the Western SoMa Special Use District in San Francisco prohibit nighttime entertainment within 200 linear feet of any residential or mixed residential districts. Our planning consultant recommended against this regulatory scheme because it would result in conflicts between existing land uses. It would in effect allow an entertainment use in areas where new and existing residential uses are present. Report, at 38.

Accordingly, based on our planning consultant's research and professional opinion, the Administration does not recommend any of the above referenced alternative solutions.

F. Maintaining or extending the currently existing regulations would be unworkable.

The Administration has also considered the viability of extending the current regulation, allowing for performances by piano and string instruments in a few areas directly on the Fifth Street artery to the entirety of the South of Fifth Street Neighborhood. Ultimately, this plan was rejected. The City's interest in protecting the residential character of the neighborhood by this regulation is not currently served because piano and string instrument performances can be equally disruptive. One challenge is that the regulation does not take into account the crowds that would be drawn by a popular performer such as YoYo Ma performing on cello, the late Liberace performing on piano, or Eddie Van Halen performing on the guitar in this residential neighborhood. The proposed Ordinance

will most clearly clarify the City's intent to protect the neighborhood's residential character and to consistently zone the Performance Standard districts.

G. Entertainment is allowed throughout most of the rest of the City.

Tourism is the lifeblood of the City, and entertainment is a key component of the City's fame. Therefore, the City allows entertainment establishments to operate throughout most of the rest of the City. In addition to the Entertainment District, where entertainment is encouraged, it is allowed in almost the entirety of South Beach, and large portions of Mid-Beach and North Beach. See City Map, attached as Exhibit R.

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING COMPREHENSIVE ZONING ORDINANCE NO. 89-2665; AMENDING SECTION 3, ENTITLED "DEFINITIONS", AMENDING SUBSECTION 3-2, ENTITLED "TERMS DEFINED" BY MODIFYING THE DEFINITION OF "OPEN SPACE" TO EXCLUDE PARKING SPACES FROM THE CALCULATION OF OPEN SPACE; AMENDING SECTION 7, ENTITLED "PARKING REGULATIONS", AMENDING SUBSECTION 7-8, ENTITLED "PARKING CREDIT SYSTEM", BY CLARIFYING THE EFFECTIVE DATE FOR THE PURPOSES OF CALCULATING PARKING CREDITS AND THAT PARKING CREDITS ARE NOT APPLICABLE TO PORTIONS OF BUILDINGS WHICH HAVE BEEN DEMOLISHED, AND BY ALLOWING PARKING CREDITS FOR USES IN THE REDEVELOPMENT AREA AND FOR REHABILITATED HOTEL UNITS; AMENDING SECTION 13, ENTITLED "NONCONFORMING STRUCTURES AND USES", AMENDING SUBSECTION 13-5, ENTITLED "DESTRUCTION OR RENOVATION OF NONCONFORMING BUILDINGS AND USES" BY CLARIFYING THE REGULATIONS FOR NONCONFORMING USES AND NONCONFORMING BUILDINGS; AMENDING SECTION 20, ENTITLED "PS-PERFORMANCE STANDARD DISTRICT" BY RESTRICTING NIGHTCLUBS; BY MODIFYING THE RESIDENTIAL AND COMMERCIAL DEVELOPMENT REGULATIONS IN TERMS OF LOT AREA, LOT WIDTH, MAXIMUM BUILDING HEIGHTS, MINIMUM AND AVERAGE UNIT SIZES, SETBACKS AND BY MODIFYING THE OPEN SPACE RATIO CALCULATIONS;

PROVIDING FOR INCLUSION IN THE ZONING ORDINANCE; PROVIDING FOR A REPEALER; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach wishes to encourage development in the South Pointe Redevelopment Area; and,

WHEREAS, the South Pointe Advisory Committee has reviewed and accepted the proposed amendments to the District Regulations for the South Pointe Area; and,

WHEREAS, the University of Miami, in consultation with the City of Miami Beach, held a design symposium which helped refine the proposed amendments; and,

WHEREAS, the amendments set forth herein are necessary to the welfare of the residents of the City of Miami Beach, Florida.

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

SECTION 1. That Subsection 3-2, entitled "Terms Defined" of Zoning Ordinance No. 89-2665, is hereby amended as follows:

3-2 TERMS DEFINED

* * *

139. OPEN SPACE: That part of a Lot in the Redevelopment Area, including Courts and Yards which:

- a. is open and unobstructed from its lowest level upward, and
- b. is accessible to all residents on the Lot without restrictions except as may be required for safety, and
- c. is not occupied by Off-Street Parking, Streets, drives, or other surfaces for vehicles, ~~except as may be required to provide one parking space per Apartment Unit on the Lot.~~ Open Space is, in general, that part of a Lot available for entry and Use by the occupants of the Building or Buildings on the Premises, but may include space located and treated to enhance the amenity of the Development by providing landscaping, screening for the benefit of the occupants or neighboring areas, or a general appearance of openness. Open Space may include water surfaces that comprise not more than 10 percent of total Open Space, and may include
- ~~d. Landscaping, roofs, and decks or garages~~ d. Landscaping, roofs, and decks pursuant to conditions contained in the district regulations.

SECTION 2. That Subsection 7-8, entitled "Parking Credit System" of Zoning Ordinance No. 89-2665, is hereby amended as follows:

7-8 PARKING CREDIT SYSTEM

- A. Whenever a Building or Use that was established prior to ~~the Effective Date of this Ordinance October 1, 1989~~, is changed in a manner that results in an increase in the number of required Parking spaces, the following regulations shall apply.
1. Any Building or Use that lawfully existed ~~on the Effective Date of this Ordinance October 1, 1989~~, shall receive a parking space credit equal to the number of parking spaces required prior to the adoption of this Ordinance. The parking credit shall run with the land and shall be applied toward the required Parking as follows:
 - a. The Parking credit shall only be applied to the area within the existing shell of the Building.
 - b. Parking credits shall not be applicable to Buildings or portions of a Building that have been demolished, in the Redevelopment Area or when all or a portion of a Building has been demolished.
 - c. Parking credits in the MXE Mixed Use Entertainment District shall only be applied as of November 5, 1990. Parking credits in the Redevelopment Area shall only be applied as of (the effective date of Ordinance). Any existing Use in the MXE Mixed Use Entertainment District or Redevelopment Area which has satisfied the parking requirement through participation in the Parking Impact Fee Program may have its Parking Impact Fee adjusted for parking credits at the next due date for payment. No reimbursement or prorating shall be allowed.
 2. ~~Notwithstanding paragraph 1, when a Building is rehabilitated at a cost greater than fifty (50) percent of the Building's assessed value and when said Building contains Hotel Units, no parking credits shall be given for required Parking spaces for Apartment Units which are proposed to be converted to or replaced with new Hotel Units.~~

SECTION 3. That Subsection 13-5, entitled "Destruction or Renovation of Nonconforming Buildings and Uses" of Zoning Ordinance No. 89-2665, is hereby amended as follows for properties in the South Pointe Redevelopment Area:

13-5 DESTRUCTION, REPAIR AND/OR RENOVATION OF NONCONFORMING BUILDINGS AND USES.

A. NONCONFORMING USES

If a Building which contains a Nonconforming Use is damaged, repaired or renovated at a cost exceeding 50% of the Value Determination of the Building as determined by the Building Official pursuant to the standards set forth in the South Florida Building Code, it shall not be thereafter used except in conformity with the Use Regulations in the applicable Zoning District contained in this Ordinance and all rights as a Nonconforming Use are terminated.

B. NONCONFORMING BUILDINGS

1. Nonconforming Buildings which are damaged, repaired or rehabilitated by LESS THAN FIFTY (50%) PERCENT OF THE VALUE DETERMINATION of the Building as determined by the Building Official pursuant to the standards set forth in the South Florida Building Code, may be repaired or rehabilitated if the following conditions are met:
 - a. Renovated or repaired units shall meet the minimum Floor Area as set forth for the Zoning District in which the property is located. The number of units in the building shall not be increased.
 - b. The Building shall have previously been issued a Certificate of Use, Certificate of Completion, Certificate of Occupancy or Occupational License by the City to reflect it's current use.
 - c. Such repairs or reconstruction in the damaged or repaired portion of the Building shall meet the requirements of the Miami Beach Property Maintenance Standards, the South Florida Building Code, Fire Prevention and Safety Code, and if a Historic Structure, shall comply substantially with the Secretary of Interior Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures, U.S. Department of the Interior(1983) and as amended.
2. Nonconforming Buildings which are damaged, repaired or rehabilitated by MORE THAN FIFTY (50%) PERCENT OF THE VALUE DETERMINATION of the

Building as determined by the Building Official pursuant to the standards set forth in the South Florida Building Code, it may be repaired or rehabilitated if the following conditions are met:

a. Historic Structures:

- 1). All Residential Units shall meet the minimum and average unit sizes for rehabilitated buildings as set forth in the Zoning District in which the property is located.
- 2). The existing structure's Floor Area, Height, and Setbacks may remain, but any new addition or alteration must comply with the current development regulations in the Zoning District in which the property is located.
- 3). All parking regulations pursuant to Section 7 of the Zoning Ordinance.
- 4). The Building shall meet all requirements (as amended) in the following: South Florida Building Code, State Fire Marshall's Rules and Regulations, Fire Prevention and Safety Code, the Miami Beach Property Maintenance Standards and shall comply substantially with the Secretary of Interior Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures, U.S. Department of the Interior (1983) and as amended.

b. Non Historic Structures

- 1). All Residential Units shall meet the minimum and average unit sizes for new construction as set forth in the Zoning District in which the property is located.
- 2). The Building must meet all development regulations (lot size, lot width, setbacks, height, open space, etc.) as set forth in the Zoning District in which the property is located, except for the Floor Area Ratio which may remain as is if it currently exceeds the maximum FAR allowed in the Zoning District. No new floor area may be added if the maximum FAR is presently exceeded.
- 3). The Building shall receive no parking credits and must pay a parking impact fee or provide the required parking on site or within 1200 feet of the subject property.
- 4). The Building shall meet all requirements (as amended) in the following: South Florida Building Code, State Fire Marshall's Rules and Regulations, Fire Prevention and Safety Code and the Miami Beach Property Maintenance Standards.

~~A. Except as provided in paragraph B herein, if a Non conforming Building or Use is damaged by any cause to the extent of more than fifty (50%) percent of the Value Determination of a Building as determined by the Building Official as set forth in the South Florida Building Code, it shall not be restored except in conformity with the regulations contained in this Ordinance and all rights as a Nonconforming Building or Use are terminated.~~

~~B. A Nonconforming Building may be repaired regardless of the time a Building has been vacant or to the extent it is damaged at a cost exceeding 50% of the Value Determination of a Building as determined by the Building Official as set forth in the South Florida Building Code if the following conditions are met:~~

- ~~1. The Building is a Historic Building as determined by the Planning and Zoning Department. A Building Permit shall not be issued until the Planning and Zoning Department approves the architectural plans for a Historic Building pursuant to the Design Review Board procedures and which shall also include the Historic Preservation Board procedures, as set forth in Section 19-3 of this Ordinance.~~
- ~~2. The Building shall meet all requirements (as amended) in the following: South Florida Building Code, State Fire Marshal's Rules and Regulations, Fire Prevention and Safety Code and the Miami Beach Property Maintenance Standards and shall comply substantially with the Secretary of Interior Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures, U.S. Department of the Interior (1983) and as amended.~~
- ~~3. The total number of units shall not exceed those which are listed on the Building Card, and each Hotel or Apartment Unit shall meet the Floor Area requirements set forth in Section 6 of this Ordinance for the applicable zoning district.~~

4. ~~The parking requirements for an Apartment Building or Commercial Uses may be satisfied by the Use of the Parking Impact Fee Program as set forth in Section 7-7 when applicable under the regulations of that Section. The required parking for such Uses shall be determined by using the Parking Credit system as set forth in Section 7-8. Parking credits are not applicable when any Use is converted into Hotel Units.~~
 5. ~~The above provisions are not applicable in those cases where multiple permits in one calendar year have been issued for a property where the value of the work exceeds 50% of the value determination of the property or for properties which are located in a Redevelopment Area or in Structures which are under a Demolition order from the Dade County Unsafe Structures Board.~~
- ~~C. If a Building is damaged or rehabilitated by less than fifty (50%) percent the Value Determination of a Building as determined by the Building Official as set forth in the South Florida Building Code, it may be repaired and used as before the time of damage, provided that:~~
1. ~~Such repairs or reconstruction are completed within twelve (12) months of the date of such damage and a Certificate of Use, Certificate of Completion, Certificate of Occupancy or Occupational License has been issued by the City;~~
 2. ~~Such repairs or reconstruction in the damaged portion of the Building shall meet the requirements of the Miami Beach Property Maintenance Standards, the South Florida Building Code, Fire Prevention and Safety Code, and if a Historic Structure, shall comply substantially with the Secretary of Interior Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures, U.S. Department of the Interior (1983) and as amended and;~~
 3. ~~Damaged and subsequently repaired units shall meet the Floor Area requirements as set forth for the district in which the Property is located.~~
- ~~C.D. If a Nonconforming Building has been cited by the Dade County Unsafe Structures Board, the owners shall bring the Structure into conformity with applicable codes within the time period specified by said Board. With regard to multiple Family residential Buildings, all of the units shall meet the Floor Area requirements as set forth in Section 13-5.B. above. 6 of this Ordinance for the applicable Zoning District. If the Building is not brought into compliance within said time period, the Building shall not again be used except in compliance with all the regulations of this Ordinance.~~
- ~~E. Nonconforming Buildings and Uses in the Performance Standard (PS) Districts shall conform to Section 20-3,C of this Ordinance in addition to the regulations contained in Section 13.~~

SECTION 4. That Section 20, entitled "PS - PERFORMANCE STANDARD DISTRICT" of Zoning Ordinance No. 89-2665, is hereby amended as follows:

20-1 ESTABLISHMENT OF DISTRICT AND DIVISIONS

The PS - Performance Standard District is hereby established as shown on the map designated as the City of Miami Beach Zoning District Map. The PS district consists of all land in the Redevelopment Area and consists of five (5) districts including: a Residential Performance Standard (R-PS) District, a Commercial Performance Standard (C-PS) District, a Residential Limited Mixed Use Performance Standard (M-PS) District (each of which is further subdivided based upon the type and density or intensity of permitted Uses) a GU Government Use District and MR Marine Recreation District.

20-2 DISTRICT PURPOSE AND SUBDISTRICTS

F. Residential Performance Standards.

The Residential-Performance Standards Districts are designed to accommodate a broad spectrum of medium-low to high density residential Development including Townhome Development and multiple-Family Development pursuant to "performance standards" which control the permissible type and density of residential Development. Performance standards development will allow for modification of requirements affecting certain individual Lots, greater flexibility, particularly for large-scale Development, and incentives for provision of certain amenities and for conformance with specified objectives, thereby encouraging more flexible and innovative design and Development, in accordance with the goals and objectives of the Comprehensive Plan and the Redevelopment Plan.

In order to adequately and properly distinguish among the permissible types and densities of residential Development, the Redevelopment Area is divided into the following residential districts:

R-PS 1	Medium - Low Density
R-PS 2	Medium Density
R-PS 3	Medium - High Density
R-PS 4	High Density

B. Commercial Performance Standards.

The Commercial Performance Standards Districts are designed to accommodate a range of business, Commercial, office and Hotel Uses, as well as medium to high density residential Development pursuant to "performance standards" which control the permissible type, density or intensity, and mix of Development. Performance standards Development will allow for modification of requirements affecting certain individual Lots; greater flexibility, particularly for large-scale Development; large commercial, medium to high density residential and mixed Use Developments in phases over time where the overall Development at a single point in time or in a single instance by private owners would not be practical; providing incentives for provision of certain amenities and for conformance with specified objectives, thereby encouraging more flexible and innovative design and Development in accordance with the goals and objectives of the Comprehensive Plan and the Redevelopment Plan.

In order to adequately and properly distinguish between types, densities and intensities of Uses and mix of permitted commercial Development in the Redevelopment Area, districts are divided as follows:

- C-PS1 Limited Mixed-Use Commercial
- C-PS2 General Mixed-Use Commercial
- C-PS3 Intensive Mixed-Use Commercial
- C-PS4 Intensive Mixed-Use Phased Bayside Commercial

C. Residential Limited Mixed Use Performance Standards.

The Residential Limited Mixed Use Performance Standards District is designed to accommodate the new construction of light Commercial, office and public uses, as well as low density residential Development pursuant to "performance standards" which control the permissible type, density or intensity, and mix of Development. Performance standards Development will allow for modification of requirements affecting certain individual Sites; greater flexibility, particularly for large-scale Development; light commercial, low density residential and mixed Use Developments in phases over time where the overall Development at a single point in time or in a single instance by private owners would not be practical; providing incentives for provision of certain amenities and for conformance with specified objectives, thereby encouraging more flexible and innovative design and Development in accordance with the goals and objectives of the Comprehensive Plan and the Redevelopment Plan.

In order to adequately and properly distinguish between types, densities and intensities of Uses and mix of permitted mixed Development in the Redevelopment Area, the RM-PS1 Residential Limited Mixed Use Development is established.

20-3 USE REGULATIONS

A. Uses Permitted By Right, Uses Permitted by Conditional Use Permit and Uses Not Permitted.

No Building, Structure or land shall be Used or occupied except as a main permitted Use, a Conditional Use, or an Accessory Use to a main permitted Use, in accordance with the Table and text of Permitted Uses. A Use in any district denoted by the letter "P" is a Use permitted by right in such district or subdistrict, provided that all requirements and performance standards applicable to such Uses have been met. A Use in any district denoted by the letter "C" is permissible as a Conditional Use in such district or subdistrict, provided that all requirements and performance standards applicable to such Use have been met and provided that all requirements of Section 17-3 of the Zoning Ordinance have been met. A Use in any district denoted by the letter "N", or specifically listed as a use not permitted in the text of Section B. below, is not permitted in such district or subdistrict. Uses permitted by right, as a Conditional Use, or as an Accessory Use shall be subject to all Use regulations and performance standards contained herein and to such other regulations as may be applicable, including Site Plan review and design review. Uses not listed in the Table of Permitted Uses are not permitted in the district or subdistrict. Notwithstanding any provision of this Section, no Use is permitted on a parcel, whether listed by right, as a Conditional Use or as an Accessory Use in such district, unless it can be located on such parcel in full compliance with all of the performance standards and other requirements of the Zoning Ordinance applicable to the specific Use and parcel in question.

B. Table of Permitted Uses

General Use Category	R-PS 1,2	R-PS 3,4	C-PS 1,2,3,4	RM-PS 1
Single Family; Townhome; Apartment; Apt/Hotel	P	P	P	P Apt/Hotel not permitted
Hotel	N	P	P	N
Commercial	N	N	P*	P* 8% of Floor Area
Institutional	C	C	C	C 1.25% of Floor Area
Accessory	P	P	P	P

P - Main Permitted Use C - Conditional Use N - Not Permitted
 Floor Area in the RM-PS 1 District refers to total Floor Area in project. Commercial Uses in RM-PS1 limited to stores and restaurants.

For purposes of this Section, a Car Wash, Filling Station and any Use that sells gasoline, automobiles or automotive or related repair Uses are considered as industrial Uses and are not permitted in the Redevelopment Area.

* For purposes of this Section, Nightclubs are not permitted as a Main Permitted or Accessory Use in the Redevelopment Area; however, in the C-PS3 and C-PS4 Districts a Nightclub shall be permitted as an Accessory Use within a hotel of 250 rooms or more with access to the Nightclub only from the interior lobby and not from the street.

Commercial and non-commercial Parking Lots and Garages shall be considered as a Conditional Use in the R-PS1,2,3 and 4 Districts.

C. ~~Supplemental Regulations as to Non-Conforming Uses, Lots and Structures~~

1. ~~Applicability.~~ Non-conforming Uses, Lots and Structures shall be subject to the regulations contained in Section 13 of this Ordinance ~~and the additional and supplemental regulations prescribed herein.~~
2. ~~Building Permit or other permit(s) shall be issued by the City for rehabilitation of a Non-conforming Structure or Use:~~
 - a. ~~If no other Building Permit or City permit for repair or rehabilitation has been issued during the Preceding calendar year.~~
 - b. ~~When the cost of rehabilitation is less than fifty (50%) percent of the Dade County tax assessed valuation of the Structure or fifty (50%) percent of the replacement value as determined by the Dade County Property Appraiser, whichever is greater, and the Structure meets all applicable standards of the Miami Beach Property Maintenance Standards, the South Florida Building Code, and Fire Prevention and Safety Code as determined by an on Site inspection; and no damaged and subsequently repaired unit shall contain less than the Floor Area requirements as set forth in the Zoning District in which the Structure is located.~~
 - e. ~~When the cost of rehabilitation is equal to or greater than fifty (50%) percent of the assessed valuation of the Structure or fifty (50%) percent of the replacement value as determined by the Dade County Property Appraiser, whichever is greater, and the Structure meets all applicable standards of the Miami Beach Property Maintenance Standards and the South Florida Building Code as determined by an on Site inspection; and not less than eighty five (85%) percent of all Apartment Units in the Structure(s) shall have a minimum gross Floor Area of 750 square feet or greater; and not more than fifteen (15%) percent of the Apartment Units in the Structure(s) shall have a minimum gross Floor Area of not less than 400 square feet, unless a Variance is granted pursuant to Section 16 of this Ordinance.~~
3. ~~A Non-conforming Structure shall not again be used except in conformity with the regulations of the PS Districts, if such Non-conforming Structure is unused as of the Effective Date of this Ordinance and either:~~
 - a. ~~The Structure has remained idle or unused for a continuous period of six (6) months.~~
 - b. ~~The Structure has remained idle or unused for 18 months during any three (3) year period whether or not the equipment or Fixtures are removed.~~

20-4 PERFORMANCE STANDARD REGULATIONS

A. General Requirement. No Building, Structure or land shall be used or occupied except in conformance with the performance standards applicable to the Use and subdistrict as set forth in the applicable Table of Performance Standards. The purposes of the performance standards are as:

1. to provide detailed regulations by means of minimum criteria which must be met by all Uses in order to ensure Development consistent with the goals and objectives of the Comprehensive Plan and the Redevelopment Plan;
2. to protect the integrity of the Comprehensive Plan and the Redevelopment Plan and the relationships between Uses and densities that are essential to the viability of these Plans and the Redevelopment Area; and
3. to promote and protect the public health, safety, and general welfare by requiring all Development to be consistent with the land Use, circulation and amenities components of the redevelopment element of the Comprehensive Plan and the capital improvements program for the area, as specified in the Comprehensive Plan.

B. Table of Residential Performance Standards

		Residential Subdistricts			
Performance Standard		R-PS1	R-PS2	R-PS3	R-PS4
1.	Minimum Lot Area	10,000 5,750 sq. ft.	10,000 5,750 sq. ft.	10,000 5,750 sq. ft.	10,000 5,750 sq. ft.
2.	Minimum Lot Width	100 50 ft	100 50 ft	100 50 ft	100 50 ft
3.	Required Open Space Ratio	.60, See Sec 20-4,J	.65, See Sec 20-4,J	.70, See Sec 20-4,J	.70, See Sec 20-4,J
4.	Maximum Building Height	None 45 ft Lots 50' wide or less - 35 ft	None 45 ft Lots 50' wide or less - 35 ft	None 60 ft Lots 50' wide or less - 35 ft	None Non-oceanfront -80 ft; Oceanfront -100 ft Lots 50' wide or less - 35 ft
5.	Base FAR (without bonus)	.75	1.0	1.25	1.5
6.	Max FAR (with bonus)*	1.5	1.75	2.00	2.25
7.	Minimum Floor Area Per Apartment Unit (square feet)	<u>New Construction</u> 700 <u>Rehabilitated Buildings</u> 400	<u>New Construction</u> 650 <u>Rehabilitated Buildings</u> 400	<u>New Construction</u> 600 <u>Rehabilitated Buildings</u> 400	<u>New Construction</u> 550 <u>Rehabilitated Buildings</u> 400
8.	Minimum Average Floor Area Per Apartment Unit (square feet)	<u>New Construction</u> 950 <u>Rehabilitated Buildings</u> 550	<u>New Construction</u> 900 <u>Rehabilitated Buildings</u> 550	<u>New Construction</u> 850 <u>Rehabilitated Buildings</u> 550	<u>New Construction</u> 800 <u>Rehabilitated Buildings</u> 550
9.	Minimum Floor Area Per Hotel Unit (square feet)	N.A.	N.A.	15% = 300-335 sq.ft. 85% = 335+ sq.ft.	15% = 300-335 sq.ft. 85% = 335+ sq.ft.
10.	Minimum Parking	Pursuant to Section 7 of Zoning Ordinance and Section 20-4,K Requirement herein.			
11.	Minimum Off-Street Loading	Pursuant to Section 7-5 of Zoning Ordinance.			
12.	Signs	Pursuant to Section 9 of Zoning Ordinance.			
13.	Suites Hotel	Pursuant to Section 6-22 of Zoning Ordinance.			

* The maximum FAR increase above the base Floor Area Ratio is achieved by using the Design Bonus provisions as listed in Section 6-24 of this Ordinance.

C. Setback Requirements R-PS1,2,3,4

		1. Front	2. Side, Interior	3. Side, Facing a Street	4. Rear
a.	At Grade Parking Lot (below Building)	<u>5' - 20'</u>	5', or 5% of Lot Width, whichever is greater. (0' if Lot Width is 50' or less).	5', or 5% of Lot Width, whichever is greater.	Non-oceanfront Lots -5 feet Oceanfront Lots - 50 feet from Bulkhead Line.
b.	Subterranean	<u>5' - 20'</u>	5', or 5% of Lot Width, whichever is greater. (0' if Lot Width is 50' or less)	5', or 5% of Lot Width, whichever is greater.	Non-oceanfront Lots -0 feet Oceanfront Lots - 50 feet from Bulkhead Line.
c.	Pedestal	<u>5' - 20'</u>	<u>7.5'</u> Lots 50' wide or less - 5 ft Sum of the Side Yards shall equal 16% of Lot Width. Min. 7.5' or 8% of Lot Width, whichever is greater.	<u>5'</u> Sum of the Side Yards shall equal 16% of Lot Width. Min. 7.5' or 8% of Lot Width, whichever is greater.	Non-oceanfront Lots -10% of Lot Depth. Oceanfront Lots - 20% of Lot Depth, 50' minimum from Bulkhead Line.
d.	Tower	<u>50'</u> 20' + 1' for every 1' increase in height above 50', to a maximum of 50', then shall remain constant.	The required Pedestal setback plus .10 the height of the Building. Tower not to exceed 50 feet.	<u>The required Pedestal setback plus .10 the height of the Building.</u> Sum of the Side Yards shall equal 16% of the Lot Width. Min. 7.5' or 8% of Lot Width, whichever is greater.	Non-oceanfront Lots -15% of Lot Depth. Oceanfront Lots - 25% of Lot Depth, 75' minimum from Bulkhead Line.

5. All required setbacks shall be considered as minimum requirements except for the pedestal front yard setback and pedestal side yard facing a street setback which shall be considered as both a minimum and maximum requirements.
6. For lots greater than 100 feet in width the front setback shall be extended to include at least one open court with a minimum area of three (3) square feet for every linear foot of lot frontage.

D. Table of Commercial Performance Standards

		Commercial Subdistricts			
Performance Standard		C-PS1	C-PS2	C-PS3	C-PS4
1.	Minimum Lot Area	10,000 <u>6,000</u> sq. ft.	10,000 <u>6,000</u> sq. ft.	10,000 <u>6,000</u> sq. ft.	10,000 <u>6,000</u> sq. ft.
2.	Minimum Lot Width	100 ft. <u>50</u> ft	100 ft. <u>50</u> ft	100 ft. <u>50</u> ft	100 ft. <u>50</u> ft
3.	Maximum Building Height	<u>75</u> ft	<u>75</u> ft	None	None
4.	Base FAR	1.0	2.0	2.5	2.5
5.	Maximum FAR (with bonus)*	2.0	2.5	3.5	3.5
6.	Residential <u>and</u> Hotel Development	Pursuant to all R-PS2 district regulations, <u>except maximum building height for residential and mixed use buildings shall be 75 ft.</u>	Pursuant to all R-PS3 district regulations, <u>except maximum building height for residential and mixed use buildings shall be 75 ft.</u>	Pursuant to all R-PS4 district regulations, <u>except maximum Floor Area Ratio shall be 3.5, no height restriction and Open Space Ratio .60 measured at or above Grade.</u>	Pursuant to all R-PS4 district regulations, <u>except maximum Floor Area Ratio shall be 3.5, no height restriction and Open Space Ratio .60 measured at or above Grade.</u>
7.	Minimum Apt. Unit Size (sq.ft.)	<u>New Construction 650</u> Rehabilitated Buildings 400	<u>New Construction 600</u> Rehabilitated Buildings 400	<u>New Construction 550</u> Rehabilitated Buildings 400	<u>New Construction 550</u> Rehabilitated Buildings 400
8.	Average Apt. Unit Size (sq.ft.)	<u>New Construction 900</u> Rehabilitated Buildings 550	<u>New Construction 850</u> Rehabilitated Buildings 550	<u>New Construction 800</u> Rehabilitated Buildings 550	<u>New Construction 800</u> Rehabilitated Buildings 550

9.	Minimum Floor Area Per Hotel Unit (square feet)	15% = 300-335 sq.ft.; 85% = 335+ sq.ft. in all districts.
10.	Minimum Parking Requirements	Pursuant to Section 7 of Zoning Ordinance and Section 20-4, H Requirement herein.
11.	Minimum Off-Street Loading	Pursuant to Section 7 of Zoning Ordinance.
12.	Signs	Pursuant to Section 9 of Zoning Ordinance.

* The maximum FAR increase above the base Floor Area Ratio is achieved by using the Design Bonus provisions as listed in Section 6-24 of this Ordinance.

E. Setback Requirements C-PS1,2,3,4

		1. Front	2. Side, Interior	3. Side, Facing a Street	4. Rear
a.	Subterranean	0 feet	0 feet	0 feet	0 feet
b.	Pedestal and Tower (non-oceanfront)	0 feet	7.5' - 10' when abutting a residential district, otherwise none. Residential Uses shall follow the R-PS1,2,3,4 setbacks (See Section 20-4.C).	0 feet 10' when abutting a residential district, unless separated by a Street or Waterway otherwise none. Residential Uses shall follow the R-PS1,2,3,4 setbacks (See Section 20-4.C).	10' when abutting a residential district, otherwise - 5' unless separated by a Waterway otherwise - none.
c.	Pedestal and Tower (oceanfront)	Pedestal - 15' Tower - 20' + 1' for every 1' increase in height above 50', to a maximum of 50', then shall remain constant.	Comm Uses - 10' Residential Uses shall follow the R-PS1,2,3,4 setbacks (See Section 20-4.C).	Comm Uses - 10' Residential Uses shall follow the R-PS1,2,3,4 setbacks (See Section 20-4.C).	25% of Lot Depth, 75' minimum.
d.	Parking Lots and Garages	If located on the same Lot as the main Structure the above setbacks shall apply, If primary Use the setbacks are listed in Section 6-24, B.14.			

5. All required setbacks shall be considered as minimum requirements except for the pedestal front yard setback and the pedestal side yard facing a street setback which shall be considered as both a minimum and maximum requirements.

6. For lots greater than 100 feet in width the front setback shall be extended to include at least one open court with a minimum area of three (3) square feet for every linear foot of lot frontage.

F. Mixed Use Buildings: Calculation of Setbacks and Floor Area Ratio

1. Setbacks - When more than 25% of the total area of a Building in a C-PS District is used for residential or Hotel Units, any floor containing such units shall follow the R-PS1,2,3,4 setback regulations.
2. FAR - When at least 75% of the linear frontage of the Building at the ground floor level is used for commercial uses, the Floor Area Ratio shall follow the range of the commercial district in which the Building is located. In all other instances ~~When more than 25% of the total area of a Building in a C-PS District is used for residential or Hotel Units,~~ the FAR range shall follow the Floor Area Ratios as follows: in the C-PS1 District, the FAR as set forth in the R-PS1 District; in the C-PS2 District, the FAR as set forth in the R-PS2 District; in the C-PS3 District, the FAR as set forth in the R-PS3 District; in the C-PS4 District, the FAR as set forth in the R-PS4 District.

G. Table of Residential Limited Mixed Use Performance Standards

Mixed Subdistricts		
Performance Standard		RM-PS1
1.	Minimum Site Area	120,000
2.	Minimum Site Width	350 ft.
3.	Required Open Space Ratio	.60
4.	Maximum Building Height	60 feet above ground or above enclosed parking.
5.	Base FAR (without bonus)	.75
6.	Maximum FAR (with bonus)	1.5
7.	Minimum Floor Area Per Apartment Unit (square feet)	600
8.	Minimum Average Floor Area Per Apartment Unit (square feet)	1000
9.	Minimum Floor Area Per Hotel Unit (square feet)	N/A
10.	Minimum Parking	Pursuant to Section 7 of Zoning Ordinance and Section 20-4, L3 M Requirement herein.
11.	Minimum Off-Street Loading	Pursuant to Section 7-5 of Zoning Ordinance.
12.	Signs	Pursuant to Section 9 of Zoning Ordinance.
13.	Suites Hotel	N/A

H. Setback Requirements RM-PS1

1.	Front, Rear, Sideyard Facing Street	2 feet when approved by the Design Review Board otherwise Section 20-4,C applies.
2.	Side Interior	See Section 20-4,C.

I. Performance Standard Bonuses. Floor Area Ratio bonuses may be accumulated by meeting one or more of the criteria as set forth in Section 6-24; provided that in no event shall any Use be permitted an increase in Floor Area Ratio so as to exceed the maximum Floor Area Ratio specified in the applicable Table of Residential, Commercial Performance Standards or Residential Limited Mixed Use Performance Standards, except through the Use of Transfer of Development Rights as set forth in Subsection 6-29 herein.

J. Minimum Required Yards in Relation to Minimum Open Space Ratio. In all cases, except as otherwise provided herein, an Applicant shall comply with both minimum Required Yard and minimum Open Space requirements. ~~Where the minimum Open Space Ratio results in greater required Open Space at Grade than that required by the minimum Yards requirements alone, the Applicant shall provide not less than 50% of the difference in the form of Open Space at Grade.~~

1. The Open Space Ratio may include Open Space on roof top decks which are ~~less than fifty (50) feet or less above Grade, except that in the C-PS4 and RM-PS1 Districts the Applicant shall provide not less than 25% of the difference in the form of Open Space at Grade.~~ At least 25% of the roof top deck shall constitute living landscape material. ~~Open Space above Grade may be in the form of recreational facilities above the Pedestal portion of the Building.~~

~~2. Required Yards and Open Space, whether at or above Grade, may not be utilized for parking or Accessory Structures except as set forth above and in Section 7-6,H in the regulations for Temporary Parking Lots; however, at Grade drives in the C-PS3 District shall be permitted within Required Yards and Open Space when said drives are not less than 7½ feet from the property line.~~

2.3. Required Yards and Open Space, whether at or above Grade in the C- PS4 and RM-PS1 Districts may also be utilized for drives and Off-Street Parking Spaces, except that if drives are ramped, they shall be at least seven and one half (7 ½) feet from the front property line and, not more than ten (10) feet or one level above Grade at their

highest point; the total length of an elevated drive shall not exceed forty percent (40%) of that portion of the Lot facing the adjacent Street.

- 3.4. Required Yards adjacent to Biscayne Bay in the C-PS4 District may be utilized for open and unenclosed decks, platforms, planters, canopies, canvass type Awnings, baywalks or removable furniture such as tables and chairs. Required Side Yards in the C-PS4 District may have public walkways that are partially covered.
- 4. Up to fifty percent (50%) of the Open Space required by this Ordinance may be fulfilled by payment of an in-lieu-of fee into the South Pointe Streetscape Fund. Notwithstanding the above, in no case shall the Open Space provided at grade be less than the total area resulting from the required setbacks.
 - a. The in-lieu-of payment as described above shall be made at the rate of \$1.00 per square foot of Open Space not provided. Said fee shall be paid in full at the time of application for the Building Permit. The fee shall be refunded if construction does not commence prior to the expiration of the Building Permit.
- 5. No variances shall be granted from the requirements of this Sub-Section.

K. Alternative Parking Requirement for Multi-Family Residential Development in R-PS Districts Pursuant to the Parking Impact Fee.

See the Parking Impact Fee Program as set forth in Section 7-7.

L. Supplemental Parking Regulations: ~~C-PS3 and C-PS4 District~~

1. All Districts

All non-oceanfront and non-bayfront Residential development shall be encouraged to have parking with access to and from the Alley only and such parking shall be rendered not visible from the street by the building's front facade. However, on corner buildings, the side view may be obscured by a wall.

2. C-PS3 and C-PS4 District

1.25 parking spaces per Apartment Unit, 1 parking space per Hotel Unit, and 2.5 parking spaces per 1,000 square feet of commercial space. ~~Up to forty percent (40%) of the total parking spaces created on the Premises may be for compact cars.~~ Required parking for Hotel, Hotel Accessory Uses and club Uses may be satisfied through the provision of valet parking spaces. Twenty percent (20%) of required Apartment Unit parking spaces may be satisfied through the provision of valet parking spaces.

3. RM-PS1 District

1.65 parking spaces per Apartment Unit, and one (1) parking space per 1,000 square feet of any non-residential use. Up to twelve percent (12%) of the total parking spaces created on the Premises may be for valet parking spaces.

~~Parking spaces shall be sized in accordance with the following chart:~~

<u>Parking Angle</u>	<u>Standard Spaces</u>
90°	8'6" Wide 18'0" Long
60°	8'6" Wide 18'0" Long
45°	8'6" Wide 18'0" Long
Parallel	8'6" Wide 23'0" Long
Handicapped	12'0" Wide 18'0" Long

~~Access aisles shall be provided in accordance with the following chart:~~

Size/Car	Angle of Parking	Width of Aisle: One Way Traffic Double Loaded	Width of Aisle: Two Way Traffic Double Loaded	Width of Aisle: One Way Traffic Single Loaded
Standard	90°	23.0 feet	23.0 feet	23.0 feet
Standard	60°	11.8 feet	19.3 feet	12.7 feet
Standard	45°	9.5 feet	18.5 feet	10.8 feet
Compact	90°	20.0 feet	21.0 feet	20.0 feet
Compact	60°	9.5 feet	19.0 feet	10.3 feet
Compact	45°	9.2 feet	18.7 feet	10.6 feet
Standard & Compact	Parallel Parking	10.0 feet	20.0 feet	10.0 feet

~~M. Supplemental Parking Regulations: RM PS1 District~~

~~1.65 parking spaces per Apartment Unit, and one (1) parking space per 1,000 square feet of any non residential use. Up to twelve percent (12%) of the total parking spaces created on the Premises may be for valet parking spaces.~~

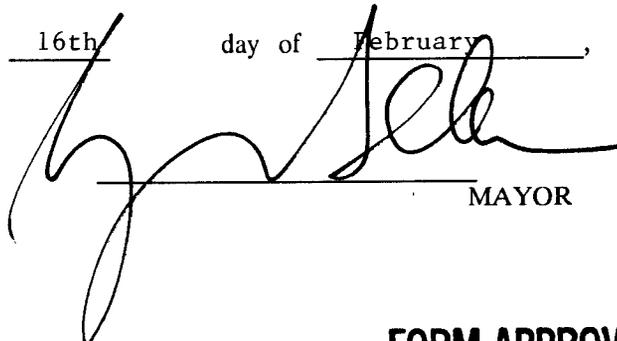
SECTION 5. INCLUSION IN ZONING ORDINANCE NO. 89-2665. It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the City of Miami Beach Zoning Ordinance No. 89-2665 as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 6. REPEALER. That all Ordinances or parts of Ordinances in conflict herewith be and the same are herewith repealed.

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

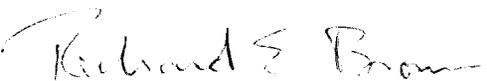
SECTION 8. EFFECTIVE DATE. This Ordinance shall take effect on the 26th day of February, 1994.

PASSED and ADOPTED this 16th day of February, 1994.



MAYOR

ATTEST:



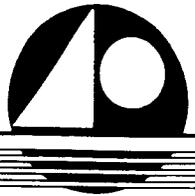
CITY CLERK
1st reading 2/2/94
2nd reading 2/16/94
Underline = new language
~~Strike-out~~ = deleted language

FORM APPROVED
LEGAL DEPT.
By JCD
Date 2-10-94

DJG/JGG

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH FLORIDA 33139



OFFICE OF THE CITY MANAGER

TELEPHONE: (305) 673-7010
FAX: (305) 673-7782

COMMISSION MEMORANDUM NO. 122-94

TO: Mayor Seymour Gelber and
Members of the City Commission

DATE: Feb. 16, 1994

FROM: Roger M. Carlton
City Manager

Handwritten signature of Roger M. Carlton, City Manager.

SUBJECT: **AMENDMENT TO ZONING ORDINANCE NO. 89-2665 RELATIVE TO
AMENDING THE DEVELOPMENT REGULATIONS FOR THE SOUTH POINTE
REDEVELOPMENT AREA - SECOND READING.**

RECOMMENDATION

The City Administration recommends that the City Commission, upon holding a public hearing, adopt on second first reading the attached amendment package which deals primarily with the Development Regulations for the South Pointe Redevelopment Area. The package also addresses the rehabilitation of non-conforming buildings and uses within the South Pointe Area, as well city-wide.

BACKGROUND

As part of an on-going analysis of the City's current Zoning Ordinance and development patterns south of 6th Street, the City Administration has identified the need to encourage new construction and rehabilitation of existing structures within the Performance Standards Districts which is more consistent and compatible with the character of the area comprising the South Pointe Redevelopment Area. The City contracted with the University of Miami School of Architecture to analyze proposed zoning changes that were drafted by City staff to accomplish these objectives. In response to this report, numerous meetings with the South Pointe Advisory Committee and through the efforts of other departments and staff, the following Ordinance Amendments were formulated to create a more practical and sensitive environment for both new construction and rehabilitation within the Redevelopment Area.

The underlying goal of the Amendments is to foster development which is pedestrian friendly. Rather than tall towers surrounded by large landscaped setback areas, the proposed zoning envisions buildings which are constructed close to the street and reflective of the historic 'built' environment. While taller buildings would be allowed, there would be height restrictions and substantial setback requirements for the tower portions of these structures. Smaller fifty (50) ft. wide lots could once again be developed and larger site development would be architecturally detailed in a manner to visually break up the mass of the building fronting on the street so as not to a "concrete canyon".

320

1

AGENDA
ITEM

R-3-L

DATE

2-16-94

The Administration is requesting that Amendments to the Zoning Ordinance be considered regarding the definition of open space, the calculation of Parking Credits, the definition of nonconforming structures and uses, restriction of nightclubs within a Performance Standard District, and by modifying the Residential and Commercial Performance Standards Development Regulations in terms of lot area, lot width, maximum building heights, minimum and average unit sizes, setbacks, and by modifying the open space ratio calculations.

The Planning Board, at its meeting of November 23, 1993, voted 6-0 (1 abstention due to conflict) to recommend in favor of the amendment package. The City Commission, at its meeting of February 2, 1994, voted 7-0 to adopt, on first reading, the proposed Ordinance.

ANALYSIS

The attached Ordinance identifies the proposed new Sections of the Zoning Ordinance. The underlined portions are those that would be added to the existing ordinance and the struck through portions are those that would be deleted. To assist in the review of the proposed amendments, the following provides a brief explanation of each proposal:

<u>Sub-Section</u>	<u>General Title</u>	<u>Pages</u>	<u>Explanation\</u> <u>Impact</u>
3-2.139	Terms Defined Open Space	1	Clarification of Open Space. Definition to exclude parking areas and garages.
7-8A.1	Parking Credit System	2	Establishes effective date of parking credit system to be concurrent with the creation of the Zoning Ordinance (10/1/89).
7-8A.1.b	Parking Credit System	2	Clarifies parking credit exemption for demolished portions of buildings; further, that parking credits will now apply within the South Pointe Redevelopment Area.

<u>Sub-Section</u>	<u>General Title</u>	<u>Pages</u>	<u>Explanation\ Impact</u>
7-8A.1.c	Parking Credit System	2	Allows existing Parking Impact Fee participants in the South Pointe Redevelopment Area to adjust the parking credits and Parking Impact Fee account at the next due date. Of the \$28,000 in parking impact fees non collected in the South Pointe area, approximately \$20,000 would initially have been lost by instituting parking credits. However, the use of parking credits should spur significantly more rehabilitation, thereby generating additional parking impact fees.
7-8A.2	Parking Credit System	2	Deletes 50% Assessed Value Rehabilitation Rule and allows parking Credits for change of use from apartment to hotel units.
13-5	Destruction, Repair and/ or Renovation of Non Conforming Buildings and Uses	2	Adds 'Repair' to Subsection title.

<u>Sub-Section</u>	<u>General Title</u>	<u>Pages</u>	<u>Explanation\</u> <u>Impact</u>
13-5A	Nonconforming Uses	2	New text clarifies 50% Rule determination for non-conforming uses and their continuation and their termination. (Grandfather clause)
13-5B.1	Nonconforming Buildings	2,3	New text for construction work less than 50% of the value determined by the Building Official, Citywide.
13-5B.2	Nonconforming Buildings	3	New text for construction work exceeding 50% of the value determination for historic and nonhistoric structures.
13-5	Nonconforming Buildings and Uses	3,4	Deletes old text addressed above.
13-5C	Nonconforming Buildings	4	Clarifies regulations for buildings cited by the Dade County Unsafe Structures Bd.
20-3A&B	Use Regulations Performance Standards District	5,6	New text clarifies specific uses allowed in the Redev. Area.
20-3C	Nonconforming Uses	6	Deletes old text addressed above.

<u>Sub-Section</u>	<u>General Title</u>	<u>Pages</u>	<u>Explanation/ Impact</u>
20-4B	Performance Standards - Residential Districts	7	Revised development regulations for minimum lot area, lot width, open space ratio, maximum building height and minimum and average unit sizes for rehabilitated buildings. No change to existing Floor Area Ratios.
20-4C	Setback Requirements - R-PS 1,2,3,4	8	New Setback requirements for residential development.
20-4D	Performance Standards - Commercial Districts	8	New development regulations for min. lot area and lot width, bldg. height, min. and avg. unit sizes and regulations for Residential construction in a Commercial district.
20-4E	Setback Requirements C-PS 1,2,3,4	9	Changes to side setback requirements. Also, defines front pedestal setback as min. and maximum requirement for front setback; open courts on larger bldgs. added.
20-4F	Mixed Use Buildings in the Redev. Area	9	Clarifies and amends the F.A.R. range for mixed use buildings; qualification changed to commercial frontage.
20-4J	Open Space Ratio	10	Clarifies Open Space Ratio definition and deletes old ambiguous language.

<u>Sub-Section</u>	<u>General Title</u>	<u>Pages</u>	<u>Explanation/ Impact</u>
20-4J.4	Open Space Ratio	11	Creates method to fulfill Open Space Ratio with an in-lieu-of fee; sets rate and restrictions.
20-4L.1	Supplemental Parking Regulations	11	Encourages parking access from the alley for non-oceanfront residential buildings and visual screening.
20-4.L.2	Supplemental Parking Regulations	11	Deletes text related to compact parking spaces which are no longer permitted.
20-4L.3	Supplemental Parking Regulations, RM-PS1	11,12	Parking requirements for this district are taken from 20-4M which is to be deleted; also deletes unnecessary text which follows.

CONCLUSION

The Administration recommends the adoption of the proposed amendments to Zoning Ordinance 89-2665 and supports the conclusions of the University of Miami study, the review by the South Pointe Advisory Committee and the Planning Board's review and recommendation. Essentially, the amendments would implement a transition from the original concept of demolition and development of large scale development for the South Pointe Redevelopment Area to a concept which balances large scale development, where appropriate, with the rehabilitation of remaining existing buildings and new less intense in-fill development.

RMC:DJG:ml

ORDINANCE NO. 96-3050

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING COMPREHENSIVE ZONING ORDINANCE NO. 89-2665, BY:

1. AMENDING SECTION 3, ENTITLED "DEFINITIONS", AMENDING SUBSECTION 3-2, ENTITLED "TERMS DEFINED" BY MODIFYING THE DEFINITION OF OUTDOOR CAFE, CLARIFYING THAT AN OUTDOOR BAR COUNTER IS CONSIDERED AN ACCESSORY USE AND BY ADDING A DEFINITION FOR "ACCESSORY OUTDOOR BAR COUNTER"; AND BY,

2. AMENDING SECTION 6, ENTITLED "SCHEDULE OF DISTRICT REGULATIONS", AMENDING SUBSECTION 6-3, ENTITLED "RM-2 RESIDENTIAL MULTI FAMILY, MEDIUM INTENSITY DISTRICT" BY LISTING ACCESSORY OUTDOOR BAR COUNTERS AS A PROHIBITED USE, AMENDING SUBSECTION 6-4, ENTITLED "RM-3 RESIDENTIAL MULTI FAMILY HIGH INTENSITY" BY LISTING ACCESSORY OUTDOOR BAR COUNTERS, PROVIDED THAT THEY ARE NOT OPERATED OR UTILIZED BETWEEN MIDNIGHT AND 8:00 A.M. AS AN ACCESSORY USE, LISTING ACCESSORY OUTDOOR BAR COUNTERS AT THE REAR YARD OF OCEANFRONT HOTELS OF 100 UNITS OR MORE AS ACCESSORY USES AND ESTABLISHING A SETBACK REQUIREMENT FROM THE PROPERTY LINE, AND PROHIBITING ALL OTHER ACCESSORY OUTDOOR BAR COUNTERS; AMENDING SUBSECTION 6-6, ENTITLED "CD-1 COMMERCIAL LOW INTENSITY" BY LISTING ACCESSORY OUTDOOR BAR COUNTERS, OUTDOOR ENTERTAINMENT ESTABLISHMENTS AND OPEN AIR ENTERTAINMENT ESTABLISHMENTS AS PROHIBITED USES; AMENDING SUBSECTION 6-7, ENTITLED "CD-2 COMMERCIAL MEDIUM INTENSITY" BY LISTING ACCESSORY OUTDOOR BAR COUNTERS THAT ARE NOT OPERATED OR UTILIZED BETWEEN MIDNIGHT AND 8:00 A.M. AS AN ACCESSORY USE AND PROHIBITING ALL OTHER ACCESSORY OUTDOOR BAR COUNTERS; AMENDING SUBSECTION 6-8, ENTITLED "CD-3 COMMERCIAL HIGH INTENSITY" BY LISTING ACCESSORY OUTDOOR BAR COUNTERS THAT ARE NOT OPERATED OR UTILIZED BETWEEN MIDNIGHT AND 8:00 A.M. AS AN ACCESSORY USE, LISTING ACCESSORY OUTDOOR BAR COUNTERS AT THE REAR YARD OF OCEANFRONT HOTELS OF 100 UNITS OR MORE AS ACCESSORY USES AND ESTABLISHING A SETBACK REQUIREMENT FROM THE PROPERTY LINE, AND PROHIBITING ALL OTHER ACCESSORY OUTDOOR BAR COUNTERS; AMENDING SUBSECTION 6-14, ENTITLED "I-1 LIGHT INDUSTRIAL" BY LISTING ACCESSORY OUTDOOR BAR COUNTERS THAT ARE NOT OPERATED OR UTILIZED BETWEEN MIDNIGHT AND 8:00 A.M. AS AN ACCESSORY USE, AND PROHIBITING ALL OTHER ACCESSORY OUTDOOR BAR COUNTERS; AMENDING SUBSECTION 6-16, ENTITLED "MXE MIXED USE ENTERTAINMENT" BY LISTING ACCESSORY OUTDOOR BAR COUNTERS THAT ARE NOT OPERATED OR UTILIZED BETWEEN MIDNIGHT AND 8:00 A.M. AS AN ACCESSORY USE, LISTING ACCESSORY OUTDOOR BAR COUNTERS AT THE REAR YARD OF OCEANFRONT HOTELS OF 100 UNITS OR MORE AS ACCESSORY USES AND ESTABLISHING A SETBACK REQUIREMENT FROM THE PROPERTY LINE, LISTING ACCESSORY OUTDOOR BAR COUNTERS LOCATED IN THE CABARET OVERLAY DISTRICT AS ACCESSORY USES, AND PROHIBITING ALL OTHER ACCESSORY OUTDOOR BAR COUNTERS; AND BY,

3. AMENDING SECTION 20, ENTITLED "PS PERFORMANCE STANDARD DISTRICT", AMENDING SUBSECTION 20-3, ENTITLED "USE REGULATIONS" BY NOT PERMITTING ACCESSORY OUTDOOR BAR COUNTERS IN THE R-PS1, MEDIUM-LOW DENSITY, R-PS2, MEDIUM DENSITY, R-PS3 MEDIUM HIGH DENSITY, RMPS-1 RESIDENTIAL MIXED USE DISTRICTS AND THE R-PS4 HIGH DENSITY DISTRICT, EXCEPT THAT AN ACCESSORY OUTDOOR BAR COUNTER IS PERMITTED AS AN ACCESSORY USE IN OCEANFRONT HOTELS OF 100 UNITS OR MORE IN THE R-PS4 HIGH DENSITY DISTRICT, AND LISTING ACCESSORY OUTDOOR BAR COUNTERS OPERATED UNTIL MIDNIGHT ONLY AS PERMITTED USES IN THE FOLLOWING DISTRICTS: C-PS1 COMMERCIAL LIMITED MIXED USE; C-PS2 COMMERCIAL GENERAL MIXED USE; C-PS3 COMMERCIAL INTENSIVE MIXED USE; C-PS4 COMMERCIAL INTENSIVE PHASED BAYSIDE DISTRICTS, AND BY NOT PERMITTING OUTDOOR ENTERTAINMENT ESTABLISHMENTS, OPEN AIR ENTERTAINMENT ESTABLISHMENTS OR NEIGHBORHOOD IMPACT ESTABLISHMENTS IN THE R-PS1, MEDIUM-LOW DENSITY, R-PS2, MEDIUM DENSITY, R-PS3 MEDIUM HIGH DENSITY, RMPS-1 RESIDENTIAL MIXED USE DISTRICTS AND THE R-PS4 HIGH DENSITY DISTRICT, EXCEPT THAT OUTDOOR ENTERTAINMENT ESTABLISHMENTS, OPEN AIR ENTERTAINMENT ESTABLISHMENTS AND NEIGHBORHOOD IMPACT ESTABLISHMENTS ARE PERMITTED AS ACCESSORY USES IN OCEANFRONT HOTELS WITH 250 OR MORE HOTEL UNITS WHEN LOCATED IN THE R-PS4 HIGH DENSITY DISTRICT, AND LISTING OUTDOOR ENTERTAINMENT ESTABLISHMENTS, OPEN AIR ENTERTAINMENT ESTABLISHMENTS AND NEIGHBORHOOD IMPACT ESTABLISHMENTS AS CONDITIONAL USES IN THE FOLLOWING DISTRICTS: C-PS1 COMMERCIAL LIMITED MIXED USE; C-PS2 COMMERCIAL GENERAL MIXED USE; C-PS3 COMMERCIAL INTENSIVE MIXED USE AND C-PS4 COMMERCIAL INTENSIVE PHASED BAYSIDE DISTRICTS.

PROVIDING FOR INCLUSION IN THE ZONING ORDINANCE; PROVIDING FOR REPEALER, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City believes outdoor bar counters, which are open to the public and operate in the evening and night time hours, should be regulated to ensure the safety and general welfare of the surrounding community, and.

WHEREAS, the certain outdoor entertainment and large alcoholic beverage establishments, if left unregulated in the South Pointe Redevelopment Area, may have an adverse effect on the health, safety and general welfare of the surrounding community, and

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

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

SECTION 1. That Subsection 3-2, entitled "Terms Defined" of Section 3, entitled "Definitions" of Zoning Ordinance 89-2665 of the City of Miami Beach, Florida is hereby amended as follows:

3-2 TERMS DEFINED

A. For the Purpose of this Ordinance, certain terms and words are hereby defined.

* * *

31. CAFE, OUTDOOR: A Use characterized by outdoor table service of food and beverages prepared for service in an adjacent or attached main Structure for consumption on the Premises. This definition does not include an Accessory Outdoor Bar Counter, which is considered to be a separate Accessory Use to an Outdoor Cafe or a Hotel pool deck, as described herein.

* * *

19. BAR COUNTER, ACCESSORY OUTDOOR: An accessory freestanding or substantially unenclosed counter or similar device either stationary or mobile at or behind which alcoholic beverages may be prepared and served. Accessory Outdoor Bar Counters shall be prohibited as a main permitted use and shall only be permitted as an Accessory Use to an Outdoor Cafe with a minimum of 30 chairs or as an Accessory Use to a Hotel pool deck. Accessory Outdoor Bar Counters shall not be visible from any point along the property line adjacent to a public right-of-way.

* * *

SECTION 2. That Subsections 6-3, 6-4, 6-6, 6-7, 6-8, 6-14 and 6-16 entitled "RM-2 Residential Multi Family, Medium Intensity", "RM-3 Residential Multi Family, High Intensity", "CD-1 Commercial, Low Intensity", "CD-2 Commercial, Medium Intensity", "CD-3 Commercial, High Intensity", "I-1 Light Industrial District" and "MXE Mixed Use Entertainment District", respectively, of Section 6, entitled "Schedule of District Regulations" of Zoning Ordinance 89-2665 of the City of Miami Beach, Florida are hereby amended as follows:

6-3 RM-2 RESIDENTIAL MULTI FAMILY, MEDIUM INTENSITY.

A. Purpose and Uses

1. District Purpose	2. Main Permitted Uses	3. Conditional Uses	4. Accessory Uses	5. Prohibited Uses
This district is designed for medium intensity multiple family residences.	Single Family detached Dwelling; Townhomes; Apartments; Apartment-Hotels; Hotels.	Adult Congregate Living Facility; Day Care Facility; Nursing Home; Religious Institutions; Private and Public Institutions; Schools; Commercial or non-commercial Parking Lots and Garages; Accessory Neighborhood Impact Establishment as set forth in Section 12-B.	See Section 6-21. Uses that serve Alcoholic Beverages as listed in Section 12 (Alcoholic Beverages).	Accessory Outdoor Entertainment Establishment; Accessory Open Air Entertainment Establishment as set forth in Section 12-B; <u>Accessory Outdoor Bar Counter.</u>

* * *

6-4 RM-3 RESIDENTIAL MULTI FAMILY, HIGH INTENSITY.

A. Purpose and Uses

1. District Purpose	2. Main Permitted Uses	3. Conditional Uses	4. Accessory Uses	5. Prohibited Uses
<p>This district is designed for high intensity multiple Family residences and Hotels.</p>	<p>Single Family detached Dwelling; Townhomes; Apartments; Apartment-Hotels; Hotels.</p>	<p>Adult Congregate Living Facility; Day Care Facility; Nursing Home; Religious Institutions; Private and Public Institutions; Schools; Commercial or non-commercial Parking Lots and Garages; Accessory Outdoor Entertainment Establishment; Accessory Neighborhood Impact Establishment; Accessory Open Air Entertainment Establishment as set forth in Section 12-B.</p>	<p>See Section 6-21. Uses that serve Alcoholic Beverages as listed in Section 12 (Alcoholic Beverages).</p> <p><u>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.</u></p> <p><u>Oceanfront Hotels with at least 100 Hotel Units may operate and utilize an Accessory Outdoor Bar Counter, notwithstanding the above restriction on the hours of operation, provided the Accessory Outdoor Bar Counter is (a) located in the Rear Yard, and (b) setback 20% of the Lot Width (50 feet minimum) from any property line adjacent to a property with an Apartment Unit thereon.</u></p>	<p><u>Accessory Outdoor Bar Counter, except as provided herein.</u></p>

* * *

6-6 CD-1 COMMERCIAL, LOW INTENSITY.

A. Purpose and Uses

1. District Purpose	2. Main Permitted Uses	3. Conditional Uses	4. Accessory Uses	5. Prohibited Uses
This is a retail sales, Personal Services, shopping district, designed to provide service to surrounding residential neighborhoods.	Commercial Uses; Apartments; Bed & Breakfast Inn (pursuant to Section 6-22,H). Uses that serve Alcoholic Beverages as listed in Section 12 (Alcoholic Beverages).	Adult Congregate Living Facilities; Nursing Homes; Religious Institution; Public and Private Institutions; Schools; Day Care Facility; Pawn shops; Warehouses; and any Use selling gasoline; Outdoor Entertainment Establishment; Neighborhood Impact Establishment; Open Air Entertainment Establishment.	See Section 6-21.	<u>Accessory Outdoor Bar Counter, Outdoor Entertainment Establishment; Open Air Entertainment Establishment.</u>

* * *

6-7 CD-2 COMMERCIAL, MEDIUM INTENSITY.

A. Purpose and Uses

1. District Purpose	2. Main Permitted Uses	3. Conditional Uses	4. Accessory Uses	5. Prohibited Uses
This district provides for commercial activities, services, offices and related activities which serve the entire City.	Commercial Uses; Apartments; Apartment/Hotels. Uses that serve Alcoholic Beverages as listed in Section 12 (Alcoholic Beverages).	Adult Congregate Living Facilities; Funeral Home; Nursing Homes; Religious Institution; Pawn shops; Public and Private Institutions; Schools; and any Use selling gasoline; Outdoor Entertainment Establishment; Neighborhood Impact Establishment; Open Air Entertainment Establishment.	See Section 6-21. <u>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.</u>	<u>Accessory Outdoor Bar Counter, except as provided herein.</u>

* * *

A. Purpose and Uses

1. District Purpose	2. Main Permitted Uses	3. Conditional Uses	4. Accessory Uses	5. Prohibited Uses ¹²⁴
<p>This district is designed to accommodate a highly concentrated business core in which activities serving the entire City are located.</p>	<p>Commercial Uses; Apartments; Apartment/Hotels; Hotels. Oceanfront properties in the Architectural District shall not be permitted to have new retail and/or office areas totaling more than 250 sq. ft. unless the Building is rehabilitated according to the South Florida Building Code, the Miami Beach Property Maintenance Standards, and Fire Prevention and Safety Codes and if it is a Historic Structure the U.S. Secretary of the Interior Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures. 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 ft. back from the storefront; also Apartments, Apartment/Hotels and Hotels located on that portion of Lincoln Road shall comply with Sec. 6-8,A.5.</p>	<p>Adult Living Congregate Facilities; Outdoor Entertainment Establishment; Neighborhood Impact Establishment; Open Air Entertainment Establishment; Nursing Homes; religious Institution; public and private Institutions; Schools and Major Cultural Dormitory Facilities as specified in Section 10A-2. When located on that portion of Lincoln Road that is closed to traffic, these uses shall comply with Sec. 6-8,A.5.</p>	<p>See Section 6-21.</p> <p><u>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.</u></p> <p><u>Oceanfront Hotels with at least 100 Hotel Units may operate and utilize an Accessory Outdoor Bar Counter, notwithstanding the above restriction on the hours of operation, provided the Accessory Outdoor Bar Counter is (a) located in the Rear Yard, and (b) setback 20% of the Lot Width (50 feet minimum) from any property line adjacent to a property with an Apartment Unit thereon.</u></p>	<p>Pawn Shops; <u>Accessory Outdoor Bar Counter, except as provided herein.</u></p>

* * *

6-14 I-1 LIGHT INDUSTRIAL DISTRICT.

A. Purpose and Uses

1. District Purpose	2. Main Permitted Uses	3. Conditional Uses	4. Accessory Uses	5. Prohibited Uses
<p>This is a utilitarian district characterized by sales, storage, processing, wholesaling, motor vehicles repairs and towing services. This district shall not include any residential Uses.</p>	<p>Those Uses that are consistent with the district purpose.</p>	<p>Any Use which includes the retail sale of gasoline, Recycling Receiving Stations; Outdoor Entertainment Establishment; Neighborhood Impact Establishment; Open Air Entertainment Establishment.</p>	<p>Those Uses customarily associated with the District Purpose. (See Section 6-21).</p> <p><u>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.</u></p>	<p><u>Accessory Outdoor Bar Counter, except as provided herein.</u></p>

* * *

6-16 MXE MIXED USE ENTERTAINMENT DISTRICT

A. Purpose and Uses

1. District Purpose	2. Main Permitted Uses	3. Conditional Uses	4. Accessory Uses	5. Prohibited Uses
<p>These regulations are designed to encourage the substantial restoration of existing Structures and allow for new construction.</p>	<p>Apartments; Apartment-Hotels; Hotels; Commercial Development as specified in Section 6-16,C.</p>	<p>Major Cultural Dormitory Facilities as specified in Section 10A-2; Outdoor Entertainment Establishment; Neighborhood Impact Establishment; Open Air Entertainment Establishment.</p>	<p>See Section 6-21. Uses that serve Alcoholic Beverages as listed in Section 12</p> <p><u>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.</u></p> <p><u>Accessory Outdoor Bar Counter located in the Cabaret Overlay District.</u></p> <p><u>Oceanfront Hotels with at least 100 Hotel Units may operate and utilize an Accessory Outdoor Bar Counter, notwithstanding the above restriction on the hours of operation, provided the Accessory Outdoor Bar Counter is (a) located in the Rear Yard, and (b) setback 20% of the Lot Width (50 feet minimum) from any property line adjacent to a property with an Apartment Unit thereon.</u></p>	<p><u>Accessory Outdoor Bar Counter, except as provided herein.</u></p>

* * *

SECTION 3. That Subsection 20-3, entitled "Use Regulation" of Section 20, entitled "PS Performance Standard District" of Zoning Ordinance 89-2665 is hereby amended as follows:

20-3 USE REGULATIONS

* * *

B. Table of Permitted Uses

General Use Category	R-PS 1,2	R-PS 3,4	C-PS 1,2,3,4	RM-PS 1
Single Family; Townhome; Apartment; Apt/Hotel	P	P	P	P Apt/Hotel not permitted
Hotel	N	P	P	N
Commercial	N	N	P	P 8% of Floor Area
Institutional	C	C	C	C 1.25% of Floor Area
<u>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.</u>	<u>N</u>	<u>N</u> <u>However, Accessory Outdoor Bar Counters are permitted in oceanfront Hotels with at least 100 Hotel Units in the R-PS4 District *</u>	<u>P*</u>	<u>N</u>
<u>Outdoor Entertainment Establishments, Open Air Entertainment Establishments, Neighborhood Impact Establishments</u>	<u>N</u>	<u>N</u> However, in the R-PS4 District, these Uses are permitted as Accessory Uses in oceanfront Hotels with 250 or more Hotel Units with access to the Establishment only from the interior lobby and not from the street*	<u>C*</u>	<u>N</u>
Accessory	<u>P*</u>	<u>P*</u>	<u>P*</u>	<u>P*</u>

P - Main Permitted Use

C - Conditional Use

N - Not Permitted

* - Accessory Use only

Floor Area in the RM-PS 1 District refers to total Floor Area in project. Commercial Uses in RM-PS1 limited to stores and restaurants.

For purposes of this Section, a Car Wash, Filling Station and any Use that sells gasoline, automobiles or automotive or related repair Uses are considered as industrial Uses and are not permitted in the Redevelopment Area.

*For purposes of this Section, Pawn shops and Nightclubs are not permitted as a Main Permitted or Accessory Uses in the Redevelopment Area; however, in the C-PS3 and C-PS4 Districts a Nightclub shall be permitted as an Accessory Use within a hotel of 250 rooms or more with access to the Nightclub only from the interior lobby and not from the street.

Commercial and non-commercial Parking Lots and Garages shall be considered as a Conditional Use in the R-PS1,2,3 and 4 Districts.

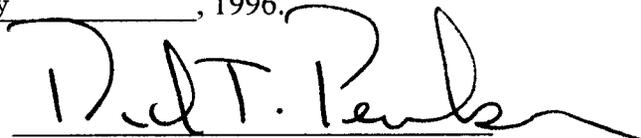
SECTION 4. INCLUSION IN ZONING ORDINANCE NO. 89-2665. It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the City of Miami Beach Zoning Ordinance No. 89-2665 as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 5. REPEALER. That all Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

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

SECTION 7. EFFECTIVE DATE. This Ordinance shall take effect on the 27th day of July, 1996.

PASSED and ADOPTED this 17th day of July, 1996.


VICE MAYOR

ATTEST:



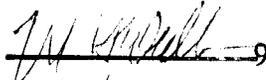
CITY CLERK
1st reading 6/5/96
2nd reading 7/17/96
Underlined = new language
~~Strikeout~~ = deleted language

F:\PLANS\ALL\DRAFT_OR\ADOPTED\BARCNTR1.717
DJG/JGG

January 2, 1996
March 6, 1996
March 21, 1996
March 28, 1996
June 25, 1996
July 17, 1996

FORM APPROVED

LEGAL DEPT.

By 

Date 7/19/96

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH FLORIDA 33139



COMMISSION MEMORANDUM NO. 445-96

TO: Mayor Seymour Gelber and
Members of the City Commission

DATE: July 17, 1996

FROM: Jose Garcia-Pedrosa
City Manager

SUBJECT: Second Reading Public Hearing - An Ordinance Amending Zoning Ordinance
No. 89-2665 by:

1. Amending Section 3, Entitled "Definitions", Amending Subsection 3-2, Entitled "Terms Defined" by Modifying the Definition of Outdoor Cafe, Clarifying That an Outdoor Bar Counter Is Considered an Accessory Use and by Adding a Definition for "Accessory Outdoor Bar Counter"; and by,
2. Amending Section 6, Entitled "Schedule of District Regulations", Amending Subsection 6-3, Entitled "RM-2 Residential Multi Family, Medium Intensity District" by Listing Accessory Outdoor Bar Counters as a Prohibited Use, Amending Subsection 6-4, Entitled "RM-3 Residential Multi Family High Intensity" by Listing Accessory Outdoor Bar Counters, Provided That They Are Not Operated or Utilized Between Midnight and 8:00 a.m. As an Accessory Use, Listing Accessory Outdoor Bar Counters at the Rear Yard of Oceanfront Hotels of 100 Units or More as Accessory Uses and Establishing a Setback Requirement from the Property Line, and Prohibiting All Other Accessory Outdoor Bar Counters; Amending Subsection 6-6, Entitled "CD-1 Commercial Low Intensity" by Listing Accessory Outdoor Bar Counters, Outdoor Entertainment Establishments and Open Air Entertainment Establishments as Prohibited Uses; Amending Subsection 6-7, Entitled "CD-2 Commercial Medium Intensity" by Listing Accessory Outdoor Bar Counters That Are Not Operated or Utilized Between Midnight and 8:00 a.m. As an Accessory Use and Prohibiting All Other Accessory Outdoor Bar Counters; Amending Subsection 6-8, Entitled "CD-3 Commercial High Intensity" by Listing Accessory Outdoor Bar Counters That Are Not Operated or Utilized Between Midnight and 8:00 a.m. As an Accessory Use, Listing Accessory Outdoor Bar Counters at the Rear Yard of Oceanfront Hotels of 100

1

AGENDA ITEM

R5E

DATE

7-17-96

Units or More as Accessory Uses and Establishing a Setback Requirement from the Property Line, and Prohibiting All Other Accessory Outdoor Bar Counters; Amending Subsection 6-14, Entitled "I-1 Light Industrial" by Listing Accessory Outdoor Bar Counters That Are Not Operated or Utilized Between Midnight and 8:00 a.m. As an Accessory Use, and Prohibiting All Other Accessory Outdoor Bar Counters; Amending Subsection 6-16, Entitled "MXE Mixed Use Entertainment" by Listing Accessory Outdoor Bar Counters That Are Not Operated or Utilized Between Midnight and 8:00 a.m. As an Accessory Use, Listing Accessory Outdoor Bar Counters at the Rear Yard of Oceanfront Hotels of 100 Units or More as Accessory Uses and Establishing a Setback Requirement from the Property Line, Listing Accessory Outdoor Bar Counters Located in the Cabaret Overlay District as Accessory Uses, and Prohibiting All Other Accessory Outdoor Bar Counters; and by,

- 3. Amending Section 20, Entitled "PS Performance Standard District", Amending Subsection 20-3, Entitled "Use Regulations" by Not Permitting Accessory Outdoor Bar Counters in the R-PS1, Medium-Low Density, R-PS2, Medium Density, R-PS3 Medium High Density, RMPS-1 Residential Mixed Use Districts and the R-PS4 High Density District, Except That an Accessory Outdoor Bar Counter Is Permitted as an Accessory Use in Oceanfront Hotels of 100 Units or More in the R-PS4 High Density District, and Listing Accessory Outdoor Bar Counters Operated until Midnight Only as Permitted Uses in the Following Districts: C-PS1 Commercial Limited Mixed Use; C-PS2 Commercial General Mixed Use; C-PS3 Commercial Intensive Mixed Use; C-PS4 Commercial Intensive Phased Bayside Districts, and by Not Permitting Outdoor Entertainment Establishments, Open Air Entertainment Establishments or Neighborhood Impact Establishments in the R-PS1, Medium-Low Density, R-PS2, Medium Density, R-PS3 Medium High Density, RMPS-1 Residential Mixed Use Districts and the R-PS4 High Density District, Except That Outdoor Entertainment Establishments, Open Air Entertainment Establishments and Neighborhood Impact Establishments Are Permitted as Accessory Uses in Oceanfront Hotels with 250 or More Hotel Units When Located in the R-PS4 High Density District, and Listing Outdoor Entertainment Establishments, Open Air Entertainment Establishments and Neighborhood Impact Establishments as Conditional Uses in the Following Districts: C-PS1 Commercial Limited Mixed Use; C-PS2 Commercial General Mixed Use; C-PS3 Commercial Intensive Mixed Use and C-PS4 Commercial Intensive Phased Bayside Districts.**

Providing for Inclusion in the Zoning Ordinance; Providing for Repealer, Severability and an Effective Date.

RECOMMENDATION

The Administration recommends that the City Commission, upon holding a public hearing, adopt on second reading this amendment regarding the regulation of outdoor bar counters, along with the regulations for Outdoor Entertainment, Open Air Entertainment and Neighborhood Impact Establishments in the Performance Standards Districts within the South Pointe Redevelopment Area.

BACKGROUND

The subject amendment, regarding outdoor bar counters was part of a previous proposed amending ordinance heard by the Commission that also addressed the issues of the MXE regulations and citywide height restrictions. On January 24, 1996 the City Commission instructed staff to bifurcate that amendment into two individual amendments in order to address the items separately and remanded the amendments back to the Planning Board for further review and study.

The outdoor bar regulations were the topic of discussion at a workshop held by the Planning Board on August 2, 1995 and a public hearing on October 24, 1995. At that workshop, the original amending ordinance was substantially changed to address outdoor bar counters on a citywide basis, not just within the MXE District.

At the first reading public hearing on December 20, 1995 the Commission requested that the amendment be reviewed by the Historic Preservation Board, Design Review Board and the South Pointe Advisory Committee for comments prior to the second reading public hearing that had been tentatively set for January 24, 1996. Subsequently, due to comments and concerns from these municipal boards, the Commission remanded the amending ordinance back to the Planning Board for further study and recommendations regarding the regulations pertaining to outdoor bar counters on a citywide basis, as well as, within the South Pointe Redevelopment Area. Also, as a condition of that remandment, the Board was instructed to examine Outdoor Entertainment Establishments, Open Air Entertainment Establishments and Neighborhood Impact Establishments in the South Pointe Redevelopment Area. At the March 26, 1996 regular meeting of the Planning Board, the Board discussed the items at length and thus the new regulations, as set forth, herein. On April 23, 1996 the Planning Board held a public hearing and voted 5-0 (2 absentees) in favor of recommending adoption of the amending ordinance, as revised.

On June 5, 1996, the City Commission adopted on first reading, with some modifications, the attached Ordinance (the revised language as modified by the City Commissions concerns appears as shaded text). The modifications establish a visibility requirement for Accessory Outdoor Bar

Counters, and a setback requirement when Accessory Outdoor Bar Counters are adjacent to properties with apartment units.

OVERVIEW

The definitions for outdoor cafe and outdoor bar were included in the original version of the amendment which prohibited these types of uses in the MXE District only. The attached amendment, as now modified, expands the regulations to allow these uses as accessory uses only, when permitted, and with other restrictions as provided, therein. Accessory outdoor bar counters would be prohibited to operate anywhere in the City between the hours of twelve midnight and 8:00 a.m., except in the RM-3, CD-3 and MXE Districts when said outdoor bar counter is an accessory use to an oceanfront hotel with at least 100 hotel units the time limitation would not be in effect. Also, within the Cabaret Overlay District in the MXE District (between 9th and 11th on Ocean Drive), the time constraint would not apply to an accessory outdoor bar counter. However, the regulations pertaining to the serving or offering for sale of alcoholic beverages as otherwise permitted in outdoor cafes and restaurants, bars and nightclubs would not be changed by this amending ordinance (see analysis below).

ANALYSIS

What follows is a section by section analysis of the proposed amending ordinance.

Section 1.

This section of the proposed ordinance clarifies the definition for "Cafe, Outdoor" and provides a definition for "Bar Counter, Accessory Outdoor", by specifically excluding Accessory Outdoor Bar Counters as a main permitted use. An outdoor bar counter would only be permitted as an accessory use to an outdoor cafe, as newly defined, with a minimum of 30 chairs, except when the outdoor bar counter is associated with a hotel pool deck there would be no minimum seating requirement. The definition also requires that an Accessory Outdoor Bar Counter shall not be visible from any property line adjacent to a public right-of-way.

Section 2.

This section of the proposed amendment includes the newly defined "Accessory Out Door Bar Counter" as a prohibited use in the RM-2 and CD-1 Districts; prohibited use in the RM-3, CD-2, CD-3, I-1 and MXE Districts except for accessory outdoor bar counters operated between 8:00 a.m. and 12 midnight. In the RM-3, CD-3 and MXE Districts, the amendment further provides that an accessory outdoor bar counter would not be restricted by the time limitation (closed between 12

midnight and 8:00 a.m.) when said use is an accessory use at the rear of oceanfront hotels with at least 100 hotel units and is setback 20% of the lot width (50 feet minimum) from any property line adjacent to a property with an apartment unit thereon or in the MXE District when said accessory use would not be restricted by the time limitation within the Cabaret District (9th to 11th Streets, on the west side of Ocean Drive). These exceptions do not imply that alcoholic beverages are permitted to be served/sold 24 hours a day. Section 12 of the Zoning Ordinance further provides that restaurants, bars and nightclubs cannot serve or offer for sale alcoholic beverages between the hours of 5:00 a.m. and 8:00 a.m. Also, the amendment removes Outdoor Entertainment and Open Air Entertainment Establishments from the Conditional Use Category in the CD-1 District and lists these uses as prohibited. This change is in keeping with the residential character of the surrounding residential neighborhoods which could be negatively effected by said outdoor uses.

Section 3.

This section of the amendment provides new regulations concerning the newly defined accessory outdoor bar counter within the South Pointe Redevelopment Area. This section also addresses regulations for Outdoor Entertainment, Neighborhood Impact and Open Air Establishments. As shown in the table of permitted uses on page 8 of the amendment, accessory outdoor bar counters would be prohibited in the R-PS 1,2,3 Districts; permitted in the R-PS4 District as accessory uses to hotels with at least 100 hotel units when operated between 8:00 a.m. and 12 midnight and permitted in the C-PS1,2,3,4 Districts, provided the use is not operated between the hours of 12 midnight and 8:00 a.m. The amendment further provides that Outdoor Entertainment, Open Air Entertainment and Neighborhood Impact Establishments would be prohibited in the R-PS 1,2,3 Districts; permitted in the R-PS4 District as accessory uses in oceanfront hotels with at least 250 or more hotel rooms with access to the establishment only from the interior lobby and not from the street and as Conditional Uses in the C-PS 1,2,3,4 Districts. All of these uses would be prohibited in the RM-PS1 District (Courts of South Beach).

The last sections of the amendment provide for inclusion in the Zoning Ordinance, repealer, severability and an effective date.

In reviewing a request for an amendment to the Zoning Ordinance or a change in land use, the City Commission shall consider the following:

1. Whether the proposed change is consistent and compatible with the Comprehensive Plan and any applicable neighborhood or Redevelopment Plans;

Consistent - The amendment does not contravene any policies within the Comprehensive Plan, the South Shore Revitalization Strategy, the Ocean Drive\Collins Avenue Design Strategy Plan or any other Neighborhood Plan.

2. Whether the proposed change would create an isolated district unrelated to adjacent or nearby districts;

Consistent - The amendment would not change the underlying zoning district for any areas within the City.

3. Whether the change suggested is out of scale with the needs of the neighborhood or the City;

Consistent - The amendment is in scale with the overall need of the City to control outdoor uses that may have a negative effect on neighboring properties unless properly regulated.

4. Whether the proposed change would tax the existing load on public facilities and infrastructure;

Consistent - The LOS for the area public facilities and infrastructure should not be negatively affected, if at all, by the proposed amending ordinance.

5. Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change;

Not Applicable - This review criteria is not applicable to this Zoning Ordinance amendment.

6. Whether changed or changing conditions make the passage of the proposed change necessary;

Consistent - The operating of outdoor bars, past midnight, as well as outdoor entertainment activities within the City, has the potential to negatively effect the surrounding land uses; particularly with regard to the right to expect peaceful and orderly conduct at said establishments.

7. Whether the proposed change will adversely influence living conditions in the neighborhood;

Consistent - The proposed change should not negatively effect living conditions or the Quality of Life for the surrounding properties. Indeed, the control of outdoor bar counters and outdoor entertainment uses should help improve the Quality of Life for neighboring properties where such uses are permitted; by their limitation and regulation.

8. Whether the proposed change will create or excessively increase traffic congestion beyond the Level Of Service as set forth in the Comprehensive Plan or otherwise affect public safety;

Not Applicable - This review criteria is not applicable to this Zoning Ordinance amendment.

9. Whether the proposed change will seriously reduce light and air to adjacent properties;

Not Applicable - This review criteria is not applicable to this Zoning Ordinance amendment.

10. Whether the proposed change will adversely affect property values in the adjacent area;

Consistent - We believe that property values would not be negatively affected by the proposed amendment; indeed, values should be protected by the proposed measures.

11. Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accordance with existing regulations;

Consistent - The proposed amendment will not change the development regulations for adjacent sites which must comply with their own site specific development regulations. Furthermore, the proposed ordinance should not affect the ability for an adjacent property to be developed in accordance with said regulations.

12. Whether there are substantial reasons why the property cannot be used in accordance with existing zoning;

Not Applicable - The proposed amendment does not change the underlying zoning district for any property.

13. Whether it is impossible to find other adequate Sites in the City for the proposed Use in a district already permitting such Use;

Not Applicable - This review criteria is not applicable to this Zoning Ordinance amendment.

CONCLUSION

Based on the foregoing, the Administration has concluded that the City Commission should adopt on second and final reading the attached amendment, upon holding a public hearing.


JGP\HMS\DJG

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PLANNING BOARD HEARING

HELD AT:

1700 Convention Center Drive

Miami Beach, FL 33139

July 17, 1996

Transcribed by ELAINE CRANDALL, Registered
Professional Reporter and Notary Public in and for
the State of Florida at Large.

1 (Thereupon, the following proceedings
2 were had.)

3 THE MAYOR: We'll move to R5E.

4 COMMISSIONER: I move to open the public
5 hearing.

6 THE MAYOR: Well, wait a minute. Let
7 him read it.

8 THE CLERK: This is the second and final
9 hearing.

10 COMMISSIONER: Oh, yeah. Okay.

11 THE MAYOR: Please go ahead.

12 THE CLERK: An ordinance of variance to
13 the City Commission of the City of Miami
14 Beach, Florida, amending Comprehensive Voting
15 Ordinance Number 89-2665 by, 1: Amending
16 Section 3 entitled "Definition of Vending,"
17 Section 3-2, entitled, "Terms Defined" by
18 modifying the definitions of outdoor cafe;
19 clarifying that an outdoor bar counter is
20 considered an accessory use and by adding a
21 definition for accessory outdoor bar
22 counters.

23 And by, 2: Amending Section 6 entitled
24 "Schedule of District Regulations;" amending
25 Subsection 6-3 entitled "RM-2," Residential

1 Multi-Family, Medium Intensity District, by
2 listing accessory outdoor bar counters as a
3 prohibited use.

4 Amending Subsection 6-4 entitled "RM-3,"
5 Residential Multi-Family, High Intensity, by
6 listing accessory outdoor bar counters,
7 provided that they are not operated or
8 utilized between midnight and 8:00 a.m as an
9 accessory use.

10 Listing accessory outdoor bar counters
11 at the rear yard of oceanfront hotels of 100
12 units or more as an accessory use and
13 establishing a setback requirement from the
14 property line. And prohibiting all other
15 accessory outdoor bar counters.

16 Amending Subsection 6-6, entitled
17 "CD-1," Commercial Low Intensity, by listing
18 accessory outdoor bar counters, outdoor
19 entertainment establishments and open air
20 entertainment establishments with prohibited
21 uses.

22 Amending Subsection 6-7 entitled "CD-2,"
23 Commercial Medium Intensity, by listing
24 accessory outdoor bar counters that are not
25 operated or utilized between midnight and

1 8:00 a.m. as an accessory use and prohibiting
2 all other accessory outdoor bar counters.

3 Amending Subsection 6-8 entitled,
4 "CD-3," Commercial High Intensity, by listing
5 accessory outdoor bar counters that are not
6 operated or utilized between midnight and
7 8:00 a.m. as an accessory use.

8 Listing accessory outdoor bar counters
9 at the rear yard of oceanfront hotels of 100
10 units or more as accessory use and
11 establishing a setback requirement for the
12 property line. And prohibiting all other
13 accessory outdoor bar counters.

14 Amending Subsection 6-14 entitled "I-1,"
15 Light Industrial, by listing accessory
16 outdoor bar counters that are not operated
17 and utilized between midnight and 8:00 a.m.
18 as an accessory use. And prohibiting all
19 other accessory outdoor bar counters.

20 Amending Subsection 6-16 entitled "MXE,"
21 Mixed Use Entertainment, by listing accessory
22 outdoor bar counters that are not operated or
23 utilized between midnight and 8:00 a.m. as an
24 accessory use.

25 Listing accessory outdoor bar counters

1 at the rear yard of oceanfront hotels of 100
2 units or more as accessory use. And
3 establishing a setback requirement from its
4 operating line.

5 Listing accessory outdoor bar counters
6 located in the Cabaret Overlay District as
7 accessory use and prohibiting all other
8 accessory outdoor bar counters.

9 And by, 3: Amending Section 20
10 entitled: "PS Performance Standard
11 Districts," amending Subsection 20-3,
12 entitled: "Use Regulations" by not permitting
13 accessory outdoor bar counters in the R-PS1
14 Medium Low Density; R-PS2, Medium Density;
15 R-PS3, Medium High Density; R-PS1,
16 Residential Mixed Use District, and the
17 R-PS4, High Density District, except that an
18 accessory outdoor bar counter is permitted as
19 an accessory use in the oceanfront hotel --
20 hotels of 100 units or more in the R-PS4 High
21 Density District and listing accessory
22 outdoor bar counters operated until midnight
23 only as permitted use in the following
24 districts: C-PS1, Commercial Limited Mixed
25 Use; C-PS2, Commercial General Mixed Use;

1 C-PS3, Commercial Intensive Mixed Use; C-PS4
2 Commercial Intensive Phase, Bayside District;
3 and by not permitting outdoor entertainment
4 establishments, open air entertainment
5 establishments or neighborhood impact
6 establishments in the R-PS1, Medium Low
7 Density; R-PS2, Medium Density; R-PS3, Medium
8 High Density; R-PS1, Residential Mixed Use
9 Districts; and the R-PS4, High Density
10 District, except that outdoor entertainment
11 establishments, open air entertainment
12 establishments and neighborhood impact
13 establishments are permitted as accessory use
14 in oceanfront hotels with 250 or more hotel
15 units when located in the R-PS4, High Density
16 District, and listing outdoor entertainment
17 establishments, open air entertainment
18 establishments and neighborhood impact
19 establishments as conditional use of the
20 following districts: C-PS1, Commercial
21 Limited Mixed Use; C-PS2, Commercial General
22 Mixed Use; C-PS3, Commercial Intensive Mixed
23 Use; and C-PS4, Commercial Intensive Phase
24 Bayside Districts.

25 Providing for inclusion in the zoning

1 ordinance. Providing for repeal and
2 severability and an effective date.

3 COMMISSIONER: I missed the third line
4 in the third paragraph.

5 (Laughter in the room.)

6 THE MAYOR: Is there a motion on the
7 floor?

8 COMMISSIONER: I move for the motion.

9 COMMISSIONER: Second.

10 THE MAYOR: Any citizen wishing to be
11 heard, please come forward.

12 COMMISSIONER: Who came up with this
13 ordinance anyway?

14 THE MAYOR: You wish to be heard? Come
15 on.

16 COMMISSIONER: It's your turn. You
17 might not have realized it after that lengthy
18 introduction.

19 MR. GOLDEN: Thank you, Mr. Mayor.
20 Sidney Golden, 5415 Collins Avenue.

21 Mayor, Commissioners, on June the 5th,
22 at the June 5th Commission Meeting,
23 Commissioner Gottlieb read my letter relaying
24 the concerns of the residents of our building
25 with outdoor bar counters that are

1 immediately adjacent to residential
2 buildings.

3 The Commission heard those concerns and
4 Commissioner Liebman had some specific
5 concerns dealing with desire for the amount
6 of linear footage for an outdoor bar counter,
7 again, to a residential area.

8 The Commission directed the Planning
9 Department to please look into the
10 possibility of addressing those concerns in a
11 reasonable way.

12 And I'm pleased to tell you that that
13 was done and, I think, appropriately.

14 I -- I, once again, got exposed to city
15 government and realizing the in-depth
16 analysis that the Planning Department has to
17 go through in making the slightest revision
18 because it affects so many people.

19 And I want to tell you that I've watched
20 that analysis over the last month and have
21 been able to participate in it. And I -- I
22 want to personally thank Dean Grandon
23 (phonetic) and certainly Jorge Gomez; they
24 have really been super with their time and
25 their explanations.

1 And I have to thank Mr. Alavera
2 (phonetic) for keeping me on track of what
3 the law is and not what the emotional aspects
4 of my concerns were with this.

5 I would urge you to adopt the
6 recommendations of the Planning Department.

7 And, again, I bring to your attention
8 that it's a job well done.

9 THE MAYOR: Thank you.

10 COMMISSIONER: Thank you.

11 THE MAYOR: Any other citizens wishing
12 to be heard?

13 If not, we'll close the public hearing.

14 COMMISSIONER: We can close the public
15 hearing; I just have a question, Dean.

16 Would you explain how this ordinance
17 works, as it relates within the Ocean Drive
18 Special District?

19 SPEAKER DEAN: (Unidentified last name).

20 Before I do that, Commissioner, I would
21 like to also explain the handout that I
22 provided to you.

23 You have an annotated version that has
24 blue highlighting in it and the additional
25 language that we're proposing addresses

1 Mr. Golden's concerns relative to the
2 operations of these outdoor bar counters
3 where they're adjacent to a residential area,
4 a residential apartment.

5 The one thing that I would like you to
6 consider, as a matter of policy, is that we
7 have proposed that this language be included
8 for the RM-3 District, the City-2 District,
9 the City-3 District, the I-1 District, the
10 MXE District, the RPS-3 -- 3 and 4 -- and
11 CPS-1 through 4 Districts.

12 It's conceivable that you, as a matter
13 of policy, may not want to restrict the hours
14 of operation on these outdoor bars in the MXE
15 District and perhaps the I-1 District on the
16 basis of the character of those districts is
17 different than it is on R-3 and CD-3 and the
18 MXE-3 District is our Mixed Use Entertainment
19 District.

20 To answer your question, again, in the
21 Cabaret Overlay District, from 9th to 11th on
22 Ocean Drive, you can have an outdoor bar
23 operating past midnight.

24 Anywhere else on Ocean Drive, under this
25 ordinance, you'd be allowed to operate up to

1 12:00 unless -- and, again, this is the
2 additional language that has been provided
3 here -- unless that bar is in a property that
4 is adjacent to another property that has a
5 residential unit. Then they would only be
6 able to operate until 8:00 p.m.

7 And, again, that's your choice as to
8 whether or not you want to extend that also
9 to 12:00 in the MXE District.

10 And I think that's a critical policy
11 decision that this Commission needs to make.
12 But that's how it would work on Ocean Drive,
13 for instance.

14 COMMISSIONER: Dean -- Dean, how many --
15 have you done an analysis on how many
16 apartment buildings and bars, you know, in
17 this situation, in the Ocean Drive district
18 will be affected.

19 SPEAKER DEAN: Well, most of the outdoor
20 bars in Ocean Drive, fortunately, are in the
21 9th to 11th Street area so they are -- they
22 are covered by this --

23 COMMISSIONER: Right. The overlay.

24 SPEAKER DEAN: Right.

25 And the other bars that are out there,

1 some of them have not ever been approved.
2 They have never been permitted. As far as
3 the City is concerned, they're not legal and
4 they would be restricted to whatever this
5 ordinance puts in place, relative to their
6 hours of operation: Be it 8:00 p.m., as
7 proposed this afternoon or, if you want, to
8 leave that section in, then they will be
9 eligible to be operating until midnight.

10 But, again, there are very few -- there
11 are none on Ocean Drive, outside of the
12 Cabaret Overlay District, that are bona fide
13 outdoor bars.

14 COMMISSIONER: It just seems to me, as a
15 Commission, that this has been an issue of
16 the MXE district and of other areas where we
17 have apartments.

18 This is Miami Beach. And this is a
19 problem that is ongoing.

20 But, frankly, I think we're addressing
21 it in a very fair way. It's -- we cannot
22 have a continual battle between the people
23 who live here and the people who do business
24 here. And I think it's not an unfair and
25 unreasonable request to say from 8:00 p.m.

1 you know, to 8:00 a.m. I don't think that
2 that's unfair.

3 SPEAKER DEAN: Even in the MXE District?

4 COMMISSIONER: Well, th MXE District had
5 the major problem. And that's why we created
6 the Overlay District, with the noise
7 ordinance and all the other things we tried
8 to do, so that the residents and the
9 businesses would be able to coexist.

10 And, frankly, to the best of my
11 knowledge, it's been a pretty peaceful
12 situation since we've done that.

13 It's not always been that way but it's
14 better than it was. I don't want to now open
15 up the door to create another whole set of
16 problems.

17 Twelve o' clock at night we'd have to
18 say probably on Friday and Saturday but not
19 Monday through Friday because these people
20 work. And then we're starting to dictate
21 lives, to the point that I think it's a big
22 problem.

23 I'd rather leave it alone and see what
24 happens.

25 COMMISSIONER: Dean, that Cabaret

1 District is just Ocean Drive because there is
2 some outdoor bar operating on 11th Street
3 that has become a neighborhood nuisance.

4 COMMISSIONER: That's right.

5 COMMISSIONER: I wondered if it's part
6 of the Cabaret District and not, therefore,
7 entitled, or is it one of the illegal outdoor
8 bars?

9 It looks like The Tutor we've gotten
10 complaints.

11 SPEAKER DEAN: The Tutor? The Tutor
12 would actually, under this ordinance, have to
13 shut down at 8:00 p.m.

14 COMMISSIONER: That's fine. Is there
15 going to be some due diligence by the
16 administration now that we're doing this?

17 And it's a long time in coming. How
18 many years have you been working on this one?

19 SPEAKER DEAN: This one has been in the
20 process now for almost a year.

21 COMMISSIONER: So it's time now that we
22 pass it. If we pass it, to really enforce
23 it.

24 Do we have the capability of enforcing
25 it?

1 CODE ENFORCEMENT MALE SPEAKER: Yes, we
2 do. I'm a little bit concerned about the
3 implications of this in the MXE District
4 because I -- if I understand you correctly,
5 this is the first time that we're proposing
6 reducing the hours and bringing them back to
7 8:00 p.m., right, from twelve?

8 COMMISSIONER: Only -- only for those
9 units -- the bars that are adjacent to
10 apartment buildings.

11 SPEAKER DEAN: Right. And if I could
12 add: This does not affect outdoor cafes.
13 Only outdoor bars, which there is only one,
14 to my knowledge.

15 COMMISSIONER: That's the next question,
16 would be: How do you -- what's the
17 difference between a bar that has hamburgers
18 or finger food or a restaurant that also
19 sells alcohol?

20 SPEAKER DEAN: Well, again, this relates
21 specifically to outdoor bars which are either
22 outdoors or substantially unenclosed.

23 COMMISSIONER: Okay, but I have a liquor
24 license. And I also have a kitchen and I
25 have a Board of Health permit to run my

1 kitchen and I'm licensed and certified and I
2 have a restaurant license.

3 SPEAKER DEAN: Right.

4 COMMISSIONER: But I also am licensed to
5 sell alcoholic beverages. Am I a bar or am I
6 a restaurant?

7 SPEAKER DEAN: Well, you must be -- you
8 have to have a restaurant first in order to
9 qualify for an outdoor cafe, part of which
10 would be an outdoor bar.

11 COMMISSIONER: Okay. What I'm really
12 saying is: Are we -- are we creating a
13 loophole when we say "bar" when, in fact,
14 someone says, "I'm not a bar, I'm a
15 restaurant?"

16 SPEAKER DEAN: You have to look at the
17 definition of outdoor bar counter. It's an
18 accessory freestanding or substantially
19 unenclosed counter or similar device, either
20 stationary or mobile, at or behind which
21 alcoholic beverages may be prepared and
22 served.

23 COMMISSIONER: David, it's a bar
24 counter, not a bar.

25 SPEAKER DEAN: Right.

1 COMMISSIONER: Well, I understand that.
2 But I've also seen on Ocean Drive vending
3 from those counters, food vending.

4 SPEAKER DEAN: Those have been cited as
5 illegal.

6 COMMISSIONER: Illegal.

7 SPEAKER DEAN: And those are a different
8 issue. And they're being treated
9 differently.

10 COMMISSIONER: Okay.

11 COMMISSIONER: I'm sorry to interrupt.

12 How would the outdoor bar counter on
13 Ocean Drive be more disturbing to an
14 adjoining apartment unit than what is
15 otherwise going on in that property? A
16 restaurant or a club or, you know, whatever.

17 SPEAKER DEAN: Well, that's a good
18 question, Commissioner. And it really came
19 down to identifying outdoor bar counters as
20 being probably the most -- if ever there were
21 to be an intense activity, in terms of noise
22 and joviality, because people are standing
23 around, it's at these outdoor bars.

24 And we've identified the outdoor bars as
25 probably the most problematic component of

1 all outdoor activities.

2 Outdoor cafes certainly had their
3 problems. Outdoor containment had their
4 problems. We've addressed those by
5 Commission's approval of the outdoor
6 entertainment provisions of the ordinance.

7 But outdoor bars, as they stand alone,
8 are something that are a unique problem and
9 we think by regulating them and requiring
10 that they either shut down at an early hour
11 or that they have to meet other standards,
12 will help resolve that issue in the future.

13 COMMISSIONER: Uh-huh.

14 THE MAYOR: Any other questions?

15 COMMISSIONER: Did we close? Did we
16 close the public hearing? Did we close --

17 THE MAYOR: We closed it.

18 COMMISSIONER: I move it.

19 COMMISSIONER: Second.

20 THE MAYOR: We moved it. There was a
21 second. We had discussion.

22 Call the roll.

23 THE CLERK: Commissioner Kasden; absent.
24 Commissioner Liebman?

25 COMMISSIONER LIEBMAN. Yes.

1 THE CLERK: Commissioner Shapiro?

2 COMMISSIONER SHAPIRO: Yes.

3 THE CLERK: Commissioner Gottlieb?

4 COMMISSIONER GOTTLIEB: Yes.

5 THE CLERK: Commissioner Eisenberg?

6 COMMISSIONER EISENBERG: Yes.

7 THE CLERK: Vice Mayor Pearlman?

8 VICE MAYOR PEARLMAN: Yes.

9 THE CLERK: Mayor Gelbman?

10 MAYOR GELBMAN: Yes.

11 THE CLERK: Six in favor. One absent.

12 Motion carries.

13 COMMISSIONER: One more thing. Can I
14 have from the administration a report on the
15 status of the particular bar and the
16 structure that was built illegally that we --
17 I guess it was June the 5th -- that we
18 discussed?

19 I don't know the status of whether it's
20 been -- it's still there. I just don't know
21 what -- whether we closed it down; unless you
22 know that.

23 SPEAKER DEAN: I can tell you that that
24 structure is not operating right now. In
25 fact, the hotel is not operating.

1 We're still investigating whether there
2 is a permit. It's not clear whether or not
3 it's even a bar.

4 But, again, under this proposed
5 ordinance, if they were to come in and be
6 permitted tomorrow, they could operate but
7 only to 8:00 p.m.

8 COMMISSIONER: Well, let's be vigilant.
9 And I'd like to know what the status is.

10 CODE ENFORCEMENT SPEAKER SERGIO:
11 (Unidentified last name) We can check on
12 that. I think it was -- he was correct.
13 Because when I was walking there at night,
14 somebody came to thank me for that particular
15 property.

16 COMMISSIONER: I know we did the right
17 thing. I just want to be sure that they
18 don't somehow open again.

19 CODE ENFORCEMENT SPEAKER SERGIO: We'll
20 advise you.

21 COMMISSIONER: Sergio? I just want to
22 ask Sergio: I -- you kept mentioning that
23 there is only one bar that is licensed,
24 permitted and permissible. All of the rest
25 of them will be notified? They're not going

1 to be grandfathered in just because they're
2 there.

3 CODE ENFORCEMENT SPEAKER SERGIO: If
4 they were not properly, legally with permit
5 before, they're not grandfathered in.

6 COMMISSIONER: So there is only one that
7 has been permitted?

8 SPEAKER DEAN: To my knowledge,
9 Commissioner, the only one that was permitted
10 is The Tutor bar.

11 (Thereupon, the proceedings
12 concluded.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA :
: SS.
COUNTY OF MIAMI-DADE :

I, ELAINE CRANDALL, Registered Professional Reporter and Notary Public in and for the State of Florida at Large, do hereby certify that I transcribed the foregoing cassette tape recording requested and that the foregoing pages, numbered from 1 to 19 inclusive, constitute a true and correct transcription of my shorthand notes of the proceedings held.

I further certify that I am not an attorney or counsel of any of the parties, nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action.

WITNESS my hand and official seal in the City of Miami, County of Miami-Dade, State of Florida, this 25th day of January, 2017.





ELAINE CRANDALL, R.P.R.

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, AMENDING CHAPTER 6 ENTITLED "ALCOHOLIC BEVERAGES", SECTION 6-3 ENTITLED "HOURS OF SALE"; AMENDING CHAPTER 114 ENTITLED "GENERAL PROVISIONS", SECTION 114-1 ENTITLED "DEFINITIONS" ; AMENDING CHAPTER 130 ENTITLED "OFF-STREET PARKING", SECTION 130-32 ENTITLED "OFF-STREET PARKING REQUIREMENTS FOR PARKING DISTRICT NO. 1" AMENDING CHAPTER 142 ENTITLED "ZONING DISTRICTS AND REGULATIONS", SECTION 142-693 ENTITLED "PERMITTED USES" AND SECTION 142-1302 ENTITLED "PERMITTED MAIN AND ACCESSORY USES"; BY AMENDING DEFINITIONS AND OPERATIONAL REQUIREMENTS RELATED TO NIGHTCLUBS, SUPPER CLUBS, DANCE HALLS, BARS, ALCOHOLIC BEVERAGE ESTABLISHMENTS AND ENTERTAINMENT ESTABLISHMENTS; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, the Code of the City of Miami Beach contains definitions for various types of alcoholic beverage establishments and nightclubs; and,

WHEREAS, the City Commission deems it advisable to revise, amend, delete and create new definitions for several types of these establishments in order to more accurately reflect current operational practices; and,

WHEREAS, said Code contains regulations addressing the hours of operation of alcoholic beverage establishments; and,

WHEREAS, the City Commission deems it advisable to revise the regulations regarding hours of operation for various types of alcoholic beverage establishments, in order to improve the wording and clarify the hours these various types of establishments may remain open; and,

WHEREAS, the City Commission heard testimony from the Chief of Police detailing the problems the Police Department has documented associated with dance hall establishments that are not also alcoholic beverage establishments, and which were previously exempt from any regulations regarding hours of operation (thereby becoming known as after-hours clubs), specifically related to the very high level of drug arrests, drug transactions and overdoses which are associated with these clubs; and,

WHEREAS, the City Commission finds that existing dance halls with the above described problems are located in close proximity to residential neighborhoods and an elementary school, and desires to minimize the impacts resulting from patrons of dance halls leaving such establishments on residents of the area and on children traveling to school during morning hours of the weekday; and

WHEREAS, the City Commission therefore deems it advisable and finds it necessary for the public health, safety and welfare to impose allowable hours and days of operation for these dance hall establishments which are not also alcoholic beverage establishments, and require conditional use approval for such existing and new dance halls, in order to address the above referenced issues;

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

SECTION 1. That Section 6-3, entitled "Hours of Sale" of Chapter 6, entitled "Alcoholic Beverages," of the Code of the City of Miami Beach, Florida is hereby amended to read as follows:

Sec. 6-3. Hours of sale.

The hours of sale of alcoholic beverages shall be according to the following schedule:

* * *

(3) ~~Restaurants, bars, nightclubs~~ All establishments licensed as alcoholic beverage establishments (midnight to 5:00 a.m.), either as permitted main or accessory uses, shall only offer for sale the on-premises consumption of alcoholic beverages within the hours of 8:00 a.m. and 5:00 a.m. on any day of the week.

(a) Restaurants with full kitchen facilities, serving full meals, licensed as alcoholic beverage establishments (midnight to 5 a.m.), but not operating as dance halls or entertainment establishments, may remain open 24 hours a day; however, alcoholic beverages may not be offered for sale or on premises consumption between the hours of 5 a.m. and 8 a.m.

(b) Restaurants with full kitchen facilities, serving full meals, licensed as alcoholic beverage establishments (midnight to 5 a.m.), and also operating as dance halls, or entertainment establishments, may remain open 24 hours a day; however, alcoholic beverages may not be offered for sale or on premises consumption between the hours of 5 a.m. and 8 a.m., and dancing and entertainment shall not be conducted between the hours of 5 a.m. and 10 a.m.

(c) Other alcoholic beverage establishments (midnight to 5 a.m.), not containing restaurants with full kitchen facilities, shall close at 5:00 a.m. and keep closed the place of business and not allow any patron or other persons, other than those employed by the vendor, to remain therein between the hours of 5:00 a.m. and 8:00 a.m. during the hours that sales are not permitted.

Note: For purposes of this section, full kitchen facilities shall mean having commercial grade burners, ovens and refrigeration units of sufficient size and quantity to accommodate the occupancy content of the establishment. Full kitchen facilities must contain grease trap interceptors, and meet all applicable City, County and State codes.

(4) Off-premises package sales shall be permitted between the hours of 8:00 a.m. and 10:00 p.m., for all establishments licensed as alcoholic beverage establishments. ~~Supper clubs, permitted as a main use in the CD-3 district only, may permit the consumption of alcoholic beverages at all hours; however, there shall be no admission of additional patrons between the hours of 6:00 a.m. and 8:00 a.m.~~

* * *

SECTION 2. That Section 114-1, entitled "Definitions" of Chapter 114, entitled "General Provisions," of the Code of the City of Miami Beach, Florida is hereby amended to read as follows:

Sec. 114-1. Definitions.

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

* * *

Alcoholic beverage establishment means any commercial establishment located in the city which allows for alcoholic beverages (liquor, beer or wine) to be consumed by patrons on the premises.

Alcoholic beverage establishment (midnight to 2 a.m.) means a commercial establishment located in the city at which allows for alcoholic beverages (liquor, beer or wine) to be consumed by patrons are offered for consumption on the premises, up until 2:00 a.m. or any commercial establishment which allows beer, wine or alcoholic beverages to be consumed by patrons on the premises.

Alcoholic beverage establishment (midnight to 5 a.m.) means a commercial establishment located in the city which allows for alcoholic beverages (liquor, beer or wine) to be consumed by patrons on the premises, up until 5:00 a.m.

* * *

Bar means an alcoholic beverage establishment which is not also licensed as a restaurant, dance hall or entertainment establishment any place devoted to the selling or the dispensing and drinking of alcoholic beverages on the premises.

* * *

Dance hall means a commercial establishment where dancing by patrons is allowed, including, but not limited to, restaurants, alcoholic beverage establishments and entertainment establishments. Dance halls not also operating as alcoholic beverage establishments may not admit patrons under the age of twenty-one (21), and may only operate between the hours of 4:00 a.m. and 9:00 a.m. Saturdays, Sundays and national holidays. Dance halls not also operating as alcoholic beverage establishments or restaurants with full kitchens and serving full meals shall require conditional use approval, except that any establishment subject to this provision which legally exists as of the adoption date of this ordinance (December 15, 1999) shall obtain conditional use approval by December 15, 2001.

* * *

Entertainment establishment means a commercial establishment with any live or recorded, amplified or non-amplified performance, (excepting television, radio and/or recorded background music, played at a volume that does not interfere with normal conversation, and indoor movie theater operations). Entertainment establishments may not operate between the hours between the hours of 5:00 a.m. and 10:00 a.m., except as provided for under Section 6-3(3)(b).

* * *

~~Nightclub~~ means a business operated to supply music or entertainment or both and which provides beverages and meals prepared on the premises. It shall have seating for not less than 60 persons at tables, a dance floor at least 300 square feet in area, and a total floor area of at least 2,200 square feet.

* * *

~~Restaurant~~ means a commercial establishment where refreshments or meals may be purchased by the public and ~~where the primary~~ which conducts the business of ~~is the serving of~~ food to be consumed on or off the premises.

* * *

~~Supper club~~ means a business establishment operated to supply music or entertainment and to provide beverages and meals prepared on the premises for on-premises consumption during all hours of operation; and having table seating for not less than 150 persons, a dance floor of not less than 400 square feet, and having an area of not less than 10,000 square feet contained within a freestanding building wherein no other activities are conducted.

* * *

Note: For purposes of this section, full kitchen facilities shall mean having commercial grade burners, ovens and refrigeration units of sufficient size and quantity to accommodate the occupancy content of the establishment. Full kitchen facilities must contain grease trap interceptors, and meet all applicable City, County and State codes.

SECTION 3. That Section 130-32, entitled "Off-street parking requirements for parking district no. 1." of Chapter 130, entitled "Off-Street Parking," of the Code of the City of Miami Beach, Florida is hereby amended to read as follows:

Sec. 130-32. Off-street parking requirements for parking district no. 1

Except as otherwise provided in these land development regulations, when any building or structure is erected or altered in parking district no. 1, accessory off-street parking spaces shall be provided for the building, structure or additional floor area as follows:

* * *

() Alcoholic Beverage Establishment: 1 space per 4 seats and 1 space per 60 square feet of area not utilized for seating.

* * *

() Bar: 1 space per 4 seats and 1 space per 60 square feet of area not utilized for seating.

* * *

() Dance Hall: 1 space per 4 seats and 1 space per 60 square feet of area not utilized for seating.

* * *

() Entertainment Establishment: 1 space per 4 seats and 1 space per 60 square feet of area not utilized for seating.

* * *

~~() Nightclub: 1 space per 4 seats and 1 space per 60 square feet of area not utilized for seating.~~

* * *

() Restaurants or other establishment for consumption of food or beverages on the premises: 1 space per 4 seats; take out restaurant with no seats: 1 space per 300 square feet of floor area; take out restaurant and home delivery with no seats: 1 space per 200 square feet of floor area. Parking requirements for restaurants offering a combination of services shall be cumulative. Restaurants that have an occupational license for an alcoholic beverage establishment, dance hall or entertainment establishment nightclub or bar shall meet the parking requirement indicated for those uses.

SECTION 4. That Section 142-693, entitled "Permitted Uses" of Chapter 142, entitled "Zoning Districts and Regulations," of the Code of the City of Miami Beach, Florida is hereby amended to read as follows:

Sec. 142-693. Permitted uses.

* * *

(b) For purposes of this section, a car wash, filling station and any use that sells gasoline, automobiles or automotive or related repair uses are considered as industrial uses and are not permitted in the redevelopment area.

(c) For purposes of this section, pawnshops and ~~nightclubs~~ dance halls and entertainment establishments not also operating as alcoholic beverage establishments and restaurants with full kitchens and serving full meals are not permitted as a main permitted or accessory use in the redevelopment area; however, in the C-PS3 and C-PS4 districts ~~a nightclub~~ dance halls and entertainment establishments shall be permitted as an accessory use within a hotel of 250 rooms or more with access to the ~~nightclub~~ dance hall or entertainment establishment only from the interior lobby and not from the street.

* * *

SECTION 5. That Section 142-1302, entitled "Permitted main and accessory uses" of Chapter 142, entitled "Zoning Districts and Regulations," of the Code of the City of Miami Beach, Florida is hereby amended to read as follows:

Sec. 142-1302. Permitted main and accessory uses.

Vendors shall be permitted to sell alcoholic beverages within the zoning districts listed in section 142-1301 if such district permits as a permitted main use or accessory use one of the following: Restaurant, bar, ~~nightclub~~ alcoholic beverage establishment, outdoor cafe, private club, or golf clubhouse pursuant to the following standards:

(1) Permitted main uses.

a. Restaurants, ~~nightclubs, bars~~ alcoholic beverage establishments, and private clubs shall be permitted to sell alcoholic beverages for consumption on the premises based upon the following; when beer and wine are served a minimum of 30 seats shall be provided; and when, beer, wine and liquor are served, a minimum of 60 seats shall be provided.

* * *

e. ~~See definition for "nightclub" and "supper club."~~

(2) Accessory uses. Hotels, apartment-hotels, or apartments, or any mixed use having a minimum of 100 apartment units or a minimum of 100 hotel units or which are located in the MXE district shall be permitted to have accessory uses which sell alcoholic beverages pursuant to the following minimum standards:

a. ~~Nightclubs, bBars, alcoholic beverage establishments, restaurants,~~ or private clubs which have a minimum of 40 seats shall be permitted to sell alcoholic beverages for consumption on or off the premises.

* * *

e. ~~See definition for "nightclub" and "supper club."~~

SECTION 6. REPEALER.

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

SECTION 7. INCLUSION IN CODE OF THE CITY OF MIAMI BEACH, FLORIDA

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

SECTION 8. SEVERABILITY.

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

SECTION 9. EFFECTIVE DATE.

This Ordinance shall take effect on the 25th day of December, 1999.

PASSED and ADOPTED this 15th day of December, 1999.



MAYOR

ATTEST:



CITY CLERK

F:\PLAN\SPLB\APRIL\DEF1346\CLUBDEFO.FIN

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

 12/22/99

City Attorney Date



COMMISSION MEMORANDUM NO. 921-99

TO: Mayor Neisen O. Kasdin and
Members of the City Commission

DATE: December 15, 1999

FROM: Sergio Rodriguez
City Manager

SUBJECT: Nightclub Definitions and Hours of Operation
Second Reading -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, Amending Chapter 6 Entitled "Alcoholic Beverages", Section 6-3 Entitled "Hours of Sale" ; Amending Chapter 114 Entitled "General Provisions", Section 114-1 Entitled "Definitions" ; Amending Chapter 130 Entitled "Off-street Parking", Section 130-32 Entitled "Off-street Parking Requirements for Parking District No. 1" Amending Chapter 142 Entitled "Zoning Districts and Regulations", Section 142-693 Entitled "Permitted Uses" and Section 142-1302 Entitled "Permitted Main and Accessory Uses"; by Amending Definitions and Operational Requirements Related to Nightclubs, Supper Clubs, Dance Halls, Bars, Alcoholic Beverage Establishments and Entertainment Establishments; Providing for Inclusion in the Code of the City of Miami Beach, Florida; Repealer; Severability; and an Effective Date.

ADMINISTRATION RECOMMENDATION

The Administration recommends that the City Commission, upon second reading public hearing, adopt the Administration Alternative Ordinance version of the proposed ordinance, containing suggested language addressing restaurants and nightclubs.

ANALYSIS

The consideration of proposed amendments to the Land Development Regulations of the City Code relative to definitions of alcoholic beverage establishments and regulations pertaining to the hours of operation and other standards for restaurants, bars and nightclubs was referred to the Planning Board by the City Commission on May 6, 1998.

Following the Commission's referral, a process was initiated to consider various approaches to the issue and arrive at definitions necessary to accurately reflect current business practices while addressing problems related to the operation of nightclub establishments within the City. Two Planning Board workshops were held to discuss the issue and solicit input from the public, and City

AGENDA ITEM R5C

DATE 12-15-99

ANALYSIS (Continued)

staff has held a series of meetings with members of the Washington Avenue Task Force, nightclub industry representatives and citizen activists, to discuss these issues and work on appropriate responses.

As a result of these meetings, and taking into consideration a consensus of the majority of participants in the process, Planning Department staff drafted a proposed amending ordinance which addressed the concerns expressed. On April 6, 1999, the Washington Avenue Task Force voted to recommend approval of the portion of the ordinance creating new definitions for nightclubs and other establishments. On June 22, 1999, the Planning Board voted 7-0 to recommend the approval of the proposed new nightclub definitions. Additionally, the Planning Board had other recommendations regarding hours of operation and after-hours clubs that are described below.

At its November 17, 1999 meeting, the City Commission voted to approve the Planning Board's recommended version of the proposed amending ordinance, with three amendments. This amended version of the ordinance (Attachment 1), as approved at first reading, is before the Commission for adoption today. Also attached is the **Administration Alternative Ordinance** (Attachment 2), which contains the same provisions as the ordinance approved on first reading, but addresses the Administration's serious concerns regarding nightclubs which could possibly remain open 24 hours a day, and is discussed below.

Definitions

Currently, the Land Development Regulations of the City Code contain definitions for various types of alcoholic beverage establishments and nightclubs. These definitions need to be revised in order to more accurately reflect current operational practices in the entertainment industry.

The proposed amending ordinance eliminates the outmoded definitions of "nightclub" and "supper club", and basically replaces them with definitions for alcoholic beverage establishments, dance halls, and entertainment establishments. These definitions are written in simple, plain English, and should be easily understandable by a lay person, as was recommended by the Planning Board at their previous workshop meeting on the subject of nightclub definitions.

It is also anticipated that these definitions will be used in a new plan for licensing business establishments within the City. This plan, known as "Modular Licensing", would allow businesses to obtain licenses for each aspect of their operation, in a "mix-and-match" type of system. For instance, a business operating as a typical "nightclub" would acquire an alcoholic beverage establishment (midnight to 5 a.m.) module, a dance hall module, and an entertainment establishment module. Each module would be included in the establishment's overall license.

ANALYSIS (Continued)

Please note that this ordinance only creates the definitions as described above within the Land Development Regulations of the City Code. Actually implementing a licensing plan such as the one described above will require separate action by the Finance Department to amend the License Ordinance and, ultimately, approval of the amendment by the City Commission.

Hours of Operation

The City Code also contains regulations addressing the hours of operation of alcoholic beverage establishments and nightclubs. The City Code requires alcoholic beverage establishments to close at exactly 5:00 a.m.; any activity subsequent to 5:00 a.m. is subject to being cited for violation by the Code Compliance Department.

An unintended consequence of this provision of the Code is that an establishment could conceivably serve a drink to a patron at 4:59 a.m., which is legal under this Code, but then be required to shut down the establishment at 5:00 a.m. exactly. This anomaly in the provisions of the Code creates problems for the City's Code Compliance inspectors, who have been having difficulty enforcing the strict 5:00 a.m. closing time. The Planning Board recommended that establishments be required to set a last call time, after which no more alcohol could be served. Patrons would then be allowed to remain in the establishment until 5:00 a.m., in order to allow them to conclude their activities. The establishments would then close at 5:00 a.m. as they are currently required to do. **The Planning Board recommended a last call time of 4:30 a.m.; however, on first reading the Commission chose to set the last call time at 4:45 a.m. as per the Administration's recommendation.**

24-hour Restaurants

Regarding 24 hour restaurants, under the current provisions, all establishments serving alcoholic beverages technically should close down between 5:00 and 8:00 a.m., including restaurants serving breakfast. This is obviously not an acceptable condition, given the presence of 24 hour restaurants such as the News Cafe or Denny's. Therefore, the proposed amending ordinance modifies the hours of operation regulations for such businesses by allowing operation as a restaurant 24 hours a day, while prohibiting the sale or consumption of alcoholic beverages between the hours of 5:00 a.m. and 8:00 a.m.

At first reading, in response to questions from members of the public regarding such situations as the Van Dyke Cafe and others, where full service restaurants also feature entertainment and perhaps dancing, the Commission voted to amend the ordinance to allow establishments to continue operating as long as the entertainment and dancing stopped at 5:00 a.m. **The Administration is very concerned about the possibility that the wording of the proposed ordinance, as amended by the Commission at first reading, would open a loophole allowing all nightclubs to remain**

ANALYSIS (Continued)

open 24 hours a day. The Administration is proposing an alternative ordinance, containing language that, while maintaining the essence of what the Commission approved on first reading, clarifies what type of establishments could stay open 24 hours for purposes of serving breakfast, and what type of establishments, primarily nightclubs not also operating as restaurants, that would be required to close at 5:00 a.m. These provisions are contained in the attached ordinance entitled "**Administration Alternative Ordinance**" (Attachment 2) and are detailed below as follows: (see attached chart).

- (a) Restaurants with full kitchen facilities and serving full meals, licensed as alcoholic beverage establishments (midnight to 5 a.m.), but not operating as dance halls or entertainment establishments, (such as News Cafe or Denny's) may remain open 24 hours a day; however, alcoholic beverages may not be offered for sale or on premises consumption between the hours of 5 a.m. and 8 a.m.
- (b) Restaurants with full kitchen facilities and serving full meals, licensed as alcoholic beverage establishments (midnight to 5 a.m.), and also operating as dance halls, or entertainment establishments (such as Mango's or the Van Dyke Cafe), may remain open 24 hours a day; however, alcoholic beverages may not be offered for sale or on premises consumption between the hours of 5 a.m. and 8 a.m., and dancing and entertainment shall not be conducted between the hours of 5 a.m. and 10 a.m.
- (c) Other alcoholic beverage establishments (midnight to 5 a.m.), not containing restaurants with full kitchen facilities (nightclubs such as Twist or Liquid), shall close at 5:00 a.m. and remain closed between the hours of 5:00 a.m. and 8:00 a.m. in the case of bars and entertainment establishments and between the hours of 5:00 a.m. and 10:00 a.m. in the case of dance halls and entertainment establishments.

In this way, the City's nightclubs will not be allowed to remain open 24 hours a day, while allowing those full service restaurants, that might happen to also feature entertainment to remain open, to serve breakfast during the early morning hours.

After-hours "Juice Bars"

A recent phenomenon in the City is the proliferation of establishments known as "juice bars", establishments which operate much like nightclubs with music and dancing, but that do not serve alcohol and are therefore not subject to the City's regulations vis-a-vis alcoholic beverage establishments hours of operation or licensing. As it has become apparent that these establishments may be havens for young people under the legal curfew age, and currently no regulations exist to regulate such activities, the idea of including these establishments in these proposed regulations

ANALYSIS (Continued)

has been put forward. Since these businesses operate as dancing establishments, they would be viewed as "Dance Halls" under the proposed definitions herein. As long as the juice bars are considered Dance Halls, and licensed as such, regulations applying to regular alcoholic beverage establishments licensed as Dance Halls should also apply to them.

At the June 22, 1999 Planning Board workshop, Police Chief Richard Barreto gave testimony regarding the problems associated with these establishments, including the history of drug related arrests made at these type of establishments. The difficulty of policing these establishments and the large commitment of police manpower necessary to police them was detailed. In response to this testimony, as well as to the testimony of many other concerned members of the community, the Planning Board recommended addressing the problems created by the after-hours clubs by adding language to the proposed ordinance stating that dance halls shall not operate between the hours of 5 a.m. and 10 a.m.

At its November 17, 1999 meeting, the Commission concurred with this assessment of the present situation, and voted to approve the ordinance as recommended by the Planning Board. The result of this legislation will be to prohibit dance halls from operating between the hours of 5:00 a.m. and 10 a.m., effectively limiting the non-alcoholic beverage clubs to operating at the same hours as clubs which offer alcoholic beverages. The Commission also voted to amend the proposed ordinance by requiring that patrons under the age of 18 be prohibited from entering all dance clubs within the city.

* * *

In summary, this proposed amending ordinance addresses the need for new, more up-to-date definitions for various types of alcoholic beverage establishments. Additionally, the proposed amending ordinance addresses the hours of operation of certain alcoholic beverage establishments by specifying a last call time, ensuring that these establishments have a clear and orderly closing procedure while complying with the designated closing time. Finally, the amending ordinance addresses after-hours clubs within the City by specifying allowable hours of operation and age limitations.

Based on the foregoing analysis, the Administration recommends that the Commission adopt, upon second reading public hearing, the Administration Alternative Ordinance version of the proposed amending ordinance to Sections 6, 114, 130, and 142 of the Code of the City of Miami Beach, Florida, containing the Administration's recommended additional language addressing restaurants and nightclubs.

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Type of Establishment	Hours of the day the establishment is allowed to remain open	Hours of the day the establishment is allowed to serve alcohol	Hours of the day the establishment is allowed to have dancing, entertainment or loud music
Restaurants with full kitchen facilities, licensed as alcoholic beverage establishments (midnight to 5 a.m.), but <u>not</u> operating as dance halls or entertainment establishments, (such as News Cafe or Denny's)	24 hours	8:00 a.m. to 5:00 a.m. (no alcohol served from 5:00 a.m. to 8:00 a.m.)	N/A (none)
Restaurants with full kitchen facilities, licensed as alcoholic beverage establishments (midnight to 5 a.m.), and <u>also</u> operating as dance halls, or entertainment establishments (such as Mango's or the Van Dyke Cafe)	24 hours	8:00 a.m. to 5:00 a.m. (no alcohol served from 5:00 a.m. to 8:00 a.m.)	10:00 a.m. to 5:00 a.m. (no dancing, entertainment or loud music from 5:00 a.m. to 10:00 a.m.)
Other alcoholic beverage establishments (midnight to 5 a.m.), not containing restaurants with full kitchen facilities (nightclubs such as Twist or Liquid)	10:00 a.m. to 5:00 a.m. (closed from 5:00 a.m. to 10:00 a.m.)	10:00 a.m. to 5:00 a.m. (closed from 5:00 a.m. to 10:00 a.m.)	10:00 a.m. to 5:00 a.m. (closed from 5:00 a.m. to 10:00 a.m.)

ORDINANCE NO. 2003-3417

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 18, "PS PERFORMANCE STANDARD DISTRICT," SEC. 142-693, "PERMITTED USES," BY RESTRICTING OUTDOOR ENTERTAINMENT ESTABLISHMENTS AND OPEN AIR ENTERTAINMENT ESTABLISHMENTS IN THE R-PS4, RESIDENTIAL HIGH DENSITY PERFORMANCE STANDARDS AND C-PS 1, 2, 3 AND 4, COMMERCIAL PERFORMANCE STANDARDS ZONING DISTRICTS; PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the residents of the area known as the "PS Performance Standards District," believe their quality of life is being diminished; and

WHEREAS, the noise emanating from entertainment establishments in the area known as the "PS Performance Standards District," is the source of the noise pollution in the area and is one of the major influences in the diminishing quality of life in that area of the City; and

WHEREAS, the residents of the area known as the "PS Performance Standards District," have petitioned the City Commission to take affirmative action in restoring their quality of life.

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

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

Sec. 142-693. Permitted Uses.

(a) The following uses are permitted in the performance standard district.

General Use Category	R-PS 1, 2	R-PS 3, 4	C-PS 1, 2, 3, 4	RM-PS1
Single-family; townhome; apartment; apartment/hotel	P	P	P	P Apartment/hotel not permitted
Hotel	N	P	P	N
Commercial	N	N	P	P 8% of floor area
Institutional	C	C	C	C 1.25% of Floor Area
Accessory outdoor bar counters, provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for an accessory outdoor bar counter which is adjacent to a property with an apartment unit, the accessory outdoor bar counter may not be operated or utilized between 8:00 p.m. and 8:00 a.m.	N	N However, accessory outdoor bar counters are permitted in oceanfront hotels with at least 100 hotel units in the R-PS4 district.	P*	N
Outdoor entertainment establishments, and open air entertainment establishment, neighborhood impact establishments	N	N However, in the R-PS4 district, these uses are permitted as accessory uses in oceanfront hotels with 250 or more hotel units with access to the establishment only from the interior lobby and not from the street.	C* N	N
Neighborhood impact establishments	N	N However, in the R-PS4 district, this use is permitted, as an accessory use in oceanfront hotels with 250 or more hotel units, as a Conditional Use. Access to the establishment shall be only from the interior lobby of the hotel and not from the street.	C	N

P--Main permitted use

C--Conditional use

N--Not permitted

* -- Accessory use only

Floor area in the RM-PS1 district refers to total floor area in project. Commercial uses in RM-PS1 limited to stores and restaurants.

- (b) For purposes of this section, a car wash, filling station and any use that sells gasoline, automobiles or automotive or related repair uses are considered as industrial uses and are not permitted in the redevelopment area.
- (c) For purposes of this section, pawnshops and dance halls and entertainment establishments not also operating as alcoholic beverage establishments and restaurants with full kitchens and serving full meals are not permitted as a main permitted or accessory use in the redevelopment area; however, in the C-PS3 and C-PS4 districts dance halls and entertainment establishments shall be permitted as an accessory use within a hotel of 250 rooms or more as a Conditional Use. ~~with a~~ Access to the dance hall or entertainment establishment shall be only from the interior lobby of the hotel and not from the street.

Section 2. Repeal

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

Section 3. Severability

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

Section 4. Codification

It is the intention of the 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 relettered to accomplish such intention, and the work "ordinance" may be changed to "section," "article," or other appropriate word.

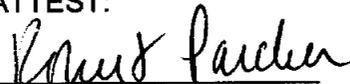
Section 5. Effective Date

This ordinance shall take effect 10 days after adoption.

Passed and adopted this 11th day of June, 2003.


VICE-MAYOR

ATTEST:


City Clerk

First Reading: May 21, 2003
Second Reading: June 11, 2003

Approved As To Form
And Language
And For Execution


City Attorney  5-30-03
Date

Verified by: _____
Jorge G. Gomez, AICP
Planning Director

Underscore denotes new language
~~Strikethrough~~ denotes deleted language
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**CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY**



Condensed Title:

An ordinance of the Mayor and City Commission amending restricting outdoor entertainment establishments and open air entertainment establishments in the Redevelopment Area.

Issue:

Should the City Commission:

1. Prohibit outdoor and open air entertainment establishments in the Redevelopment area?
2. Allow neighborhood impact establishments in the R-PS4 and C-PS districts as conditional uses?

Item Summary/Recommendation:

Currently, the outdoor entertainment establishments, open air entertainment establishments and neighborhood impact establishments are not permitted in the R-PS 1, 2 and 3 districts. These uses, however, are permitted in the R-PS4 as accessory uses only in hotels with 250 units or more, with access from the lobby and not from the street. The outdoor entertainment, open air entertainment and neighborhood impact establishments are currently permitted in the C-PS 1, 2, 3 and 4 districts as conditional uses.

The proposed ordinance would prohibit the outdoor and open air entertainment except in the R-PS4 as accessory uses in oceanfront hotels and would allow the neighborhood impact establishments in the R-PS4 and C-PS districts as conditional uses.

The Administration recommends that the City Commission approve the proposed amendment.

Advisory Board Recommendation:

At the March 25, 2003 meeting, the Planning Board passed a motion 6-0, with one member absent) recommending that the City Commission approve the proposed ordinance.

Financial Information:

Source of Funds:	Amount	Account	Approved
<div style="border: 1px solid black; width: 40px; height: 40px; display: inline-block;"></div> Finance Dept.	1		
	2		
	3		
	4		
	Total		

City Clerk's Office Legislative Tracking:

Mercy Lamazares/Jorge G. Gomez, Planning Department

Sign-Offs:

Department Director	Assistant City Manager	City Manager

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AGENDA ITEM RS4
DATE 6-11-03

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: June 11, 2003

From: Jorge M. Gonzalez *J. Pacheco for*
City Manager

Second Reading – Public Hearing

Subject: Restriction of outdoor and open air entertainment in R-PS and C-PS districts.

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 18, "PS PERFORMANCE STANDARD DISTRICT," SEC. 142-693, "PERMITTED USES," BY RESTRICTING OUTDOOR ENTERTAINMENT ESTABLISHMENTS AND OPEN AIR ENTERTAINMENT ESTABLISHMENTS IN THE R-PS4, RESIDENTIAL HIGH DENSITY PERFORMANCE STANDARDS AND C-PS 1, 2, 3 AND 4, COMMERCIAL PERFORMANCE STANDARDS ZONING DISTRICTS; PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

ADMINISTRATION RECOMMENDATION

The Administration recommends that the City Commission adopt the proposed ordinance as modified on first reading.

BACKGROUND

At the January 8, 2003 meeting, the City Commission held a long discussion which included public participation relative to the issue of noise emanating from clubs and restaurants in the South Pointe area. Among several other locations discussed, more specifically, the Commission talked about the noise emanating from Opium Gardens (f/k/a Amnesia), located on Collins Avenue between First and Second Streets. The end result of this Commission meeting was a directive to the Planning Department to draft an ordinance for review by the Planning Board that would prohibit any more open-air entertainment establishments in the C-PS zoning districts.

ANALYSIS

The following terms are very commonly used in the City Code. They are offered here as a tool to understand how they are used in this report and in the legislation that is being

proposed at this time. These terms are defined terms in the Land Development Regulations of the Code:

Accessory use means a subordinate use which is incidental to and customary in connection with the main building or use and which is located on the same lot with such main building or use.

Entertainment means any live show or live performance or music amplified or nonamplified. Exceptions: Indoor movie theater; big screen television and/or background music, amplified or nonamplified, played at a volume that does not interfere with normal conversation.

Dance hall means a commercial establishment where dancing by patrons is allowed, including, but not limited to, restaurants, alcoholic beverage establishments and entertainment establishments.

Entertainment establishment means a commercial establishment with any live or recorded, amplified or nonamplified performance, (excepting television, radio and/or recorded background music, played at a volume that does not interfere with normal conversation and indoor movie theater operations). Entertainment establishments may not operate between the hours of 5:00 a.m. and 10:00 a.m., except as provided for under subsection 6-3(3)(b).

Neighborhood impact establishment means:

(1) An alcoholic beverage establishment or restaurant, not also operating as an entertainment establishment or dance hall (as defined in section 114-1), with an occupant content of 300 or more persons as determined by the chief fire marshal; or

(2) An alcoholic beverage establishment or restaurant, which is also operating as an entertainment establishment or dance hall (as defined in section 114-1), with an occupant content of 200 or more persons as determined by the chief fire marshal.

Open air entertainment establishment means a commercial establishment which provides entertainment, as defined in this section, indoors or in an enclosed courtyard or area which by its design is open to the outside, thereby enabling the entertainment to be audible outdoors.

Outdoor entertainment establishment means a commercial establishment which provides outdoor entertainment as defined in this section.

Currently, the outdoor entertainment establishments, open air entertainment establishments and neighborhood impact establishments are not permitted in the R-PS 1, 2 and 3 districts. These uses, however, are permitted in the R-PS4 as accessory uses only in hotels with 250 units or more, with access from the lobby and not from the street. The

outdoor entertainment, open air entertainment and neighborhood impact establishments are currently permitted in the C-PS 1, 2, 3 and 4 districts as conditional uses.

The following table lists existing establishments in the redevelopment area, which are licensed as restaurants or a combination of restaurant/bar serving alcoholic beverages until 2:00 a.m. or 5:00 a.m., and some also include a dance and entertainment component in the license:

ADDRESS		NAME	RESTAURANTS	2:00 a.m.	5:00 a.m.	DANCE/ENT.
840	1 ST STREET	DAILY BREAD	X			
124	2 ND STREET	SO FI HIDEAWAY	X			
300	ALTON RD	MONTY'S	X		X	X
227	BISCAYNE ST	JOE'S STONE CRAB	X			
100	COLLINS AVE	THE ROOM	X		X	
100	COLLINS AVE	SHOJI SUSHI	X			
100	COLLINS AVE	NEMO	X	X		
124	COLLINS AVE	LA FACTORIA	X		X	
136	COLLINS AVE	OPIUM GARDENS	X		X	X
157	COLLINS AVE	BIG PINK	X		X	
1	OCEAN DRIVE	PENROD'S	X		X	X
36	OCEAN DRIVE	TAVERNA OPA	X		X	X
150	OCEAN DRIVE	PURE LOUNGE/JOIA	X		X	
161	OCEAN DRIVE	M.B. MARIOTT	X	X		
350	OCEAN DRIVE	GREEN COMET	X			
444	OCEAN DRIVE	OCEAN FIVE BISTRO	X	X		
455	OCEAN DRIVE	THE SAVOY	X	X		
1000	SO. POINTE DR	LA PIAGGIA	X	X		
500	SO. POINTE DR	FLUTE CHAMPAGNE	X		X	
1	WASHINGTON AV	SMITH & WOLLENSKY	X		X	
235	WASHINGTON AV	ODYSSEY	X		X	
347	WASHINGTON AV	HOTEL ST. AUGUSTINE		X		
404	WASHINGTON AV	CHINA GRILL	X	X		
411	WASHINGTON AV	CLUB IBIZA	X		X	X
413	WASHINGTON AV	LA LOCANDA	X			
419	WASHINGTON AV	L'ENTRECOTE	X		X	X
433	WASHINGTON AV	TUSCANY	X	X		

Of the restaurants listed above, the only one that is presently an outdoor/open air entertainment establishment is Opium Gardens. Monty's has an outdoor stage-like structure that has been approved for some time, thus would not be affected by the proposed regulations. China Grill, Taverna Opa, and Penrod's (except that portion of the

outdoor space that is included in the original lease with Penrod's) have outdoor spaces which could potentially be affected by the proposed regulations.

Presently, the narrowly defined circumstance when the entertainment provided in an outdoor area is played at a volume that interferes with normal conversation, but below a level that would violate the Dade County Noise Ordinance (21-28), qualifies as a Conditional Use. Passage of the proposed ordinance would limit entertainment to background music, amplified or non-amplified, played at a level that does not interfere with normal conversation.

This ordinance addresses only one component of a complex set of issues. The Administration will continue to analyze the development regulations and propose further amendments to fine tune the balance between the interests of the entertainment industry and the quality of life of the City's residential neighborhoods.

Following the direction of the City Commission to ban all outdoor and open air entertainment, the attached ordinance proposes to prohibit outdoor entertainment and open-air entertainment establishments in the R-PS4, where it is currently permitted as accessory use to an oceanfront hotel and in C-PS1, 2, 3 and 4 districts, where it is permitted as a conditional use. The proposed ordinance would allow neighborhood impact establishments in the R-PS4 as accessory use to an oceanfront hotel with 100 rooms or more as well as in the C-PS districts, but only as conditional uses only. The rationale for 100 rooms is derived from Chapter 561 of the Florida Statutes, wherein there is a limit on the number of alcoholic licenses that the State of Florida will issue based on the population of the county. However, Section 561.20(2)(a)1. states that "No such limitation of the number of licenses... shall prohibit the issuance of a special license to any bona fide hotel, motel or motor court ...of no fewer than 100 guest rooms in any county having a population of 50,000 residents or greater..." Thus it is apparent that a liquor license could be construed as the rational nexus for a greater size accessory use restaurant in hotels that have 100 or more hotel rooms.

The information shown in the table below was extracted from the current Occupational License database. The four hotels below are the only licensed ones located in the R-PS4 zoning district, which is the district located east of Ocean Drive, south of 5th Street.

ADDRESS	NAME OF HOTEL	NUMBER OF ROOMS
125 OCEAN DR	VILLA LUISA HOTEL	50
161 OCEAN DR	MIAMI BEACH MARRIOTT @ SOUTH B	236
425 OCEAN DR	ARDEN SAVOY PARTNERS, LLC	74
455 OCEAN DR	THE SAVOY ON SOUTH BEACH	40

The Bentley Beach at 101 Ocean Drive is still under construction, but initially proposed with 98 hotel rooms. The Continuum, which is located at the terminus of So. Pointe Drive is

also within the R-PS4 district. The phase 1 of this project is still under construction and initially proposed as a 400-unit condominium building with 180 hotel rooms. This project is also on the oceanfront.

PLANNING BOARD ACTION

At the March 25, 2003 meeting, the Planning Board recommended by a vote of 6-0 (one member absent) that the City Commission approve the proposed ordinance.

CITY COMMISSION ACTION

Although the City Commission could not take any action with regard to the proposed ordinance at the April 30, 2003 meeting, there was a long and vociferous presentation by members of the public in opposition to further regulations of the nightlife industry. In addition, there was a request made by the representative of the Arlington-Savoy hotel to allow neighborhood impact establishments as a conditional use in the R-PS4 zoning district for hotels with 100 rooms or more.

At the May 21, 2003 meeting, the Commission reviewed an ordinance that incorporated the request by the representative of the Arlington-Savoy hotel. Although the Commission approved the ordinance on first reading, requested that it be amended before the second reading public hearing to reflect that outdoor and open air entertainment establishments would not be allowed in the R-PS4 zoning district. The Commission also requested that the revised ordinance reflect that the threshold for hotels in the R-PS4 district that could apply for a neighborhood impact establishment is returned to the original 250 rooms.

CONCLUSION

Pursuant to Section 118-164 (2) a. of the City Code, the City Commission must hold two advertised public hearings on this proposed ordinance, which changes the actual list of permitted, conditional or prohibited uses within the Performance Standards districts. At least one of the public hearings must be held after 5:00 p.m.

The first public hearing must be advertised at least 7 days before the hearing date; the second public hearing must be advertised at least 5 days before the hearing date. The Commission may adopt the proposed amendment by a 5/7ths vote immediately after the second public hearing.

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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 18, "PS PERFORMANCE STANDARD DISTRICT," SEC. 142-693, "PERMITTED USES," BY RESTRICTING OUTDOOR ENTERTAINMENT ESTABLISHMENTS AND OPEN AIR ENTERTAINMENT ESTABLISHMENTS IN THE R-PS4, RESIDENTIAL HIGH DENSITY PERFORMANCE STANDARDS AND C-PS 1, 2, 3 AND 4, COMMERCIAL PERFORMANCE STANDARDS ZONING DISTRICTS; PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the residents of the area known as the "PS Performance Standards District," believe their quality of life is being diminished; and

WHEREAS, the noise emanating from entertainment establishments in the area known as the "PS Performance Standards District," is the source of the noise pollution in the area and is one of the major influences in the diminishing quality of life in that area of the City; and

WHEREAS, the residents of the area known as the "PS Performance Standards District," have petitioned the City Commission to take affirmative action in restoring their quality of life.

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

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

Sec. 142-693. Permitted Uses.

(a) The following uses are permitted in the performance standard district.

General Use Category	R-PS 1, 2	R-PS 3, 4	C-PS 1, 2, 3, 4	RM-PS1
Single-family; townhome; apartment; apartment/hotel	P	P	P	P Apartment/hotel not permitted
Hotel	N	P	P	N
Commercial	N	N	P	P 8% of floor area
Institutional	C	C	C	C 1.25% of Floor Area
Accessory outdoor bar counters, provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for an accessory outdoor bar counter which is adjacent to a property with an apartment unit, the accessory outdoor bar counter may not be operated or utilized between 8:00 p.m. and 8:00 a.m.	N	N However, accessory outdoor bar counters are permitted in oceanfront hotels with at least 100 hotel units in the R-PS4 district.	P*	N
Outdoor entertainment establishments, and open air entertainment establishment, neighborhood impact establishments	N	N However, in the R-PS4 district, these uses are permitted as accessory uses in oceanfront hotels with 250 or more hotel units with access to the establishment only from the interior lobby and not from the street.	C* N	N
Neighborhood impact establishments	N	N However, in the R-PS4 district, this use is permitted, as an accessory use in oceanfront hotels with 250 or more hotel units, as a Conditional Use. Access to the establishment shall be only from the interior lobby of the hotel and not from the street.	C	N

P--Main permitted use

C--Conditional use

N--Not permitted

* -- Accessory use only

Floor area in the RM-PS1 district refers to total floor area in project. Commercial uses in RM-PS1 limited to stores and restaurants.

- (b) For purposes of this section, a car wash, filling station and any use that sells gasoline, automobiles or automotive or related repair uses are considered as industrial uses and are not permitted in the redevelopment area.
- (c) For purposes of this section, pawnshops and dance halls and entertainment establishments not also operating as alcoholic beverage establishments and restaurants with full kitchens and serving full meals are not permitted as a main permitted or accessory use in the redevelopment area; however, in the C-PS3 and C-PS4 districts dance halls and entertainment establishments shall be permitted as an accessory use within a hotel of 250 rooms or more as a Conditional Use, with a Access to the dance hall or entertainment establishment shall be only from the interior lobby of the hotel and not from the street.

Section 2. Repeal

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

Section 3. Severability

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

Section 4. Codification

It is the intention of the 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 relettered to accomplish such intention, and the work "ordinance" may be changed to "section," "article," or other appropriate word.

Section 5. Effective Date

This ordinance shall take effect 10 days after adoption.
Passed and adopted this _____ day of _____, 2003.

MAYOR

ATTEST:

City Clerk

First Reading:
Second Reading:

Approved As To Form
And Language
And For Execution

M. J. Dull 5-30-03

City Attorney Date

Verified by: _____
Jorge G. Gomez, AICP
Planning Director

Underscore denotes new language
~~Strikethrough~~ denotes deleted language
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Revised Notice CITY OF MIAMI BEACH NOTICE OF A PUBLIC HEARING



NOTICE IS HEREBY given that a public hearing will be held by the Mayor and City Commission of the City of Miami Beach, Florida, in the Commission Chambers, 3rd floor, City Hall, 1700 Convention Center Drive, Miami Beach, Florida, on **Wednesday, June 11, 2003, at 5:01 p.m.**, to consider the following:

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 18, "PS PERFORMANCE STANDARD DISTRICT," SEC. 142-693, "PERMITTED USES," BY RESTRICTING OUTDOOR ENTERTAINMENT ESTABLISHMENTS AND OPEN AIR ENTERTAINMENT ESTABLISHMENTS IN THE R-PS4, RESIDENTIAL HIGH DENSITY PERFORMANCE STANDARDS AND C-PS 1, 2, 3 AND 4, COMMERCIAL PERFORMANCE STANDARDS ZONING DISTRICTS, PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

Inquiries may be directed to the Planning Department at (305) 673-7550.

INTERESTED PARTIES are invited to appear at this meeting, or be represented by an agent, or to express their views in writing addressed to the City Commission, c/o the City Clerk, 1700 Convention Center Drive, 1st Floor, City Hall, Miami Beach, Florida 33139. Copies of these ordinances are available for public inspection during normal business hours in the City Clerk's Office, 1700 Convention Center Drive, 1st Floor, City Hall, Miami Beach, Florida 33139. This meeting may be continued and under such circumstances additional legal notice would not be provided.

Robert E. Parcher, City Clerk
City of Miami Beach

Pursuant to Section 286.0105, Fla. Stat., the City hereby advises the public that: if a person decides to appeal any decision made by the City Commission with respect to any matter considered at its meeting or its hearing, such person must ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

In accordance with the Americans with Disabilities Act of 1990, persons needing special accommodation to participate in this proceeding, or to request information on access for persons with disabilities, or to request this publication in accessible format, or to request sign language interpreters, should contact the City Clerk's office at (305) 673-7411, no later than four days prior to the proceeding. If hearing impaired, contact the City Clerk's office via the Florida Relay Service numbers, (800) 955-8771 (TTY) or (800) 955-8770 (VOICE).

Ad #0179R

29 THURSDAY, JUNE 5, 2003 The Herald www.herald.com

IN RE: CITY OF MIAMI BEACH COMMISSION MEETING

ITEM NO.: ITEM R5D PUBLIC HEARING

CITY OF MIAMI BEACH
COMMISSION MEETING

MAY 21, 2003

ITEM R5C PUBLIC HEARING

RESTRICTION OF OUTDOOR/OPEN AIR ENTERTAINMENT
IN R-PS AND C-PS DISTRICTS

1 COMMISSION MEMBERS:

- 2 DAVID DERMER, MAYOR
- 3 LUIS R. GARCIA, JR., VICE MAYOR
- 4 SAUL GROSS, COMMISSIONER
- 5 SIMON CRUZ, COMMISSIONER
- 6 MATTI HERRERA BOWER, COMMISSIONER
- 7 JOSE SMITH, COMMISSIONER
- 8 RICHARD STEINBERG, COMMISSIONER

6

ALSO PRESENT:

7

- 8 MR. GOMEZ GONZALEZ, CITY MANAGER
- 9 MURRAY DUBBIN, CITY ATTORNEY
- 10 ROBERT E. PARCHER, CITY CLERK
- 11 MR. GOMEZ GOMEZ, PLANNING DEPARTMENT

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1 (Thereupon:)

2 MAYOR DERMER: All right. This is
3 230 R5C, restriction of outdoor/open air
4 entertainment in R-PS and CP-S districts,
5 first reading. Please read the ordinance.

6 THE CLERK: An ordinance of the
7 Mayor and the City Commission of the City
8 of Miami Beach, Florida, amending the land
9 development regulations of the code of the
10 City of Miami Beach by amending
11 Chapter 142, zoning districts and
12 regulations, Article 2, district
13 regulations division 18, PS performance
14 standards; Section 142-693, prohibited
15 uses.

16 By modifying the regulations for
17 neighborhood impact establishments in the
18 R-PS4 zoning districts and restricting
19 outdoor entertainment establishments and
20 open air entertainment establishments in
21 the R-PS4 residential high density
22 performance standard and C-PS1, 2, 3, and 4
23 commercial performance standard zoning
24 district providing for repeal or
25 codification, severability, and an

1 effective date.

2 MAYOR DERMER: Okay. Jorge, would
3 you like to present this. Travel mic,
4 travel mic, we're on travel mic.

5 MR. GOMEZ: Thanks.

6 MAYOR DERMER: Thank you, sir.

7 MR. GOMEZ: I gave the commission a
8 presentation, and I just want to just
9 refresh your minds, so I'm going to go
10 rather quickly, and then just if there's
11 any questions, I'll go about it.

12 What this map shows is all the areas
13 in the entire City of Miami Beach that
14 allow outdoor entertainment. The green
15 areas, it's allowed as a conditional use.
16 The red areas or the pink areas are the
17 areas of the city that the commission has
18 already made a determination that outdoor
19 entertainment is not appropriate within the
20 context of those areas.

21 And generally it's because these are
22 areas that allow hotel development but
23 they're in smaller less -- less intensive
24 areas of the city that are surrounded by
25 more residence -- multifamily residential,

1 so you've excluded them from areas such as
2 Indian Creek Drive, the area around Collins
3 Avenue and 63rd Street on the
4 non-oceanfront side, the areas of -- in
5 between Indian Creek and Collins between
6 24th and 44th Street, the area around the
7 museum district and the area around West
8 Avenue.

9 You've also excluded them already,
10 outdoor entertainment is not allowed in the
11 South Pointe area in all of the residential
12 zone areas.

13 The yellow areas in this map are the
14 commercial districts in South Pointe, which
15 is the subject of the proposed ordinance.
16 The proposed ordinance would also eliminate
17 outdoor entertainment in all the commercial
18 districts in South Pointe, which is the
19 area south of 6th Street. It's the 5th
20 Street corridor basically, and then the
21 commercial corridor that's between Biscayne
22 Street and 1st Street from basically Alton
23 to Collins Avenue.

24 The other part of the ordinance
25 which came up as a request at the last

1 public hearing, Mr. Bercow pointed out that
2 neighborhood impact establishments, now,
3 these are indoor entertainment venues that
4 go above a threshold, and it's either a
5 restaurant with 300 occupancy or a
6 restaurant with entertainment of 200
7 occupancy or greater are designated as
8 neighborhood impact establishments, and
9 they are -- they are listed still as
10 conditional uses in all the commercial
11 areas, those yellow areas on the map, but
12 they were -- currently the existing
13 regulations does not permit them in the
14 residential areas unless it's associated
15 with a hotel with 250 units or more.

16 Mr. Bercow came to you and suggested
17 that perhaps that ought to be modified.
18 We did some research and modified the
19 ordinance, and we're proposing that the --
20 you can leave the neighborhood impact
21 establishments as accessory to hotel
22 through a conditional use approval in the
23 R-PS3 and 4 areas if the hotel has a
24 minimum of 100 units.

25 The 100 unit count comes from a

1 state statute that we found that requires a
2 different type of liquor license. It's one
3 of the thresholds that the state uses for
4 liquor licenses. So there's those two
5 components of the proposed ordinance, one
6 deals with just the outdoor entertainment
7 in the commercial districts, which would
8 ban them, this would be -- this would
9 prohibit them, and it changes the -- for
10 oceanfront hotels, it changes the standard
11 in the R-PS4 district, I misspoke earlier
12 when I said R-PS3 and 4, it's just the
13 R-PS4, which is the oceanfront district,
14 you can have a neighborhood impact
15 establishment, that's just an indoor
16 establishment, if the hotel has 100 units
17 or more.

18 That, in essence, is the gist of
19 this ordinance. If there's any questions,
20 I'll gladly answer them now.

21 MAYOR DERMER: Okay. Any questions
22 from the commission?

23 Hearing none, I have a motion to
24 open the public hearing. Public hearing is
25 now open. Can we please remove that board,

1 Jorge, and let us begin. First speaker --
2 I'm going by the people that had signed up
3 to speak previous, and then we'll go to
4 today's speaker list.

5 COMMISSIONER BOWER: Is there
6 another presentation coming or can this
7 come out.

8 MAYOR DERMER: No, that is from the
9 presentations coming after this.

10 COMMISSIONER BOWER: After this,
11 okay.

12 MAYOR DERMER: Solidad Awaad,
13 Solidad, please, are you present? Welcome.

14 UNIDENTIFIED SPEAKER: (Inaudible.)

15 MAYOR DERMER: Okay. We'll go --
16 we'll get back to you. Don't worry, Frank.

17 MS. AWAAD: Hello, my name is
18 Soledad Awaad. I live at the Murano
19 Portofino building. Mayor Dermer and city
20 commissioners, I'm a little nervous, sorry.

21 MAYOR DERMER: Take your time.

22 MS. AWAAD: First of all, I would
23 like to thank you for giving us the
24 opportunity to voice our concerns in this
25 hearing.

1 MAYOR DERMER: Solidad, hang on one
2 second. I did misspeak. It's two minutes
3 for every speaker.

4 MS. AWAAD: Okay.

5 MAYOR DERMER: I said take your
6 time, but so we can make our way through
7 the volume of speakers.

8 MS. AWAAD: Yes.

9 MAYOR DERMER: If you can do
10 it within two minutes, I'd appreciate it.

11 MS. AWAAD: Yes, I can.

12 MAYOR DERMER: Thank you.

13 MS. AWAAD: I would like to read an
14 email that my husband sent to you a few
15 days ago. His name is Robert Awaad, and
16 unfortunately he couldn't come today
17 because of his work, so let me read this to
18 you.

19 "We are new residents living at 1000
20 South Pointe Drive at the Murano at
21 Portofino building in the residential
22 neighborhood of South Pointe. My wife
23 Solidad," that's me, "is giving birth to
24 our first child next month. It will be the
25 first baby born at the Murano Portofino,

1 and we hope not the last one.

2 Our friends think it's completely
3 insane that we plan to continue living in
4 South Beach after our daughter is born.
5 They recommend we move to a more quiet
6 oriented places like Key Biscayne or Coral
7 Gables. This is not what we would like to
8 do, because we like living at Miami Beach,
9 being close to the cinema, to restaurants,
10 and the beach.

11 However, if this ordinance is not
12 passed, the message from the commission
13 will be very clear, South Pointe at South
14 Beach is not a place for working families
15 with kids that need to sleep at night,
16 therefore, we're in full support of the
17 ordinance approved by the planning board
18 that bans outdoor entertainment in
19 commercial zones and nightclubs in
20 residential zones.

21 Please respect this growing
22 neighborhood and our growing family by
23 ensuring that this ordinance is passed.
24 We hope you prove our friends wrong.
25 Sincerely, me and my husband."

1 MAYOR DERMER: Thank you, Solidad
2 for your comments. Let us move to Frank
3 Del Vecchio, please. Welcome, Frank.

4 MR. DEL VECCHIO: Frank Del Vecchio,
5 31 Ocean Drive. I will be brief, and what
6 I say is really directed not only to the
7 commission and the residential community,
8 but to our community, our business
9 community, and our nightlife community. So
10 let me -- let me say it in a non-lawyerly
11 kind of way.

12 People are upset by change. We --
13 we live -- we're living in a time of
14 change. The country is changed, South
15 Beach has changed, and the South Pointe
16 area has totally changed due to residential
17 development. This is an extremely positive
18 change. It is one to be supported, and
19 it is one that the planning board
20 recognized should be supported. It's good
21 planning to have a vital residential area
22 with more investment in it.

23 The economic engine for South Beach
24 besides the climate and the ocean was a
25 combination of historic preservation, a

1 walking environment, and nightlife, but the
2 economic downturn complicated by 911 poses
3 a new challenge. What is being handed the
4 business community in Miami Beach and South
5 Beach is a new engine of economic growth,
6 which is to the good. It is residential
7 development.

8 Let me give you just a few quick
9 facts. Seven towers, the seven towers on
10 the perimeter that we didn't want to see
11 blocking the sun, well, they're there and
12 they will be completed soon. Together with
13 The Courts, a redevelopment project at --
14 lower down, contain and will eventually
15 contain 2,707 condominium units
16 representing about \$1.35 billion in taxable
17 valuation.

18 That brings in 35 million in county
19 and city tax revenues, about \$15 million to
20 the City of Miami Beach each year. People
21 paying an average of \$13,000 per year --
22 I just have a quick paragraph.

23 MAYOR DERMER: Sure, go ahead.

24 MR. DEL VECCHIO: In real estate --
25 in real estate taxes alone are spenders,

1 and they do not require costly city
2 services. Good planning to support this.
3 There is absolutely no economic reason for
4 the nightlife industry to fight
5 residential. They are fighting what is a
6 solution to their problem. The new
7 restaurant -- the new residents frequent
8 the restaurants and businesses, they
9 contribute to the community in many ways,
10 all they are asking is that South Pointe
11 remain residential and that they can get a
12 night's sleep.

13 Outdoor entertainment is
14 incompatible with the residential
15 neighborhood of the area. Clubs in the
16 area should open and operate indoors and
17 we will all prosper. Thank you.

18 MAYOR DERMER: Thank you, sir.

19 COMMISSIONER BOWER: May I ask,
20 Frank, that the new thing that came up with
21 that Jorge Gomez about the hotels issue,
22 the new --

23 MR. DEL VECCHIO: The hotel --

24 COMMISSIONER BOWER: The new
25 language that you (Inaudible.)

1 MR. DEL VECCHIO: Yeah, big --
2 big -- big hotels in the old -- the old
3 ordinance, the current ordinance, and this
4 provision, we think, should not change,
5 permitted a big hotel of 250 more rooms on
6 the ocean to have an indoor nightclub, and
7 that's what the planning board approved,
8 they approved an ordinance to keep out new
9 entertainment outdoors in the commercial
10 zones, but they retained that.

11 What Mr. Bercow presented really
12 before the gavel was -- just about when
13 it was going to ring down on the last April
14 30th meeting was to reduce it so that
15 smaller hotels of 100 rooms could have
16 nightclubs indoors, and that's a mistake.
17 We think -- we think you should delete it,
18 you should go back to the ordinance that
19 we discussed extensively before the
20 planning board.

21 MAYOR DERMER: Thank you, sir.

22 MR. DEL VECCHIO: Thank you.

23 MAYOR DERMER: I appreciate it. Let
24 us go now to Kent Harrison Robbins followed
25 by Ruth Remington. Welcome.

1 MR. ROBBINS: Good afternoon, Kent
2 Harrison Robbins. I represent 301 Ocean
3 Drive, a pedestrian family condominium on
4 the ocean where the men are strong and the
5 women are good looking, and I'm speaking,
6 perhaps, not just for that condominium
7 association but for the interests of
8 residents, and we all know that residents
9 are first in this town, and we have to
10 respect them, and this ordinance is
11 proposed by planning board and was approved
12 by the planning board 6-0.

13 It's an excellent ordinance and a
14 step to ensure compatibility between
15 residential use and nightclub and
16 entertainment use, and I think that it's
17 wonderful that we have a planning board
18 that who -- which is designated under the
19 Growth Management Act to review the law and
20 make determinations.

21 What concerns me about what's in
22 front of you today is that change that
23 occurred at the last minute at an
24 improperly noticed hearing where it was
25 slipped in that from -- instead of a

1 250-unit requirement in order to have a
2 nightclub, they reduced it to a 100-unit
3 hotel, expanding the potential of
4 nightclubs and entertainment along the --
5 in the hotel areas, the smaller hotel
6 areas, increasing the amount of nightclubs
7 an aggravating the very problem we're
8 trying to solve.

9 Now, it's almost as though there was
10 a poison pill put into there, but what was
11 the most irresponsible thing about it was
12 we have plans and -- we have procedures in
13 this town, and we have procedures under our
14 charter, under the Growth Management Act to
15 go to the planning board, and the planning
16 board said 250 units, and it was slipped in
17 by a lobbyist at the very last minute to
18 100 units. That's the only problem in this
19 ordinance.

20 Otherwise, he's great, and it's a
21 great step, and I want to tell you, this is
22 not going to impact lawful businesses in
23 place already. What this does is prevent
24 additional aggravation and additional
25 businesses that would adversely affect the

1 community -- the residential community.

2 There's no way that it can legally
3 take away rights that are already there,
4 but what it can do is prevent further noise
5 problems. That's all this is about.
6 I strongly urge you to pass the ordinance
7 that was approved by the planning board
8 without the amendment that was placed in by
9 Mr. Bercow and Mr. Milberg at the very last
10 minute.

11 MAYOR DERMER: Thank you for your
12 comments. Jorge, you wanted to make a
13 comment.

14 MR. GOMEZ: Yeah, I just want to
15 clarify one thing. It's -- it's not --
16 there's already a section of the code that
17 was passed in 1994, '95, that doesn't allow
18 dance halls and entertainment
19 establishments, the nightclubs, in the
20 South Pointe area. So we're talking about,
21 again, the exemption that the city
22 commission has created for restaurants with
23 entertainment.

24 So it could not be a stand-alone
25 nightclub that would be allowed in these

1 hotel. It would have to be a restaurant
2 with the entertainment component, which
3 means it has an occupancy load of 200 or
4 more.

5 MAYOR DERMER: Okay.

6 MR. GOMEZ: And it would require a
7 conditional use approval if the hotel had
8 (Inaudible.)

9 MAYOR DERMER: Question.

10 COMMISSIONER GROSS: Can you repeat
11 what you just said.

12 MR. GOMEZ: There's no more --
13 there's currently no more.

14 COMMISSIONER GROSS: No, nightclub
15 is not a permitted use in South Pointe, and
16 it hasn't been since 1994, standalone
17 nightclub not permitted, hasn't been for
18 ten, nine years.

19 MR. GOMEZ: Correct.

20 MR. ROBBINS: But what this does
21 is -- is -- and what this does clearly is
22 allow restaurants --

23 MR. GOMEZ: Restaurants (Inaudible.)

24 MR. ROBBINS: -- to have
25 entertainment or dance halls, and after two

1 o'clock in the morning, we know what those
2 become, and those become functionally
3 nightclubs, and that's the loophole that
4 would have been open should this poison
5 pill proposed by Mr. Bercow be allowed in
6 this ordinance.

7 It was never discussed and never
8 considered by the planning board, and you
9 should not consider it here.

10 MAYOR DERMER: I thank you for your
11 comments. Do you have a question,
12 Commissioner Smith?

13 COMMISSIONER SMITH: Yeah, Kent, let
14 me ask you a question. Come back, if you
15 could. Do you have any objections to a
16 restaurant operating in hotels with 100
17 units or more?

18 MR. ROBBINS: I don't think that's
19 an issue, the hotel. What happens, though,
20 you open the door up to the entertainment
21 part of it.

22 COMMISSIONER SMITH: Just on the
23 issue with the restaurant, do you have any
24 problem with the restaurant?

25 MR. ROBBINS: No, in fact, I think

1 it's fabulous what's been going on in South
2 Pointe. I think restaurants like Nemo's
3 have been an example of what should happen
4 in South Beach and throughout Miami Beach.
5 I'd welcome it in North Beach and Middle
6 Beach to have such a high quality
7 restaurants.

8 What we're concerned about is the
9 opening up the door through this side --
10 through the side door of (Inaudible.)

11 COMMISSIONER SMITH: How do you --
12 how do you close that loophole? How do you
13 allow a restaurant without turning into a
14 nightclub at two o'clock in the morning?
15 Can that be done?

16 MR. ROBBINS: Well, what you can do,
17 is you're going to have to modify some --
18 some definitions, because right now what
19 you're allowing, a neighborhood impact
20 establishment means an alcohol beverage
21 establishment or restaurant which is also
22 operating as an entertainment establishment
23 or dance hall.

24 So what you would have to do, then,
25 is then make a specific specification, and

1 I don't know if you can do that without
2 changing the other part the ordinance.

3 MAYOR DERMER: Let's hold that issue
4 until after we have the public hearing.

5 MR. ROBBINS: Well, let me answer
6 this here.

7 MAYOR DERMER: Very briefly, because
8 I want to get through this hearing tonight.

9 MR. ROBBINS: Okay. What you can do
10 is possibly, and I think Jorge is going to
11 have to and Gary is -- Mr. Held is going to
12 have to help us with this, is you may be
13 able to craft certain language in there
14 that prohibits any type of dance or
15 entertainment establishment within those
16 restaurants, but right now the language
17 does not permit that, but we can -- we can
18 do that, and maybe it can be done at this
19 hearing or maybe we'll just have to bring
20 this back by a separate ordinance.

21 MAYOR DERMER: Just -- just think
22 about it, and as we go through the whole
23 process, see if you can come up with
24 language that would allow a restaurant
25 without allowing a nightclub after two

1 o'clock.

2 MR. ROBBINS: That's correct.

3 COMMISSIONER BOWER: But if we don't
4 get it today, can that go as an
5 amendment --

6 MAYOR DERMER: Sure, let's just read
7 it.

8 COMMISSIONER BOWER: -- and then go
9 through the right channel of going that
10 specific issue, to the planning board and
11 through --

12 MR. ROBBINS: You're right Matti.
13 You're right, Matti.

14 COMMISSIONER BOWER: You know,
15 it shouldn't be done like that here,
16 it should be done the right way, the way
17 that this was done and let the boards, you
18 know, come up with language.

19 MAYOR DERMER: Well, at the time
20 that we have discussion at the end, this
21 can be amendment -- amended, or if there's
22 a portion of it you don't want for further
23 review, you can do that.

24 Yes, sir.

25 MR. GOMEZ: Yes, and I know you want

1 to get the public testimony gone.

2 MAYOR DERMER: Yeah.

3 MR. GOMEZ: There is another
4 ordinance that the planning board is
5 working on. They decided to hold off on
6 until June, and they want some further
7 studies done, but in that particular
8 ordinance, although it was not going to
9 include hotels, restaurants that were in
10 hotels but rather standalone restaurants
11 that became nightclubs after a certain
12 hour, if they were in residential
13 districts, which the R-PS4 is one or within
14 close proximity within a residential
15 district, they would then have to abide by
16 all the regulations of a nightclub.

17 In the case of a district where
18 nightclubs are already not allowed, then
19 the restaurant would have to close at 2
20 a.m. That was a very contentious ordinance
21 that the planning board held some
22 discussion already on, and but they put
23 that off until their June meeting.

24 MAYOR DERMER: Thank you, sir.

25 VICE MAYOR GARCIA: Mr. Mayor.

1 MAYOR DERMER: Yes, commissioner.

2 VICE MAYOR GARCIA: In view this is
3 going to be a workshop with the hotels,
4 wouldn't this be prudent to bring that as
5 an issue to our workshop?

6 MR. GOMEZ: That's exact -- I mean,
7 that was one of the things that I was going
8 to do, to take the opportunity, the
9 workshop that's going to be created
10 sometime in mid-June and talk about, beside
11 all these outdoor noise issues and all
12 that, I wanted to talk about that
13 ordinance. I thought that would be another
14 forum to discuss that ordinance and have
15 some further feedback.

16 VICE MAYOR GARCIA: Let me ask you,
17 you know, there seems to be a number of
18 ordinances coming out of the planning
19 board. I mean, how did they get to the
20 planning board, how did they get
21 presented -- excuse me, Mr. Gross -- is the
22 planning board a legislative body now or
23 are they making laws for all of us or do
24 we still run a commission up here?

25 MR. GOMEZ: First of all, the

1 planning board is an advisory body.

2 VICE MAYOR GARCIA: Okay.

3 MR. GOMEZ: And they have standing
4 to make recommendations for proposed
5 ordinances. This ordinance that you're
6 hearing today came out of the commission.
7 Obviously, all those type of ordinances
8 require the recommendation of the planning
9 board, but it originated here.

10 The ordinance about the restaurants
11 that operate as nightclubs after a certain
12 hour, that was held as a discussion item
13 with the planning board to deal with some
14 of the quality of life issues, and they
15 asked us to -- actually, it was a slightly
16 different ordinance which we were dealing
17 with which the planning board did not like,
18 and they came up with this alternative
19 ordinance. Again, it will be just a
20 recommendation that's brought to you.

21 VICE MAYOR GARCIA: My concern is a
22 lot of the -- a lot of legislation -- a lot
23 of legislation seems to be coming from the
24 planning board (Inaudible) through this
25 commission, and ultimately --

1 MR. GOMEZ: (Inaudible.)

2 VICE MAYOR GARCIA: Hear me out.
3 Ultimately, you know, and in the past,
4 we had given some of our land boards some
5 powers at the expense of commission
6 decisions, you know, and I think they're
7 coming back to bite us in the rear end.

8 COMMISSIONER GROSS: Well, let me
9 chime in on that, because we had a meeting,
10 a lot of these same people were here,
11 because I put it on the agenda in January,
12 which is now five months ago, and the whole
13 idea of prohibiting outdoor entertainment
14 in South Pointe came out of that two and a
15 half hour discussion, and we asked the
16 planning board to draft an ordinance to
17 implement what this commission all agreed
18 in a 7-0 vote that we wanted to do.

19 VICE MAYOR GARCIA: But that's --
20 I'm referring to the other -- to the other
21 ordinance that's going through the planning
22 board right now.

23 COMMISSIONER GROSS: Right, that -

24 VICE MAYOR GARCIA: I have no
25 problems with the way this ordinance was

1 referred, the other one is the one I'm
2 concerned.

3 COMMISSIONER GROSS: That one
4 actually was discussed at the land use
5 committee meeting, I believe, only in
6 relation to South Pointe. It did get
7 broadened by the planning board, but at the
8 land use committee meeting, I think you
9 chair it, we had a discussion -- or maybe
10 it was neighborhoods, I'm not sure which
11 one.

12 VICE MAYOR GARCIA: I don't remember
13 being on the land use, but I --

14 COMMISSIONER GROSS: Well, we had a
15 discussion --

16 VICE MAYOR GARCIA: I'm also there,
17 too, so --

18 COMMISSIONER GROSS: -- about the
19 fact that nightclubs are not permitted
20 under the zoning code right now in South
21 Pointe, and somehow nightclubs were ending
22 up operating after two o'clock in the
23 morning under the guise of restaurants, and
24 that -- that was discussed by the land use
25 committee, and that was referred also to

1 the planning board.

2 MR. GOMEZ: Let me -- yeah, let me
3 just go ahead and clarify that one point.
4 The ordinance, the format that we discussed
5 it had to do with a rational nexus between
6 the size of the hotel room and the allowed
7 accessory restaurant.

8 We were finding that, for example,
9 you could have an 8-unit hotel room with
10 150 seat restaurant. So that was sort of
11 the genesis, and I believe that was the
12 ordinance that we discussed at land use.

13 When we got to the planning board
14 with that proposed ordinance which was
15 referred to the commission by the planning
16 board, a lot of the restaurant industry
17 folks came out and -- and thought that that
18 was not the proper mechanism. The planning
19 board agreed with them, that they thought
20 that that was not how you had to control
21 the issue.

22 After further discussion, we came up
23 with the idea that it was those restaurants
24 that were exempt from the nightclub
25 regulations were perhaps something

1 we should focus, and it was drafted so
2 narrowly when we did discuss it at the
3 planning board, that of the 60 restaurants
4 that had -- that were operating past 2 a.m.
5 with the entertainment-like components,
6 only, I think, like 10 percent were going
7 to be affected if the ordinance had been in
8 place at the time that they were
9 (Inaudible.)

10 VICE MAYOR GARCIA: But how many of
11 the hotels came on board, because that --
12 that seems to be the big concern
13 (Inaudible)?

14 MR. GOMEZ: (Inaudible) ordinance?

15 VICE MAYOR GARCIA: No, no, on the
16 other ordinance, the ordinance with the --
17 that's going through the planning board
18 right now with the restaurants?

19 MR. GOMEZ: The hotels are not
20 involved.

21 MAYOR DERMER: Let us -- let us
22 continue with the public hearing
23 if we could. Let's focus on where we're
24 at. All right. Let us go.

25 Ms. Remmington, Ruth, welcome, and Ruth

1 will be followed by Enrique -- Enrique
2 Bargioni.

3 Go ahead, Ruth.

4 MS. REMMINGTON: Hi, I'm Ruth
5 Remmington. I live at 1000 South Pointe
6 Drive. Thanks for listening. Contrary to
7 the spin this ordinance is getting, it's
8 not about residents versus the nightclubs.

9 My husband and I both work in the
10 travel business, and we get how a tourist
11 destination survives. We would never
12 support an ordinance that tried to
13 eliminate nightlife or make clubs close at
14 2 a.m., or other falsehoods that are being
15 promoted to distract us from the issues at
16 hand.

17 This or answer is about giving
18 residents the ability to live in our homes
19 in a really specific area of South Beach.
20 It's about allowing residential
21 neighborhoods to evolve and improve rather
22 than decline and deteriorate.

23 The South Pointe Redevelopment Plan
24 seems to be a big success, and you guys
25 should feel really good about that, but you

1 have to pony up and govern based on the
2 fact that South Pointe was planned as a
3 residential neighborhood. I think you
4 should think of this ordinance as catch-up
5 urban planning. I think that's the way
6 that the planning board probably saw it,
7 and I'm also sort of surprised that the
8 nightlife industry would put itself -- pit
9 itself against an ordinance that's really
10 only asking for future clubs to have a roof
11 and only if they decide to open up in South
12 Pointe, and it seems kind of like a weird
13 fight to take on.

14 There's nothing hypocritical about
15 wanting to sleep at night in an apartment
16 that you bought that wasn't near outdoor
17 clubs when you bought it. The ordinance
18 still allows new clubs to open up in South
19 Pointe, they just need to have a roof.

20 If the nightclub guys feel my
21 hankering for a roof is a special interest,
22 they should wake up and smell the coffee,
23 because South Pointe is not the wild west
24 anymore. It's filling up with people who
25 work, people who vote, and people whose

1 kids go to schools in the neighborhood.

2 I think if you enact this ordinance,
3 you create a win-win. You get to keep the
4 revenues from the businesses that are
5 already here, you get the political and the
6 financial support of a huge wave of new
7 residents, you -- because of that new wave
8 of new residents, other businesses survive
9 besides nightclubs, restaurants, retail,
10 commercial, and that ensures that
11 residential and the business tax base grows
12 and continues to grow.

13 For the record, I'm not retired.
14 This is not about a bunch of the retirees
15 fighting nightlife. Every time I show up
16 at one of these meetings, I have to take
17 time off of work. Most of my neighbors
18 couldn't be here because they couldn't take
19 time off in the middle of the workday,
20 although they'll probably be here now, and
21 I just want you to do your job so we can
22 all go back to doing ours and paying our
23 mortgages. Please do the right thing.
24 Please enact this ordinance.

25 **MAYOR DERMER:** Thank you, Ruth.

1 Enrique Bargioni followed by --
2 it says here Deborah Reece, a letter to be
3 read by Marianne Del Vecchio, and you've
4 got two letters, Marianne, right?

5 MS. DEL VECCHIO: Yeah.

6 MAYOR DERMER: Okay. Well, as soon
7 as we finish with Enrique, then we'll call
8 them.

9 MS. DEL VECCHIO: Okay.

10 MAYOR DERMER: Go ahead, welcome,
11 sir.

12 MR. BARGIONI: Good afternoon.
13 Thank you for the opportunity, Mr. Mayor.
14 I'm Enrique Bargioni. I live on 1000
15 Venetian Way, and I'm here representing the
16 Venetian Causeway Neighborhood Association,
17 which as you know part of it belongs to the
18 City of Miami and part of it is the islands
19 which belong to the City of Miami Beach.

20 I'm -- I'm not a lawyer, and
21 therefore, the only thing I want to present
22 very quickly is real life examples of what
23 can happen when noise is out of control,
24 and the example that I have happened on
25 April 19th as a result of the opening of

1 Parrot Jungle, which as you know is across
2 from where we live.

3 There was an outdoor event which
4 started roughly around 9 p.m., it went on
5 until 5 a.m. Okay? And let me delineate
6 the human impact, the valuation impact, and
7 the impact on the resources of this city as
8 well.

9 Number one, there were senior
10 citizens and very good voters who did not
11 sleep that night and did not go to church
12 as a -- in the following morning as a
13 result of being exhausted can from lack of
14 sleep. There were also convalescent people
15 who were unable to sleep.

16 Number two, the following morning,
17 Sunday morning, there was a prospective
18 buyer for one of the units. As part of his
19 due diligence, he normally asked the
20 residents, you know, what are the problems
21 that you see down the road. The residents
22 said, look, be careful, because we have
23 noise around there. What did the
24 perspective buyer did? He said let me see
25 what happens.

1 Finally, there were no less than 40
2 calls to the City of Miami and, I believe,
3 to the City of Miami Beach police in order
4 for them to attend to this matter, and I do
5 not think that in this time of stretched
6 resources, that is the best way for the
7 police to spend their time. Thank you very
8 much.

9 MAYOR DERMER: Thank you, sir.
10 Okay. Marianne, you're going to read us a
11 letter, a couple of letters. They're brief
12 letters, I take it?

13 MS. DEL VECCHIO: Very brief.

14 MAYOR DERMER: Okay. From Deborah
15 Reece and Jean Mochridge, welcome.

16 MS. DEL VECCHIO: You know, these are
17 two women who couldn't be here because they
18 couldn't get away from work, and Deborah
19 Reese is the senior vice president and
20 general counsel of the restaurant services
21 to -- I won't give the address. Okay. She
22 is a resident. I'm cutting it down a bit.

23 She's a resident at Murano at
24 Portofino at 1000 South Pointe. She's in
25 favor of this ordinance, the proposed

1 ordinance. She writes:

2 "Prior to taking occupancy of my
3 unit at 1000 South Pointe Drive, I lived at
4 South Pointe Towers at 400 South Pointe
5 Drive. I felt I had no alternative but to
6 move due to the noise and disruption caused
7 by the Nikki Beach club.

8 I would be tremendously disappointed
9 should you fail to read the ordinance
10 referred to above at Wednesday's meeting
11 and should you fail to fully support
12 it going forward. My work at restaurant
13 service prevents me from attending the 2:30
14 meeting. I sincerely hope that you will
15 represent my interests and the interests of
16 the other residents in the neighborhood
17 since I cannot be there."

18 And this letter is from Jeanie
19 Mochridge is who is a realtor at Majestic
20 Properties:

21 "I'm a resident living at 1000 South
22 Pointe Drive, Murano. I'm in full support
23 of the ordinance." Cutting down here.

24 "Please respect my right to have piece and
25 quiet in my neighborhood and pass this

1 ordinance. As a side note, many of my
2 clients are selling their properties at
3 Murano and Portofino because of the noise
4 factor and urban weekends and lack of the
5 police patrols in the South Pointe area.
6 Three of my clients have recently been
7 mugged. My work prevents me from attending
8 the 2:30 meeting on Wednesday. I hope you
9 will represent my interests as well as my
10 clients who have bought property in the
11 area."

12 MAYOR DERMER: Thank you, Marianne.
13 All right. I've got Joe Del Vecchio who
14 wants to read another letter. Now, we're
15 not going to do this anymore. Okay?
16 This -- Joe, you're the last one with the
17 letter reading. If you want to send this
18 letter, send it, because we'll make it part
19 of the record, but in the interest of time,
20 this will be our last letter.

21 MR. DEL VECCHIO: Thank you.

22 MAYOR DERMER: Go ahead.

23 MR. DEL VECCHIO: I'm reading a
24 letter from Josh White:

25 "Dear Mayor Dermer and

1 commissioners, I live at 1000 South Pointe
2 Drive, and I'm writing in support of the
3 ordinance on outdoor entertainment in
4 commercial zones in South Pointe and
5 nightclubs in residential zones.

6 My wife and I moved to South Beach
7 wanting a diverse, lively, and interesting
8 city to live in. While we could have moved
9 almost anywhere, the attractions of Miami
10 Beach, including its nightlife, were a big
11 factor. My support of this ordinance is
12 not anti-nightclub, I simply want to be
13 able to enjoy the inside of my apartment as
14 I wish without being blasted by noise.

15 This seems like a simple request,
16 and laws to support this are the least
17 I expect from my legislators, relying on
18 the very difficult to enforce county noise
19 ordinance is not practical and simply drags
20 on while the noise violations continue.

21 In addition, I would like the
22 sections of South Pointe to retain their
23 residential character by zoning them to be
24 residential. This ordinance is the
25 embodiment of the major selling point for

1 the very expensive housing in South Pointe
2 and one that we thought we bought.

3 We could live close to entertainment
4 districts but could live in a residential
5 district. I wish I could be there to
6 testify, because I feel very strongly about
7 this, but I'm writing from Barcelona where
8 I'm working for two weeks.

9 I find the nightclubs' resistance to
10 this ordinance most unfortunate. They have
11 mischaracterized your potential support of
12 this ordinance as being anti-nightclub.
13 I have spoken to several of you personally,
14 have testified on this issue before, and
15 I am confident that the logic of this
16 measure is apparent to all of you.

17 I hope that you can stand up to a
18 rational protest and support this measure.
19 Thank you, Josh Fisher, 1000 South Pointe
20 Drive."

21 MAYOR DERMER: Thank you, sir. Let
22 us get to Michael Critser, or Critzer,
23 Michael, and we'll follow that with
24 Christina Labusetta. Welcome.

25 MR. CRITSER: Hi, Mike Critser, I'll

1 be really brief. One point I want to get
2 across is we already have enough noise
3 problems in the south of 5th Avenue between
4 Opium and Nikki Beach, which are both
5 outdoor entertainment establishments. Now
6 we have Taverna Opa which has an open
7 air -- open air part of their
8 establishment, a back patio, and I hear
9 noise from Opium, Taverna Opa, and Nikki
10 Beach. I've got enough noise to deal with.
11 I can't sleep on certain nights of the
12 weekend, what's today -- or during the week
13 when someone's yelling happy birthday or
14 screaming Opa from Taverna Opa. That's a
15 small area.

16 You know, I don't think any of us
17 down in South Pointe want anymore outdoor
18 establishments. We have enough already,
19 we can't even deal with what we have. How
20 are you going to let anymore go in down
21 there. I mean, you can't even control
22 what's going on right now.

23 MAYOR DERMER: Thank you for --
24 thank you for your comments, sir. Let's
25 get to Christina Labusetta, and that will

1 be followed by Claire McCord. Okay.

2 MS. LABUSETTA: Hi, my name is
3 Christina Labusetta, 465 Ocean Drive
4 president of the Ocean Drive Preservation
5 Association. I want to say that I'm fully
6 behind the proposed ordinance. It does
7 protect us from new outdoor entertainment
8 establishments, but what I don't approve of
9 is the amendment to the ordinance which
10 would allow hotels with 100 plus rooms to
11 have -- to essentially have nightclubs,
12 accessory -- accessory -- well, I forgot
13 what I called. Anyway, it would allow them
14 to have restaurants which would be thinly
15 veiled as nightclubs.

16 What this would end up creating is
17 one long nightclub row from 15th Street to
18 South Pointe. The Savoy Hotel is the first
19 one. They're the ones that added -- wanted
20 the amendment added, and that would -- that
21 would begin at the 400 block, it would be a
22 nightclub there.

23 Going down a little further, there's
24 two -- there's two properties that are
25 going to be developed into a hotel. They

1 would have 100 plus rooms. That would be
2 potentially another nightclub. You go down
3 further, you have the Marriott which has
4 over 100 rooms but not enough for the 200.
5 They would also potentially have a
6 nightclub. Further down you have -- you
7 already have Penrod's, Nikki Beach Club,
8 Pearl, whatever you want to call the whole
9 establishment.

10 That would create a whole gridlock,
11 noise, drunk and disorderly all the way
12 from 15th Street to South Pointe. It's
13 something that people can't live with.
14 It also makes the hotels that do not have
15 entertainment economically unviable, they
16 can't rent those rooms.

17 And in conclusion, I would hope that
18 you pass the ordinance, remove the
19 amendment, and send it back to the planning
20 board for further discussion.

21 MAYOR DERMER: Thank you very much.

22 MS. LABUSETTA: Thank you.

23 MAYOR DERMER: Claire McCord

24 followed by Morris Sunshine. Welcome.

25 MS. MCCORD: Good afternoon. I'm

1 not going to read a letter, but I hope it's
2 okay if I read something from someone who
3 is now deceased.

4 MAYOR DERMER: Why not?

5 MS. MCCORD: First of all, I'm
6 Claire McCord. I live at 345 --

7 MAYOR DERMER: Was it profound?

8 MS. MCCORD: I think it is.

9 UNIDENTIFIED SPEAKER: The question
10 is whether he can vote.

11 MS. MCCORD: What's that?

12 UNIDENTIFIED SPEAKER: Can he vote.

13 MS. MCCORD: You know, I have to
14 tell you, I come from Chicago, I think they
15 vote no matter what. We say, vote early
16 and often.

17 MAYOR DERMER: Yes, okay.

18 MS. MCCORD: First of all, I'd like
19 to say I live at 345 Ocean in the South
20 Beach -- in the South Pointe area in the
21 Ocean Beach Historic District. I moved
22 there because the district was low scale,
23 the quality of life was quiet, and it was
24 just a great residential neighborhood.

25 The piece I want to read just

1 briefly is from a guy named Bart Giamatti.
2 Bart was president of Yale University, a
3 Renaissance scholar, and commissioner of
4 baseball. He was a Renaissance guy.
5 Here's what he said:

6 Human beings made and make cities,
7 and only human beings kill cities or let
8 them die, and human beings do both, make
9 cities and unmake them by the same means,
10 by acts of choice. We enjoy diluting
11 ourselves in this as in other things. We
12 enjoy believing that there are forces out
13 there completely determining our fate,
14 natural forces or forces so strong that
15 would send cities through organic or
16 biological faces of birth, growth, and
17 decay.

18 We avoid the knowledge that cities
19 are at best works of art and at worst
20 ungainly artifacts, and that we, not some
21 mysterious force or cosmic biological
22 system, control the creation and the life
23 of a city."

24 We do. You do, and we ask you to do
25 that here today by acts of choice, namely

1 by the respect for the character of an area
2 and the passing of that ordinance with the
3 changes of -- with the sending it back to
4 the planning board because of those changes
5 that slipped through. I would support what
6 Kent says, what Christina says, and what
7 Bart Giamatti says.

8 Just thinking about baseball for a
9 second makes me think of Field of Dreams,
10 "If you build it, they will come." Well,
11 we built it, we built the South Pointe area
12 as a residential area, and they came.
13 I came, and all we ask now is that we do
14 that catch-up urban planning and protect
15 the value and the life of our area.

16 It doesn't mean we don't have
17 nightclubs, it doesn't mean we don't have
18 energy, it means we have the correct and
19 appropriate character for the area that
20 we built. I ask you to make that choice.
21 Thank you.

22 MAYOR DERMER: Okay. Morris
23 Sunshine, Dr. Sunshine, and then we'll
24 follow that by Erica Brigham. Welcome.

25 MR. SUNSHINE: Members of the board,

1 for the record, my name is Morris Sunshine.
2 I live at 456 Ocean Drive. I live on the
3 north side of the Savoy property, and
4 therefore, I have a major interest in what
5 I think is an addendum to a law which
6 I think everybody approves of, which was
7 entered into the record in a moment of
8 parliamentary disorder.

9 At the last minute at your last
10 meeting, Mr. Bercow approached the podium
11 and suggested that you tamper with the
12 neighborhood impact establishment ordinance
13 which currently does not permit internal
14 nightclubs for hotels unless there's 250
15 rooms.

16 You've got the staff report.
17 It shows you that the staff moves for 100
18 rooms. I talked with Mr. Bercow before
19 this meeting started, and I think when
20 he approaches this podium, he will tell you
21 that's not good enough, he would like you
22 to reduce that standard to 50.

23 Since I live next door to the Savoy
24 and have lived there since 1991, I can tell
25 you, and I think some of you know, and you

1 in particular, Mr. Mayor, know, because you
2 were once the attorney for my condo
3 building.

4 MAYOR DERMER: Uh-huh.

5 MR. SUNSHINE: -- know that this
6 particular property has always been a
7 problem property, and I assure you that
8 if you tamper with the neighborhood impact
9 establishment standard as it exists now,
10 the 250 standard, what will happen is that
11 we will get a nightclub immediately
12 adjacent to us.

13 On both sides of the Savoy are large
14 apartment buildings with 238 apartments in
15 each building, so it's a very serious issue
16 for us, and I hope that you recognize when
17 people stand up and say they approve of the
18 ordinance, I'm talking residents, they mean
19 the ordinance which would forbid outdoor
20 and open air entertainment. They do not
21 approve of the proposition to tamper with
22 the neighborhood impact establishment
23 clause.

24 I will say only one more thing and
25 then I'll let you go. My friends --

1 MAYOR DERMER: Thank you for your
2 courtesy. I appreciate it.

3 MR. SUNSHINE: Thank you.

4 MAYOR DERMER: Let us know when
5 we can be excused.

6 MR. SUNSHINE: People have
7 overestimated my intellectual power simply
8 by a half inch of paper explaining all this
9 in legal terms, but let me explain it to
10 you in vernacular terms. I asked the
11 attorney for Bercow & Radell who represents
12 Arden Group which owns the Savoy.

13 If Mr. Craig Spencer would send me a
14 letter explaining his intentions for the
15 use of the Savoy, if he did in fact receive
16 a neighborhood impact establishment permit.
17 I told a member of that firm that of course
18 I was concerned about the possibility of a
19 restaurant turning into a nightclub, and
20 we have seen that, for example, empirically
21 Joya, where their initial proposal was a
22 lounge. Within two weeks of opening it had
23 a DJ, it had a dance floor, and it was a
24 full-blown nightclub as an accessory, of
25 course, to a hotel.

1 What response did I get back? I got
2 back a response to wit -- to wit that
3 Mr. Spencer does not wish to put anything
4 in writing. You may, therefore, conclude
5 Savoy NIE, neighborhood impact
6 establishment, equals Savoy nightclub.
7 Please don't do that. Thank you.

8 MAYOR DERMER: Thank you. Let me --
9 let me ask a question of planning, because
10 you jogged a memory of mine, because
11 I remember when I represented you, this
12 goes back ten years, at least ten years,
13 and Ted April, I think --

14 MR. SUNSHINE: Yes.

15 MAYOR DERMER: -- was the adjoining
16 condo president at that time, and the issue
17 we had was that property was going to be
18 turned into -- it was after Woody's, right?
19 It was going to have -- Charles Asnavor was
20 coming and was going to put piano bars out
21 there, and they were all upset about it.

22 We got a list of conditions on the
23 property -- associated with the license,
24 I believe if I recall.

25 MR. GOMEZ: It was (Inaudible) of

1 adjustment variance.

2 MAYOR DERMER: Right, and there was
3 a whole list of conditions that we threw in
4 there. Are those still in effect?

5 MR. GOMEZ: Those are still
6 applicable, yes. There's been a few
7 modifications throughout the year, and --

8 MAYOR DERMER: So they can't have
9 any outdoor noise, and they can't --

10 MR. GOMEZ: I think they restrict
11 the volume of the level outside, they
12 restrict the hours that -- yeah.

13 MAYOR DERMER: Because I remember --

14 MR. GOMEZ: That's all -- those are
15 all still in place.

16 MAYOR DERMER: Okay.

17 MR. GOMEZ: The establishment does
18 have a license for a 200-seat restaurant
19 with a 300 person occupancy, and that's a
20 valid license right now. I don't know
21 whether they -- they have entertainment
22 inside or not. I do know that they are
23 bound by those conditions that have been
24 listed in the board of adjustment file.

25 MAYOR DERMER: Oh, okay. I'd like

1 to see what those look like again if you
2 could, so if you could pull them up.

3 MR. GOMEZ: Like 27 of them,
4 I think.

5 MAYOR DERMER: Yeah, it was a long
6 time ago. All right. Thank you.

7 Yes, hello, Erica, how are you?

8 MS. BRIGHAM: Erica Brigham. I'm
9 one of those 301 Ocean Drive residents.
10 I was also a member of the South Pointe
11 Advisory Board for years until it was
12 disbanded a little while ago, and one of
13 the points that the South Pointe Advisory
14 Board always made was that this is a very
15 special residential district that's -- and
16 the zoning is completely separate from that
17 north -- on Ocean Drive north of 5th Street
18 and on Collins Avenue north of us.

19 The Marriott has 238 rooms and could
20 easily get to the 250 barrier. The Bentley
21 could combine with the lots below it and
22 could come up to the 250. I think that
23 this prescription against outdoor
24 entertainment establishments should be
25 completely removed.

1 If you don't pass the total
2 prescription against outdoor entertainment
3 and outdoor -- neighborhood impact
4 establishments, it would just open the door
5 to more litigation and animosity and
6 perpetuate the intensity of the
7 Amnesia/Opium syndrome which just pits
8 various factions of the city against each
9 other.

10 If an outdoor entertainment
11 establishment or a neighborhood impact
12 establishment becomes a draw in itself,
13 it's not just the noise, it's the traffic
14 jams, bad behavior, screaming, thumping
15 bass until 5 or 6 p.m., plus the litter
16 that hangs on around for days.

17 It can cost the city massive extras
18 in policing, code enforcement, street and
19 sidewalk cleaning, and trash removal and
20 spreads all of those forces thin,
21 particularly in this time of economic
22 downturn this could be very bad.

23 It will affect thousands of people
24 who have moved in here and the millions
25 that the city takes in. The people did not

1 move in here to be hermetically sealed
2 behind airport windows. We all want to be
3 free to open our windows, to use our
4 balconies, to smell and feel the salt air,
5 and hear the ocean. These provisions could
6 be devastating to the residents, and the
7 intent of the RDA in a high-end residential
8 area along the perimeter of South Beach in
9 a neighborhood which is supposed to have
10 simply neighborhood businesses to serve the
11 residents, not to torture them.

12 And it could also be very
13 devastating for the established businesses,
14 the outdoor clubs that exist and the
15 entertainment areas north of 5th Street on
16 Ocean Drive and such successful
17 contributing enclosed clubs such as Crobar
18 and Level, and it could all -- it could
19 hurt the very people who are probably going
20 to be in opposition to this, because South
21 Pointe is thought of as a very trendy area
22 at the moment.

23 MAYOR DERMER: Ms. Brigham, I'm
24 going to have to ask you to finish up.

25 MS. BRIGHAM: (Inaudible) the clubs

1 that are there are enough.

2 MAYOR DERMER: Thank you very much,
3 Erica. Call upon Gary May followed by
4 Clotile Luz.

5 COMMISSIONER GROSS: Mr. Mayor.

6 MAYOR DERMER: Yes.

7 COMMISSIONER GROSS: Can we -- point
8 of order. The position, I think, of the
9 advocates of the ordinance is very
10 well-known. We can go on for hours,
11 I think.

12 MAYOR DERMER: I agree with you.
13 (Inaudible.)

14 COMMISSIONER GROSS: I was wondering
15 is there a way -- if people have a
16 different slant on it, you know, agree, or
17 maybe just ask all the people in support of
18 the ordinance to stand. At this point
19 we've gotten a pretty good flavor or for
20 the arguments.

21 MAYOR DERMER: Well, I know that,
22 but we got to do public hearing, and we're
23 almost there. We're almost -- you've just
24 got to be a little patient. People are
25 hoofing it over here, we have to let them

1 speak.

2 Okay. Go ahead.

3 MR. KNIGHT: Okay. I'm Gary Knight,
4 I reside at -- in 2401 Collins, otherwise
5 referred to as North South Pointe. I'm
6 here to speak on behalf of -- of this
7 ordinance. I want to point out that the
8 Collins Park Neighborhood Association did
9 pass a resolution three meetings ago
10 opposing any outdoor entertainment venues
11 adjacent to residential properties, and
12 we are in -- therefore, we are in support
13 of our neighbors in South Pointe
14 endeavoring to accomplish this today, and
15 I encourage you to do that without the --
16 the change in that amendment.

17 I think that there's one thing that
18 we need to talk about here that hasn't been
19 raised yet, to address Commissioner Gross's
20 point, and that is that I think the city
21 reached a high point during the meetings of
22 the Blue Ribbon Task Force when the
23 citizens and the residents and the business
24 people and the club owners and the
25 restaurant owners and the hotel operators

1 and managers all met together to work on
2 common solutions for common problems, and
3 how we could have come from the period
4 after September 11th to be in a period
5 where we are -- where everyone seems to be
6 at everyone's throats and saying very
7 negative things about each other is to my
8 way of thinking a tragedy for a civilized
9 community like -- like Miami Beach.

10 So I want to suggest some principles
11 by which -- that we need to consider as you
12 consider this -- this particular -- these
13 issues that are going to be coming forward,
14 and this is just one of, I think, the first
15 of several that are going to be coming --
16 coming forward.

17 First, I think the commission, the
18 hotel operators, the club owners, and --
19 and the business operators in Miami Beach
20 need to recognize that the residents do
21 have a right to the quiet enjoyment of
22 their property, and that is, I think, an
23 ineluctable principle which is at the basis
24 of any civil society that we hope to create
25 here.

1 Second, I think we need to also
2 recognize that we have -- we are in an
3 economic condition which is tough, and that
4 the businesses, the hotels, the clubs, and
5 so on are in tough economic times, and
6 I think as a resident, I'm -- I'm --
7 I regret it, and I hope that they do as
8 well as possible; however, we need to have
9 a certain amount of respect for each other.

10 So I would like to see successful
11 clubs, and I think the proceeding person,
12 Erica Brigham made a very good point, let
13 the nightlife industry exist in enclosed
14 clubs. Let it be as -- as -- as vibrant as
15 possible, but let not the nightlife
16 industry violate the residents' right to a
17 quiet enjoyment of their property.

18 Additionally, I think it's extremely
19 important, if we're going to continue to
20 have a civil society here, that the hotels
21 in particular to which nightlife efforts
22 are migrating, that they not object to the
23 county noise ordinance, or to do so is to
24 tear at the basic fabric of the respect
25 that people previously enjoyed in this

1 community.

2 It's very, very important that
3 we solve these problems in a -- in a
4 respectful manner, but if we start to lack
5 respect for each other and start making
6 claims that are not true, we are in a very
7 big problem here in Miami Beach. Thank
8 you.

9 MAYOR DERMER: Thank you for your
10 comments. I'd like to get to Clotile Luz
11 followed by Frank Fiorentino.

12 Welcome, Clotile.

13 MS. LUZ: Good afternoon, everyone,
14 Clotile Luz. Yes, I am very concerned
15 about the amendment that's been tacked on
16 here, and I think -- and I do have,
17 I think, two points that maybe we haven't
18 brought up yet.

19 Let me just say as a preamble that
20 I think when so many of these projects went
21 up in South Pointe, something like 5,000
22 condo units, the developers said, you know,
23 pay \$1 million, your view of the ocean
24 includes spa, parking. It didn't say
25 it includes three neighborhood DJ's playing

1 or you could hear it. You know, no one
2 elects DJ's to send you music at a time
3 when you might want to read, nap, have a
4 conversation. I just I think it's unfair.

5 Now the points I would make that
6 have not come up yet, I think, are that
7 many -- probably the most successful
8 nightclubs of Miami Beach history have been
9 indoor clubs, Liquid and Salvation are no
10 longer around, but they mutated, Crobar,
11 Level today.

12 I went to a place called Mynt.
13 Those are indoor clubs, they are packed,
14 people are buying liquor, they're dancing,
15 they look trendy, they're all much younger
16 than I am, and they're working very well,
17 and I don't think anybody's trying to put
18 them out of business, honestly. The most
19 famous nightclub in history, Studio 54, was
20 an indoor club.

21 One other thing, I think it was kind
22 of unfair and undignified to claim that
23 Miami Beach owes its identity to the
24 nightlife. I think that's a disservice to
25 Barbara Captiman and people, some of whom

1 are on this commission, who worked very
2 hard in preservation.

3 I think that there are a thousand
4 resorts in the world that have nightclubs
5 and are beach -- are on the beach, and you
6 can go to Ibiza or Mykonos or something,
7 but Miami Beach is famous for Art Deco, and
8 I will make the point that if you go on
9 Goggle on the internet and you look up
10 Miami Beach Art Deco, you come up with in
11 one -- 15 seconds, 54,600 hits mentioning
12 Miami Beach and Art Deco.

13 If you go on Google and you look up
14 Miami Beach and nightclubs, you come up
15 with half that number. 54,600 press
16 mentions of this town and preservation.
17 Those are quality of life, people, that
18 made this town what it is.

19 I don't think the nightclub people
20 should be so delusional that they're the
21 only one's making the identity of this
22 town. Thank you.

23 MAYOR DERMER: Thank you. Let us go
24 to Frank Fiorentino followed by Gene
25 Woodard. Frank, are you present? Welcome.

1 Frank is not here. Gene, welcome.

2 MR. WOODARD: Frank had to leave.

3 MAYOR DERMER: Okay.

4 MR. WOODARD: Thank you, Mr. Mayor,
5 commissioners. My name is Eugene Woodard.
6 I'm here representing the North Ocean Drive
7 Area Residents' Association, and we support
8 the passage of the ordinance approved by
9 the planning board to restrict outdoor
10 entertainment in South Pointe on the
11 grounds that the residential community
12 needs greater protect now from the unwanted
13 noise than perhaps it ever has.

14 And so (Inaudible) I think I might
15 have a slightly different spin on some of
16 these comments that I'm going to make, so
17 hopefully it will enliven it a bit.

18 There are some in the audience who
19 will say we should have known better when
20 we made our choices to live in South Beach
21 with its high-intensity urban environment
22 and history of entertainment. I would
23 strongly argue that that point of view is
24 out of touch with the reality of change,
25 which has occurred in South Beach over the

1 last five years in terms of capital
2 investment and the resulting demographic
3 shift that followed.

4 And I have a few numbers that
5 I think might put this notion of change
6 into better perspective for all of us.
7 From a financial standpoint, in the last
8 five years, assessed property values in
9 Miami Beach increased by \$4 billion in the
10 last five years, from 6.5 billion to
11 10.6 billion. That's a 63 percent increase
12 in a five-year period, which is rather
13 phenomenal.

14 A sizable share of this \$4 billion
15 reflects the growth in the residential
16 community. In the current budget year,
17 property tax revenues in the general fund
18 totaled \$85 million. 73 percent of that
19 \$85 million comes from residential
20 properties in Miami Beach.

21 Now, just to give you a contrasting
22 number to think in terms of, the resort tax
23 in the current year generated revenues in
24 the general fund of \$16 million. That's
25 roughly 25 percent of the residential ad

1 valorem tax contribution.

2 Demographics, approximately 6,000
3 new residential units will have been
4 created in Miami Beach from 1997 through
5 2004, approximately 85 percent of which are
6 here in South Beach. The individuals and
7 families moving into these new units are
8 not simply moving down from north and
9 Mid-Beach but rather are coming from New
10 York, Boston, San Francisco, and other
11 major world urban locations which adds
12 considerably to the diversity mix here in
13 South Beach.

14 The inhabitants are largely young
15 professionals who are not only bringing
16 dollars to local businesses, including
17 entertainment, but are also giving their
18 time to government affairs and serving as
19 volunteers on various local boards.

20 Our decision to move here was
21 rational and it had the following two
22 expectations. One, the city administration
23 wished to encourage the development of
24 high-end condominium projects on South
25 Beach as a stabilizing influence to its

1 evolution and as a means of strengthening
2 the economic base for the future.

3 Two, many of us who purchased prior
4 to the start of construction did so on the
5 basis of promised capital improvements
6 throughout South Beach.

7 MAYOR DERMER: Eugene, I have to ask
8 you to finish up.

9 UNIDENTIFIED SPEAKER: Yeah, let me
10 just -- if I can just make one more final
11 thought, I'd appreciate it. Implicit in
12 our decision-making process, therefore, was
13 the presumption that our rights under
14 existing laws would be protected, and
15 I want to emphasize that point.

16 We did not investigate here on the
17 expectation that new laws granting new
18 protections would be needed, but only that
19 existing laws would be enforced. Mr. Mayor
20 and fellow commissioners, as political
21 leaders, we believe that you not only have
22 a moral duty to protect the rights of all
23 of those who make substantial capital
24 investments in this promised new South
25 Beach, but as elected officials, you have

1 an obligation to protect our interests by
2 supporting enforcement of existing laws
3 which were designed to protect us and our
4 rights against those who would otherwise
5 have you champion their personal interests
6 above the city's. Thank you.

7 MAYOR DERMER: Thank you, sir. All
8 right. I have mal -- Mallory Kauderer.
9 Mallory? Not present.

10 Beatrice, Beatrice Crites,
11 I believe. No? Okay. Followed by Frank
12 Dosa.

13 MS. CRITES: Hello.

14 MAYOR DERMER: Welcome.

15 MS. CRITES: My name is Beatrice
16 Crites, and I live at the Portofino Towers.
17 Okay. First, I want to make clear I'm not
18 here against any legislation or create
19 controversy. Okay? There's a number of
20 people that live in the same building
21 I live, and they feel the same way I feel,
22 and that is that we don't hear any noise.
23 Okay?

24 I feel sorry that some people around
25 the South Pointe area feel affected, and

1 it's -- it's creating a lot of controversy
2 and problems. However, I just want to
3 mention to you that Portofino Towers has no
4 windows, only sliding glass doors, and
5 those windows are very special adaptive
6 against noise or hurricanes or anything,
7 sand or anything, so I don't understand
8 what they're doing.

9 You know, people that live there
10 don't hear any noise. Okay? But they're
11 being affected -- they're being affected by
12 the fact that their parking lots are
13 getting crowded by people going to the
14 clubs at night, because there's a number of
15 people that live in Portofino that invite
16 their friends, and they park over there, so
17 it's creating a problem, a parking problem.

18 And I personally call a friend of
19 mine today that lives there, and I told him
20 what was going on that they were trying to
21 put down Opium Garden because of the noise,
22 and he said I don't have a problem about
23 the noise, my problem is that they're
24 turning this place into Hialeah and our
25 parking is getting crowded, and he lives in

1 38 -- he lives on the 38th Floor.

2 MAYOR DERMER: Okay. Well,
3 I appreciate your comments.

4 MS. CRITES: So I'm here to ask
5 people to get their thoughts together and
6 to come to a conclusion, and not -- I'm
7 here to support the nightlife.

8 MAYOR DERMER: Thank you very much.

9 UNIDENTIFIED SPEAKER: What was that
10 reference to Hialeah?

11 MS. CRITES: He said -- he said the
12 crowds are turning into like -- like
13 if it was Hialeah. He never said anything
14 about --

15 COMMISSIONER BOWER: But what does
16 it -- what does Hialeah have to do with the
17 crowd? What kind of crowd is it that
18 Hialeah has, do you know?

19 MS. CRITES: I don't know. He said
20 that, and I said what are you talking
21 about.

22 COMMISSIONER BOWER: I -- I -- yeah.

23 MAYOR DERMER: Okay. Let's stay --
24 let's stay on Miami Beach.

25 COMMISSIONER BOWER: He's from

1 Hialeah.

2 MS. CRITES: Yeah.

3 MAYOR DERMER: Let's -- listen, it's
4 wonderful having you, and we appreciate
5 your comments.

6 MS. CRITES: Yeah, and (Inaudible.)

7 MAYOR DERMER: But we're going to
8 keep focusing on this ordinance and moving
9 forward.

10 MS. CRITES: Yes.

11 MAYOR DERMER: All right. Frank
12 Dosa. Frank, welcome, and we'll follow him
13 with Steve Polisar.

14 MR. DOSA: So Frank Dosa. I living
15 in 93 (Inaudible) Avenue. So I came here
16 because I moved here two years ago from
17 Paris, because I really like South Beach,
18 and what I like here first is the Art Deco
19 architecture and second the nightlife, and
20 I'm not affiliated to any club, I just go
21 as a regular customer, and the nightclub --
22 the outside nightclub, outdoors nightclub
23 are beautiful, like Nikki Beach, like Opium
24 Garden, there is a lot of activity, there's
25 a lot of energy, and they are beautiful.

1 So I don't think that the resident
2 in South Pointe -- I mean, I understand
3 that you -- I understand that they want
4 less noise, but at the same time you come
5 in a place where there is nightclub and you
6 have to expect some noise. If you don't
7 want to expect some noise, you do -- when
8 I chose to moved here, I could have lived
9 in Aventura or in Coral Gables or in Key
10 Biscayne or some place like this, so.

11 UNIDENTIFIED SPEAKER: Hialeah.

12 MR. DOSA: Hialeah, exactly.

13 MAYOR DERMER: You know, we're going
14 to -- listen, listen, we're going to be in
15 Dade politics in the newspapers, so let's
16 just focusing --

17 MR. DOSA: So I think that we --

18 MAYOR DERMER: (Inaudible.)

19 MR. DOSA: -- we should (Inaudible.)

20 MAYOR DERMER: And we don't need any
21 comments from Raul Martinez talking about
22 Miami Beach, let's just -- let's just cut
23 it off here. Go ahead.

24 MR. DOSA: So I choose to move here
25 because I like the Art Deco architecture

1 and I like the nightclub, and I think that
2 if you choose to move in South Beach,
3 if you choose to live here, you should
4 respect both. The Art Deco architecture,
5 and I don't think the high-rise condominium
6 respect the Art Deco architecture, and
7 if you choose to move here, you have to
8 deal also with the nightclub, and this is
9 the life. If you don't like the nightclub,
10 if you don't like the Art Deco
11 architecture, you move somewhere else.

12 MAYOR DERMER: Well, I thank you,
13 sir, for your comments. Let us have -- let
14 us have Mr. Polisar followed by -- now, why
15 were the people in North Beach clapping.
16 They're here on the guard gate issue.

17 UNIDENTIFIED SPEAKER: Right.

18 MAYOR DERMER: Right. Okay. You
19 can discuss that when we get to your issue.
20 Okay, let's go Steve Polisar followed by
21 Cecilia Glasser.

22 MR. POLISAR: Ladies and gentlemen,
23 Steve Polisar, chairman of the Nightlife
24 Task Force.

25 MAYOR DERMER: Okay. Steve,

1 welcome.

2 MR. POLISAR: There's -- when
3 there's a lot of money and power and
4 elections, there's always going to be --
5 there's always a lot of hysteria around
6 them, a lot of interest, however, I can
7 tell you from -- as chairman of the
8 nightlife committee that if you just
9 isolate this one particular ordinance from
10 the responsible nightclub owners and
11 restauranteurs, if you ask them
12 individually or at the Nightlife Task
13 Force, they will tell you that they're not
14 opposed to legitimate legislation that
15 deals with legitimate problems. There's,
16 in fact, an acknowledgment that residents
17 have some legitimate problems below 5th
18 Street.

19 When you circumscribe the ordinance
20 to grandfathering in the present
21 businesses, businesses that have made their
22 investments, businesses -- businesses that
23 have been down there for years, that have
24 established the area, that does not create
25 a problem.

1 What I think is missing the point
2 here, though, is that the real problem that
3 needs to be acknowledged isn't -- is -- is
4 whether or not this is in fact it, because
5 what I think the nightlife industry has
6 really been expressing and maybe not in the
7 correct words up to now is, is this the --
8 is this what the residents are going to be
9 satisfied with, we grandfather this in, or
10 what's next.

11 I mean, the fear out there, and
12 I say this to the city commission is not
13 this ordinance that's going to be
14 grandfathered in. I talk to people on the
15 street all the time, nobody's concerned.
16 No rational person is worried about
17 something if they're grandfathered in, and
18 nobody from the nightlife industry is
19 thinking about the great future of Miami
20 Beach and what's going to happen.

21 They're worried about what's
22 tomorrow and what's in their business, but
23 what they are worried about isn't this
24 particular ordinance, they're worried about
25 where is it going to stop.

1 Yes, there is a shift of balance of
2 power in the city, and it hasn't been
3 expressed by the city up to now as to the
4 assurance to our nightlife industry that
5 we're going to pass some responsible
6 legislation that makes sense, but we're not
7 going to start passing legislation that
8 is -- if it's not broke, you don't have to
9 fix it.

10 And so what we would really like to
11 know out here in the nightlife industry is,
12 is our future assured or is there an
13 undercurrent from the fact that, yes,
14 there's new residents from the new
15 high-rises that they're getting power.

16 Are you going to ask next year from
17 the residents, are you going to roll back
18 the hours? Where does it stop, we need to
19 know.

20 MAYOR DERMER: We have a couple of
21 questions, Commissioner Cruz, and then
22 Garcia.

23 COMMISSIONER CRUZ: Hi, Steve.
24 First on the shifting of the balance of
25 power, the balance of power has not

1 shifted. I think this city has
2 historically been run or has elected its
3 officials from the residential community.
4 Middle Beach has historically held the
5 political power in this city. Any analysis
6 will show you that.

7 If there is a shift of power, it's
8 that it's being an imbalance because you
9 now have a huge amount of residents moving
10 into South Beach and they're going -- South
11 Pointe and that's going to have an impact.
12 That said, though, that's not at --

13 MR. POLISAR: I disagree.

14 COMMISSIONER CRUZ: That's not the
15 issue.

16 MR. POLISAR: Simon, I disagree with
17 you on that, because there's been
18 acknowledged even in the press and even
19 yourself acknowledged in the press that
20 there's a shift in balance, that there's
21 more residents.

22 COMMISSIONER CRUZ: No, let --

23 MR. POLISAR: They have our votes --
24 and wait, wait, let me finish.

25 COMMISSIONER CRUZ: I know where

1 you're going, though.

2 MR. POLISAR: And up until now, up
3 until now we have had I think a fair
4 balance. Yes, there's been issues like
5 Middle Beach and so forth, but those issues
6 were relegated to different things than
7 what we're dealing -- Mid-Beach never
8 concerned itself about the hours and what's
9 happening now with the nightclubs below 5th
10 Street.

11 So it has changed, because these
12 people below 5th Street didn't exist. The
13 fact is that the nightclubs settled that
14 down there and the rest of South Beach.
15 We've heard it before, but they're like the
16 Indians, and what we're concerned about is
17 now that the settlers are coming in and
18 they've got 160 acres and a mule, are
19 we going to be pushed out and put on the
20 reservation, and that's what we don't want.

21 COMMISSIONER CRUZ: Steve, let me
22 put it to you this way -- let me put it to
23 you this way, I have -- I've been following
24 the nightlife here for a very long time,
25 I'm a very strong supporter of the

1 nightlife here for different reasons than
2 what you support it for. I think it gives
3 us our soul. It gives a lot of what drives
4 this city, you know, it really has enhanced
5 what we have with the beaches and the like,
6 but please realize one thing. The zoning
7 down there has historically been
8 residential.

9 Those buildings that have now gone
10 up there were originally planned. When
11 South Pointe Tower was built, there were
12 four other buildings that were projected to
13 go up there. Rebecca and Hope were already
14 up, and that had been in the 1979
15 redevelopment agency was planned as being
16 the niche of Miami Beach that was all going
17 to be residential.

18 That a couple of clubs may have
19 opened up there because it was desolate as
20 it was going through a transition and the
21 RDA was buying up land in order to
22 redevelop it into a residential community,
23 fine, but that is the reality. Let's not
24 even go there.

25 MR. POLISAR: You know what you're

1 saying to me, Simon, you're absolutely
2 confirming my worse fears, and I'll tell
3 you why.

4 COMMISSIONER CRUZ: No, no, Steve --

5 MR. POLISAR: Because instead of
6 saying to this community --

7 COMMISSIONER CRUZ: But I didn't get
8 to where I'm going --

9 MR. POLISAR: -- that there's
10 balance, you're taking a one-sided
11 position.

12 COMMISSIONER CRUZ: No, I'm not.
13 Let me get to the position I'm going to
14 now. All right. The clubs down there that
15 are there are going to be protected. There
16 is no issue. Now, if there has been, and
17 you're saying -- and you made a very valid
18 point by saying this legislation doesn't
19 concern us because it's rational
20 legislation.

21 MR. POLISAR: Correct.

22 COMMISSIONER CRUZ: It's we fear
23 what's coming down the line, right?

24 MR. POLISAR: Correct.

25 COMMISSIONER CRUZ: And you're

1 absolutely right, but who has started a lot
2 of those rumors and who started a lot of
3 the hysteria about this was not us. Okay?
4 So it was no us.

5 MR. POLISAR: Wait, wait, I don't
6 want --

7 COMMISSIONER CRUZ: I heard about
8 the two o'clock rollback on the hours, and
9 I'm saying where did this come from.

10 MR. POLISAR: Simon.

11 COMMISSIONER CRUZ: I first heard
12 it from David Wallack as a friend came to
13 me and said where is this coming from, and
14 I stated from this dais that I am not in
15 favor of rolling back hours. The five
16 o'clock licenses will remain at five
17 o'clock. I am not interested in
18 (Inaudible.)

19 MR. POLISAR: I have to correct you
20 on one thing, Simon, I have to correct you,
21 because --

22 COMMISSIONER CRUZ: (Inaudible.)

23 MR. POLISAR: The record will
24 reflect. This isn't personal, but the
25 record will reflect that at a hearing not

1 too long ago when the residents were in the
2 vast majority of the assembly, the
3 atmosphere was very much -- and statements
4 were made while some of the nightclub
5 people were in the room, that perhaps
6 we should, in fact, examine rolling back
7 the hours for all of the -- of the
8 nightlife industry. Now, let me say this,
9 I've been around the city a long time, and
10 I know the context -- I'm not saying you
11 said it.

12 COMMISSIONER CRUZ: Did I say it?

13 MR. POLISAR: No, but the record
14 will reflect it was said.

15 F: That's correct, that
16 (Inaudible.)

17 MR. POLISAR: Now, what does that --
18 what does that say? I as a guy that's been
19 around for a long time took it in context,
20 there's a lot of residents, you know, it's
21 water off a duck's back. However, there
22 are other people, and what those comments
23 did was give the extremist elements in the
24 nightlife industry a sword, and the truth
25 is, despite the fact, Simon, that they were

1 wrong in disseminating misinformation, the
2 fact remains that when those statements are
3 made, there wasn't -- in principle they
4 were correct in rallying their troops to
5 the defense of the industry, because
6 nothing later was said from this body that
7 would have dispelled that notion, so it was
8 easy for a sword to be handed out and a
9 rumor to start.

10 And what I would like to propose is
11 that in the future, because this city
12 deserves better than -- than what we've
13 been enduring up to now, and I mean, I'll
14 go even one further. I had a meeting with
15 Mr. Gomez, I had a meeting with Bob
16 (Inaudible), we have had some very rational
17 and productive meetings.

18 The idea that we're going to a
19 workshop is a terrific, I think,
20 suggestion, and we're glad that we adopted
21 it, but in the future, to avoid the
22 schizophrenia that's been circulating,
23 we need to be making statements along the
24 lines that, yes, we have a tremendous
25 residential upsurge. We also have a very

1 important viable nightlife industry. Let's
2 come together and resolve these matters
3 rationally so that we can avoid -- and
4 you're right, these were unfair, unfounded
5 statements.

6 COMMISSIONER CRUZ: I think
7 (Inaudible.)

8 MR. POLISAR: I apologize for the
9 nightlife industry in that, but the fact is
10 the principle remains the same.

11 COMMISSIONER CRUZ: And I think
12 that's where we're getting to. But that's
13 where we're getting to, so people
14 understand that there's not an assault on
15 the nightlife. About a week or a week and
16 a half ago there was an entire week on the
17 travel channel, and it centered around
18 nightlife in South Beach. Do you know what
19 publicity that gave us? That was
20 tremendous and very good publicity.

21 So there is no doubt that that
22 industry is extremely important. It may
23 not be in dollars cents as Eugene Woodard
24 stated, it may not be at that point, but
25 it's important, because it gives us our

1 soul, but the dollars are predominantly and
2 the preponderance of them come from the
3 residential sector, but we have to work
4 together. What we don't want is the
5 hysteria that was created before.

6 MR. POLISAR: Let me just say this,
7 Simon, if we have so -- and I agree with
8 you, the dollars are coming from the --
9 it's important that we have the dollars,
10 but why can't we take some of those dollars
11 and solve some of the practical problems
12 with them? If we've got so many dollars
13 coming in from this now source, why
14 can't some of the people -- two practical
15 suggestions.

16 People complain about the urination,
17 why can't we build some bathrooms back
18 there?

19 MAYOR DERMER: Look --

20 MR. POLISAR: They're worried about
21 flyers, let's (Inaudible.)

22 MAYOR DERMER: Hang, hang, hang on.
23 We're really digressing.

24 MR. POLISAR: You're right.

25 MAYOR DERMER: This is an ordinance

1 dealing with, outdoor noise (Inaudible.)

2 MR. POLISAR: Correct, you're right.

3 MAYOR DERMER: Commissioner Garcia,
4 go ahead.

5 VICE MAYOR GARCIA: Yes, okay.

6 Again, Steve, you know, you and I have
7 known each other probably longer than
8 anybody else around here.

9 MR. POLISAR: We put our football
10 uniforms (Inaudible.)

11 VICE MAYOR GARCIA: That's right,
12 going back to 1961.

13 MR. POLISAR: Correct.

14 VICE MAYOR GARCIA: This guy was a
15 four letter sportsman, one of the finest
16 athletes ever to come out of Miami Beach
17 High.

18 MAYOR DERMER: Did you just call him
19 a four letter word?

20 VICE MAYOR GARCIA: Four letter
21 athlete.

22 MAYOR DERMER: Four letter sport.

23 VICE MAYOR GARCIA: Four letter
24 sports.

25 MR. POLISAR: Thank you, Luis.

1 VICE MAYOR GARCIA: You know, I --
2 I respect you, and Simon, I respect you.
3 In a way you're both right. Okay? Back a
4 couple of meetings ago, neighbors came here
5 and they complained, you know, and some --
6 some statements were made.

7 The fuel was fanned even more when
8 it went to the planning board, because
9 again, all of the decisions of, I guess,
10 every board are coming from the planning
11 board. I guarantee you, Simon, like me and
12 probably most of the members of this
13 commission will -- probably will -- not
14 probably, they will in favor a roll back to
15 the two o'clock. I think that at the same
16 time -- at the same time as I look at this
17 ordinance, this ordinance really, you
18 know --

19 MAYOR DERMER: This is going to be a
20 long meeting.

21 VICE MAYOR GARCIA: (Inaudible.)
22 I mean, (Inaudible) however, it's not as
23 ominous as it could be for -- you know, for
24 existing places, however -- however, and
25 this is what -- this is what we -- that

1 we're concerned. You're concerned of where
2 the industry is heading.

3 MR. POLISAR: Correct.

4 VICE MAYOR GARCIA: And I think --
5 I think we have taken a tremendous step by
6 getting a workshop for the hotels which
7 (Inaudible) you know, I -- when -- when the
8 hotels met, you guys -- you know, the
9 nightlife was invited, and the -- you know,
10 the participation was very little. There
11 were very few people in there.

12 This is a time for the nightlife,
13 the hotels, and the neighbors to come
14 together, you know, and work out a plan,
15 work out a plan that can help -- that --
16 that will govern for the next ten years.

17 MR. POLISAR: Luis, we agree with
18 that.

19 VICE MAYOR GARCIA: Otherwise, we're
20 going to be up from prosperity to -- to be
21 in a nursing home city back and forth. So
22 you know, we -- we got to go like this,
23 we gonna to go up and down.

24 MR. POLISAR: That is the sentiment
25 that we're looking for, because, look,

1 we're not against the residents, we're not
2 against this particular ordinance, we just
3 wanted to see that there was the respect
4 out there for the industry and that you're
5 going to work with us, and we're not going
6 to be subject to every year we're going to
7 be rolled back.

8 MAYOR DERMER: Okay. Let's --

9 COMMISSIONER BOWER: (Inaudible.)

10 VICE MAYOR GARCIA: I think if you
11 have respect for this commission, probably
12 you get (Inaudible) to get the ordinance
13 they're -- they're requesting.

14 MAYOR DERMER: Commissioner --
15 Commissioner Bower.

16 VICE MAYOR GARCIA: And we -- and
17 we move forward.

18 COMMISSIONER BOWER: Steve, I --
19 I -- you know, I'm the one (Inaudible)
20 looking for my glasses, because I can't see
21 you. I just want to assure you also that
22 I believe that this is a community that
23 needs to respect each other. It has never
24 occurred to me to roll back or not roll
25 back, but when it gets out of whack from

1 one side or the other, it doesn't matter
2 which side, then we have these
3 confrontational issue.

4 I don't want to kill anybody,
5 I don't want to put anybody out of
6 business. That is not even my nature as --
7 as a person, but I do think that the one
8 most important thing that we need any -- in
9 any relationship is respect for each other.

10 MR. POLISAR: You're correct.

11 COMMISSIONER BOWER: And when the
12 lack of respect starts swinging one way or
13 the other, these are the issues. I want to
14 make clear to you that I'm not here -- I,
15 you know, speak for the residents many
16 times up here because I speak their --
17 their side of the story, but I don't want
18 to kill anything that has made Miami Beach
19 what it is today. So I just want you to
20 know.

21 MR. POLISAR: I think we needed to
22 hear that, and I appreciate --
23 we appreciate it.

24 MAYOR DERMER: Okay. Thank you,
25 sir. I appreciate your comments, Steve.

1 MR. POLISAR: Thank you.

2 MAYOR DERMER: Cecilia Glasser
3 followed by Jeff Bercow. Cecilia?

4 MS. GLASSER: Guard gate.

5 MAYOR DERMER: Oh, that's coming a
6 little later. All right. Guard gate we'll
7 deal with later.

8 All right. Jeff Bercow, please, and
9 we are going to go after Jeff, and I really
10 suggest to just really focus on the issue
11 and wrap this thing up already. I know the
12 commission getting antsy, Jerry Pinard.
13 If what's been said already and you want to
14 pass, please feel free. Go ahead.

15 MR. BERCOW: Thank you, Mr. Mayor,
16 commissioners, Jeffrey Bercow with Bercow
17 and Radell, 200 South Biscayne Boulevard,
18 and I also live in Miami Beach. I'm here
19 today representing Arden Savoy Partners,
20 LLC, the owners of the Arlington and Savoy
21 hotels.

22 As I indicated three weeks ago when
23 I appeared before you, and I promise not to
24 give you any poison pills today,
25 we strongly support the proposed ordinance

1 as it relates to open air and outdoor
2 entertainment establishments in the
3 redevelopment area.

4 In particular in the R-PS4 district
5 where we're located, we know an
6 outdoor/open air entertainment
7 establishment would not be approved by the
8 planning board, and we believe it's not an
9 appropriate use where we're located
10 surrounded by residential buildings.

11 On the other hand, we do think that
12 having an indoor neighborhood impact
13 establishment within our project that would
14 be accessed only from the interior lobby
15 and not from the street would be an
16 appropriate use for the area, especially
17 for a resort hotel located on the ocean.

18 What's a neighborhood impact
19 establishment? Well, it's defined in the
20 code, and Kent Robbins didn't get
21 it exactly correctly a few minutes ago, but
22 suffice it to say that, for example, Nobu
23 is a neighborhood impact establishment and
24 has been approved by the planning board as
25 such.

1 Unfortunately, the code as written
2 today wouldn't even allow us to apply to
3 have a restaurant like Nobu in our hotel.
4 Today you have to have a 250 room hotel in
5 the R-PS4 district just to apply for a
6 neighborhood impact establishment approval.
7 The administration recommendation notes
8 that there is no hotel of that size in the
9 R-PS4 district.

10 We understand that you need to have
11 a minimum number of rooms because you don't
12 want to have a large restaurant or a
13 nightclub that overwhelms some of these
14 smaller hotels in the area, but we think
15 that the appropriate minimum is 50 rooms,
16 and we've gotten a booklet from the Greater
17 Miami Visitors and Convention Bureau on
18 boutique hotels, and we've excerpted about
19 a dozen hotels from that booklet, and I'd
20 like to put -- pass that out at this point.

21 COMMISSIONER BOWER: May I ask you a
22 question?

23 MR. BERCOW: Yes.

24 COMMISSIONER BOWER: I don't have a
25 problem looking at this issue if it goes to

1 the team -- you know, if you bring back an
2 amendment. Do you feel that it has to be
3 done today or can it come back as an
4 amendment to this ordinance and go through
5 the -- through the routine way that all
6 these ordinance go through? I mean, is
7 that something that -- that --

8 MR. BERCOW: I think it's
9 appropriate and it's been noticed before
10 you today, and I think the ordinance as
11 drafted, the code as drafted is
12 inappropriate. It's overly broad, because
13 you have a 250 room floor for these
14 neighborhood impact establishments where
15 there, quite simply, is not any 250 room
16 hotel in the district today.

17 COMMISSIONER BOWER: But --

18 MR. BERCOW: So you've got an --
19 you've got an ordinance or code provision
20 that's not appropriate.

21 COMMISSIONER BOWER: I understand
22 that, but --

23 MAYOR DERMER: She's asking is there
24 time sensitive issues with this (Inaudible)
25 in your information?

1 MR. BERECOW: It is -- it is not time
2 sensitive for us, but I think that it is
3 appropriately before you today. Let me --
4 let me just finish on the -- I'm sorry.

5 COMMISSIONER BOWER: That's okay.

6 MR. BERECOW: No, no.

7 COMMISSIONER BOWER: It's okay.

8 I was just going to say that, you know,
9 we may be able to reach a consensus on this
10 issue if it goes the routine and
11 appropriate way through the planning board
12 and whatever it is that it has to be done.
13 Instead, I'm going to have to make up my
14 mind, because the rest of the community was
15 not involved at this moment, you know,
16 I just don't feel comfortable voting on
17 that issue.

18 So I was just trying to give you
19 the -- the benefit that if you come the
20 right way and everything is approved and
21 everybody is happy and a consensus is
22 filled, maybe you can have that, but not
23 today. I don't know (Inaudible.)

24 MR. BERECOW: Well, quite frankly,
25 and I've spoken to Mr. Del Vecchio, and

1 I've spoken to Mr. -- Dr. Sunshine, and
2 others, and I don't think we can talk for
3 three more months and have workshops and
4 public hearings. I, quite frankly --

5 MAYOR DERMER: Well, that's for
6 sure.

7 MR. BERGOW: -- don't believe they
8 are going to agree with our position, nor
9 do I think they're going to agree with the
10 staff position. I just want to wrap up and
11 make a point about these 50-room hotels.

12 What I'm trying to show you in this
13 booklet is that you have some rather
14 substantial hotels that are between 50 and
15 100 rooms like the Sagamore, the Victor,
16 Nash, The Hotel, that are significant
17 enough hotels that will not be overwhelmed
18 by having a neighborhood impact
19 establishment in them. We are not asking
20 for this as of right, we are simply asking
21 for the right to apply for a neighborhood
22 impact establishment approval to the
23 planning board in the future.

24 MAYOR DERMER: I thank you for your
25 comments.

1 COMMISSIONER GROSS: I just want to
2 make one comment.

3 MAYOR DERMER: Sure.

4 COMMISSIONER GROSS: The examples
5 that you gave, I don't think those are
6 neighborhood impact establishments. You
7 can have 299 people in a restaurant --

8 MR. BERCOW: I only need one --

9 COMMISSIONER GROSS: -- in your
10 hotel in the Arlington/Savoy and not need a
11 neighborhood impact establishment. 299
12 occupant load. That's pretty big.

13 MR. BERCOW: I only gave one
14 example.

15 COMMISSIONER GROSS: Well, the Nash,
16 I don't think the Nash is a neighborhood
17 establishment.

18 MR. BERCOW: No, no, no,
19 (Inaudible.)

20 COMMISSIONER GROSS: And neither is
21 the Sagamore.

22 MR. BERCOW: That's not what I'm
23 saying.

24 COMMISSIONER GROSS: But you're --

25 MR. BERCOW: I'm saying that those

1 are -- you misunderstood me. That those
2 are hotels --

3 COMMISSIONER GROSS: What I'm saying
4 is the way -- but Jeff, the way the
5 ordinance is drafted now, you could put 299
6 people in a restaurant in the Arlington and
7 the Savoy and not have to change this
8 ordinance whatsoever. It's only when the
9 put the 300th person, and, you know,
10 I think it's (Inaudible.)

11 MR. BERCOV: Commissioner, we don't
12 want to play the game that Joya and Pure
13 has played by segregating the two uses so
14 that collectively they're less than 300.
15 If we want to have a quality restaurant
16 come in like -- like Nobu or like Emeril's
17 that's now coming in. I've heard that
18 there's a Chinese -- famous Chinese
19 restaurant from New York that's looking
20 down here.

21 And if they say we want to have 300
22 to 400 people as an occupancy load in your
23 project, because we think this is the
24 perfect location for it, and if we can
25 convince the planning board that we've

1 mitigated our impacts in a way that is
2 sensitive to the R-PS4 district and
3 recognizes what's there, why shouldn't we
4 be allowed to apply? And by (Inaudible.)

5 COMMISSIONER GROSS: Well, if you're
6 asking me, I would say that 300 is enough
7 in that particular residential
8 neighborhood. That's why.

9 MR. BERCOW: Okay.

10 COMMISSIONER GROSS: So, you know,
11 you --

12 MR. BERCOW: You say that in the
13 abstract without even having the proof
14 before you. I mean, we can show how we can
15 mitigate our impact.

16 MAYOR DERMER: Jeff, let's not --
17 let's wrap that up and let's get moving to
18 our next speaker.

19 MR. BERCOW: I'm done.

20 MAYOR DERMER: All right. Thank
21 you, sir. Let us go to David Kelsey and
22 then David Haber, and then we'll go -- yes,
23 we'll get everybody. I got everybody's
24 name down here. We won't forget anyone.
25 I know you came out.

1 MR. KELSEY: Thank you, David
2 Kelsey, South Beach Hotel and Restaurant
3 Association. This ban on outdoor and open
4 air entertainment, I think we need to be
5 clear on this. This really does not effect
6 some existing venues, Nick's, for instance,
7 it doesn't effect Opium, for instance, but
8 it probably does effect Penrod's and Nikki
9 Beach, any other establishment that now has
10 some open air component, even Nemo's cafe
11 is open air, but they don't have
12 entertainment.

13 The concerns about the size of
14 hotels, clearly it doesn't make much sense
15 if you've got a 250 room threshold and you
16 have no 250 room hotels. It should reflect
17 the makeup, I think, of the historic
18 district and the size of those hotels.

19 What I'm afraid is happening here is
20 the wrong message is going out and the
21 wrong problem is trying to be addressed.
22 The message goes anywhere from -- from
23 being against nightlife to basically
24 perhaps not buying condos in the South
25 Pointe area because the quality of life

1 isn't -- doesn't justify living there. The
2 problem is not open air or outdoor
3 entertainment. The problem is the music or
4 noise, if you want to view it that way,
5 that emanates from that that someone
6 somewhere else is hearing. It's a noise
7 problem.

8 If you could have a wedding
9 reception on the pool deck of the Marriott,
10 and you asked this question the last
11 commission meeting, but unfortunately, you
12 asked it as could you have a wedding. You
13 could have a wedding. It's a solemn
14 occasion, vows are spoken, but you couldn't
15 have a reception, because you couldn't have
16 a band and dancing and drinking, and
17 that's -- that's where the issue comes in.

18 There's no -- for instance, no
19 cutoff time. It's sort of like an absolute
20 prohibition in that it doesn't say you
21 could only have outdoor entertainment
22 during the day or up until eleven o'clock
23 or until two in the morning. It just says
24 you can't have it at all, and you can't get
25 a conditional use permit under those

1 conditions or, I'm wondering, could you
2 even get a special event permit.

3 What does that do to some place like
4 Opium and Nikki Gardens, where are they in
5 this situation?

6 COMMISSIONER CRUZ: As I understand
7 it, they're exempt.

8 MR. KELSEY: Well, I don't think so.

9 COMMISSIONER CRUZ: It doesn't --
10 you know --

11 MR. KELSEY: And those -- those are
12 questions that I think --

13 COMMISSIONER CRUZ: They're
14 grandfathered in. Why --

15 COMMISSIONER GROSS: Well, Simon,
16 Simon, we need to clarify that, because
17 it's been spoken a lot of times.

18 COMMISSIONER CRUZ: Yeah, because --

19 COMMISSIONER GROSS: You know they
20 will be grandfathered for whatever license
21 they currently hold. If they want to
22 change the use and apply for a new license,
23 then the new license would come under the
24 new ordinance, but anybody with an existing
25 license is allowed to do what they're

1 allowed to do understand that license.

2 MR. KELSEY: The question is what
3 is -- what is their license, yeah.

4 COMMISSIONER BOWER: About Nikki
5 Beach -- Nikki Beach --

6 COMMISSIONER CRUZ: See, David, and
7 here's the problem we've had, and, you
8 know, I've addressed it with Steve, and --
9 and, you know, Steve was, forthright, and
10 he said, look, we apologize for the
11 misinformation or getting, you know, a
12 little too historical, but this that you
13 have just stated --

14 MR. KELSEY: Well, I don't apologize
15 for that (Inaudible.)

16 COMMISSIONER CRUZ: -- but you --
17 no, because you have been predominantly the
18 one that's disseminating that sort of
19 misinformation.

20 MR. KELSEY: Simon, I have -- I have
21 stood up for continuing our 5 a.m. licenses
22 for the last five years. It's come before
23 the planning board at least twice, and
24 it was mentioned by two people sitting on
25 this commission on April 9th. It is time

1 to maybe look at rolling back the hours.
2 Those things concern people. They concern
3 people for their investments, they concern
4 people for their jobs.

5 We're concerned for tourism as well.
6 This is our business and nightlife is our
7 key ingredient. It makes us different from
8 Key Biscayne, it makes us different from
9 Delray Beach.

10 We're concerned about the sentiments
11 that were expressed. We told you that at
12 the last commission meeting. We're trying
13 to work on this. The association has
14 scheduled a workshop to deal with the issue
15 of restaurants that have accessory uses of
16 entertainment and dancing and 5 a.m. liquor
17 licenses. We're doing that next Thursday.

18 You have scheduled a workshop to
19 deal with the broader ramifications of this
20 ban, which could be citywide, and that's
21 appropriate, but what happened on April 9th
22 basically sent a shock through the industry
23 in hearing so much sentiment that
24 threatened the business community that
25 deals with nightlife and tourism. And

1 that's why we reacted, that's why we came
2 last -- the last commission meeting, and
3 that's why many of us are here again today.

4 We want to find a way to work these
5 problems out rationally. We don't want to
6 find laws being passed that just go across
7 the board and put people out of business.
8 That's not (Inaudible.)

9 VICE MAYOR GARCIA: Mr. Mayor.

10 MAYOR DERMER: Yes,
11 Commissioner Garcia.

12 VICE MAYOR GARCIA: And David,
13 that's -- that's why we're going to have a
14 workshop.

15 MR. KELSEY: Right.

16 VICE MAYOR GARCIA: The thing about
17 the workshop is that you have to
18 participate. The hotel industry can only
19 appear, and the nightlife industry
20 (Inaudible.)

21 MR. KELSEY: No, the hotel and
22 restaurant association is holding a
23 workshop next Thursday.

24 VICE MAYOR GARCIA: Yeah, but, you
25 know, the city is going to be holding a

1 workshop the next couple of weeks.

2 MR. KELSEY: And we will come to
3 your workshop. It's appropriate. That's
4 what we wanted.

5 VICE MAYOR GARCIA: You know,
6 everybody --

7 MR. KELSEY: That's what we wanted.
8 We asked for that at the last meeting,
9 if you'll recall.

10 VICE MAYOR GARCIA: Well, you know
11 what, and I brought it up to the
12 commission, and it got approved, and it got
13 passed, and it's going to take -- it's
14 going to take place in June sometime, you
15 know, and that's the time when we can get
16 assurances --

17 MR. KELSEY: Well, I had also asked
18 you earlier today --

19 VICE MAYOR GARCIA: -- the
20 assurances for the industry.

21 MR. KELSEY: -- if this particular
22 issue which is part of this same group of
23 ordinances and regulations can be part of a
24 workshop, but you decided against that.

25 VICE MAYOR GARCIA: I didn't decide

1 against it. That was --

2 MR. KELSEY: Well, the mayor decided
3 against it.

4 VICE MAYOR GARCIA: The mayor
5 decided (Inaudible.)

6 MR. KELSEY: We're just concerned
7 that we're -- we're a party to what you're
8 doing, that we're at the table, that these
9 things are not happening and being dictated
10 to us.

11 MAYOR DERMER: Thank you. I thank
12 you for your comments David. Let us move
13 on now to David Haber. Welcome. I haven't
14 seen you since the (Inaudible.)

15 COMMISSIONER GROSS: Mr. Mayor, can
16 we just have the head of the planning
17 department --

18 MAYOR DERMER: Sure.

19 COMMISSIONER GROSS: -- clarify on
20 the record so there is no ambiguity --

21 MAYOR DERMER: Yes.

22 COMMISSIONER GROSS: -- about this
23 grandfather issue in terms of existing
24 licenses.

25 MR. GOMEZ: Obviously, you're --

1 you're quite correct in saying earlier that
2 whatever the license holder has specified
3 in that approval will be a legal conforming
4 if this ordinance were to be enacted. A
5 couple of places that were mentioned,
6 I think Monty's, Opium, and Taverna Opa and
7 Penrod's, all of those currently have,
8 according to the research that was prepared
9 for the report, a dance and entertainment
10 component to their license.

11 So to the extent that Penrod's has
12 an outdoor area or Monty's has an outdoor
13 area, they already have, also, the dance
14 and entertainment component allowed, so
15 they would be grandfathered in if this
16 ordinance were to be passed.

17 And again, just to remind the
18 commission, the ordinance right now, the
19 way it reads right now in the commercial
20 districts, outdoor entertainment is a
21 conditional use.

22 That means that if you're playing
23 music at a level that interferes with
24 normal conversation but in no instance are
25 violating the Dade County noise ordinance,

1 because that's the upper threshold, that
2 narrow band is the province of the
3 conditional use, we're just removing that.
4 You can still have outdoor music as long as
5 it's not interfering with normal
6 conversation.

7 We've in essence removed the
8 conditional use approval for what is that
9 narrow band of, I guess, loud background
10 music, because that approval does not allow
11 you to violate the Dade County noise code.
12 That's all we're talking about here.

13 Events in pool decks of hotels that
14 are occasional in nature and do not violate
15 the Dade County noise ordinance.

16 COMMISSIONER GROSS: Like a wedding.

17 MR. GOMEZ: Like a wedding reception
18 in my opinion are not a conditional use
19 today, therefore, they wouldn't be
20 precluded from this ordinance. This
21 ordinance is trying to address those
22 outdoor areas that become a regular chronic
23 outdoor type of entertainment venue, and
24 it's just banning it in this particular
25 area like you've banned it in other areas

1 of the city.

2 MAYOR DERMER: Thank you, sir.

3 Mr. Haber, and then we'll call about Juan
4 Rodriguez.

5 MR. HABER: David Haber representing
6 Portofino Towers Condominium Association.
7 I've been before this commission a number
8 of times on this issue since January 2003,
9 and I appreciate the opportunity to present
10 this matter again today, and I apologize
11 for the length of time I may take, but
12 having waited three hours and 15 minutes.

13 MAYOR DERMER: I know you've waited,
14 David, but if you can simple (Inaudible.)

15 MR. HABER: I will narrow it on the
16 issues that have not been discussed.

17 MAYOR DERMER: Thank you.

18 MR. HABER: First of all, at the
19 April hearing, this concept that people
20 were going to roll back hours and this fear
21 factor that has been created not by the
22 residents but by the business interests in
23 the nightlife community which is akin much
24 to a paranoia, was in relation to the fact
25 that we had just come through the music

1 conference where we had six straight nights
2 of pounding music on South Beach and
3 violations galore, a brazen disregard for
4 the laws and ordinances of this city and
5 county, and more importantly, we had a
6 situation where we had just recently passed
7 18 days which allowed the nightclubs to
8 stay open until seven o'clock in the
9 morning.

10 So when the roll back was being
11 discussed, one of the issues that was being
12 discussed was this rollback as it related
13 to the 18 days and the 7 a.m. going back to
14 5 a.m. I don't think anybody in their
15 right mind was contemplating taking
16 existing nightclubs, ruining their
17 business, and putting them out of business
18 by having them close at two o'clock in the
19 morning.

20 Surely that was not the residents'
21 intention, that is not my client's
22 intention, and of the 20 people you've
23 heard from today from the neighborhood
24 associations and from individual residents,
25 and the 30 people you heard from in April

1 and the 30 people you heard from in January
2 and February, not one of them talked
3 negatively about the nightlife industry,
4 not wanting nightlife, not liking
5 nightlife, and not wanting to go to those
6 same nightclubs that are trying to keep
7 pounding bass in their ears to all hours of
8 the night.

9 In terms of a democracy lesson, I'm
10 sure all of you commissioners went to
11 school and are very well aware that liberty
12 for another person ends where it infringes
13 upon my liberty. And therefore, it's very
14 clear that whether you punch a person in
15 the nose or whether you pound bass in my
16 ear until all hours of the night is still
17 an assault. An assault by any other name
18 is still an assault.

19 This legislation is proper
20 legislation. It's unfortunate that the
21 situation is where it is today, and it is
22 as Commissioner Steinberg had stated about
23 four and a half hours ago with relation to
24 the valet parking situation, a brazen
25 disregard for our laws and ordinances.

1 One commission meeting ago both
2 Commissioner Garcia and Commissioner
3 Steinberg mentioned why do we need anymore
4 laws, why can't we just enforce the ones
5 we had. If we had a situation different
6 than what we currently have, and if we can
7 have club owners come in in areas and keep
8 indoor entertainment, we wouldn't have
9 these problems, but we have people wanting
10 to open up 50-room hotels and then have 350
11 people come in and do a discotheque in the
12 middle of the hotel. That's not
13 appropriate.

14 I think what Commissioner Gross had
15 stated earlier which is, you know what, 299
16 people is enough. This is a South Pointe
17 community. This was always intended for
18 the last 25 years to be residential, and
19 we have to stick with the character of the
20 community. There are already 31 places
21 there to drink and eat or go out at night.
22 We don't need another 50 in that small
23 area.

24 But that's not to say there aren't
25 places north of 6th Street to go, nor does

1 it say anything or send any negative
2 message to the community that has for some
3 reason decided upon their own to take this
4 as a message from the commission that
5 someone is against their business
6 interests, that the sky is falling, and
7 that otherwise there is a reason for them
8 to be concerned that either the residents
9 don't want them in the business community
10 or alternatively that the commission
11 doesn't want the business community. It's
12 just the opposite.

13 VICE MAYOR GARCIA: David, I thought
14 I had spoken everything, but since you
15 mentioned my name, I feel I have to --

16 MAYOR DERMER: You don't have to.

17 VICE MAYOR GARCIA: Yeah, I have to.
18 It's my nature, what can I tell you.
19 David, probably the failure -- I mean,
20 probably the problem that we have here has
21 been the failure to enforce the existing
22 laws that we have, because plain and
23 simple, if we would have enforced the
24 ordinance -- the noise laws as mandated by
25 the county, we wouldn't have this problem

1 at all.

2 Had we enforced -- had we patrolled
3 the area a little bit to prevent urinating
4 on the streets and whatever, these things
5 wouldn't have happened at all. So
6 basically what we have here is a problem of
7 enforcement.

8 You know, I -- I'm going to tell you
9 one thing, the character of the
10 neighborhood is changing, and that's why
11 I would favor some type of curtailment for
12 now, however -- however, you know, let's
13 enforce what we have on the books before
14 we go out and, you know, penalize the
15 people.

16 MR. HABER: I hear what you're
17 saying, Commissioner Garcia, but I have to
18 say to you in response to that comment,
19 that the resources of this city, which
20 I hear these same commissioners tell me are
21 so thin every time someone comes here for
22 money and every time the police says I have
23 to share from here to here to here,
24 if we're going to send the police resources
25 to keep south of 5th Street on South Pointe

1 on these same issues rather than passing
2 rational legislation to deal with the
3 issues, then we're not using our resources
4 correctly.

5 VICE MAYOR GARCIA: Well, you know,
6 we are -- we are also not using our
7 resources, and this is one that I tend to
8 agree with the mayor on the RDA. We're
9 collecting a lot of taxes, and we cannot
10 reinvest in police and community, and I
11 understand there's going to be (Inaudible)
12 to be available.

13 So basically what's happening on
14 South Beach is you have been paying taxes,
15 but the taxes to provide police and
16 especially fire, because I tried to get
17 extra units on the south end back when
18 I was the fire chief, and we couldn't do
19 it because the RDA wouldn't allow it.

20 So I mean, that's -- that's monies
21 that, yes, you pay taxes, but you know
22 what, they don't (Inaudible.)

23 MR. HABER: But commissioner, the
24 point here of this legislation is even at
25 the last hearing when all the interests of

1 the nightlife industry came together, so to
2 speak, not one of them spoke against the
3 ordinance that is before you today. They
4 spoke about perspective future, what might
5 happen. That's what Steve Polisar talked
6 about today. He said we're not worried
7 about today, we're worried about what might
8 happen in the future (Inaudible.)

9 VICE MAYOR GARCIA: And we're taking
10 steps to try to work our dialogue in the
11 future. That -- that was earlier today.

12 MR. HABER: And we should be and
13 we are trying to and we should continue to,
14 but when the nightclub industry, where they
15 lose credibility, complete credibility with
16 the residents of this city and where they
17 should lose credibility with this
18 commission is in two places, that there has
19 been a fair balance up until now, because
20 anybody who goes down there can see that
21 there is no fair balance south of 5th
22 Street.

23 MAYOR DERMER: And the second?

24 MR. HABER: And the second issue is
25 not only is there not a fair balance, but

1 that they believe for some reason that
2 because we are going to pass this
3 legislation, we are all out to get rid of
4 nightclubs, and we want to turn this
5 into -- I think last commission meeting
6 it was Kendall. This one it's Hialeah, and
7 I'm sure by next one it will be Pembroke
8 Pines.

9 None of that is the case and none of
10 residents that live here want it to be that
11 way, all we want is the liberty to sleep at
12 night in our homes.

13 VICE MAYOR GARCIA: But David,
14 if you -- I'm sorry, Mr. Mayor.

15 MAYOR DERMER: Okay.

16 VICE MAYOR GARCIA: I thought I was
17 in dialogue with David.

18 MAYOR DERMER: No, go ahead, if you
19 guys want to finish up so we'll move up.

20 VICE MAYOR GARCIA: Basically, what
21 you have heard here is an overwhelming
22 support for the ordinance, plain and
23 simple. However -- however, if you listen
24 to the industry, you have -- you should
25 also have heard a concern as to what could

1 come up next.

2 I don't think the industry is that
3 worried about this ordinance per se.

4 MR. HABER: I don't think so either.

5 VICE MAYOR GARCIA: You know what,
6 with all due -- with all due respect to the
7 people that were here and are welcome for
8 being here, it's been very repetitious.
9 This thing could have been solved about two
10 hours ago. You know, I think that -- you
11 know, I think the outcome would have been
12 the same whether 2 people had spoken or 20
13 people had spoken.

14 MR. HABER: And I think -- and
15 I think, commissioner --

16 VICE MAYOR GARCIA: We have citizen
17 concerns, and we have industry concerns,
18 and we're going to balance them.

19 MR. HABER: And that's why I think
20 that the -- whether it's a -- whether it's
21 a retreat or a workshop, whatever you call
22 it, I think it will be helpful for the
23 other areas of Miami Beach to be able to
24 figure out how the hotels and the nightclub
25 industry are going to work within this

1 context, but in this specific area, we have
2 to --

3 MAYOR DERMER: I -- I -- we --
4 I think we understand this. Does every --
5 do other folks feel the need to speak?

6 Yes, of course. I -- I -- Juan
7 Rodriguez I called on. Juan, where is
8 Juan? Is Juan present? Let us go --

9 VICE MAYOR GARCIA: Mr. Mayor?

10 MAYOR DERMER: And then also J.B.
11 Slater. Yes.

12 VICE MAYOR GARCIA: Now, with all
13 due respect to, you know, I think that
14 it would be in the best interest of
15 everybody involved in the decision is taken
16 right now, you know, just out of
17 consideration of some of the other people
18 that have some other issues (Inaudible.)

19 MAYOR DERMER: I would like to
20 basically -- you know what, I take an
21 agreement to, I think, what you're saying
22 what commissioner gross is saying. I don't
23 mean an affront to anyone that came to
24 speak, but I think we've heard everything
25 that needs to be heard on this issue.

1 We've exhausted it pretty extensively and
2 we understand the positions. Those are the
3 people applauding that want to have their
4 issue heard after this, they want it to
5 wrap up. So we're gonna -- at this time
6 I need a motion to close the public
7 hearing.

8 CARTER: (Inaudible.)

9 MAYOR DERMER: You've been standing
10 with a lot of papers, what is it, Carter?
11 You're going to make a legal argument?

12 CARTER: No, there's many of us that
13 also represent clients that are affected,
14 and I --

15 MAYOR DERMER: Are you against the
16 ordinance, do you want to speak against
17 it or for it?

18 CARTER: I think the ordinance is
19 unnecessary, and I'd like to suggest to you
20 why.

21 MAYOR DERMER: In -- just give it to
22 me so fast so we can move on. I know
23 that -- and I'm talking to the wrong person
24 to do that.

25 CARTER: I understand.

1 MAYOR DERMER: Is it going to be --
2 is this going to be protracted?

3 CARTER: No.

4 MAYOR DERMER: I mean, am I -- okay.

5 CARTER: No, I think it will be two
6 minutes, probably.

7 MAYOR DERMER: Out of respect for
8 you, please, go ahead, and then we'll wrap
9 it up.

10 CARTER: The issue is --

11 MAYOR DERMER: And that will be it.

12 CARTER: The issue is the inability
13 to ask for permission to do something, not
14 that you are prohibiting it. I suggest you
15 three examples of why this ordinance --

16 MAYOR DERMER: By the way, who are
17 you representing here today?

18 CARTER: I -- well, I'll give you
19 three examples, Monty's upstairs.

20 MAYOR DERMER: Examples or people?

21 CARTER: Monty's downstairs.

22 MAYOR DERMER: Okay.

23 CARTER: Both of which are
24 neighborhood impact establishments by
25 definition.

1 MAYOR DERMER: Okay.

2 CARTER: None of which cause a
3 problem for anybody.

4 MAYOR DERMER: Okay. Who else do
5 you represent?

6 CARTER: Let me give you another
7 example.

8 MAYOR DERMER: I don't want -- I
9 just want to know who you're here
10 representing, I don't want (Inaudible.)

11 CARTER: I also represent Taverna
12 Opa and several other property owners in
13 the area.

14 MAYOR DERMER: Opa?

15 CARTER: Yes, I do.

16 MAYOR DERMER: Okay.

17 CARTER: And they have not been a
18 problem at all. They are activity -- their
19 noise activities are inside. I asked code
20 enforcement, there hasn't been any
21 complaints. Although, the sky was falling
22 when we learned that they were going to
23 open -- and they do have an outdoor area,
24 but the music is inside, and they have not
25 caused a problem that I am aware of and

1 that code enforcement is aware of.

2 MAYOR DERMER: Well, they wouldn't
3 be affected by this ordinance, right?

4 CARTER: Let me tell you -- well,
5 they will -- they're grandfathered in,
6 I agree.

7 MAYOR DERMER: (Inaudible.)

8 CARTER: As are the two -- as are
9 the two Monty's restaurants, although --

10 MAYOR DERMER: So what --

11 CARTER: Let me give you one further
12 example of what could never be approved
13 again if you approve this ordinance.
14 Joe's. You could never have Joe's in South
15 Beach again.

16 MAYOR DERMER: I don't think we have
17 Joe's again anywhere with the way Joe's is,
18 but anyway, go ahead.

19 MR. GOMEZ: I'm sorry, I'm sorry,
20 that's not true.

21 UNIDENTIFIED SPEAKER: (Inaudible)
22 neighborhood impact establishment?

23 MR. GOMEZ: Joe's is a neighborhood
24 impact establishment. If you look at the
25 code, the ordinance as before you, it would

1 allow it as a conditional use, it's not
2 prohibiting it. That would be that C right
3 there.

4 CARTER: I apologize.

5 MAYOR DERMER: Whoa, look at the big
6 grin on Jorge Gomez.

7 CARTER: I stand corrected. I stand
8 corrected. I stand corrected. I really
9 didn't understand that the ordinance would
10 permit that application.

11 MAYOR DERMER: Yeah, just to spell
12 it out for those in the audience, it would
13 only prohibit Joe's in a residential zoning
14 district, not in a commercial zoning
15 district.

16 CARTER: That's right, I understand
17 that.

18 MAYOR DERMER: Okay.

19 CARTER: I really didn't think that
20 it (Inaudible.)

21 MAYOR DERMER: Okay. Anything else,
22 Carter?

23 CARTER: I guess the point here, and
24 just an odd-off-the-wall suggestion.

25 MAYOR DERMER: Sure. You're in the

1 right place.

2 CARTER: Obviously -- obviously
3 they're been an awful lot of complaints
4 about noise, and most of it has emanated
5 from Opium, and the neighborhood is upset
6 about it, and the neighborhood has raised
7 hell about it. Why doesn't the
8 neighborhood think about getting together
9 and maybe raising some funds to sit down
10 with Opium and build a roof over it,
11 because that is a practical solution that
12 would work, and I'm not saying that there
13 should be a shared --

14 MAYOR DERMER: Next.

15 CARTER: -- Opium -- good-bye.

16 MAYOR DERMER: All right. Okay.
17 We're going to have a motion -- a motion to
18 close the public hearing.

19 MS. RUBINSON: Mayor Dermer,
20 I apologize, we've never met or I've not
21 been before this board. I've signed in
22 with Mr. Del Vecchio and everyone, I've
23 been here since two o'clock. I need two or
24 three minutes.

25 MAYOR DERMER: There's something

1 that hasn't been said you need to say.

2 MS. RUBINSON: Actually, I wrote it,
3 so I don't think it's been said, so I would
4 like to --

5 THE CLERK: Excuse me, your name.

6 MS. RUBINSON: My name is Jamie
7 Rubinson, I live at 40 Star Island, Miami
8 Beach, Florida, 3313 (Inaudible.)

9 MAYOR DERMER: Okay. Welcome
10 Jeanie.

11 MS. RUBINSON: Jamie.

12 MAYOR DERMER: Jamie, excuse me.

13 MS. RUBINSON: I have been involved,
14 I know some of you up there, I have real
15 estate commercial, residential, I'm an
16 attorney, I'm a real estate agent for over
17 12 years, and I am responsible for getting
18 over a thousand people to write the city
19 objecting to any future legislation
20 ordinances or laws governing what we have
21 now are existing uses.

22 Mr. Gross has had real estate
23 holdings on the beach for many years, and
24 our concern is not Opium, it's not Monty's,
25 it's the fact that people come here,

1 whether you buy a condominium, a commercial
2 property, you're a landlord, or you're a
3 tenant and you believe in a bundle of
4 rights. I spend my time in the city here
5 every single day. I run around and
6 I build, permit, do everything.

7 I have the experience that perhaps
8 you guys do not. There are a couple of
9 things that were brought up about
10 neighborhood impact establishments, we're
11 talking about occupancy laws.

12 What you start to do and what you
13 ultimately wind up with as your occupancy
14 load, this legislation and the planning
15 board ordinance that's happening on June
16 25th, everything is a direct relationship
17 to your occupancy load. The City of Miami
18 Beach determines that. Okay? You go, you
19 build, you invest, then you go to fire,
20 then they decide you have 299 people, you
21 have 301 people, you have 199 people.

22 We object, and people object to the
23 fact that we come here, and we invest, and
24 my family moved here in 1947, and you have
25 got to know what you have, and we are

1 concerned. It's not about the present uses
2 that we do have, we are concerned about the
3 fact that we are rushing. There's no
4 question that we need to all work together,
5 and there's no question that people need to
6 operate responsibly, but people need to
7 have the opportunity to come and rejuvenate
8 Miami Beach with their own dream like Mark
9 Soyka did with News Cafe, and the kosher
10 restaurant that became The Strand that
11 became The Living Room.

12 I mean, Mr. Dermer is looking at me
13 very funny. I don't know if people --

14 MAYOR DERMER: No, I'm sorry, it's
15 the hour of the day.

16 MS. RUBINSON: I don't know if you
17 understand what happens. I go --

18 MAYOR DERMER: What about this
19 ordinance, Jamie, do you have objection to?

20 MS. RUBINSON: What I object to,
21 actually, there was an attorney here
22 speaking on behalf of the Savoy and who
23 suggested the 50-room limit as opposed to
24 the 250-room limit. Yeah, I actually agree
25 with him 100 percent. The point is 250 is

1 arbitrary and pointless. It effectively
2 eliminates everything because there is no
3 place south of 5th or south of 6th that
4 will ever have more than 250 rooms. It's
5 not possible with current FAR's and all
6 that other stuff. So 250 is completely
7 useless.

8 COMMISSIONER GROSS: Jamie,
9 it didn't eliminate everything, it allows
10 up to 299 people in a restaurant.

11 MS. RUBINSON: But who are you to
12 decide when I invest \$3 million how many
13 people I can have if fire says I can have
14 more.

15 COMMISSIONER GROSS: Before you
16 invest, you draw a set of plans, you go to
17 the fire department, and they will give you
18 an occupancy load.

19 MS. RUBINSON: I have sat -- I have
20 hired licensed architects on more than one
21 project, had them reviewed, had them
22 reviewed again, and those plans, there's a
23 standard -- there's a standard number for a
24 certain square foot of standing room and
25 seating room.

1 We all have computers now-a-days,
2 it's very standard, you highlight it,
3 it comes up, it spits it out. Believe
4 it or not, there's stuff that perhaps you
5 haven't done. There's convergence loads,
6 there's multiple stair (Inaudible.)

7 MAYOR DERMER: Jamie, what does that
8 have to do with the question?

9 MS. RUBINSON: No, the point of the
10 matter is I've had architects calculate
11 1,200 people and come out with 700 people,
12 and I've had architects calculate 300
13 people and come out with 212 people. So
14 you do not know, you start building --
15 you're occupancy load does not get approved
16 until it is time for your certificate of
17 occupancy. It does not get approved the
18 day you pull your permit.

19 MAYOR DERMER: Okay. We're
20 running -- you're running over. I gave you
21 the time that you requested.

22 MS. RUBINSON: Okay. That's fine.

23 MAYOR DERMER: I appreciate your
24 comments very much.

25 MS. RUBINSON: These are for you.

1 MAYOR DERMER: Okay. Thank you very
2 much for coming in. Motion to close the
3 public hearing? Motion, motion, motion?

4 COMMISSIONER GROSS: I'll move it,
5 yeah.

6 MAYOR DERMER: Okay. Motion --

7 COMMISSIONER CRUZ: What are you
8 moving?

9 COMMISSIONER GROSS: Public hearing,
10 we're closing the public hearing, that's
11 very controversial.

12 COMMISSIONER CRUZ: Okay.

13 COMMISSIONER GROSS: I'll move the
14 ordinance as adopted by the planning board.

15 MAYOR DERMER: Motion by Gross,
16 second by Bower. Any further discussion?

17 COMMISSIONER STEINBERG: I have some
18 comments.

19 MAYOR DERMER: Go ahead.

20 COMMISSIONER STEINBERG: First,
21 I want to read a portion of a letter from
22 the chamber of commerce that was circulated
23 to us today since no one from the chamber
24 read it. This is from the executive
25 committee. It says, "Recognizing the

1 sensitivity and urgency of both the
2 residential and business communities all
3 propose legislation to address noise
4 complaints should be taken in total and not
5 individually. The response to the issue
6 should be comprehensive prior to adopting
7 any legislation. An overall examination of
8 the matter should be obtained."

9 You know, we earlier today decided
10 we're going to have a workshop to deal with
11 these type of issues, to deal with the
12 noise issue. I don't understand what the
13 rush is to get this done. There's nothing
14 that I know of that is slated right now
15 that is going to be stopped by this.
16 It doesn't affect anyone that's already in
17 business. It's looking prospectively.

18 What we're doing here is piecemeal,
19 and, frankly, you know, as has been raised
20 by the nightlife industry, they're
21 concerned because they feel, you know, back
22 to the my mayor's comment at a prior
23 meeting on the salami, that this is a
24 salami issue, and we're cutting the salami
25 down and cutting the salami down.

1 MAYOR DERMER: That comment didn't
2 go over too well, actually, so.

3 COMMISSIONER STEINBERG: And then
4 eventually the nightlife industry --

5 UNIDENTIFIED SPEAKER: (Inaudible.)

6 MAYOR DERMER: Anyway, we'll keep on
7 moving. Okay.

8 COMMISSIONER STEINBERG: -- that the
9 nightlife industry is going to be hurt.
10 There clearly is a perception out there
11 that the City of Miami Beach is turning
12 against nightlife, and we need to make sure
13 that that is not the message we are
14 sending, especially when the concerns that
15 are being raised by the community are not
16 going to be addressed by this ordinance.

17 This ordinance is not going to do
18 anything to address the concerns that
19 originally brought the people here.
20 They're still going to have the noise
21 whether or not this ordinance is there or
22 they won't have it depending on how
23 we enforce the laws. The real --

24 MAYOR DERMER: Let me ask, your
25 suggestion of a workshop or including this

1 in the coming workshop, if we pass it on
2 first reading and then this becomes an
3 issue for discussion on workshop, maybe
4 that would be the most economical thing to
5 do for our time and everyone's time. I'm
6 just throwing that out as a suggestion.

7 VICE MAYOR GARCIA: That -- if --
8 if -- I'll -- if you want me, I'm make the
9 motion. Do you want to -- do you want to
10 pass --

11 MAYOR DERMER: Well, we have a
12 motion on the floor now. We would have --

13 VICE MAYOR GARCIA: Well, you know,
14 we can have -- we have an amendment, too.

15 COMMISSIONER STEINBERG: I think
16 I have the floor.

17 VICE MAYOR GARCIA: Well, I'm sorry,
18 I --

19 MAYOR DERMER: If you would like to
20 make -- if anybody wants to amend, that's
21 fine.

22 VICE MAYOR GARCIA: I'm sorry,
23 excuse me, Commissioner Steinberg,
24 I thought you had finished over there.

25 COMMISSIONER STEINBERG: No, I'm not

1 done yet. I also want to highlight from a
2 memo from the manager from May 9th, the
3 clean sweep operations that started on
4 April 16th. Within the first three weeks
5 383 arrests were made. 30 -- 13 were for
6 excessive noise, 13 for urination or
7 defecation in public, 79 for open
8 containers, and 80 for prostitution.

9 The city has started addressing the
10 concerns. The residents came to this
11 commission very concerned about problems,
12 specific problem, noise, urination,
13 prostitution, the city is taking steps.
14 The city has gone after RDA funding
15 specifically for South Pointe to make sure
16 that we can have greater police presence to
17 help enforce these quality of life issues.

18 This is not a matter of new
19 legislation. The laws that are on the
20 books today, the county's noise ordinance,
21 will adequately deal with this, and the
22 city has stepped up the enforcement of that
23 ordinance to make sure that it does.

24 Another thing on the agenda today
25 that we added as an emergency item is

1 something -- there's a rumor going around
2 that all of a sudden someone's trying to
3 weaken the county's noise ordinance, and
4 I'm asking this commission to state its
5 position that we are in favor of the county
6 keeping the current noise ordinance to make
7 sure that the resident's interest and the
8 business interests can be balanced, because
9 the reality is if there's an outdoor
10 establishment and they can exist in a way
11 that doesn't disturb the residents, then
12 why not let them exist?

13 The reality is when they cross that
14 line, the law should come down on them, and
15 should be -- they should be dealt with
16 appropriately, but if they're able to
17 operate in a way that does not offend the
18 county ordinance, I don't see a problem,
19 personally. For that reason (Inaudible.)

20 MAYOR DERMER: Let me ask -- let us
21 just get some perspective. We'll call on
22 you commissioner. I just want to -- I just
23 want to review where we're at right now.
24 We have a motion and a second on the
25 ordinance.

1 COMMISSIONER GROSS: But as approved
2 by the planning board.

3 MAYOR DERMER: As approved by the
4 planning board. Commissioner Garcia.

5 COMMISSIONER GROSS: With the 250.

6 VICE MAYOR GARCIA: What I -- what
7 I would suggest, and maybe we can cut the
8 chatter, too, let's pass the -- the
9 ordinance assistance with the -- everything
10 except the min -- the 250 thing, the 250
11 room. That we can discuss at a later date.
12 We will have a first reading right now,
13 we will approve part of the ordinance as
14 far as the moratorium on new
15 establishments.

16 That would -- that would help the
17 residents where no new businesses would be
18 planned with that area, number one.
19 It wouldn't hurt existing businesses
20 because they're grandfathered in, number
21 two. Number three, the -- the issue as far
22 as the -- that Mr. Bercow exposed,
23 we could -- we could discuss it at the
24 workshop. Would that be a compromise that
25 would be --

1 MAYOR DERMER: Well, what we have is
2 already an -- Commissioner Gross's motion
3 is the original planning board.

4 COMMISSIONER GROSS: And what you're
5 suggesting is the same thing, because
6 if we're silent --

7 VICE MAYOR GARCIA: No --

8 COMMISSIONER GROSS: Let me finish.
9 If you -- if we're silent on the issue of
10 the conditional use for the neighborhood
11 impact establishment, what is current law
12 would govern, and the current law is 250
13 rooms or more.

14 VICE MAYOR GARCIA: With the
15 caveat -- okay. Excuse me, I'm not an
16 attorney, but what I'm trying to -- maybe
17 I didn't express myself well. With the
18 caveat that the -- the issue of the -- of
19 the -- lowering the -- the requirement of
20 rooms to be discussed at the workshop, with
21 view with that in the future might change.
22 Would that be a compromise?

23 COMMISSIONER BOWER: But that could
24 be a second motion that you could --

25 COMMISSIONER GROSS: That could be a

1 second motion.

2 VICE MAYOR GARCIA: Maria, Maria,
3 I'm trying to work out a compromise. Right
4 now. We have been at it for the best part
5 of four hours, and, you know --

6 COMMISSIONER BOWER: I'm just --

7 COMMISSIONER GROSS: Clearly, no
8 one -- I don't think anyone on the
9 commission is prepared to amend that
10 provision without it going to the planning
11 board, so --

12 COMMISSIONER CRUZ: I don't -- I
13 don't think anybody on the commission
14 really has any --

15 COMMISSIONER GROSS: And I'm not --

16 COMMISSIONER CRUZ: -- any problems
17 with the outdoor entertainment
18 establishment being prohibited regardless
19 of what any workshop has to say --

20 COMMISSIONER GROSS: Exactly.

21 COMMISSIONER CRUZ: -- or anything
22 else.

23 COMMISSIONER GROSS: All right.

24 COMMISSIONER CRUZ: I think
25 that's -- that's -- I think we've heard

1 loud and clear from everyone that that is
2 something that (Inaudible.)

3 COMMISSIONER GROSS: That we want to
4 do, and I think to address
5 commissioner's --

6 COMMISSIONER CRUZ: Are you ready to
7 call the question on your motion?

8 COMMISSIONER GROSS: Yeah, but
9 I just want to address Commissioner
10 Steinberg's comment, because right now
11 people are relegated to the conditional use
12 process, and I think what we're saying is
13 that the conditional use process is broken
14 in South Pointe, that people can get
15 permits from the planning board to do
16 certain things, and what we find is that
17 it morphs into something else, it becomes a
18 huge enforcement problem, and we have to
19 dedicate police resources to it, and it's
20 not fair to the business, because there's
21 an uncertainty about what they can and
22 can't do.

23 What we're doing today is sending a
24 clear message, and we're saying to them,
25 if you want to have outdoor entertainment,

1 do it in a district other than South
2 Pointe. There are other places that you
3 can do it, just don't do it in South
4 Pointe.

5 COMMISSIONER CRUZ: But if the
6 conditional use process isn't working, why
7 don't we address that and fix that as
8 opposed to putting a Band-Aid on one area
9 of the city and still having the problem
10 (Inaudible.)

11 COMMISSIONER GROSS: I think at the
12 workshop that is what we're going to do.
13 I think the objective would be to
14 establish --

15 COMMISSIONER CRUZ: All right. So
16 if that -- if that's the problem and we're
17 addressing another means to fix it, then
18 this is not necessary.

19 COMMISSIONER GROSS: No, it is
20 necessary, because everyone has agreed upon
21 it, and it solves a problem that we have
22 now, and what we're going to do in other
23 areas of the city we'll work out in the
24 workshop. I call the question.

25 MAYOR DERMER: All right. We have

1 a --

2 VICE MAYOR GARCIA: How about can
3 I -- can I --

4 MAYOR DERMER: (Inaudible)
5 amendment?

6 VICE MAYOR GARCIA: Well, maybe --
7 maybe not to bring this back for a second
8 reading until the time that the workshop
9 has been concluded.

10 MAYOR DERMER: I don't -- I don't --
11 you see, I -- I'll speak to that.
12 Basically, I --

13 VICE MAYOR GARCIA: No, I'm asking
14 you. Like I said, I'm not an attorney, I'm
15 just looking for (Inaudible.)

16 MAYOR DERMER: I'll speak to that
17 and state my opinion.

18 COMMISSIONER GROSS: Well,
19 Mr. Mayor, as a matter of procedure, let's
20 see if there's a second to the proposed
21 amendment.

22 MAYOR DERMER: Okay.

23 COMMISSIONER GROSS: To his
24 proposed.

25 MAYOR DERMER: Is there -- as an

1 amendment, that's correct, as an amendment,
2 is there a second to Commissioner Garcia?

3 All right. Hearing none, amendment
4 dies. Back to the original motion.

5 COMMISSIONER GROSS: Okay. I'll
6 call the question.

7 MAYOR DERMER: And there is a
8 second, calling the question. Very good.
9 Let us -- any other comment?

10 COMMISSIONER CRUZ: Yeah, I just
11 want to make one last comment, and that is
12 I want to again address what Commissioner
13 Gross has stated and so everyone
14 understands that what we're doing is not
15 going to effect any business that is
16 already in place.

17 Those businesses will continue to be
18 guided by their underlying zoning and
19 whatever regulations, whether it be Dade
20 County noise or anything else. What we're
21 doing here is prospectively putting in
22 legislation so that the issues that have
23 arisen, now we have it contained.

24 We know what we're dealing with, the
25 number of people, and hopefully we've seen

1 people emerge here from both sides of the
2 equation, from the residential side and
3 from the nightlife industry side, I think
4 it would behoove them not to get together.
5 You've now identified each other, get
6 together and come out to a working
7 situation between you so it doesn't have to
8 end up in front of us as an arbiter of
9 something that would only create more
10 legislation.

11 It's a reality, we have residents
12 there, we have nightlife industry in the
13 area. Try to get together and work
14 something and establishes -- establish your
15 own lines of communication so that the
16 problems can be resolved before they can
17 get to a crisis situation.

18 That is the way that community down
19 there is going to thrive. We don't want to
20 put anyone out of business, and we
21 hopefully want our residents to be able to
22 get some sleep. So if you work at it
23 together and you have -- and you yourselves
24 can identify who you can speak to, who is
25 someone that is rational, take that step,

1 and if you need help from any one of us to
2 intermediate and whatnot, we'd be more than
3 happy to, but it's a community issue. Try
4 to work it out.

5 I think we're onto something good.
6 This is a tremendous city we have going
7 here where all of a sudden, you know,
8 we have investment from the residential
9 side, we have the business side continuing
10 to want to come here, and we'll address the
11 side of hopefully making it easier for
12 everyone to live and work here and set the
13 ground rules and police and clean up and
14 make it easier to get your building permits
15 and the like, and we'll be here to do that.

16 But try to work out the differences
17 that exist. Get together, work them out,
18 and hopefully we can stay out of this sort
19 of arena for a while.

20 MAYOR DERMER: Let's call the
21 question, call the roll, please.

22 THE CLERK: Commissioner Cruz?

23 COMMISSIONER CRUZ: Yes.

24 THE CLERK: Commissioner Gross?

25 COMMISSIONER GROSS: Yes.

1 THE CLERK: Commissioner Bower?

2 COMMISSIONER BOWER: Yes.

3 THE CLERK: Commissioner Steinberg?

4 COMMISSIONER STEINBERG: No.

5 THE CLERK: Commissioner Smith?

6 COMMISSIONER SMITH: Yes.

7 THE CLERK: Vice Mayor Garcia?

8 VICE MAYOR GARCIA: Yes.

9 THE CLERK: Mayor Dermer?

10 MAYOR DERMER: Yes.

11 THE CLERK: 6 in favor, 1 against,
12 the motion carries. The second reading and
13 second public hearing is scheduled for June
14 11th.

15 MAYOR DERMER: Thank you very much
16 for coming down. If you folks can please
17 try an exit as quietly as possible.
18 We thank you very much for your patience.
19 Thank you. Thank you, folks.

20 (End of recording.)

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CERTIFICATE

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- - -

I, Matthew J. Haas, Court Reporter and
Transcriptionist, do hereby certify that I was
authorized to and did listen to and
stenographically transcribe the foregoing
recorded proceedings and that the transcript is a
true record to the best of my professional
ability.

Dated this 22nd day of January,
2017.



MATTHEW J. HAAS
Court reporter

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS", DIVISION 5, CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT, SECTION 142-302, "MAIN PERMITTED USES"; DIVISION 11, I-1 LIGHT INDUSTRIAL DISTRICT, SECTION 142-485, "PROHIBITED USES"; AND DIVISION 18, "PS PERFORMANCE STANDARD DISTRICT," SECTION 142-693 "PERMITTED USES", BY ELIMINATING DANCE HALLS AND ENTERTAINMENT ESTABLISHMENTS ALSO OPERATING AS ALCOHOLIC BEVERAGE ESTABLISHMENTS AND RESTAURANTS WITH FULL KITCHENS AND SERVING FULL MEALS AS PERMITTED USES IN CERTAIN AREAS OF THE CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT, THE I-1 LIGHT INDUSTRIAL DISTRICT, AND THE PS PERFORMANCE STANDARD DISTRICT; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach Land Development Regulations contain regulations limiting dance halls and entertainment establishments from certain specified areas; and

WHEREAS, that prohibition on dance halls and entertainment establishments in those specified areas is based upon the impacts that said establishments have upon the surrounding, primarily residential, neighborhoods; and

WHEREAS, the Planning Board has found that restaurants located within those specified areas where the regulations prohibit stand-alone dance halls and/or entertainment establishments tend to have similar negative impacts on the surrounding residential neighborhoods; and

WHEREAS, the Planning Board, at its meeting of October 28, 2003, requested that a proposed amendment to the Land Development Regulations be initiated, addressing dance halls and/or entertainment establishments that operate within restaurants in areas where stand-alone dance halls and/or entertainment establishments would not otherwise be permitted; and

WHEREAS, this proposed amendment accomplishes the above purpose by prohibiting dance halls and entertainment establishments in such areas, by deleting the exclusion for those establishments also operating as full restaurants serving full meals;

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," Section 142-302, "Main Permitted Uses", of the Land Development Regulations, is hereby amended to read as follows:

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; and uses that serve alcoholic beverages as listed in article V, division 4 of this chapter (alcoholic beverages). Bars, dance halls, or entertainment establishments (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 establishment~~ are prohibited on properties generally bounded by Purdy Avenue on the west, 20th Street on the north, Alton Road on the east and Dade Boulevard on the south.

* * *

SECTION 2. That, Chapter 142, "Zoning Districts and Regulations," Article II, "District Regulations," Division 11, "I-1 Light Industrial District," Section 142-485, "Prohibited Uses", of the Land Development Regulations, is hereby amended to read as follows:

DIVISION 11. I-1 LIGHT INDUSTRIAL DISTRICT

* * *

Sec. 142-485. Prohibited uses.

The prohibited uses in the I-1 light industrial district are accessory outdoor bar counters, bars, dance halls, or entertainment establishments (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 establishment.~~

* * *

SECTION 3. That, Chapter 142, "Zoning Districts and Regulations," Article II, "District Regulations," Division 18, "PS Performance Standard District," Section 142-693, "Permitted Uses", of the Land Development Regulations, is hereby amended to read as follows:

DIVISION 18. PS PERFORMANCE STANDARD DISTRICT

* * *

Sec. 142-693. Permitted uses.

* * *

- (c) For purposes of this section, pawnshops and dance halls and entertainment establishments ~~not also operating as alcoholic beverage establishments and restaurants with full kitchens and serving full meals~~ are not permitted as a main permitted or accessory use ~~in the redevelopment area~~ south of Fifth Street;

however, in the C-PS3 and C-PS4 districts dance halls and entertainment establishments shall be permitted as an accessory use within a hotel of 250 rooms or more with access to the dance hall or entertainment establishment only from the interior lobby and not from the street.

* * *

SECTION 4. REPEALER

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

SECTION 5. SEVERABILITY

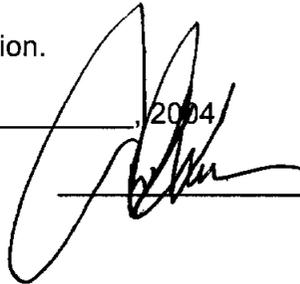
If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

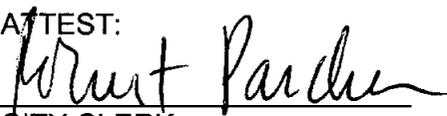
SECTION 6. CODIFICATION

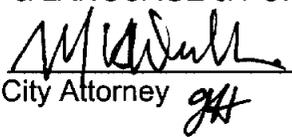
It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the Code of the City of Miami Beach, Florida. The sections of this Ordinance may be renumbered or relettered to accomplish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

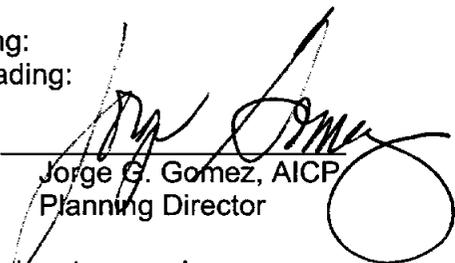
SECTION 7. EFFECTIVE DATE

This Ordinance shall take effect ten days following adoption.

PASSED AND ADOPTED this 5th day of May, 2004

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM
& LANGUAGE & FOR EXECUTION
 3-31-04
City Attorney Date

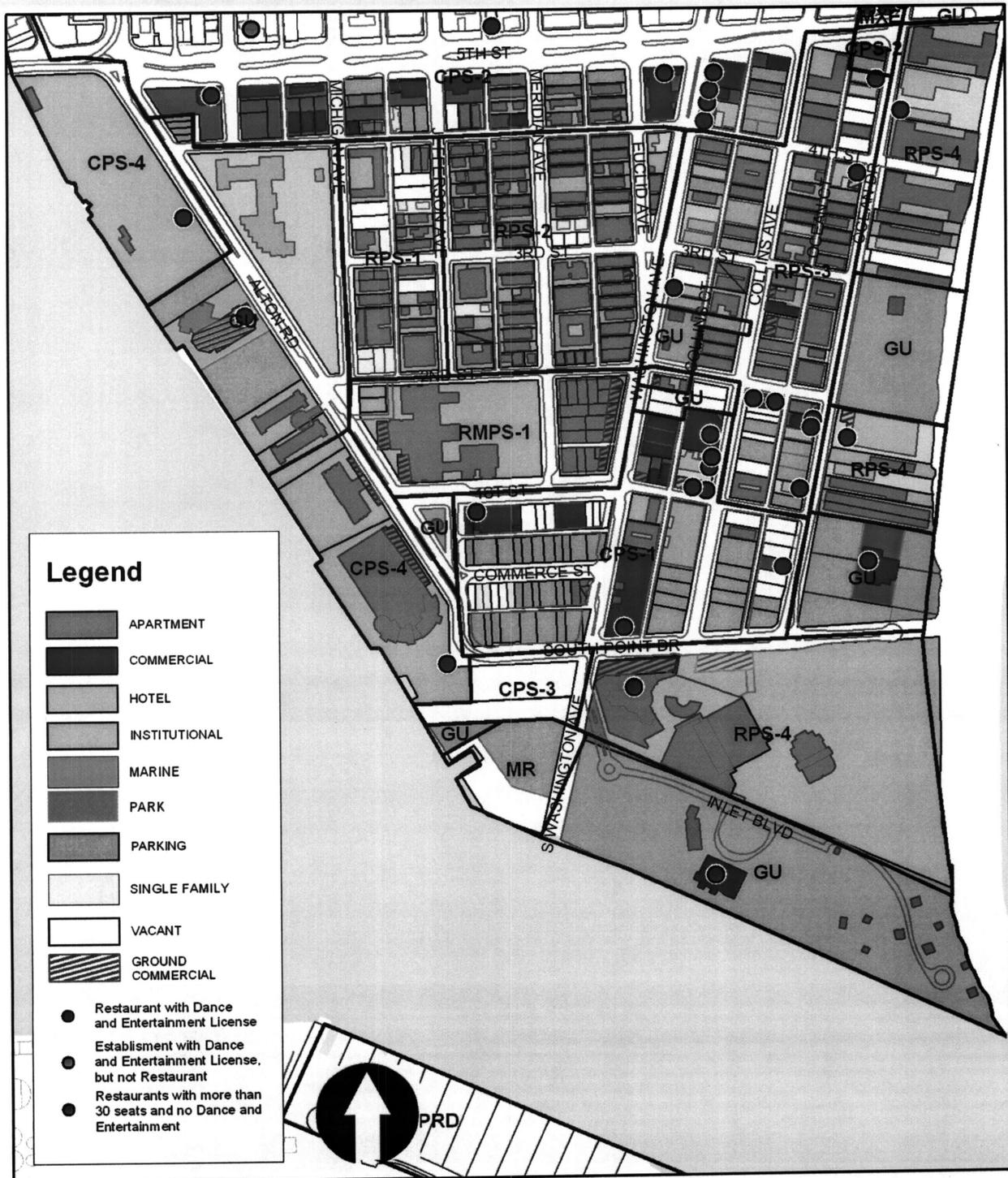
First Reading:
Second Reading:
Verified by: 
Jorge G. Gomez, AICP
Planning Director

Underscore denotes new language
~~Strikethrough~~ denotes deleted language
F:\PLAN\PLB\draft ordinances\2004\1651 - ord nightclubs also operating as restaurants.doc

LAND USE SURVEY

South Point

Prepared March 25 2004, by the City of Miami Beach Planning Department



Restaurants and Bars in South Point Area

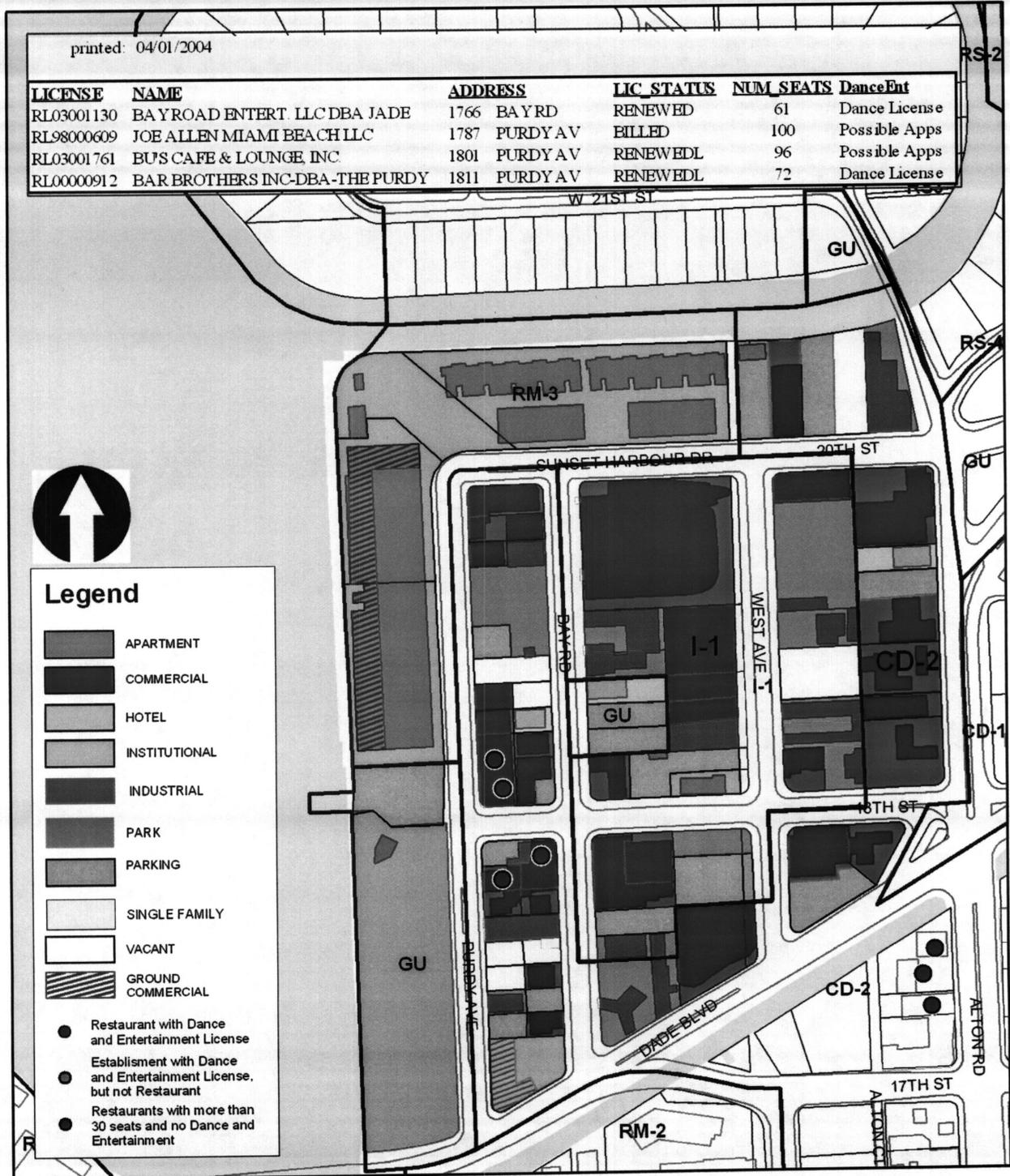
03/31/2004

LICENSE #	NAME	ADDRESS	LIC_STATUS	# of seats	DanceEnt
RL03002074	KOMAR INVESTMENTS INC	161 OCEAN DR	NEW	28	
RL95202943	BEACH MARKET	247 COLLINS AV	RENEWEDL	0	
RL00000905	NEAM'S GOURMENT.	300 ALTON RD	RENEWEDL	1	
RL03001640	d/b/a SUNSHINE & AJ FOOD WITH	747 4TH ST	RENEWED	9	
RL88120595	PENROD'S BEACH CLUB	1 OCEAN DR	RENEWED	300	Dance License
RL01000625	136 Collins Av LC-dba-Opium Ga	136 COLLINS AV	RENEWED	225	Dance License
RL03001232	PURE LOUNGE HOLDINGS LLC	150 OCEAN DR	RENEWED	60	Dance License
RL95213664	MONTY'S ON THE BEACH, LTD.	300 ALTON RD	RENEWEDL	700	Dance License
RL03001562	TAVERNA OPA OF SOUTH BEACH	36 OCEAN DR	RENEWEDL	199	Dance License
RL03001213	CLUB IBIZA INC DBA HARRISON'S	411 WASHINGTON AV	RENEWED	100	Dance License
RL00000422	L'ENTRECOTE DE PARIS	419 WASHINGTON AV	BILLED	49	Dance License
RL98000377	SMITH & WOLLENSKY	1 WASHINGTON AV	RENEWED	600	Possible Apps
RL95202596	NEMO	100 COLLINS AV	RENEWEDL	145	Possible Apps
RL01001078	SHOJI SUSHI	100 COLLINS AV	RENEWEDL	72	Possible Apps
RL03001173	THE ROOM, INC.	100 COLLINS AV	RENEWEDL	30	Possible Apps
RL02002438	LA PIAGGIA INC DBA LA PIAGGA B	1000 SOUTH POINTE	RENEWEDL	114	Possible Apps
RL96222191	GALBEN GROUP, INC. D/B/A BURGE	1100 5TH ST	RENEWEDL	70	Possible Apps
RL04002493	PRIME 112 , LLC	112 OCEAN DR	NEW	80	Possible Apps
RL98000961	SO FI HIDEAWAY	124 2ND ST	RENEWED	30	Possible Apps
RL03000872	LA FACTORIA, LLC	124 COLLINS AV	RENEWEDL	90	Possible Apps
RL03001060	d/b/a PURE LOUNGE/ JOIA RESTA	150 OCEAN DR	RENEWED	60	Possible Apps
RL96226730	BIG PINK	157 COLLINS AV	RENEWEDL	225	Possible Apps
RL01000072	MIAMI BEACH MARRIOTT @ SOUTH	161 OCEAN DR	RENEWEDL	160	Possible Apps
RL84001376	JOE'S STONE CRABS INC	227 BISCAYNE ST	RENEWEDL	512	Possible Apps
RL98000595	ODYSSEY	235 WASHINGTON AV	RENEWEDL	60	Possible Apps
RL99000874	GREEN COMET D/B/A THE WAVE	350 OCEAN DR	RENEWEDL	32	Possible Apps
RL04002103	M.G. GRANDE CORP	400 ALTON RD	APP-PEND	48	Possible Apps
RL95209553	CHINA GRILL SOBE INC.	404 WASHINGTON AV	RENEWEDL	486	Possible Apps
RL03001265	LA LOCANDA	413 WASHINGTON AV	RENEWEDL	30	Possible Apps
RL02002023	ARDEN SAVOY PARTNERS, LLC	425 OCEAN DR	RENEWED	200	Possible Apps
RL98000733	C6-431 PARTNERS, INC. DBA TUSC	433 WASHINGTON AV	RENEWEDL	123	Possible Apps
RL02001158	OCEAN FIVE BISTRO, LLC	444 OCEAN DR	RENEWEDL	70	Possible Apps
RL03001421	FLUTE CHAMPAGNE LOUNGE	500 SOUTH POINTE	RENEWED	60	Possible Apps
RL02001369	d/b/a OASIS	840 1ST ST	RENEWED	60	Possible Apps

LAND USE SURVEY

Industrial District

Prepared March 25 2004, by the City of Miami Beach Planning Department



**CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY**



Condensed Title:

An Ordinance of the Mayor and City Commission of the City Of Miami Beach, Florida, amending the Chapter 142, "Zoning Districts and Regulations," Article II, "District Regulations", Division 5, CD-2 Commercial, Medium Intensity District, Section 142-302, "Main Permitted Uses"; Division 11, I-1 Light Industrial District, Section 142-485, "Prohibited Uses"; and Division 18, "PS Performance Standard District," Section 142-693 "Permitted Uses", by eliminating the exception for dance halls and entertainment establishments that also operate as alcoholic beverage establishments and restaurants with full kitchens as permitted uses in certain areas of the CD-2 Commercial, Medium Intensity District, the I-1 Light Industrial District, and the PS Performance Standard District.

Issue:

Currently the Land Development Regulations of the Miami Beach City Code prohibit "stand-alone" nightclubs in a few selected areas of the City where other commercial establishments would normally be permitted. This regulation had been in place for several years, in the case of the Redevelopment Area south of Fifth Street and the I-1 Light Industrial district in the Sunset Harbour and the CD-2 overlay area that surrounds this district. The Land Development Regulations also contain an exception to this prohibition for establishments that are licensed as restaurants with a full kitchen serving full meals.

Under current regulations the existing establishments with restaurant and entertainment/dancing licenses would be allowed to continue in operation, or be "grandfathered-in" according to the nonconforming provisions of the City Code. The proposed ordinance limits new applications for dance hall and/or entertainment licenses from being approved in the specified areas. The Administration believes that at the very least, the proposed ordinance must be acted upon in order to limit the impact of the restaurant exclusion, as the potential for all existing restaurants to add the entertainment component to the license is great.

Item Summary/Recommendation:

The proposed ordinance will eliminate the exception in those districts that do not permit dance halls. Existing establishments that currently have restaurants licenses with the dance/entertainment component will become legal nonconforming uses and may continue to operate in such fashion.

The Administration recommends that the City Commission adopt the ordinance.

Advisory Board Recommendation:

At the February 24, 2004 meeting of the Planning Board, a motion was made and seconded recommending that the City Commission approve the proposed ordinance. The vote was 5-0 (two members absent)

Financial Information:

Source of Funds:	Amount	Account	Approved
<input type="checkbox"/>	1		
<input type="checkbox"/>	2		
<input type="checkbox"/>	3		
<input type="checkbox"/>	4		
Finance Dept.	Total		

City Clerk's Office Legislative Tracking:

Mercy Lamazares / Jorge G. Gomez

Sign-Offs:

Department Director	Assistant City Manager	City Manager

T:\AGENDA\2004\May0504\Regular\1651 - eliminating dance halls in certain districts 5-5 sum.doc

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: May 5, 2004

From: Jorge M. Gonzalez
City Manager

A handwritten signature of Jorge M. Gonzalez in black ink.

Second Reading Public Hearing

Subject: Eliminating dance halls & entertainment establishments in certain districts

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS", DIVISION 5, CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT, SECTION 142-302, "MAIN PERMITTED USES"; DIVISION 11, I-1 LIGHT INDUSTRIAL DISTRICT, SECTION 142-485, "PROHIBITED USES"; AND DIVISION 18, "PS PERFORMANCE STANDARD DISTRICT," SECTION 142-693 "PERMITTED USES", BY ELIMINATING DANCE HALLS AND ENTERTAINMENT ESTABLISHMENTS ALSO OPERATING AS ALCOHOLIC BEVERAGE ESTABLISHMENTS AND RESTAURANTS WITH FULL KITCHENS AND SERVING FULL MEALS AS PERMITTED USES IN CERTAIN AREAS OF THE CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT, THE I-1 LIGHT INDUSTRIAL DISTRICT, AND THE PS PERFORMANCE STANDARD DISTRICT; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

ADMINISTRATION RECOMMENDATION

The Administration recommends that the Commission adopt the ordinance.

BACKGROUND AND ANALYSIS

Currently the Land Development Regulations of the Miami Beach City Code prohibit "stand-alone" nightclubs in a few selected areas of the City where other commercial establishments would normally be permitted. In the case of the Redevelopment Area(RDA) south of Fifth Street, this regulation was adopted in 1994, when "nightclubs" were added to the list of prohibited uses in CPS districts. This regulation was enacted to protect the adjacent residential neighborhoods from the negative impacts such as unwanted noise, excessive traffic, difficulty finding parking, and issues associated with security, that could normally be associated with nightclub uses.

However, the Land Development Regulations contain an exception to this prohibition for establishments which are licensed as restaurants, which also contain nightclub

(dance hall and/or entertainment) uses. These establishments are permitted south of Fifth Street, as long as they also have a restaurant license and have a full kitchen serving full meals.

In the recent past, citizens who live in the areas in which stand-alone nightclubs are prohibited have complained that establishments which have restaurant licenses but also change into nightclub type operations later in the evening have just as much of a negative impact on the lives of nearby residents as do the stand-alone type of clubs. Responding to such concerns, the Planning Board, at its meeting of October 28, 2003, requested an amendment to the Land Development Regulations, addressing nightclubs which operate within restaurants in areas where stand-alone nightclubs would not otherwise be permitted.

Under current regulations the existing establishments that have restaurant and entertainment/dancing licenses would be allowed to continue operating as previously permitted under the City Code, subject to the provisions of Chapter 118, Article III, "Amendment Procedures," concerning non-conforming uses, and other applicable law. These non-conforming establishments include the likes of Monty's and Penrod's, as well as Opium. The proposed ordinance would only limit new applications for dance hall and/or entertainment licenses from being approved in the specified areas.

The attached map and list show that there are 34 restaurants and bars in the South Pointe area, south of 5th Street, of which 7 currently have the dance/entertainment module included, resulting in 27 establishments that potentially could obtain the dance/entertainment component added to their license should this proposed ordinance not be approved. The Sunset Harbor area (CD-2 and I-1 districts), is also affected by the proposed ordinance, although not to the same degree as the area south of 5th Street. As can be seen in the attached map of this area, there are 4 licensed establishments, of which 2 have the dance/entertainment module.

The Administration believes that at the very least, the proposed ordinance must be acted upon in order to limit the impact of the restaurant exclusion, as the potential for all existing restaurants to add the entertainment component to the license is great as explained in the paragraph above. Indeed, as of the writing of this report, three license applications to add entertainment modules to existing alcoholic beverage establishments have been received and turned down because of this proposed ordinance has created a zoning-in-progress.

The City Commission stated that the grandfathered status of existing establishments is a concern, and that there may be other means by which the impact could be diminished, such as limiting the hours of operation, amortizing uses, etc. To this end, these issues have been referred to the Planning Board for its consideration and recommendation.

PLANNING BOARD ACTION

At the February 24, 2004 meeting of the Planning Board, a motion was made and seconded recommending that the City Commission approve the proposed ordinance.

CITY COMMISSION ACTION

At the April 14, 2004 meeting, the Commission adopted the proposed ordinance on first reading public hearing. At that meeting the Commission also referred 4 items to the Planning Board for review and recommendation; these are:

- Hours of operation for restaurants, bars and clubs.
- Creating a cabaret district.
- Definition of "accessory use" as opposed to "main permitted use."
- Look at the businesses that would become legal non-conforming after the adoption of the proposed ordinance, and how they would be affected by the change of hours.

Commissioner Steinberg asked that the ordinance be reviewed so that legitimate businesses could operate with some form of entertainment, but at the same time making sure that the illegitimate ones causing the problems are stopped.

The Administration will analyze these issues and bring appropriate recommendation to the Planning Board for their consideration.

The Administration and the Legal Department discussed options for different modifications to the ordinance between first and second reading. The conclusion was that the entertainment provided in existing restaurants that have the proper license can continue, and that the current proposal will control future venues in these areas. The issue of entertainment is one that must be reviewed under a separate amendment with perhaps a more clear definition of the term "entertainment."

As a note of information, the term "entertainment" is currently defined in Section 142-1361 of the Code as follows:

Entertainment means any live show or live performance or music amplified or nonamplified. Exceptions: Indoor movie theater; big screen television **and/or background music, amplified or nonamplified, played at a volume that does not interfere with normal conversation. (Emphasis added)**

FISCAL IMPACT

As proposed, the ordinance will allow those businesses with a Dance License module to continue to operate as legal-non-conforming uses. Therefore one can argue that there should be minimal, if any, adverse fiscal impact to the current condition. However, closing the loophole will prevent further proliferation of establishments with

Dance Licenses, and this could affect future growth of resort tax collection in said areas. It can also be expected that if establishments such as these were to proliferate, there would be a corresponding increase in the levels of service the City would be required to provide which, of course, would mean increased expenditures by the City.

Of greater fiscal concern are the impacts which could arise from the decisions reached in considering the items referred to the Planning Board.

CONCLUSION

Pursuant to Section 118-164(2), in all cases in which the proposed amendment changes the actual list of permitted, conditional or prohibited uses within a zoning category, two advertised public hearings on the proposed ordinance are required, with at least one hearing held after 5:00 p.m. on a weekday.

The second public hearing shall be held at least ten days after the first hearing and shall be advertised at least five days prior to the public hearing. Immediately following the public hearing at the second reading, the City Commission may adopt the ordinance by an affirmative vote of five-sevenths of all members of the City Commission.

JMG/CMC/JGG/ML

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CITY OF MIAMI BEACH NOTICE OF PUBLIC HEARINGS



NOTICE IS HEREBY given that public hearings will be held by the Mayor and City Commission of the City of Miami Beach, Florida, in the Commission Chambers, 3rd floor, City Hall, 1700 Convention Center Drive, Miami Beach, Florida, on **Wednesday, May 5, 2004**, to consider the following:

at 10:15 a.m.:

An Ordinance Amending Ordinance No. 789, The Classified Employees Salary Ordinance Of The City Of Miami Beach, Florida, Providing For Those Classifications Represented By The Fraternal Order Of Police (FOP) In Accordance With The Negotiated Agreement A 3% Increase For All FOP Bargaining Unit Employees And An Increase Of 3% To The Minimum And Maximum Of The Salary Ranges Effective The Payroll Period Ending October 5, 2003, And Effective The Payroll Period Ending October 3, 2004; And A 3.5% Increase For All FOP Bargaining Unit Employees And An Increase Of 3.5% To The Minimum And Maximum Of The Salary Ranges Effective The Payroll Period Ending October 9, 2005; Repealing All Ordinances In Conflict; Providing For Severability; And Providing For An Effective Date, And Codification.

at 10:20 a.m.:

An Ordinance Amending Ordinance No. 789, The Classified Employees Salary Ordinance Of The City Of Miami Beach, Florida, Providing For Those Classifications Represented By The International Association Of Firefighters (IAFF) In Accordance With The Negotiated Agreement A 3% Increase For All IAFF Bargaining Unit Employees And An Increase Of 3% To The Minimum And Maximum Of The Salary Ranges Effective The Payroll Period Ending October 5, 2003, And Effective The Payroll Period Ending October 3, 2004; And A 3.5% Increase For All IAFF Bargaining Unit Employees And An Increase Of 3.5% To The Minimum And Maximum Of The Salary Ranges Effective The Payroll Period Ending October 9, 2005; Repealing All Ordinances In Conflict; Providing For Severability; And Providing For An Effective Date, And Codification.

at 10:25 a.m.:

An Ordinance Amending Ordinance No. 1605, The Unclassified Employees Salary Ordinance; Providing For A 3% Increase For All Unclassified Employees And A 3% Increase To The Minimum And The Maximum Of The Salary Ranges Effective May 3, 2004, And Effective The First Payroll Period Beginning On Or After May 1, 2005; A 3.5% Increase For All Unclassified Employees And A 3.5% Increase To The Minimum And The Maximum Of The Salary Ranges Effective The First Payroll Period Beginning On Or After May 1, 2006; And Providing For A Repealer, Severability, Effective Date, And Codification.

at 10:30 a.m.:

An Ordinance Amending Ordinance No. 789, The Classified Employees Salary Ordinance, For Classifications In Group VI, Being All Other Classifications In The Classified Service Not Covered By A Bargaining Unit; Providing For A 3% Increase For All Employees In Group VI, "Others," And A 3% Increase To The Minimum And The Maximum Of The Salary Ranges Effective May 3, 2004, And Effective The First Payroll Period Beginning On Or After May 1, 2005; A 3.5% Increase For All Employees In Group VI, "Others," And A 3.5% Increase To The Minimum And The Maximum Of The Salary Ranges Effective The First Payroll Period Beginning On Or After May 1, 2006; And Providing For A Repealer, Severability, Effective Date, And Codification.

Inquiries may be directed to the Human Resources at (305)673-7524.

at 5:15 p.m.:

An Ordinance Amending The Code Of The City Of Miami Beach, By Amending Chapter 142, "Zoning Districts And Regulations," Article II, "District Regulations," Division 5, CD-2 Commercial, Medium Intensity District, Section 142-302, "Main Permitted Uses" Division 11, I-1 Light Industrial District, Section 142-485, "Prohibited Uses" And Division 18, "PS Performance Standard District," Section 142-693 "Permitted Uses." By Eliminating Dance Halls And Entertainment Establishments Also Operating As Alcoholic Beverage Establishments And Restaurants With Full Kitchens And Serving Full Meals As Permitted Uses In Certain Areas Of The CD-2 Commercial, Medium Intensity District, The I-1 Light Industrial District, And The PS Performance Standard District; Providing For Repealer, Severability, Codification And An Effective Date.

Inquiries may be directed to the Planning Department at (305)673-7550.

INTERESTED PARTIES are invited to appear at this meeting, or be represented by an agent, or to express their views in writing addressed to the City Commission, c/o the City Clerk, 1700 Convention Center Drive, 1st Floor, City Hall, Miami Beach, Florida 33139. Copies of this ordinance are available for public inspection during normal business hours in the City Clerk's Office, 1700 Convention Center Drive, 1st Floor, City Hall, Miami Beach, Florida 33139. This meeting may be continued and under such circumstances additional legal notice would not be provided.

Robert E. Parcher, City Clerk
City of Miami Beach

Pursuant to Section 286.0105, Fla. Stat., the City hereby advises the public that: if a person decides to appeal any decision made by the City Commission with respect to any matter considered at its meeting or its hearing, such person must ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

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Ad #255

IN RE: CITY OF MIAMI BEACH COMMISSION MEETING

ITEM NO.: ITEM R5E PUBLIC HEARING

CITY OF MIAMI BEACH
COMMISSION MEETING

MAY 5, 2004

ITEM R5E PUBLIC HEARING

ELIMINATE DANCE HALLS/ENTERTAINMENT
ESTABLISHMENTS IN CERTAIN DISTRICTS

1 COMMISSION MEMBERS:

- 2 DAVID DERMER, MAYOR
- 3 SAUL GROSS, VICE MAYOR
- 4 SIMON CRUZ, COMMISSIONER
- 5 MATTI HERRERA BOWER, COMMISSIONER
- 6 LUIS R. GARCIA, JR., COMMISSIONER
- 7 JOSE SMITH, COMMISSIONER
- 8 RICHARD STEINBERG, COMMISSIONER

9

ALSO PRESENT:

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- 11 JORGE GONZALEZ, CITY MANAGER
- 12 MURRAY DUBBIN, CITY ATTORNEY
- 13 ROBERT E. PARCHER, CITY CLERK
- 14 JORGE GOMEZ, PLANNING DEPARTMENT

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1 (Thereupon:)

2 VICE MAYOR GROSS: Okay. Now we're
3 going to go to the 5:15 time certain, which
4 is the dance hall/entertainment
5 establishments in the South Pointe and in
6 the Sunset Harbor districts.

7 Mr. Manager, if you could introduce
8 the item to us, please.

9 THE CLERK: Yes.

10 VICE MAYOR GROSS: You want to read
11 the title.

12 THE CLERK: Yes, sir.

13 VICE MAYOR GROSS: Okay.

14 THE CLERK: An ordinance the Mayor
15 and the City Commission of the City of
16 Miami Beach, Florida (Inaudible) City of
17 Miami Beach, by amending Chapter 142,
18 zoning district and regulations, Article 2,
19 district regulations, Division 5 CD-2
20 commercial medium intensity districts;
21 Section 142-302, main permitted uses,
22 Division 11; I-1 like industrial divisions;
23 Section 142- 485, prohibited uses; and
24 Division 17, PS performance standard
25 district; Section 142-693, permitted uses.

1 By eliminating dance hall and
2 entertainment establishments also operating
3 as alcoholic beverage establishments and
4 restaurants with full kitchens and serving
5 full meals as permitted uses in certain
6 areas of the CD-2 commercial medium
7 intensity district, the I-1 light
8 industrial district, and the PS performance
9 standard district providing for appeal or
10 severability, codification, and an
11 effective date.

12 VICE MAYOR GROSS: Okay. Thank you,
13 Bob. Mr. Manager, maybe you can tell us in
14 plain English what we're doing today.

15 MR. GONZALEZ: I'll try it in
16 English, and then I'll ask Jorge Gomez to
17 fill in the details, but as you know, this
18 is second reading on an ordinance that came
19 before you at your last meeting, Mr. Vice
20 mayor, which contrary to a lot of perhaps
21 information that's been disseminated has
22 nothing to do with hours of operation,
23 it simply closes a loophole that exists in
24 our code.

25 Right now in the area south of 5th

1 Street in the South Pointe district and in
2 the areas identified near Sunset Harbor and
3 the industrial NPS and so forth districts,
4 there's an absolute prohibition to
5 nightclubs.

6 However, in our code it also allows
7 for restaurants having a full kitchen
8 operating as a restaurant that they may be
9 able to pull a dance hall module of our
10 license which allows them to have
11 entertainment and dancing in those
12 establishments that are operating as
13 restaurants.

14 What has happened is that there are
15 a number of restaurants that have opened in
16 these areas or have existed in these areas
17 that operate as restaurants but have the
18 dance hall license opportunity, and at some
19 point during the evening, they -- they
20 either morph into a dance establishment or
21 just the nature of what their business
22 model calls for, have the impacts that are
23 similar to a dance hall.

24 And so what the planning staff has
25 developed and gone through the planning

1 board and recommended is that at least in
2 those areas where the commission in the
3 past has indicated that there's a desire
4 not to have those types of neighborhood
5 impact establishments, those dance halls,
6 that that loophole be closed. So the
7 ordinance before you is specific to those
8 two areas.

9 Secondly, the ordinance as proposed
10 deals with the issue in a prospective
11 manner. That is, it does not call for any
12 closure of current operations, any properly
13 licensed establishment that is currently in
14 business would convert into a legal
15 nonconforming use in those areas, and this
16 ordinance would not affect their operation
17 as is currently the case.

18 Finally, as it relates to the hours
19 and cabaret districts and all of those
20 other conversations that have been held, at
21 your last commission meeting you'll recall
22 that when that item came up, those matters
23 were referred to the planning board for
24 consideration and discussion. They have
25 not taken that matter up yet. They will at

1 a subsequent agenda and bring you
2 recommendations accordingly.

3 So if you accept the ordinance that
4 is before you today, the -- the basic
5 impact of what you would be accomplishing
6 is essentially eliminating or preventing
7 the proliferation of establishments to come
8 into these areas, operate as a restaurant,
9 and pull a dance hall license which would
10 then allow them to have certain types of
11 activities that would appear more as a
12 dance establishment or at least a
13 neighborhood impact establishment than is
14 currently the case.

15 So that's -- that's what's before
16 you today. I'll ask Jorge to fill in any
17 details according any questions you have.

18 VICE MAYOR GROSS: Just to clarify,
19 Jorge, when is the issue of the hours
20 supposed to be heard and in front of what
21 body is that supposed to be heard?

22 MR. GONZALEZ: Do you have the date?

23 MR. GOMEZ: Yeah, there were several
24 issues that you asked the planning board to
25 explore. One of them was to explore the

1 issues of operation in these areas. The
2 definition of "entertainment" was a
3 question, how do you deal with some of the
4 legal nonconforming issues. All of that
5 will probably be addressed at a discussion
6 item level, not at an ordinance public
7 hearing level by the planning board at
8 their June meeting at the end of the fourth
9 Tuesday in June.

10 VICE MAYOR GROSS: Okay. I don't
11 know that everybody can hear. What he said
12 is that the item that's before us today is
13 not on the hours that the clubs are
14 operating. That's going to be a long
15 discussion that's going to start at the
16 planning board level in June in the fourth
17 Tuesday of the month.

18 What's before us today is not the
19 hours, it's the issue of whether more night
20 clubs should be allowed to open in the
21 South Pointe neighborhood and in the Sunset
22 Harbor neighborhood.

23 This legislation today would not
24 effect any existing businesses that were
25 operating legally, it is really directed at

1 future businesses that would not be allowed
2 to open, and it does that by closing a
3 loophole that was allowing certain
4 nightclubs to pretend to be restaurants but
5 really operating as nightclubs.

6 But nightclubs, just so everyone
7 understands here, we're not a permitted use
8 in Sunset Harbor or in South Pointe
9 regardless of what we were doing today. It
10 was a special exception that if they were a
11 full service restaurant, they could also
12 have a nightclub, and what happened is
13 those -- that was being exploited by some
14 operations that really were not
15 restaurants, they were really clubs, and
16 they were not a permitted use.

17 The issue of the hours is really not
18 what this ordinance deals with today, so
19 I know a lot of you came and we appreciate
20 your coming, and I think I speak for every
21 member of the commission in saying that
22 this commission takes the nightlife very
23 seriously, we recognize that it's an
24 integral part of our community. We look
25 forward to creating a thriving atmosphere

1 for the nightlife industry.

2 We also -- and I'm sure all -- most
3 of you here are probably residents, and
4 I know that all of you want the residents
5 in South Pointe to enjoy their quality of
6 life while at the same time giving the
7 deference to the nightclub industry.

8 So we're here, really, to balance
9 these interests, but we're not here to
10 discuss the hours, which I know is what a
11 lot of people came, because there were a
12 lot of emails going around saying that what
13 was on the commission's agenda today was to
14 roll back hours, not just in South Pointe
15 or Sunset Harbor, which is not on the
16 agenda, but citywide, and that's not been
17 suggested by anybody that I know. So
18 I just wanted to clarify the record as far
19 as that goes.

20 COMMISSIONER GARCIA: You know what.

21 COMMISSIONER BOWER: Mayor.

22 UNIDENTIFIED SPEAKER: (Inaudible.)

23 VICE MAYOR GROSS: Okay. It wasn't
24 suggested at this commission meeting by the
25 mayor or by any -- or by any of the

1 commissioners at the last meeting at which
2 it was discussed.

3 UNIDENTIFIED SPEAKER: The first
4 reading --

5 COMMISSIONER GARCIA: Excuse me, can
6 I have the floor?

7 VICE MAYOR GROSS: Yeah, David,
8 everybody will get their chance.

9 Commissioner Garcia.

10 COMMISSIONER GARCIA: This is
11 specifically what I was addressing when
12 Mr. Diaz was here, the level of anxiety
13 that there is in the community and the lack
14 of understanding that there is.

15 You know, we're doing things
16 little-by-little which people are -- are
17 looking at us the first domino falling down
18 and the curtain will be over. With all due
19 respect to the mayor that is not here right
20 now (Inaudible), which should be running on
21 the city television or the last eight
22 weeks, he pretty much said that he was in
23 favor of rolling back the hours to two
24 o'clock. Okay? And you can (Inaudible.)

25 Now, what I would propose, what

1 I would propose is the same thing, and
2 I will make the motion if you guys want --
3 if you guys want to second it and look into
4 it, we'll do it. I would love to continue
5 this. I won't kill it. I would love to
6 continue it up until the time that we can
7 get together with the planning board and
8 set a cabaret district, set hours citywide.

9 When Mr. Diaz came here as the
10 chairman of the planning board, in his list
11 of priorities, the entertainment was way
12 down, it was right behind concurrency, and
13 to me, that's a great disservice. You know
14 why, that should be even ahead of the
15 single family issue. That should be the
16 issue of today right now.

17 What I would propose -- what I would
18 propose, and I'm sorry all the people are
19 here, would be to open and continue, let's
20 get together, let's have a joint session
21 with the county boys if it's legal, and
22 let's have citywide, citywide input,
23 because you know what, yes, we have had the
24 residents, we have the industry, but you
25 know what, folks, you go out there and you

1 listen to a lot of people, a lot of people
2 that don't live in the area, that are not
3 part of the industry that have the same
4 concerns.

5 So I would make that motion to open
6 and continue up to the time that it could
7 be holistically discussed with the planning
8 board. If there's a second, I would love
9 it. If not, I will continue to discuss it.

10 VICE MAYOR GROSS: Okay. Is there a
11 second to that motion?

12 All right. If not, Commissioner
13 Bower.

14 COMMISSIONER BOWER: I also want to
15 say, you know, that there is a large stress
16 in the community that have been suffering
17 for this issue for over two and a half
18 years, if not longer, and that it is time,
19 and even though, you know, it is time that
20 we address.

21 This is a simple issue that has been
22 blown out of proportion that has no reason
23 to have all the people that we have here,
24 because what we're doing, and you explained
25 it very clearly, is just closing a

1 loophole.

2 Are we going to address the rollback
3 to 2 a.m., the 5 a.m., the whatever a.m.
4 you want to do? Not today, not any time
5 soon, and if many of you were here when the
6 discussion happened, that that will air and
7 will have all the input from everybody that
8 is concerned at the planning board,
9 including the residents and including the
10 fact that they have been battling this
11 issue for a long time.

12 So I couldn't second that motion
13 only because of that, and I move to open
14 the public hearing.

15 VICE MAYOR GROSS: Okay. Let's take
16 some public comments.

17 COMMISSIONER GARCIA: Can I answer?
18 I would like to answer Commission Bower.

19 VICE MAYOR GROSS: Okay. Quickly,
20 because we have a lot of people.

21 COMMISSIONER GARCIA: Thanks God
22 we live in a free country, but there's no
23 censure here, okay, because this reminds
24 me, this reminds me of World War II.

25 The -- the policy of our peace men, you

1 know, we are pissing this group right now
2 and then we're pissing the next group and
3 the next group, and before you know you're
4 going to bring a (Inaudible) all throughout
5 the city. You know what, (Inaudible) go
6 out and wait until -- until -- until the
7 people from 1500 Ocean Drive come over or
8 the people from (Inaudible) come over.

9 Let's do it -- let's look at
10 it right now. Let's get the industry,
11 let's get the residents, let's get the
12 powers that be and let's work -- let's work
13 on it holistically, and there won't be
14 anxiety, there won't be winners, there
15 won't be losers.

16 VICE MAYOR GROSS: All right.
17 Commissioner Garcia, I will say this, the
18 reason that the two neighbors were singled
19 out that we're addressing is that those two
20 are primarily residential neighborhoods
21 that have -- folks.

22 COMMISSIONER GARCIA: Commissioner,
23 commissioner, commissioner.

24 VICE MAYOR GROSS: Excuse me, I have
25 the floor. Those are primarily residential

1 neighborhoods that have nightlife industry
2 inserted directly mixed in with the
3 commercial. So we tried --

4 COMMISSIONER BOWER: And not only
5 that --

6 VICE MAYOR GROSS: There was a prior
7 attempt to look at it on a broader level
8 last year at the planning board, and
9 it wasn't successful. And the reason that
10 it was brought back is that the holistic
11 approach didn't work, it didn't go
12 anywhere, and so they said -- we said let's
13 look at it in the two neighborhoods that
14 we're having the biggest problem.

15 Let's make sure we don't have
16 anymore proliferation in those two
17 neighborhoods to at least stop the problem
18 from getting worse, and then let's figure
19 out how to address the problem that we do
20 have, and that's what's going to go to the
21 planning board.

22 COMMISSIONER GARCIA: Well, I --

23 VICE MAYOR GROSS: Commissioner
24 Cruz.

25 COMMISSIONER CRUZ: I understand

1 what we're doing here today, and it's no
2 secret we're trying to close the loophole,
3 but obviously we don't get that many group
4 showing up unless something is of major
5 consequence, because we hardly get this
6 type of audience.

7 Now, the reality that they're here
8 is because the mayor did stipulate and
9 he brought the hours into question. That
10 muddied the waters. Consequently, we have
11 created a hysteria within the business
12 community, and unfortunately, although
13 we're going to try to stay on a narrow and
14 focused agenda, we do have to recognize
15 that the concern is about the rolling back
16 of the hours, and personally, and I have
17 met with the residents from the areas and
18 I am in full support of this particular
19 ordinance which does close a loophole, but
20 I need to state in the here and now that
21 the roll back is a very significant issue.
22 It goes to the heart of what South Beach,
23 Miami Beach, has become in the
24 international community.

25 And although, as many of you will

1 remember, I was not the darling of this
2 industry in the past election, I sit up
3 here to look after the best interest of
4 this community in general, and this
5 community is being defined at this
6 particular place and time by its nightlife,
7 and we cannot take that.

8 Look, this is not -- this is not
9 about applause or whatnot, it's a real
10 serious issue, because the tension that
11 exists between the business community and
12 the residential community is a real one,
13 and it's been existing for a very long
14 time.

15 We have to give it its due. That
16 this particular ordinance that we're going
17 to face is required, because we do not need
18 proliferation, because we as a city made a
19 mistake by allowing industries to go into
20 places that they should not have?

21 Absolutely, and we must address
22 that, but we are not going to and nor has
23 it been our intention here to look at this
24 in less than a serious note and address the
25 issue.

1 Do we have to look at a cabaret
2 district? Absolutely. That we also need
3 to see the impact of the cost from an
4 economic perspective of services that the
5 five o'clock causes? Absolutely, but
6 we also have to look at what it brings into
7 the city and more importantly the
8 intangible as a marketing tool as to who
9 we have become.

10 But again, we're not dealing with
11 the hours, and I state it, and I have
12 addressed it now so that you see we're not
13 going to be looking at it lightly. It's a
14 very important factor as to who we are,
15 because we are, yes, Art Deco, and we are
16 the beaches. And let's remember, the beach
17 is our number one natural resource, and
18 that's the reason why most of us came down
19 here, but we have evolved.

20 So we're not taking this situation
21 for granted and we're not taking
22 it lightly, but for today, today we're
23 looking at a very specific and narrow
24 agenda that is going to address the
25 proliferation of nightclubs, which

1 I personally don't think that should
2 continue because of the problems it has
3 created.

4 But we also have to deal with the
5 reality we have here now, and we won't be
6 addressing the hours, nor I personally, and
7 I don't speak for anyone else, I will not
8 be taking lightly what it means to us to be
9 a community that's seen as an entertainment
10 hub.

11 So please understand this is today
12 one issue. The other will be coming forth,
13 and we're not -- it's not a foregone
14 conclusion. It may be the mayor may have
15 his vision, that's fine. We all up here
16 have a difference of opinion, and we will
17 address it. So don't think that your
18 concerns are not being heard, but they will
19 be heard in a very methodical and
20 analytical fashion.

21 VICE MAYOR GROSS: Okay. Final
22 comment.

23 COMMISSIONER SMITH: Can I just note
24 one final comment?

25 VICE MAYOR GROSS:

1 Commissioner Smith, sure.

2 COMMISSIONER SMITH: You know,
3 Commissioner Garcia mentioned the falling
4 dominos theory, and I just want to make
5 sure that everybody understands that which
6 ever way the commission votes on this
7 issue, and it seems to have support here on
8 the commission, whichever way we go on the
9 nightclub south of 5th Street and in Sunset
10 Harbor should in no way reflect anybody's
11 opinion as to whether or not we favor or do
12 not favor the hours rollback.

13 That's a matter for another day
14 which will be debated, and that issue will
15 stand or fall on its own merits. So
16 whatever we do here will not indicate that
17 the dominos are falling. It's not -- far
18 from it.

19 COMMISSIONER GARCIA: That's not
20 quite true, commissioner. You know,
21 let's -- let's talk about it. No, it's --
22 it started with the historic preservation
23 district. You know, you have a district in
24 South Beach (Inaudible) support. Then all
25 of a sudden you -- you have a history of

1 the historic preservation district in
2 Mid-Beach. Now you're getting one on North
3 Beach that doesn't belong there. So it's
4 (Inaudible.)

5 VICE MAYOR GROSS: Okay. Let's --
6 let's keep on point.

7 COMMISSIONER GARCIA: And that's
8 what the people are afraid of. The people
9 are afraid that (Inaudible.)

10 VICE MAYOR GROSS: Commissioner
11 Bower.

12 COMMISSIONER BOWER: Thank you.

13 COMMISSIONER GARCIA: (Inaudible.)

14 COMMISSIONER BOWER: What I am going
15 to talk about is this: I think
16 Commissioner Smith said something that is
17 very key here, because, you know, everybody
18 perceives everything as their world, and in
19 my perception, even though I speak and I
20 say things, maybe people take it in a
21 different manner than I am thinking about
22 it.

23 I have never thought of rolling back
24 the hours, and when people tell me about
25 rolling back the hours, I'm always at odds,

1 why are they discussing this issue. And
2 I think now listening to everybody what is
3 most disturbing to the residents in the
4 area, it's not the nightclubs that are in
5 doors that stay open until five clock at
6 night, in the morning, those nightclubs
7 nobody complains.

8 When we discuss the hours and maybe
9 when that theme comes up, it comes up with
10 open air nightclubs and venues, those are
11 the only ones that residents have
12 complained about. When the residents are
13 not able to, in their homes, just like you
14 have a right to work and have a nightclub,
15 they have a right to be at their house and
16 be able to sleep at night.

17 So I don't -- you know, I am not in
18 favor of rolling back hours, and nobody has
19 ever -- I mean, they put that word into my
20 mouth, and it's not true.

21 I think Miami Beach is a wonderful
22 place to live. I think that we have grown
23 because we're tolerant, because we can live
24 and decide issues discussing it and talking
25 to each other, and I think that that's

1 what's going to happen with these issue.
2 We need to be good neighbors to each other.

3 The residents need to understand the
4 livelihood of the people that work in the
5 nightlife, and the nightlife needs to
6 understand that, yes, when you came here
7 there might have not been residents in that
8 area, but in that area now there's over
9 2,000 or 3,000 people that live there that
10 have newly arrived.

11 So you know what, I'm a
12 preservationist, and I would like to see
13 nothing touched in the architectural
14 district that we have, but as they always
15 tell me, you've got to go with the time,
16 you've got to change the things, and you
17 have to adjust. So that's what we're doing
18 now.

19 VICE MAYOR GROSS: Okay. Thank you,
20 Commissioner Bower. We're going to take
21 public comment now. If I can ask folks to
22 make their remarks in two minutes. I'm
23 sure we have a lot of people that would
24 like to speak.

25 MS. BLECKER: Commissioner Gross?

1 VICE MAYOR GROSS: Yes.

2 MS. BLECKER: I ask for a point of
3 privilege. There are a number of
4 approximately ten citizens from Sunset
5 Harbor here, none of whom could find a
6 seat, and we would like -- have not spoken
7 before, we have under two minutes for
8 everybody and to the point. If you can
9 take us first and we can get on our bus and
10 go home, and --

11 VICE MAYOR GROSS: Okay. Shh.

12 MS. BLECKER: And there will be no
13 sense in talking if we have this all over
14 the room.

15 VICE MAYOR GROSS: Right. I think
16 the best way for us to do it, you're at the
17 mic, you're welcome to speak first. I'd
18 like to go across the room is the fairest
19 way to do it, because I don't want to start
20 picking out specific people or groups that
21 are going to speak in a sequence. Okay?

22 COMMISSIONER BOWER: Do we have a
23 sign-in sheet?

24 MS. BLECKER: No.

25 COMMISSIONER BOWER: Could we have a

1 sign-in sheet.

2 VICE MAYOR GROSS: Well, Matti,
3 let's -- let's do it -- we'll go across the
4 room. I think -- yeah.

5 UNIDENTIFIED SPEAKER: (Inaudible.)

6 UNIDENTIFIED SPEAKER: (Inaudible.)

7 VICE MAYOR GROSS: All right. Let's
8 get started, please. Make your remarks.

9 MS. BLECKER: My name is Judith
10 Cohen Blecker, I live at 1900 Sunset Harbor
11 Drive. I have lived in Miami Beach since
12 1932, before many of you were born, and
13 I've lived in various areas that are now
14 known as South Beach. I've lived in Sunset
15 Harbor since 1997, and I have no intention
16 to moving to Aventura or Kendall.

17 In my neighborhood nightclubs bring
18 traffic, noise, crowds all night long.
19 Club goers have no respect for our
20 community. There's a children's playground
21 in Island View Park, and on any given
22 morning the playground is littered with
23 broken beer bottles, drug paraphernalia,
24 and human excrement from the night before.

25 Please, I urge you to vote yes, stop

1 more nightclubs from moving into our
2 neighborhood.

3 VICE MAYOR GROSS: Okay. Thank you.

4 MS. HOLFORT: Randy Holfort, 1390
5 Ocean Drive, president. I am very --

6 VICE MAYOR GROSS: Folks, please.

7 MS. HOLFORT: I'm very -- I'm very
8 dismayed about all of this happening, that
9 we've got divided. This has been so
10 divisive, I've heard -- and I'm a resident,
11 and I heard the Mayor Dermer when he said
12 this. His was based on the amount of
13 policing we had. I was looking at the
14 television before I came here, and I see
15 the vision that should be happening, i.e.,
16 the interloping.

17 What is needed is that we work
18 together, Davie, whoever brings in
19 cleaning, clean up this, we need more
20 police, because the FBI and the CIA are
21 working together for Homeland Security.
22 We need to all start to work together. The
23 police force -- if we have -- we -- when
24 you ask what does it take to have it to
25 five o'clock, the police officers say you

1 have to double it. I said okay, if I'm
2 Disney, we got to double it, we need this
3 amount of number, let's use some creative
4 thinking here.

5 We probably need to make the police
6 force maybe one third more, but in the
7 meantime, use the interloping until you
8 could get up to snuff, because if you had
9 to double it, it would take four or five
10 years of which we do not have.

11 Another one is our legal department.
12 We're continuing to write laws and pray
13 that everybody goes along, well -- and
14 if they don't go along, we're afraid that
15 we might get sued. If I were the city
16 attorney and I -- and Opium sued me because
17 of some sort of whatever, with all of the
18 evident we have, if I lost to Opium,
19 I would be the worst lawyer in the world.
20 Okay?

21 We need to start to look at -- you
22 know, we live in a country, unfortunately,
23 that you can get away from murder with the
24 right attorney. We are not a poor city.

25 Remember that thing about -- I'm

1 going to end this. Remember that thing
2 about you can't sue City Hall? What
3 happened here. Okay?

4 VICE MAYOR GROSS: All right. Thank
5 you, Randy.

6 MS. HOLFORT: You know, we need to
7 enforce -- oh, one more thing. We're doing
8 a disservice to Nikki Beach and those
9 people who are complying, because we're
10 telling them you're stupid, because the
11 other guy is still getting away with it.
12 We need to send just a message how we want
13 it to be.

14 VICE MAYOR GROSS: All right. Thank
15 you. And, folks, if I can ask you also
16 just to make sure you introduce yourself
17 before you speak so we know who you are for
18 the record. Thank you.

19 MS. RUBINSON: For the record, my
20 name is Jamie Rubinson. I'm now a
21 registered lobbyist for 136 Collins Avenue,
22 LC, although, I'm not here strictly on
23 their behalf.

24 You may be aware that there has been
25 a petition circulating, and that petition

1 is very specific, and these people are here
2 today because of Commissioner Garcia's
3 point of view.

4 We understand and we believe that
5 this is a slippery slope, and we believe
6 that the message that you send to any
7 investor, any restaurateur that is going
8 to come to this city and invest money is
9 that once they invest it, they don't have
10 the right to drive their businesses.

11 In doing this, we had the
12 opportunity to meet a number of South
13 Pointe residents who are here to speak, and
14 I can tell you that these 250 signed
15 letters to the commission are -- the
16 majority of which are representing our
17 registered voters, there's over 80 in the
18 South Pointe area, and many people worked
19 very hard, there's only one set, you each
20 will get a hand delivered set tomorrow, but
21 these are real registered voters or they
22 say they are.

23 I've been cautioned -- I've been
24 cautioned that there's physical addresses
25 and date of births, and I'm going to read

1 you very quickly, because --

2 VICE MAYOR GROSS: Are those all
3 witnessed?

4 MS. RUBINSON: Somebody did. Trust
5 me, they're all different, and I have the
6 originals. Make no mistake about it, these
7 people knew what they were talking about,
8 and they were specifically referring to R5E
9 today, then called R5D. And the residents
10 that you will hear from will express their
11 point of view, but what it says is:

12 "I am a hundred percent opposed to
13 the proposed legislative acts to prohibit
14 any new restaurants with an entertainment
15 or dancing component south of 5th Street
16 and in the Sunset Harbor area, and I" --
17 can I finish? It's -- "and the proposed 2
18 a.m. cut off on the sale of alcohol south
19 of 5th Street.

20 The prosperity of the south of 5th
21 Street area and Sunset Harbor area depends
22 on a solid resident base and an abundance
23 of restaurants to service them. Any
24 regulation on restaurants creates a
25 disincentive for new proprietors to make an

1 investment in those areas, diminishes the
2 value of the current investments, and
3 creates a barrier to the long-term success
4 of all restaurants," and it goes on.

5 I just want to be clear that these
6 250 or so -- and there's actually about 750
7 of visitors and tourists that were
8 collected, all of this in four days by five
9 or six people.

10 VICE MAYOR GROSS: Okay. Would you
11 like to submit those to the clerk?

12 MS. RUBINSON: Yes, I will. And
13 very, very, very, very quickly, we really
14 would welcome the opportunity, I have
15 spoken with Frank Del Vecchio, we do not
16 believe it's ever too late, and we would
17 like to form, and I was hoping there was an
18 official way to form it, like the blue
19 ribbon task form, but form a coalition
20 of -- just a proposal, six business owners
21 and six residents, some of whom are in
22 favor and some of whom are against, to work
23 on this issue.

24 VICE MAYOR GROSS: Okay. Thank you
25 very much. Okay. Maria, our newest member

1 of the Our Public Places.

2 MARIA: That's right, that's right,
3 thank you very much. I'm Maria
4 (Inaudible), thank you for having me. I am
5 a resident of Sunset Harbor. I live at
6 1900 Sunset Harbor Drive. The heart of
7 Sunset Harbor neighborhood is a mixture of
8 businesses patronized by locals and nearby
9 residents, many of whom walk to their
10 destination. It is a viable walking
11 neighborhood.

12 We are patrons of the local
13 restaurants, of the Publix, of the local
14 businesses. This area has gentrified and
15 is an asset to Miami Beach. All of the
16 businesses have daytime use and provide
17 services for our community and there are,
18 as you know, some restaurants that are
19 wonderful restaurants such as Joe Allen.
20 We are important, I think, patrons of
21 restaurants such as Joe Allen.

22 Nightclubs, on the other hand,
23 operate until 5 a.m. As you and Matti
24 pointed out, that's not a problem operating
25 until 5 a.m., and there are plenty of

1 examples of businesses that work and
2 operate very well within that.

3 The problem is the noise caused at
4 night when you're trying to sleep at 5 a.m.
5 or 3 a.m., and you can't because of the
6 thumping, thumping, thumping. That is the
7 problem, and the garbage and the noise and
8 the excess traffic.

9 We want to protect and maintain our
10 neighborhood. I urge you to vote yes and
11 stop the proliferation of new nightclubs.

12 VICE MAYOR GROSS: Okay. Thank you.
13 Next speaker.

14 MR. VELAZQUEZ: Hi, my name is
15 Rafael Velazquez. I'm a resident of ocean
16 Point, 344 Ocean Drive. I haven't been
17 here in a while as you -- as you all know,
18 and let me tell you, this issue brought me
19 out here, because it goes to the heart of
20 what Miami Beach is all about. It goes to
21 the heart of what these people on the beach
22 are all about.

23 Look at the chambers, you see them
24 filled as only on very few occasions.
25 I live on the 3rd floor on Ocean Drive in

1 between 3rd and 4th Street. I live with my
2 view to the side, to the west side, and let
3 me tell you, there are nights, Memorial Day
4 Weekend, you know, when people go out,
5 weekends, you know, special events, all the
6 fests and carnivals that we have here.

7 Let me tell you over the years Miami
8 Beach has developed. I hear screams,
9 I hear yells sometimes, I hear bottles
10 being thrown, and you know when I wake up
11 what I think to myself? That's Miami
12 Beach.

13 UNIDENTIFIED SPEAKER: That's right.

14 MR. VELAZQUEZ: And -- and you
15 know -- and -- and you know something,
16 I love it.

17 VICE MAYOR GROSS: You might want
18 to -- you might want to consider quitting
19 while you're ahead after that line.

20 MR. VELAZQUEZ: No, (Inaudible.)

21 COMMISSIONER BOWER: Are you
22 married?

23 MR. VELAZQUEZ: No, I'm not married
24 yet.

25 COMMISSIONER BOWER: Not married

1 yet. Do you have a child? No.

2 MR. VELAZQUEZ: I mean, you know,
3 I hope not.

4 COMMISSIONER BOWER: I wonder how
5 you would feel if you were married and had
6 a child and they couldn't sleep.

7 VICE MAYOR GROSS: Okay.

8 MR. VELAZQUEZ: Let me -- let me
9 tell you something. I love Miami Beach,
10 and I came here and I live here knowing
11 what Miami Beach is all about, and
12 I know -- and I -- and I know that the
13 light -- the nightlife is vital to the
14 industry and to the best interest of the
15 beach.

16 If I ever were in a position where
17 I say to myself, it's unsupportable for me
18 and my family or anybody else not to live
19 here, you know something, I move to
20 Mid-Beach, I move to Brickell.

21 VICE MAYOR GROSS: Okay. Thank you.

22 MR. VELAZQUEZ: Or Key Biscayne, but
23 I love Miami Beach and the way it is.
24 We don't want to cap it like other cities,
25 like Los Angeles, like New York. Leave

1 Miami Beach what Miami Beach is, unique and
2 the best in this country. Thank you very
3 much.

4 VICE MAYOR GROSS: Shh.

5 UNIDENTIFIED SPEAKER: How do you
6 follow that?

7 VICE MAYOR GROSS: Okay. You might
8 want to consider getting involved in
9 politics there.

10 UNIDENTIFIED SPEAKER: That's your
11 job.

12 MR. YONERELLI: I'm William
13 Yonerelli. I'm a resident of the City of
14 Miami Beach, I live at 5601 Alton Road.
15 I serve as president of the South Florida
16 Gay and Lesbian Chamber of Commerce and
17 also as a member of the Gay and Lesbian
18 Tourism Committee for the Greater Miami
19 Convention and Visitors Bureau.

20 I am very opposed to what's going on
21 here. I think the restriction and
22 prohibitions on business here will have a
23 devastating effect on the economy to the
24 City of Miami Beach. Particularly, I think
25 that business will be driven northward to

1 Fort Lauderdale and into the City of Miami,
2 and I don't believe that the investors in
3 the clubs that have put their lives up here
4 should be treated that way. I -- I appeal
5 to the commission to vote no on this.

6 VICE MAYOR GROSS: Okay. Thank you
7 very much.

8 MR. YONERELLI: Thank you for
9 listening.

10 MR. REYNOLDS: Good evening. My
11 name is Clark Reynolds, and I reside at
12 1900 Sunset Harbor Drive. I've been there
13 for seven years. I love the area, and
14 particularly I love walking to the various
15 services I use such as Publix, Lincoln
16 Road, Walgreens, Joe Allen's. I like the
17 mixed use of the area, in the area,
18 it makes it very interesting.

19 I love going to restaurants and
20 nightclubs, and I certainly had many late
21 nights on the beach in past years, but
22 various uses in a dense urban area must be
23 compatible, and there has to be respect
24 between the various parties.

25 Sunset Harbor over the last decade

1 has become a high-intensity residential
2 area, and it is not compatible with
3 additional nightclubs as you have heard
4 from the residents.

5 Please pass this ordinance and look
6 for a way to accommodate the nightclub
7 needs for South Beach in a way that all the
8 community can benefit from and enjoy, and
9 I'm not in favor of rolling back the hours.
10 Thank you.

11 VICE MAYOR GROSS: Okay. Thank you,
12 Clark.

13 MR. BAXTER: Hi, my name is Harry
14 Baxter.

15 VICE MAYOR GROSS: Harry, just speak
16 into the microphone.

17 MR. BAXTER: Yeah, my name is Harry
18 Baxter. I just moved here from Los Angeles
19 less than three months ago, but I am now a
20 registered voter in Miami Beach, and
21 I moved here -- I visited here a number of
22 times, love it here, and I thought the best
23 place to live would be around 14th and
24 Collins.

25 I've since found, hey, this a crazy

1 area, a little bit too crazy for me. So
2 what am I going to do? I'm going to move a
3 few blocks to where it's quieter. I don't
4 know, maybe that seems a little logical.
5 It's -- it's too crazy there, so I'm -- I'm
6 just going to move a few blocks away where
7 it's quieter.

8 So anyway, there's an enormous
9 influx of people that come in here every
10 weekend to Miami Beach from New York,
11 Boston. This is a fickle crowd. If we do
12 things to make it not as appealing to them,
13 they will find somewhere else to go.

14 I don't know this gentleman, I've
15 never met him, the gentleman who runs
16 Opium, but I just want to say, God bless
17 you. And what -- how generous for you to
18 make that donation to the little league
19 team. What a -- what a wonderful thing.

20 And I think that all these residents
21 are complaining, they should be thanking
22 him as well, because it's helping their
23 property values having these businesses.
24 And I believe -- are you all elected
25 officials up here?

1 Okay. Well, if they don't end up
2 sharing our views, we can replace them with
3 people who do share our views. Thank you.

4 VICE MAYOR GROSS: Okay. Next
5 speaker please.

6 MS. LUBBOCK: My name is --

7 VICE MAYOR GROSS: Folks, please.

8 MS. LUBBOCK: Good evening. My name
9 is Judith Lubbock. My husband and I moved
10 to 1800 Sunset Harbor in June of 1998.
11 We were among the first residents to move
12 into the south building. Everyone told us
13 what a great location we had, close to
14 Lincoln Road, restaurants, shopping, all
15 kinds of fun things, but we would be away
16 from the noise and crowds.

17 We love Sunset Harbor Drive for the
18 marina, the park, the children's playground
19 for our grandchildren. There were no clubs
20 on Sunset Harbor Drive then. Sunset Harbor
21 is our home.

22 I took offense, therefore, when
23 speakers suggest that those of us who
24 object to more nightclubs in the
25 neighborhood should get -- that we who

1 object should move to Aventura or Kendall
2 or wherever, and although I'm really
3 nervous about speaking in front of a group
4 like this, I feel I must do so to ask you
5 to help protect the quality of life in
6 Sunset Harbor against encroachment of the
7 club scene.

8 Please do not allow more nightclubs
9 with the many problems they bring to the
10 residents. Do not allow that to take over
11 our neighborhood. Close the loophole,
12 please. Thank you.

13 VICE MAYOR GROSS: Thank you.

14 COMMISSIONER GARCIA: You know what,
15 I do agree with you. If the mayor wouldn't
16 have -- wouldn't have opened his mouth and
17 said that we're going to roll back the
18 hours to two o'clock, you know this
19 wouldn't be a problem, you know. That's
20 the anxiety that we have right now, you
21 know.

22 VICE MAYOR GROSS: Shh. Next
23 speaker, please.

24 MR. HAMMER: My name is Jack Hammer.
25 I live at 1900 Sunset Harbor Drive. I've

1 been there since 1988 before the building
2 was even built. I lived on my boat in the
3 marina. In the early days when Sunset
4 Harbor was started, there were no
5 nightclubs, there were no restaurants,
6 there was nothing over there, and one of
7 the reasons that motivated me to buy there
8 was the fact that it was a quiet
9 neighborhood out of the mainstream and the
10 carnival was not going on in the Sunset
11 Harbor area.

12 Right now we have a few restaurants,
13 and I'm not against or opposed to anything
14 we have. I don't want a proliferation of
15 more, because the reason why I bought there
16 is because of piece and quiet, and it was
17 out of the mainstream.

18 And I know a lot of night club
19 owners have invested money, have put their
20 money up, and I have made a big investment,
21 too. Some of us have paid as much as
22 \$1 million for our condos at Sunset Harbor,
23 and we worked all our life to have the
24 lifestyle we thought we had, and all I'm
25 asking is please don't change our

1 neighborhood.

2 And remember Sunset Harbor -- the
3 Sunset Harbor development is assessed at
4 over 150 million dollars of which we're
5 paying over \$300,000 a year in taxes.
6 Thank you.

7 VICE MAYOR GROSS: Thank you.

8 MR. CAPONE: Hello, commissioners
9 and absent Mayor Dermer. By the way
10 (Inaudible.)

11 VICE MAYOR GROSS: Michael,
12 -Michael, introduce yourself for the
13 record. Everybody knows who you are, you
14 don't need introduction, but --

15 MR. CAPONE: I own a couple of
16 apartments in Sunset Harbor, by the way,
17 and I've never had a tenant (Inaudible) --

18 COMMISSIONER GARCIA: Wait, I still
19 don't know who you are.

20 UNIDENTIFIED SPEAKER: Michael who?

21 COMMISSIONER GARCIA: Michael who?

22 MR. CAPONE: Capone.

23 COMMISSIONER GARCIA: Oh, okay. I
24 never met you before, my friend. I didn't
25 know who you were, you know.

1 MR. CAPONE: I think we decided to
2 get active here in the last couple of
3 days --

4 COMMISSIONER SMITH: Are you the one
5 who all these emails out?

6 MR. CAPONE: -- when our mayor told
7 the Miami Herald --

8 COMMISSIONER BOWER: I'm sorry, let
9 me interrupt you. Michael what and where
10 do you live? I'm sorry, I didn't catch
11 that. I didn't.

12 VICE MAYOR GROSS: His name is
13 Michael Capone. That's his name.

14 COMMISSIONER BOWER: Where do you
15 live? Where do you live?

16 MR. CAPONE: I have some apartments
17 in Sunset Harbor.

18 COMMISSIONER BOWER: Where do you
19 live?

20 VICE MAYOR GROSS: Matti.

21 MR. CAPONE: 47th Street.

22 COMMISSIONER BOWER: Okay.

23 VICE MAYOR GROSS: Okay. Let the
24 man speak, please.

25 MR. CAPONE: When the mayor said to

1 the Miami Herald that if you want a party,
2 you can go off the beach, and there's a
3 nightlife district in Miami, it got me
4 riled up and it got me to send everybody
5 and to voice our opinion on what nightlife
6 is today.

7 The point that we're here to make is
8 that people do not just come here because
9 of the weather or the beaches and certainly
10 not because of ads that you've placed in
11 travel magazines or come here because of
12 that. People come here because of the hype
13 that we in the nightlife industry have
14 created.

15 The nightlife industry spends
16 millions of dollars every year on PR and
17 national advertising. You open up any
18 People Magazine or any Us Weekly or any
19 airport rack publishing, and on any given
20 day you will see a picture of someone or
21 some celebrity in a nightclub preferably
22 south of 5th Street and definitely not in
23 Fort Lauderdale with the same weather and
24 the same beaches and a lot less income per
25 year. That's the only point I'm trying to

1 make here.

2 I'm in full support of working with
3 the neighborhood and trying to help the
4 neighbors and clean up the streets and
5 clean up the noise. Creating a 2 a.m. --
6 which is not the topic of today, but I want
7 to stop it in its tracks -- would not do
8 anything but create a sidewalk party that
9 will last until 3:30 a.m., people running
10 around with beer cans and doing drugs in
11 the streets, littering even more and
12 loitering even more.

13 We'll be back here three months
14 later, and you'll have another law to
15 arrest people who are loitering south of
16 5th Street past 3 a.m.

17 If people want to go to sleep at
18 eleven o'clock at night or midnight, they
19 don't want to go to sleep at 3:30 in the
20 morning. Whether you go to sleep at 3:30
21 in the morning or 5:30 in the morning is
22 irrelevant.

23 The problem is to fix the cleanup of
24 the street, to put more police people out
25 here, to put more cleaning capacities and

1 more crews and to work with the
2 neighborhood and to fix the problem, not to
3 stop other nightclubs from coming in, not
4 to stop other -- am I out of time?

5 VICE MAYOR GROSS: The mayor is back
6 anyway, too.

7 MR. CAPONE: And helping --

8 MAYOR DERMER: What is this, a
9 garbage contract we're discussing? What
10 are we doing here? Oh. All right. I see
11 we got a very lively light bunch today.

12 All right. Michael, the bell rang,
13 so if you can wrap it up, ten seconds. Do
14 you need to wrap it up?

15 MR. CAPONE: I made my point.

16 MAYOR DERMER: Okay, sir. Thank
17 you. Let's get the next gentleman. Come
18 on. Welcome. Nice to see you.

19 MR. DOSA: Hello everybody. My
20 name -- my name is Frank Dosa.

21 MAYOR DERMER: Okay.

22 MR. DOSA: And I live in South
23 Beach, 93 (Inaudible) Avenue, and I was one
24 of the people who sent some email to try to
25 mobilize the community, the night -- not

1 the nightlife community, because I'm not
2 part of the nightlife community, but
3 I enjoy the nightlife. And I can see a lot
4 of people here today that I used to see
5 during the night in the club, and I thank
6 you everybody to come here and show their
7 support of the nightlife.

8 I sent this email and tried to bring
9 people here not because especially --
10 specifically of the ordinance about South
11 Pointe and about Sunset Harbor. I come
12 here and I sent this email because there is
13 an ongoing threat against the nightlife
14 since 18 months, and South Beach is renown
15 every year -- everywhere in the world
16 because of the nightlife.

17 I personally choose to live here
18 because of the nightlife, and there are a
19 lot of people who have done the same. So
20 even if we're not discussing that, and
21 I was very surprised today to agree with
22 Commissioner Garcia, it doesn't happen to
23 me that much, but even if we're not here
24 today to discuss about that, this is
25 exactly what is in the center of

1 everybody's preoccupation.

2 It's totally out of common sense to
3 think about rolling back the hours. That's
4 one thing.

5 Second thing, even in the audience
6 today you're not going to solve the real
7 problems. The real problems are not about
8 the future clubs, the real problems are
9 about the existing clubs, and what you have
10 to solve is not the potentiality of
11 somebody wanting to open a restaurant and
12 turning that into a nightclub, what you
13 have to solve is how you going to have a
14 resident and the partygoers collaborate and
15 living in the same place.

16 This is what you have to resolve.
17 You have to address police, you have to
18 address cleaning of the street, you have to
19 address security.

20 Let me finish, because I think my
21 time will be up soon, with three things.
22 When I take my bicycle and drive through
23 the Art Deco neighborhood, and I go to the
24 beach and I see the water under the palm
25 tree, I say, God, I love this city.

1 When I go to the bank and the girl
2 next to me have low rise jeans, and she
3 still have some sand on the low of her
4 back, I say, God, I really love this city.
5 And when I go out and I dance myself out
6 until 4:30 and after that I make a stop at
7 (Inaudible), it's five o'clock, it's
8 crowded, you will see guys trying -- I mean
9 to the last minute to get laid, and you
10 will see girls enjoying that and
11 (Inaudible) to the last minute, and I will
12 see it's five o'clock a.m., and Washington
13 Avenue is packed, a traffic jam at five
14 o'clock, and when I see, I say, God,
15 I really love this city. Keep the people
16 awake.

17 MAYOR DERMER: Let's get -- all
18 right. Welcome. If you could introduce
19 yourself to us.

20 MR. HEIGER: My name is Dar Heiger,
21 and I'm a resident at the Yacht Club at
22 Portofino at 90 Alton Road. I'm the -- my
23 wife and I have been here for three years.
24 I'm a two-term president for the Yacht Club
25 at Portofino Association, and we moved here

1 for one thing and one thing only -- I'm
2 sorry about that.

3 We moved here for one thing and one
4 thing only, and that is the neat feeling
5 we have south of 5th. We have at our
6 fingertips wonderful restaurants, wonderful
7 bars where there's dance clubs, where
8 there's entertainment halls, whatever you
9 want to call it. We have one of the top
10 ten clubs in probably the whole world two
11 blocks away, Opium Garden.

12 UNIDENTIFIED SPEAKER: (Inaudible)
13 People Magazine.

14 MR. HEIGER: There you go. And
15 I have spent the last three days soliciting
16 these surveys, talking to many, many
17 residents, five hours Saturday, four hours
18 Sunday, and I don't think I talked to one
19 person, one person south of 5th that was
20 for any change in what we have and what
21 we love down there.

22 There's two issues here. Time, it's
23 just stupid, it's suicidal, and it's just
24 preposterous to roll back the hours to two
25 o'clock. We're a 24/7 city. It's akin to

1 Buenos Aires, Barcelona, Madrid, and
2 London, and I'd like to keep it that way.

3 The second issue is enforcement.
4 If you want to come -- put the noise down,
5 then Mr. Mayor, we would love more police
6 down at 1st and Alton. We would love to
7 see more cops around. We can't buy a cop
8 south of 5th, and all the taxes that my
9 building pays, the 361 units we pay and the
10 rest of south of 5th plus the resort taxes
11 that these -- these clubs and restaurants
12 pay, we certainly should provide more
13 garbage pickup, more police protection, and
14 just more -- more enhanced security, so
15 that's why I say leave it alone.

16 MAYOR DERMER: Thank you. Thank you
17 for your comment. Welcome. If you could
18 introduce yourself for us, please.

19 MR. RITEGER: My name is J.R.
20 Riteger, and I am a rather quiet citizen
21 and resident of Miami Beach. I don't think
22 I know any of you except for Luis Garcia,
23 and I guess I sent Harold Rosen for my
24 problems the rest of the time to keep him
25 in business, but I came here eight years

1 ago for several reasons.

2 I saw a diversity that wasn't only
3 the environment and, you know, the -- the
4 tropic atmosphere and the beautiful
5 scenery, but I saw a diversity of culture,
6 I saw a diversity of art and theatre, and
7 I saw a diversity of restaurants and
8 nightlife that were unparalleled anywhere
9 else I had traveled in the world.

10 And it was a jewel, and I think it's
11 a jewel to the world, and I think that to
12 do anything to affect or restrict the
13 nightlife and the entertainment world here
14 is going to hurt the city. It's going --
15 there's a trickle down effect, there's a
16 tremendous trickle down effect that I don't
17 think you've measured.

18 I think the economic consequences
19 have to be measured, but also there's a
20 trickle down effect of the people that come
21 here. I think that Miami Beach is a magnet
22 for attracting entrepreneurs, for business
23 people, for entertainers, and it's made
24 this city rich in culture and rich in
25 people, which is -- this city's greatest

1 asset is the flamboyant personalities and
2 entrepreneurs that come to this -- this
3 city, but it leads me to another point, a
4 much broader point.

5 I think when government or
6 communities find restriction in
7 legislation, the key to everything, you
8 find that it comes back to haunt you and it
9 potentially destroys you, and I'm very
10 concerned about that. I'm concerned that
11 every time one interest group has a
12 problem, we pass a law to -- to correct it,
13 and that affects another interest group.

14 Well, the next time you pass a law,
15 it affects the original interest group that
16 was upset. Eventually everybody is upset,
17 and you -- you cut off and choke free
18 enterprise, commerce, and lifestyle, and
19 the beautiful Miami Beach that we all know
20 is no longer what we know, it's going to
21 change as a result of this.

22 And, you know, I just hope that, you
23 know, you consider the fact that this --
24 this community grew over the last 15 years
25 tremendously without a lot of restriction.

1 There's something to say for lack of
2 restriction, because this community grew
3 without restriction. Now if you start to
4 choke it off, I think you're going to
5 reverse yourselves and see our economy and
6 our community decline, both in people and
7 in money.

8 MAYOR DERMER: Thank you for your
9 comment.

10 MR. BIDE LL: Hi, my name is Doug
11 Bidell. I'm a full-year resident of Miami
12 Beach. I live in one of the high-rise
13 condo buildings in South Beach, and someone
14 mentioned property taxes, I pay almost
15 \$10,000 a year in property taxes to the
16 city, but I don't believe this ordinance is
17 a wise thing for the city going forward.

18 I followed this issue closely.
19 I believe Commissioner Steinberg has had --
20 he's had the correct take on it in
21 everything I've read in the after action
22 reports when this has been discussed in
23 that we're not dealing with you closing a
24 loophole, we're really dealing with a
25 problem with enforcement.

1 The city has allowed history --
2 historically, things to get to where they
3 are right now, and had the codes that were
4 on the books been enforced, we wouldn't
5 even all be here talking about this right
6 now.

7 MAYOR DERMER: Okay.

8 MR. BIDE LL: You know, the way
9 I look at it, if I move to a neighborhood
10 that welcomes pets and one owner goes out
11 and he allows his dog to get loose, and
12 that dog bites me. I go to the police and
13 I deal with that dog owner and that dog,
14 I don't come to City Hall and ask you to
15 ban all new dogs in my neighborhood.

16 Now, it's --

17 COMMISSIONER BOWER: Is the dog
18 named Opium?

19 MR. BIDE LL: No, the dog is not
20 named Opium. Thank you. I just think in
21 passing this law, you know, it looks like
22 you're just closing a loophole, but I think
23 you're actually sending out a very powerful
24 message to the community, to the business
25 community that Miami Beach may not be as

1 welcoming to new businesses, and I think
2 if we start driving new businesses away
3 from here, the only thing that's going to
4 happen is my property taxes are going to go
5 above ten thousand, and I'm going to be
6 coming down here asking you why -- why are
7 they so high now.

8 MAYOR DERMER: Okay. Thank you for
9 your comment.

10 MR. BIDE LL: So I urge you to not go
11 through with this.

12 MAYOR DERMER: Sir, welcome.
13 Welcome.

14 MR. ALVAREZ: My name is Gregory
15 Alvarez, and I own a small hotel in the
16 South Pointe area. I've been here for ten
17 years, and this is really sad that all of
18 yous already have your minds made up.

19 Right now if I had to start a new
20 business, it would not be in South Beach.
21 All I'm repeating is the same thing
22 everyone here is saying, and no one is
23 listening to this.

24 You're driving away business.
25 You're driving away small business. And

1 I'm sorry, Mr. Mayor, you might think it's
2 funny, but I'm below 5th, I have a small
3 hotel. This ordinance as is affects small
4 restaurants and a small hotel, small
5 parties, just having some entertainment.
6 There's no separation for dancing or the
7 entertainment aspect of it. Okay?

8 So a small hotel technically can't
9 even have a wedding with a band. Okay?
10 This is ridiculous. A small restaurant
11 can't have a child's party with clowns.
12 I mean, it sounds funny, but this is --
13 this is what we're talking about.

14 So please at least let's see how
15 we can separate this dance hall from the
16 entertainment, because the bottom line is
17 if there was another big club coming in,
18 they would not want to be going to South
19 Pointe, they would not be wanting to go to
20 Sunset, they go across town to get a
21 24-hour liquor license. That's the bottom
22 line, so please, think about this. Thank
23 you.

24 MAYOR DERMER: Okay. Thank you for
25 your comment. Miss, who is that at the

1 podium?

2 Welcome.

3 FRANK: Frank (Inaudible) 1800
4 Sunset Harbor Drive. I've communicated to
5 most of you my views on this. As a
6 resident of Sunset Harbor, David and
7 I moved there six years ago. We moved to
8 Miami Beach because of the uniqueness and
9 the diversity that this community has going
10 for it. That's why we live here.

11 I take offense when people tell me
12 that we should not be allowed to enjoy the
13 quality of life that comes with living in
14 our home because the nightlife industry and
15 some place in Miami Beach is going to be
16 jeopardized if we or our neighbors are
17 disturbed at five o'clock in the morning.

18 And it's not so much in our
19 particular instance, the noise from the
20 club, it's the people that leave the club
21 that are then congregating on the street.
22 So I am not, for one, in favor of rolling
23 back hours to 2 a.m., as I told you all,
24 I think that's economic suicide, but I am
25 in favor of compartmentalizing

1 entertainment venues away from residential
2 pieces of real estate in Miami Beach.

3 We would -- you would never
4 entertain this discussion about putting a
5 nightclub/restaurant on Pine Tree
6 (Inaudible.) You would not do that.
7 Sunset Harbor is a neighborhood undergoing
8 change. That change is metamorphosing
9 it into a residential neighborhood.

10 There are more residents in Sunset
11 Harbor today than there are business
12 owners. Joe Allen is an excellent
13 neighbor. It is a wonderful restaurant
14 establish. It is closed and empty by one
15 o'clock in the morning, and it is a good
16 neighbor. I cannot say that for some of
17 the other businesses and entertainment
18 establishments in our neighborhood, and you
19 all know who that is. They are totally
20 irresponsible, and they give the
21 entertainment industry a bad name.

22 I endorse this measure. It is
23 narrowly defined, it is narrowly focused.
24 It will prevent new restaurants opening
25 into our neighborhood and morphing into

1 bars.

2 None says we don't want restaurants.
3 More Joe Allens in our neighborhood I think
4 would be openly embraced by everyone in our
5 neighborhood, but we do not want to become
6 the next Washington Avenue. Thank you.

7 MAYOR DERMER: Thank you, sir.

8 Welcome.

9 MR. HUTZ: Good afternoon. My name
10 is Steve Hutz. I've been on Miami Beach
11 since 1942, and I love Miami Beach. I'm a
12 resident, I have my business here. I also
13 have my convention center, my hotels, my
14 tourists, and no matter where I go in the
15 world, I carry with me wherever I go the
16 reputation of Miami Beach.

17 Miami Beach has an aura. It's not
18 just the beach, it's not the sun, and it's
19 not the publicity. It's what people talk
20 about after they've been here. The message
21 that we're sending can be sent in a
22 different way.

23 The business community, the hotels,
24 the restaurants which started to organize
25 are concerned not about this one particular

1 small issue, this coming in front of you
2 today, they're concerned about a mentality.
3 They're concerned about the problems
4 between the wants and the demands of the
5 residents and the needs of the business
6 tourism and entertainment community.

7 You're charged with being careful,
8 because you've got to weigh the issues of
9 both and look at the long-term effects on
10 this city. This city is different. It is
11 not Coral Gables, it is not just a resident
12 community, and there's nobody that moves to
13 Miami Beach that doesn't know that it's
14 tourist driven.

15 We need the entertainment areas.
16 We need the nightclubs and the restaurants
17 open until five o'clock in the morning.
18 We have a band shell in North Beach.
19 We put up a residence, a high-rise right
20 next to the band shell. The people that
21 moved in to that residence shouldn't
22 complain that there's concerts being held
23 in the band shell.

24 South Beach we had a dog track.
25 We had South Pointe Park with a band shell

1 with music, with events. If we buildup
2 apartment houses around an existing
3 entertainment area, we should not allow the
4 residents that move into that area to
5 complain that they don't like the area.

6 We have -- I just want to make one
7 more quick point. Our town is driven by
8 tourism. The tourists arrive by airplanes.
9 The airplanes come into Miami International
10 Airport create a lot of noise. We needed
11 an extended runway, another runway. The
12 residents around the airport that moved
13 around the airport complained they didn't
14 want the extra landing area because
15 it created more noise. If we didn't have
16 it, we couldn't maintain the level of
17 tourism that our growth depends on.

18 So sometimes when you're in a unique
19 area or you have a unique project like the
20 airport, you have to balance the equities,
21 and that's what we're asking you to do
22 today is balance the equities and look at
23 the economic impact that your actions may
24 have on this city. Thank you.

25 **MAYOR DERMER:** Thank you. Yes,

1 ma'am, welcome.

2 MS. BAKER: I'm Marilyn Baker.
3 I live at 1800 Sunset Harbor Drive, and
4 I brought a gift for each of you. Because
5 you will need it if you come to visit our
6 neighborhood.

7 UNIDENTIFIED SPEAKER: (Inaudible.)

8 MAYOR DERMER: That's it, Marilyn?
9 Just the -- that's it? That's it?

10 MS. BAKER: I want you to --

11 MAYOR DERMER: The mic.

12 UNIDENTIFIED SPEAKER: The mic.

13 MS. BAKER: I'm here to ask you to
14 pass the amendment to close the current
15 loophole that enables the establishment of
16 additional nightclubs in the neighborhoods.
17 Thank you.

18 MAYOR DERMER: Thank you very much.
19 Joe, welcome.

20 MAYOR SALESTINE: Good afternoon,
21 again, to the commission, Joe Salestine,
22 mayor for the City of North Miami, the city
23 right next door to you. On March 9, 2004,
24 the citizens of this great city passed a
25 charter amendment directing the government

1 of this body not to pass any legislation
2 that would affect the finance budget of
3 this city without a special study to
4 determine whether you would be affected by
5 that.

6 I think the passage, if we, as the
7 city attorney, you're the lawyer, if this
8 ordinance -- this is a good question,
9 if this ordinance has nothing -- this
10 amendment has nothing to do with this
11 ordinance, through you, Mr. Mayor, I'd like
12 to --

13 MAYOR DERMER: Well, Joe, Mr. Mayor,
14 the charter amendment that you refer to
15 does not require an economic study, but
16 I will pose the question to the attorney to
17 see if that is confirmed.

18 UNIDENTIFIED SPEAKER: That's
19 correct.

20 MAYOR DERMER: That's why he's the
21 attorney.

22 MAYOR SALESTINE: Okay.

23 MAYOR DERMER: Go ahead.

24 MAYOR SALESTINE: I was under the
25 impression that the charter amendment --

1 and I trust his judgment as a lawyer, I was
2 under the impression that the charter
3 amendment required a study prior to any
4 decision that --

5 MAYOR DERMER: No, the it's for
6 us -- it's for us to consider the economic
7 impact.

8 MAYOR SALESTINE: Yes.

9 MAYOR DERMER: Now, with legislation
10 over a five-year period, and we make those
11 considerations. The manager, as a matter
12 of fact, has done that, talked to -- made
13 some considerations as to economic impact
14 and service, because as you know, we're
15 talking about -- and this debate I'll
16 engage in later, I want to take all the
17 public testimony, but in a nutshell, just
18 with money brought in, it costs us money
19 for police, fire, and sanitation, too.

20 So there's two sides to that
21 economic impact, but we do consider it in
22 our -- in our deliberations, in our voting.

23 MAYOR SALESTINE: Okay. I stand
24 corrected, but the only and final I want to
25 give opportunities to others, the -- the

1 notion of there will be no additional
2 businesses coming to the beach just like
3 it's something --

4 UNIDENTIFIED SPEAKER: (Inaudible.)

5 MAYOR SALESTINE: Well, no
6 additional nightclubs that will be open
7 until five o'clock will be really damaging
8 to the area. Thank you.

9 MAYOR DERMER: Thank you, sir.
10 Thank you. Yes, sir, welcome.

11 MR. BRANDT: Yes, thank you very
12 much. My name is John Brandt. I'm a
13 resident of 300 South Pointe Drive, better
14 known as Portofino, and I'm quite well
15 aware of the many issues that Portofino and
16 our fellow neighbors have had with
17 establishments.

18 And I, too, unfortunately, sir, pay
19 that \$10,000 in taxes, but when I did that,
20 I bought a total package, and I was willing
21 to pay that \$10,000 in taxes, and that was
22 with the city that had a lot of
23 establishments that I can walk to, whether
24 it be ten feet away, a hundred feet away,
25 or three miles away, and that's -- I am

1 willing to put up with loud noise and with
2 booming cars that drive down my street,
3 because I bought a lifestyle in Miami Beach
4 and that's what I want to pay for.

5 So to the lady, my fellow resident
6 who bought ear plugs, I bring something
7 that all of us enjoy and that's money, it's
8 called tax dollars (Inaudible.) Thank you
9 very much.

10 MAYOR DERMER: Thank you for your
11 comment. Okay. Clotile. Clotile,
12 welcome.

13 MS. LUZ: I'm sorry, but the dollar
14 is down these days. I've got Euros.
15 Anyway, I think it's very sad. Clotile
16 Luz, I live at 301 Ocean Drive. I think
17 it's very sad that so many opportunities
18 were missed in the last two years while
19 this discussion has been kind of
20 fermenting.

21 I don't think such a confrontation
22 was inevitable, and I do think that the
23 nightclub industry and the hotels missed so
24 many opportunities to make an
25 accommodation. They were hearing pleads --

1 pleading neighbors saying what are you
2 going to do, look what's happening to where
3 we live, and instead of taking action,
4 making positive propositions, saying we can
5 make some arrangements with our valet
6 parking, we can hire people to clean up,
7 we can have some control over how people
8 leave the premises.

9 They did not take any positive
10 steps, and I think that it's not only the
11 fault of the city, I think they responded
12 with incredible arrogance saying, you know,
13 the only people complaining are old.

14 It's too bad, because, Mr. Mayor,
15 you remember Mayor on the Move night at --
16 at the police department, some of the most
17 vocal people were in their twenties and
18 had -- you know, were trendy young guys who
19 are not here tonight, and they were the
20 most incensed by what they have to put up
21 with in South Pointe with the noise.

22 We attended another workshop with
23 Mr. Bloomberg on special events organized
24 by Mr. Sclar, and he said you can talk
25 about everything, but you can't talk about

1 noise. In other words there was denial,
2 there was arrogance, and there were
3 insults, and they did not take any measures
4 such as simply cutting down on the noise
5 and admitting there was a problem, and that
6 is the same attitude we're encountering
7 today.

8 I don't think it had to be that way.
9 I think historically cities are facing
10 this. In New York Mr. Bloomberg is dealing
11 with noise, and for some reason --

12 UNIDENTIFIED SPEAKER: (Inaudible.)

13 MS. LUZ: I beg your pardon?

14 UNIDENTIFIED SPEAKER: They're
15 killing the city (Inaudible.)

16 MS. LUZ: They're not killing the
17 city.

18 MAYOR DERMER: (Inaudible) please,
19 don't engage in side (Inaudible.)

20 MS. LUZ: You know, I just think
21 that the -- the confrontation has reached a
22 pitch which is very unfortunate, and I am
23 sorry that there is such arrogance and
24 insults coming from one side, and I don't
25 know why they didn't make any positive

1 recommendations to correct themselves in
2 those two years.

3 MAYOR DERMER: Thank you for your
4 comment. Welcome.

5 MR. BELNICKI: Thank you for your
6 time. I just wanted to say that --

7 MAYOR DERMER: Please introduce
8 yourself, sir.

9 MR. BELNICKI: I'm Adam Belnicki.
10 I'm a registered voter here. And I live at
11 1900 Sunset Harbor Drive.

12 MAYOR DERMER: Welcome.

13 MR. BELNICKI: I just wanted to come
14 up, I wasn't going to speak, but so many
15 from -- so many people from Sunset Harbor
16 have been up here talking about the noise.
17 I just wanted to dispute that.

18 I live there every night. I sleep
19 there. I'm on the side facing the street.
20 I don't hear this noise that they're
21 hearing. Yeah, there's some things that
22 every now and then, but I think it's been
23 greatly exaggerated.

24 I'm all for trying to clean up the
25 area a little bit. It does get a little

1 rowdy at times as far as the trash and
2 whatnot, but I don't hear the noise that
3 they're doing. I don't understand why, you
4 know, a select few from one or two
5 buildings can put such a movement together
6 and make it representative of the entire
7 Sunset Harbor area, because that's not --
8 and the people that I talk to in Sunset
9 Harbor, that's not how they feel, and
10 that's not -- they don't hear everything
11 that these people are hearing, they're not
12 having all the problems with sleeping that
13 they're having.

14 I just think this is being greatly
15 overexaggerated to benefit a few people
16 that live in that area, and I'm one of
17 them.

18 MAYOR DERMER: Thank you.

19 MR. BELNICKI: I have one more
20 thing. I want you to know that the
21 majority of the people here that are -- are
22 trying to get this done today are also
23 lobbying the people who live -- most of
24 them are on the Sunset Harbor Condo Board
25 Association, and they're lobbying to have a

1 restaurant outdoors open in their area.
2 The irony of this, I can't believe, I hope
3 it's not lost just on me. I mean, this is
4 ridiculous. They're lobbying up a
5 restaurant opening up in Sunset Harbor
6 that's outdoors. I mean, and then they're
7 lobbying to get everything closed down,
8 because they think it's going to increase
9 their property value right there.

10 I don't understand why somebody
11 opening up a business right underneath
12 their apartment is going to increase their
13 property value, but the guy across the
14 street is causing all the problems.
15 Instead, go to the guy causing the problem
16 and talk to him about it. Don't -- don't
17 legislate when you don't have to, let free
18 market work itself out.

19 MAYOR DERMER: I thank you for your
20 comment. Thank you. (Inaudible.)
21 I must -- I must tell everybody, I
22 understand your enthusiasm and your wanting
23 to applaud, but please, for us to move
24 briskly, we usually lose, you know, about
25 15, 20 seconds in the applause, so if you

1 can restrain from doing that, we'll move
2 the hearing quicker.

3 Yes, ma'am.

4 MS. HELMAN: Sheila Helman, 465
5 Ocean Drive. I've owned property on South
6 Beach since 1979, and nobody is giving the
7 proper person the credit, Barbara Capitman
8 who started the whole resurgence of the
9 beach and made it what it was.

10 At that time we had Joe's Stone
11 Crabs, we had Piccalo's, we had the
12 famous -- and everyone waited online to get
13 in there. So the people still came before
14 the other group with the nightclubs and the
15 noise and the dirt were here. They came
16 because we had beautiful hotels and we had
17 beaches and we had beautiful shopping
18 areas. This was the place, the weather was
19 great.

20 I'm not against the restaurants,
21 I am against the nightclubs south of 5th
22 Street. When I walk in the morning,
23 I don't want to have to jump over the
24 vomit, the smell of urine, the defecation,
25 every -- the litter that's there that comes

1 when these people get out of the nightclubs
2 at five o'clock in the morning.

3 My street should be clean, and they
4 never can be as long as we allow this to
5 happen. South of 5th Street was and is a
6 residential area. Some forces allowed
7 Opium to come in, that was a big mistake,
8 especially without a roof on it, but they
9 came in and they're there and we can't help
10 it. They're there, but we can control
11 what's coming.

12 Restaurants and nightclubs on South
13 Beach are like screen doors in the wind.
14 They open and close regularly. Let's not
15 have that happen on South Beach, let that
16 stay residential. We were there before the
17 nightclubs. Thank you.

18 MAYOR DERMER: Thank you. Okay.
19 Ma'am, welcome.

20 MS. CRITES: Hi, my name is Beatrice
21 Crites. I live in 300 South Pointe Drive
22 known as Portofino, and I believe it's the
23 most beautiful place in Miami Beach in my
24 opinion. I'm here to support the
25 nightlife, and a lot has been said. I'm

1 not here to create controversy, but I will
2 support the nightlife as long as I can.

3 God bless Eric and Michael, they do
4 a good job of bringing tourism and a lot a
5 money and prosperity to Miami Beach. Thank
6 you.

7 MAYOR DERMER: Thank you. Welcome.

8 MR. LIEBERMAN: My name is Nathan
9 Lieberman. I'm a large property owner in
10 South Beach, actually one of the largest.
11 I have over 200 apartments, residential
12 apartments, that are low to middle income.
13 Most of my residents are waiters and
14 bartenders, and during the summer,
15 I definitely see a decline in business,
16 which, you know -- you know, the more bars
17 and clubs and everything we have in South
18 Beach definitely benefits me, and I'm sure
19 every other apartment owner in South Beach.

20 My properties which are not south of
21 5th and are not in these other districts
22 that you're talking about, the sidewalks
23 and gutters are filthy, so obviously
24 there's a problem, you know, with cleaning
25 not only in these districts because of the

1 nightclubs but also just because of
2 we don't have enough sanitary what it is.

3 Anyways, Adam Smith said the best
4 involvement the government -- the best
5 government involvement in business is zero,
6 and I think that you guys should back off,
7 because you're not really helping anything.
8 You know, just let business -- let
9 business, you know, run itself, and it will
10 do fine.

11 MAYOR DERMER: Thank you. Next
12 speaker, welcome.

13 MR. KELSEY: Good afternoon, David
14 Kelsey, South Beach Hotel and Restaurant
15 Association. I'd like to first clear up a
16 few things for the record. First, it seems
17 to be stated that this is residents versus
18 business, and I think you should be aware
19 from the people that are here that there
20 are a lot of residents here that are in
21 support of business and in support of
22 nightlife.

23 Not only do they work in South
24 Beach, most of them live here, and many of
25 them vote here. So let's not just say it's

1 residents against business, it's not.

2 I think we're misstating the problem.

3 There are some residents who do not
4 like nightlife. That's a fact. We know
5 that, we see that, but the greater
6 percentage of residents in South Beach
7 support nightlife because they work in the
8 nightlife and tourism industry. It's their
9 jobs.

10 You know, Luis said earlier that
11 people were here because of fear, they are
12 concerned, and it's true. They're
13 concerned for their businesses, they're
14 concerned for their jobs, and many of us
15 are concerned for our community.

16 It came back to life in the -- in
17 the late 1980's. It prospered because
18 we had nightlife, and the nightlife was
19 really the fire that igniting everything
20 and that has made us so famous. All of the
21 press we get worldwide is about our
22 nightlife. I mean, 99 percent of it is
23 about nightlife. It's what keeps visitors
24 coming here. We don't want to do anything
25 to diminish that.

1 Saul, I was -- I was very concerned
2 with some of your opening statements.
3 Everyone who watched the last commission
4 meeting when this issue came up heard all
5 of you tell the planning board to deal with
6 the 2 a.m. issue because you could not hear
7 it at that time in the ordinance because
8 it hadn't been advertised.

9 You were also told that it had to go
10 to the planning board first, but every one
11 of you voted to send these issues to the
12 planning board, and the primary issue was
13 the 2 a.m. rollback. You talked about it.

14 The other issue you talked about was
15 doing something about the grandfather
16 provision which allowed the existing
17 businesses to keep going. You instructed
18 the planning board to see how you could get
19 around that, how you could sunset these
20 things. Naturally, that's going to scare
21 the business people, and it's going to
22 scare their employees.

23 And that's why we're all here today,
24 because we know this is the first step, and
25 we want to prevent the first step from

1 being taken. We want you to understand
2 that our business community is basically
3 built on tourism, and anything you do to
4 basically diminish our attraction to
5 visitors by curtailing or restricting or
6 cutting back hours of our nightlife is
7 potentially very harmful to the whole
8 community.

9 I want to deal with a couple of
10 other issues quickly if I may. First, the
11 issue of the charter amendment that was
12 passed in March. Let me just read you what
13 that question was to the voters, because
14 I think with all due respect to Murray
15 Dubbin, he misunderstands the charter.

16 The proposed ballot question, and
17 I'm reading from the documents from the
18 clerk's office, amending Article 5 to
19 require economic impact statement, the
20 heading: "Shall the Miami Beach City
21 Charter, Article 5, therefore regarding
22 budget and finance be amended to require
23 that the city commission consider the
24 long-term economic impact, at least five
25 years, of legislative acts."

1 To me that means you need an
2 economic impact statement, and what I saw
3 in your agenda package was listed as
4 physical impact, two two-sentence
5 paragraphs which don't even include the
6 impact of increased resort taxes from new
7 business. It only talks about expenses.

8 Lastly, and let me go quickly,
9 I agree with the residents about the
10 problems in South Pointe and also in Sunset
11 Harbor. Those problems when you listen to
12 the people at your last commission meeting,
13 almost every single person came up and said
14 there are no police, there's no traffic
15 control, there's poor sanitation. The
16 crowds are rowdy when they leave the clubs.

17 Now, whose job is that? It's your
18 job. We --

19 COMMISSIONER GARCIA: David
20 (Inaudible) Mr. Manager, you want to come
21 out here.

22 MR. KELSEY: Let me just conclude
23 with this. Okay. For almost ten years now
24 I have come before various commissions and
25 various city managers to suggest that

1 we create an entertainment district that
2 basically recognizes where our visitors
3 are, where they're staying, where they're
4 playing, where they're dining, where
5 they're shopping, and everybody knows what
6 that is. That is Ocean Drive, that is
7 Collins Avenue, that is Washington Avenue,
8 that's Lincoln Road, and Espanola Way, and
9 it's from 1st to 23rd Street. That's South
10 Beach.

11 We still don't have anything that
12 protects that area that provides services.
13 We need management of that area.

14 MAYOR DERMER: (Inaudible) wrap
15 it up.

16 MR. KELSEY: We need policing for
17 that area, dedicated and in your budget and
18 preferably private so that we can get
19 prompt action on these issues. This is
20 really absurd to wait ten years to threaten
21 the whole community, to threaten their
22 livelihood with roll backs of hours because
23 you guys have failed to provide the basic
24 services that you've known for ten years
25 are needed. Thank you.

1 MAYOR DERMER: Welcome.

2 MR. GLICKER: My name is Frank
3 Glicker. I also live in 1900 Sunset Harbor
4 Drive. In fact, I've lived there since '97
5 when it opened, and I find it a lovely
6 place to live except for certain problems,
7 one of which has been the noise that's been
8 discussed, and I do personally know people
9 in both the 1900 building and particularly
10 the 1800 building south of us that are
11 dealing with a terrible problem with the
12 noise around five in the morning.

13 But the reason I'm speaking is to
14 point out that the speaker who also lived
15 at 1900 had mentioned this open air
16 restaurant.

17 First of all, the building and the
18 board and the owners of 1900 have nothing
19 to do with the restaurant. The original
20 developer kept a building on the north side
21 of 1900 Sunset Harbor Drive for eventually
22 to be used for restaurant and other
23 purposes.

24 He sold that property on the ground
25 level to another developer who then plans

1 to put in a restaurant. First of all, it's
2 not an open air restaurant at all. In
3 fact, our board, the board, the condominium
4 board arranged to have a meeting with the
5 developer who, remember, again, we had no
6 control over. This was the original
7 developer that brought him in.

8 And we discussed what they would do
9 to keep the noise level down and keep it
10 down to a closing about twelve o'clock, not
11 a closing of two in the morning or anything
12 like that. But the thing was that they did
13 agree to things like putting a glass around
14 it so that the noise could not get out to
15 disturb the owners.

16 In fact, it wasn't even clear that
17 the noise level in the restaurant would be
18 loud enough to annoy owners, but at least
19 we have some control over it, and I just
20 wanted to clarify that. It wasn't a case
21 that the building went out to get a
22 restaurateur to put a good restaurant in
23 on the first floor. Thank you.

24 MAYOR DERMER: Thank you, sir.

25 Let's see a show of hands who still needs

1 to --

2 BEE: I -- I --

3 MAYOR DERMER: We've got these folks
4 here. Okay. On this side anyone else who
5 is waiting to speak? All right, we're
6 almost there. Okay. Yeah, go ahead.

7 BEE: Not to be critical of one side
8 or the other, I'd just like to make some
9 observations. My voice is going today.
10 First of all, one of the most interesting
11 comments I heard here today, David --

12 MAYOR DERMER: Excuse me, ma'am.
13 Yes, Bee.

14 BEE: Someone said they don't know
15 why Miami Beach needs clubs to have floor
16 shows, that the best floor show in town and
17 the best sideshow in town was right here in
18 this room, and there isn't -- and there
19 isn't even a cover charge.

20 MAYOR DERMER: Bee, are you
21 volunteering to work for us?

22 BEE: You know, all through the
23 years Miami Beach grew, grew before these
24 people were a glint in daddy's eye.
25 We grew and we grew fast and proudly and

1 successfully, and all through those years,
2 we didn't have problems, because --
3 David -- David brought something up before,
4 speaking about zoning. In those days
5 we had common sense planning and common
6 sense zoning. Zoning was not in the midst
7 of residential areas that had a special
8 zoning, and it was apart from where people
9 were living at that time.

10 At that time we had, as I say,
11 common sense planning and common sense
12 zoning before the days when the
13 administration and the elected officials
14 came up with the bright idea of mixed use.
15 Well, what the devil, you first opened the
16 doors with liberalized zoning and mixed use
17 and say, sure, we can all party together.

18 We can't. Some sleep, some party,
19 and I think it's high time that the whole
20 concept of zoning on Miami Beach was
21 reevaluated. The industry of entertainment
22 has always played an important role here,
23 however, it's got to be in its proper
24 place.

25 MAYOR DERMER: Okay. Thank you.

1 Welcome. Welcome.

2 MS. LEVINSON: Hi, you've been
3 through a long day. My name is Judith
4 Berson Levinson. I'm a 30 year resident of
5 Miami Beach, and I in no way condone
6 residents being disturbed by establishments
7 that violate the rules, but we need to
8 focus on the ones that violate the rules
9 and not throw out the baby with the bath
10 water.

11 But I'm here today, I felt compelled
12 to be here today, first of all, to endorse
13 the points that Commissioner Steinberg made
14 last month when he said that the biggest
15 fault is that the city is not enforcing the
16 laws we already have on the books.

17 If the noise ordinance was enforced
18 properly, this drastic curtailment would
19 not be necessary. One of the other
20 speakers mentioned a meeting that Stewart
21 Lumberg called, and it was on the subject
22 of special event permits, and they were
23 told not to discuss noise. That's true,
24 because the subject was special events
25 permitting and the residents did not -- are

1 only talking about noise. And I -- I --
2 I -- my heart goes out to them, we need to
3 take care of that, but we should not repeat
4 history.

5 For those two say that we have
6 beautiful beaches and the tourists will
7 come anyway, I have to tell you, I own two
8 hotels in South Beach, and I manage them
9 myself, and I have offered free tours to
10 perspective guests, free tours of the
11 historic Art Deco district, not one person
12 has ever taken me up on my offer.

13 The first question they ask when
14 they arrive or when they call are about the
15 clubs, can we get them in, can we get them
16 VIP in, and the beaches are even secondary.
17 If they want to go to a beach -- let me
18 just talk.

19 If they want to go to a beach, they
20 can go to Fort Lauderdale, but I don't want
21 that we're going to pass something that
22 when they want to go to a club, they're
23 going to go to Miami, because that will
24 affect all of us.

25 Miami Beach, you know I'm a

1 historian, Miami Beach was born of and has
2 always been a party town, and yes, there
3 have always been conflicts. There were
4 conflicts even at the Edison Hotel between
5 the people in the room and the music
6 downstairs.

7 I give out ear plugs to all of my
8 guests who enter all of my hotel rooms with
9 a little poem that says it gets noisy here,
10 and if you want more ear plugs, they're
11 available, but please, please make sure
12 that the remedies already in place have
13 been fully enforced to ensure the quality
14 of life for all the residents, and then
15 if that doesn't work, let's go to a more
16 Draconian measure, but let's not start with
17 that. Thank you.

18 MAYOR DERMER: Thank you. Welcome.

19 MS. NOLAN: Hi, my name is Karen
20 Nolan. I own the Laundry Bar in South
21 Beach and Boy Bar in North Beach. I --
22 thank you. I used to own a condo at the
23 Roney Palace, and when they announced that
24 the balconies were crumbling and that the
25 structural integrity of the building was in

1 question, I got out. I got nervous and
2 I sold my unit.

3 I got to tell you, you guys are
4 making me very nervous, very nervous.
5 I would be very hard pressed at this point
6 in time to invest anymore money in South
7 Beach knowing what I know today, and I have
8 to tell you, I came here not really
9 understanding the issues.

10 I did think this was a session where
11 rollback hours were going to be discussed.
12 I didn't really understand the residence
13 issues. I -- I have to admit I wasn't very
14 well versed, but after hearing everything
15 today, the rollback issue scares the
16 pajamas off me. So I'm trying to be
17 polite.

18 Anyway, thank you. I thank you for
19 listening to my (Inaudible.)

20 MAYOR DERMER: Thank you for your
21 comment.

22 Welcome.

23 MR. O'LARA: My name is Mark O'Lara.
24 I live at 400 Alton Road. I'm -- I'm a
25 person who goes out to the restaurants at

1 least three times a week. I go to the
2 nightclubs, and I love nightlife, but not
3 where you sleep, not where you live.
4 That's -- it belongs somewhere -- somewhere
5 else. I'm not going to take up a lot of
6 your time, you can figure out where I'm
7 coming from.

8 One thing you can learn from my dog,
9 and that is that you -- you don't poop
10 where you sleep, and there's a lot of poop
11 south of 5th. Thank you.

12 MAYOR DERMER: Thank you.

13 Welcome.

14 MS. RIDINGER: My name is Lauren
15 Ridinger -- my name is Lauren Ridinger, and
16 I live on North Bay Road, and I personally
17 pay \$270,000 a year in taxes to live on
18 North Bay Road, which I choose to do
19 willingly because I enjoy the lifestyle
20 that Miami Beach has to offer.

21 I also just in February had my
22 company bring 20,000 people to the American
23 Airlines Arena, Market America, and
24 we brought \$17 million into the Miami Beach
25 economy over a three-day period, and

1 we could have brought that to any other
2 city across the country, but we chose to
3 bring it to Miami, because we believe that
4 people have the right to experience the
5 incredible lifestyle that Miami Beach has
6 to offer, and I think that the nightlife is
7 a big part of that.

8 And I think if you take that away
9 from people like, you know, the Opiums of
10 the world who have done a phenomenal job
11 not just in their community, but bringing,
12 you know, up the economy of Miami Beach,
13 then you're driving people like myself out
14 of Miami Beach and stopping others from
15 coming from behind us. So I hope you'll
16 reconsider it and not, you know, roll back
17 the hours and -- and let the nightlife --
18 the nightlife be. Thank you.

19 MAYOR DERMER: Thank you.
20 (Inaudible) let me -- let me see also where
21 are we at with speakers. Hands please.
22 Okay. Just whoever raises their hand,
23 don't give me a new one. All right? Let's
24 just freeze it at this, if we could,
25 because we all would like to get -- get on

1 with this matter.

2 Go ahead. Thank you.

3 MR. HARRIS: Richard Harris, I live
4 south of 5th. Show of hands how many
5 people are against changing the ordinance?
6 Leaving it alone, club people? Right, not
7 a close call.

8 UNIDENTIFIED SPEAKER: Leave things
9 the way it is.

10 MR. HARRIS: Leave things the way
11 it is, show of hands? Okay. Now, how many
12 of the people with their hands up live
13 south of 5th or in Sunset Harbor.
14 Everybody else put their hands down. So
15 it looks like about 5 to 10 percent. So
16 I think that's well noted.

17 I think that also we should look on
18 point here in that this should be a very
19 focused debate. This is about zoning and
20 it's about a very small part of South
21 Beach. This isn't about nightlife, it's
22 not about liking nightlife or liking clubs,
23 because I love a good party.

24 I liken this to being in a crowded
25 elevator, there's ten people capacity, door

1 opens, you're in there with the ten people
2 and 20 people get in. Now it gets stuck
3 between floors. That's basically what's
4 happened here. What I think you guys have
5 to do is you have to look at where we're
6 at, stop the proliferation, and assess.
7 Thanks.

8 MAYOR DERMER: Thank you, sir.
9 Okay. Go ahead.

10 MR. VITA: Hi.

11 MAYOR DERMER: Welcome.

12 MR. VITA: My name is Peter Vita.
13 I'm probably going to tell you something
14 you've heard often before and then
15 something you'll probably hear a lot more
16 of shortly if things continue to go the way
17 they are. I am from New York, a successful
18 business man who came to Miami Beach, fell
19 in love with it, and moved down here.

20 That's what you've heard before.
21 What you're going to start hearing a lot
22 more of is I was an investor in the most
23 successful club in the United States called
24 Prive, voted No. 1 by People Magazine for
25 the year 2003, and I got out, and I got out

1 because of the efforts that are undertaken
2 by small groups of people to ply their
3 points of view over the benefit that
4 everyone should have in this city, and
5 I have been appalled at the lack of
6 solution orientated efforts by the City of
7 Miami Beach in terms of solving the
8 problems that exist, in particular in the
9 clubs south of 5th Street.

10 There are solutions. There are
11 reasons for the problems. It probably
12 makes a lot of sense to build Murano Grande
13 down there, and the income tax dollars
14 benefit everybody, but when you put it in a
15 place when the people already have a
16 license for a nightclub, then you are
17 making a decision to basically live with
18 the problems that we now have, and to look
19 at that -- look at that investment being
20 made there and then not make an investment
21 back into solving the problems is what got
22 me out of the club business, and I hope
23 we don't see a lot more of this in Miami
24 Beach.

25 MAYOR DERMER: Thank you, sir.

1 Welcome.

2 MR. MIZOUI: My name is Tofik
3 Mizoui. I'm an owner of the Oasis
4 restaurant.

5 UNIDENTIFIED SPEAKER: Can't hear
6 you.

7 MR. MIZOUI: I'm surprised, because
8 the ordinance in front of you is
9 specifically for dance and entertainment,
10 have nothing to do with hours or anything
11 like that, and I haven't had one more
12 restaurant that is south of 5th --

13 MAYOR DERMER: One moment, sir. Can
14 we shut that door, please, so that it will
15 shut the noise from outside, please. Thank
16 you, go ahead.

17 MR. MIZOUI: I haven't had one
18 restaurant beside me south of 5th Street
19 that applied for dance and entertainment.
20 I have a feeling that you all just want to
21 close my restaurant specifically.
22 It doesn't make any sense. You're trying
23 to close a loophole so I can't have belly
24 dancer.

25 I tell you the economic that

1 happened to me. My restaurant is down 80
2 percent since I'm not allowed to have a
3 belly dancer. 80 percent. My restaurant
4 closes at twelve o'clock. I don't stay
5 until five o'clock in the morning.

6 Why do you have to close a loophole
7 like that? Why can't I have belly dancer
8 when two streets down you have Opa with 20
9 belly dancers in there. It doesn't make
10 any sense. I don't see any other
11 restaurants in here who applying for dance
12 and entertainment. I'm not only one in
13 here.

14 What's going on? Why is it like
15 that? Why is the whole loophole just for
16 one restaurant. Everybody else in here is
17 not because of dance and entertainment,
18 everybody here because they want to roll
19 back from five o'clock to two. That's why
20 they're here.

21 COMMISSIONER CRUZ: Sir, just a
22 question, do you have currently a dance
23 license in your place?

24 MR. MIZOUI: I applied for dance and
25 entertainment, and I got all the

1 qualification on February 9th.

2 COMMISSIONER CRUZ: Because this is
3 a prospective I ordinance.

4 UNIDENTIFIED SPEAKER: He does not
5 have it today, though. (Inaudible.)

6 UNIDENTIFIED SPEAKER: (Inaudible.)

7 MR. MIZOUI: They don't want to
8 issue it to me. I don't know why when
9 I applied for everything and got it by
10 February 9th. You didn't start this
11 process until February 24. What is the
12 reason that they're not giving it to me?
13 I'd like to know.

14 MAYOR DERMER: Okay. Thank you for
15 your comment.

16 COMMISSIONER GARCIA: Well, wait a
17 second. Can we get an answer for that?

18 COMMISSIONER CRUZ: Jorge, can you
19 address that, and when we have this issue
20 with the development, there was a bright
21 line that was established, and anyone that
22 had submitted an application was judged in
23 one fashion. I don't know --

24 MR. GOMEZ: You're talking about
25 single family regulations when we did that?

1 COMMISSIONER CRUZ: This is way back
2 when we -- in '98.

3 MR. GOMEZ: '98, okay.

4 COMMISSIONER CRUZ: When were
5 dealing with the development issues.

6 MR. GOMEZ: Okay. As I explained to
7 his lawyers from Holland & Knight this
8 morning, when he applied for the licenses,
9 which is before the 90-day zoning and
10 progress period, we requested additional
11 information, and that information did not
12 get back to our office until after we began
13 zoning and progress, and we advised him
14 that then he had to wait until this process
15 was finished.

16 MR. MIZOUI: (Inaudible.)

17 COMMISSIONER CRUZ: You need to let
18 him finish.

19 MR. GOMEZ: I also advised his
20 attorneys this morning or somebody who
21 represented to be your attorney that his
22 issue really deals more with the form of
23 entertainment and the type of restaurant
24 that he has, in other words, there's going
25 to be further discussions at the planning

1 board level where all of these things may
2 be sorted out, because I think that is --
3 there was some sentiment in the commission
4 that it's not -- this is not the kind of
5 establishment perhaps that you want to try
6 to (Inaudible) for entertainment, but
7 again, there -- I want to remind the
8 commission he was not the only one who
9 applied in that time as he stated right
10 now.

11 We had two other applications.
12 We have a total of three applications that
13 have applied during this 90-day period.
14 The 90-day periods will run out May 24th.
15 Unless you take some action today, we will
16 lose zoning and progress, and I suspect
17 that the other 20 restaurants, because
18 I already have 3 sitting in our offices,
19 will also apply for entertainment licenses.
20 So I just want the commission to consider
21 that.

22 COMMISSIONER GARCIA: I got a
23 question for you.

24 MR. MIZOUI: Just for the record.

25 COMMISSIONER GARCIA: What is the

1 harm of a belly dancer? I mean, this --
2 this is what makes our city a laughing
3 stock of everybody else. You know what
4 I mean? That this --

5 MR. GOMEZ: Commissioner, that's why
6 I believe that that is something that needs
7 to be addressed when the planning board
8 discusses the various issues including the
9 definition of "entertainment."
10 Unfortunately, right now (Inaudible.)

11 COMMISSIONER SMITH: You -- you
12 defined -- the code defines "entertainment"
13 a certain way, and I think you've outlined
14 it on Page 176.

15 MR. GOMEZ: Correct.

16 COMMISSIONER SMITH: And there's
17 certain things that are -- that fall within
18 it and other things that don't fall within
19 in.

20 MR. GOMEZ: Correct.

21 COMMISSIONER SMITH: And one of the
22 charges we gave you at the last commission
23 meeting is that we needed to look at that
24 definition so that folks like him and --

25 MR. GOMEZ: Right.

1 COMMISSIONER SMITH: -- others that
2 may want to have a -- something on TV or a
3 comedian or a violin or something like that
4 could -- could have that.

5 MR. GOMEZ: Correct.

6 COMMISSIONER SMITH: And -- and so
7 we --

8 MR. GOMEZ: That's the type of
9 ordinance that will come back to you after
10 we go through the process of (Inaudible)
11 and come back with something for you.

12 MAYOR DERMER: Okay.

13 COMMISSIONER SMITH: Okay.

14 MAYOR DERMER: Thank you. Let's
15 continue the public hearing, please.
16 Sir -- sir -- oh, I'm sorry, well,
17 whatever, we're -- actually, it's your
18 turn, yes, go ahead.

19 MR. DELEON: Good evening, my name
20 is Al DeLeon. I work at 1615 West
21 Avenue -- sorry, I live at 1615 West
22 Avenue. I work at 205 and 221 Collins.
23 I'm here representing my employer, Judy
24 Clayton.

25 I'd like to address the fellow that

1 spoke right in the beginning about the loud
2 noise, the yelling, the bottles breaking.
3 If that's how -- what he wants, if that's
4 how he feels, I'll find a place downtown
5 where it's gunshots and all the other
6 things that are wonderful to certain parts
7 of Miami. We don't want that here.

8 As far as the nightclubs, there's
9 only two that are near us that cause a
10 little bit of a problem, and sometimes, not
11 very often, our guests come to me and say,
12 you know, it's a little too noisy, can you
13 find me another room. If we don't have it,
14 I have to find them a different hotel, a
15 different apartment.

16 I ask you to please support this
17 measure. We've had enough. There's enough
18 down there now to support everybody.
19 I like the nightclubs myself, I go to them,
20 and after this I'm going to have a drink at
21 Laundry Bar. Thank you.

22 MAYOR DERMER: Okay. Thank you,
23 sir. All right, let us go -- yes, welcome.

24 MR. STROM: Good -- good even, my
25 name is Ed Strom. I'm a registered voter

1 here in Miami Beach. I've lived here for
2 approximately five years. I, too, love the
3 nightlife, but I think this whole
4 discussion, the timing is wrong. This is
5 not about closing a loophole, this is about
6 sending a message out to the rest of the
7 country and the world about what -- about
8 what you guys, the commissioners, view as
9 the future of this city.

10 I suggest instead of addressing this
11 measure today, if you postpone it until you
12 had the discussion about the rollback --
13 rollback, once that's settled and the
14 message is sent to the business community,
15 then you can address the issue of this
16 loophole. That's my comment.

17 MAYOR DERMER: Okay. Thank you.
18 Welcome. Yes, ma'am, welcome.

19 MS. HENSON: Hi, my name is Sherry
20 Henson. I come to you guys as a resident.
21 I'm in support of nightlife for several
22 different reasons. I am a resident, I live
23 on the Venetian Causeway. Previous to me
24 getting married, I did live in the south of
25 5th area at 145 Meridian Avenue. That's

1 the Courts.

2 Yes, I am married, that's what one
3 of the board members said, and I'm in
4 support of nightlife for many reasons.
5 Because I'm on the Realtor Association of
6 Greater Miami Beaches, my livelihood and my
7 job depends on it. If people don't want to
8 visit here, people will not buy homes and
9 people will not buy real estate from me.

10 Therefore, by taking this away,
11 taking this loophole away and not letting,
12 you know, the nightclubs and the
13 restaurants exist, in essence you're taking
14 my livelihood away, so I plead with you
15 today, here, the committee, please, you
16 know, don't change this, don't take
17 it away.

18 MAYOR DERMER: Okay. Doctor,
19 welcome.

20 MR. SUNSHINE: Mayor, members of the
21 commission, my name is Morris Sunshine.
22 I live in South Pointe. I rise to support
23 this motion. I think this ordinance is
24 very carefully and thoughtfully drafted.
25 It effects only two neighbors. It protects

1 the property of the people who are already
2 in business. It -- it does not have
3 anything whatsoever to do with hours, and
4 in some ways the premises meeting was a
5 scam.

6 I cannot resist practicing law
7 without a license. I see Gary how smiling,
8 he knows that, but since I heard the
9 dissertation a little while ago about the
10 charter and the charter's requirements for
11 an economic impact analysis, and since
12 I saw Attorney Dubbin criticized for his
13 failure to understand the charter, I must
14 rise in his defense, the defense of the
15 elderly.

16 UNIDENTIFIED SPEAKER: And the not
17 so elderly.

18 DR. SUNSHINE: Two things, one
19 trivial but material.

20 COMMISSIONER GARCIA: (Inaudible.)

21 DR. SUNSHINE: The charter clause
22 which was read to you contains the
23 expression, "economic impact
24 establishment." The critical word is
25 "economic." Economic analysis is not the

1 kind of analysis tax collectors do and
2 CPA's do.

3 If you plan to do an economic
4 analysis, I want to hear about it, because
5 it's going to be a major operation.
6 Remember, economic analysis deals with
7 intangibles, and it details with values.

8 Now to get to the heart of the
9 matter. With respect to the charter,
10 Mr. Dubbin. You need some instruction,
11 sir. The charter is an entire piece. It
12 is an entire piece, and if you wish to
13 apply that section which has to do with
14 recurring and economic impact analysis,
15 then you must also apply -- you must also
16 apply Paragraph 15 of the city charter, and
17 that paragraph mandates, I think --
18 I think, because I haven't heard yet,
19 I think it mandates that the citizens are
20 entitled to be protected against
21 unnecessary and excessive noise.

22 And therefore, any time that you
23 insist that the city manager certify that
24 he has done an economic analysis, whatever
25 he has done, I think I will rise and demand

1 that he assure me that the legislation on
2 the table will not abridge my citizen right
3 to be protected against successive and
4 excessive noise. Thank you.

5 UNIDENTIFIED SPEAKER: Boy, there's
6 some (Inaudible) here.

7 UNIDENTIFIED SPEAKER: (Inaudible.)

8 MAYOR DERMER: Yes, welcome. Nice
9 to see you.

10 MR. COUSINS: Mayor, commissioners,
11 my name is Phillip Cousins. First of all,
12 I live at 240 Collins Avenue, and it may
13 not have come to your attention yet that my
14 condo president, Joe Valeri, passed away.

15 UNIDENTIFIED SPEAKER: Oh, no.

16 MR. COUSINS: He just died last
17 night. Chief Delucca called our contacts
18 to let me know that it was an (Inaudible.)

19 COMMISSIONER GARCIA: (Inaudible) on
20 the email, I read it this morning for
21 anybody read the email who was there.

22 MR. COUSINS: I'm mentioning this
23 partly because I'm speaking now not only as
24 a resident but also because of the
25 perspective that 240 Collins building has

1 from where I sit looking out my window,
2 that music, that nightlife, that growth.
3 I've lived there seven years so far, and
4 one thing that Joe helped me understand is
5 that people here are here because we love
6 Miami Beach.

7 So my message isn't so much about
8 love, but it's about Joe, and that's what
9 he's made me think about today, because
10 if he were here, he would be representing
11 80 years of contribution. So let's keep
12 that in mind, because we're not really here
13 to fight with each other.

14 The second thing, that's really
15 important, because we love this place,
16 that's why we're all here. Thank you. The
17 second thing, Joe and I had been working on
18 a project for a while to try to figure out
19 how to map all of these points of view
20 together, because from his perspective as
21 running a condo and a neighborhood
22 association, it all is really the same
23 problem, it's one thing.

24 So I would suggest that, please,
25 when we look at this challenge, the

1 challenge of keeping our streets clean,
2 which Joe would monitor every night at
3 midnight, is the same problem as how do
4 we keep noise under control, which is the
5 same problem as how do we sustain economic
6 development.

7 Now, I know all of you just by
8 gossip and other mechanisms are, I think,
9 going on a retreat pretty soon. Please use
10 that time to think about everything that
11 people have said today and look at our
12 future and how all these issues fit
13 together as one big problem, not as a whole
14 bunch of little ones. Thanks very much.

15 MAYOR DERMER: Thank you, sir.

16 Welcome, Steve.

17 STEVE: Hi. Mayor, commissioner,
18 just as a practical suggestion, one of the
19 reasons that we got to where we are today
20 is because we passed the legislation
21 several years ago restricting nightclubs
22 along Washington Avenue and the Collins
23 Avenue for 300 foot limitations, and a
24 result we drove a lot of the businesses
25 into the areas that are currently in

1 conflict right now.

2 And so we have a dilemma that seems
3 like from the one hand it's very important
4 that we do send out a message that this
5 city commission and this City of Miami
6 Beach is in full support, as I heard some
7 of the commissioners today, of the
8 nightlife.

9 And I think underlying a lot of
10 what's going on today is this feeling that
11 we're getting all the time when we meet
12 with you guys, it's always a question of
13 fighting restrictions and restrictions and
14 restrictions.

15 And it hasn't been a great job of
16 public relations either on what today's
17 factual amendment was actually about,
18 because on the ground the factual change
19 today isn't in and of itself all that
20 resounding. Everybody's getting
21 grandfathered in, and I think in the sense
22 that was a common sense thing to do under
23 the political situation.

24 However, the nightlife industry
25 deserves more than lip service regarding

1 how we're appreciated, and instead of just
2 restrictions, we should -- we should be
3 looking for something -- this is an
4 intelligent group of people. I've had the
5 pleasure of working with some of you guys,
6 and I know that there's a sophistication
7 there.

8 I'm suggesting that we revisit the
9 whole nightlife zoning situation, and not
10 just go piece at a time restrictions, but
11 what is prohibiting us from going back in
12 the entertainment area and eliminating
13 these 300-foot limitations between clubs,
14 because we have -- that's artificial.
15 We passed that seven, eight years ago
16 before we went to 21 and over as a way of
17 eliminating high school kids.

18 We're already -- we're 21 and over
19 now. We want to go into a commercial
20 district. You want to get away from the
21 noise. We have this huge commercial
22 district where there would be no conflict.
23 Let's revisit that. Eliminate the 300-foot
24 limitation. We have a lot of potential
25 viable places that new and flesh blood can

1 come into this industry, and we could be
2 sending out a message and make a better
3 product for the future.

4 MAYOR DERMER: Thank you. Ruth,
5 welcome.

6 MS. REMMINGTON: Hi, I'm Ruth
7 Remmington. I live at 1000 South Pointe
8 Drive, and I hope the commissioners don't
9 fall for the line that passing this
10 ordinance that we're talking about today is
11 sending a message.

12 This particular ordinance is about
13 stopping sneaky nightclub operators from
14 starting a restaurant and then turning
15 it into a nightclub when it's not allowed
16 now.

17 There's more nightclubs that have
18 been going on in Miami Beach in the last
19 few years. There's also been a lot of
20 development, and the development has
21 brought in a lot of new residents, and this
22 is about balance.

23 As an example, you know, our
24 neighbor who runs Oasis, you know, I wish
25 that -- that his argument that he just

1 wants a belly dancer were correct, but I'll
2 read you an expert of somebody who lives on
3 the south side of the Courts who are
4 miserable because of Oasis. This is an
5 excerpt from a letter from Jeanette
6 Martinez, a mother of small children who
7 lives there, and she says:

8 "A typical night consists of long
9 lines of people standing outside to get in.
10 Valet parking attendants parking cars
11 illegally on 1st and in the back alley
12 where clear non-parking signs are shown.
13 There's very loud music coming from the
14 inside, and it becomes louder every time
15 the front door is opened.

16 The sidewalk is blocked because
17 tables and chairs have been placed outside
18 for clients to sit. Nightclub flashing
19 lights can be seen through their
20 curtains -- through my curtains, people
21 living -- leaving the restaurant have had a
22 few drinks, talking, screaming, laughing,
23 leaving behind empty bottles and trash."

24 And that's happening right under the
25 windows of -- of residents, and it is a

1 mixed area, but nightclubs are not the only
2 ones who.

3 UNIDENTIFIED SPEAKER: Let her
4 finish (Inaudible.)

5 MAYOR DERMER: Please folks, come
6 on.

7 MS. REMMINGTON: Nightclubs are not
8 the only -- are not the only game in town.
9 There are residents, and we have to find a
10 balance, and this ordinance is not about
11 rolling back hours, and I really hope you
12 pass it. Thank you.

13 MAYOR DERMER: Thank you for your
14 comments. Let us go -- welcome. Let me
15 get a hand check again. There are no new
16 ones, there are no new ones, are there?
17 I want -- I would -- let's get a list of
18 the final speakers. We're going to take
19 another ten speakers, and that's it. Give
20 me a list aside from these two that are
21 speaking now. Ms. Rama give her your name.

22 MS. RAMA: Hi.

23 MAYOR DERMER: Did you get her --
24 did you get -- give her -- get Ms. Rama's
25 name. Okay. And then we've got ten more,

1 and that's it, then we're closing shop.
2 If you're on the list, you're on the list,
3 go ahead.

4 MR. HEFFRON: Me start?

5 UNIDENTIFIED SPEAKER: You start.

6 MAYOR DERMER: Yes, please, welcome.

7 MR. HEFFRON: My name is Raymond
8 Heffron. I live at 1800 Sunset Harbor.
9 I am a former board member and chairman of
10 the city-created Sunset Harbor Task Force.
11 For approximately six years I've been on
12 civic committees, and I can tell you the
13 general consensus within our community is
14 for controls.

15 Why? Because of the apparent abuses
16 that we all collectively have allowed, and
17 what I would like to address are the
18 causative factors that is prompting this
19 discussion today.

20 What the residents are crying out
21 for is a proactive aggressive code
22 compliance. We do not have it. Noise
23 control, we do not have it. Clean streets
24 and a visible police presence assigned to
25 specific neighborhoods. We also encourage

1 planning board solicitation of community
2 input to avoid decisions which adversely
3 impact the harmony of neighborhoods. These
4 forces should be our first line of defense
5 towards enhancing and protecting citizen
6 rights. This also applies to the tourism
7 industry.

8 While laws exist, loophole and
9 blatant abuse of laws occur because of the
10 (Inaudible) oversight and general failure
11 to enforce code. This inertia emboldens
12 habitual violators to push the envelope,
13 hoping indifference eventually becomes
14 acceptance of the status quo.

15 We beseech you. Listen to us, hear
16 both sides. We share many things in
17 common. Basically, what we are looking for
18 is harmony within the community. Thank
19 you.

20 MAYOR DERMER: Thank you.

21 MS. RAMA: Hi, my name is Linda
22 Rama, and I am vice president of Sunset
23 Harbor North 1900. I also have been vice
24 chair of the Sunset Harbor Task Force.
25 I want to clear up something.

1 First of all, we've been working
2 very hard for years as Mr. -- Commissioner
3 Garcia knows and everyone else knows.
4 We've been trying to work with everybody,
5 all the industry around our area.

6 I've lived here over 30 years. I am
7 very pleased what's happening; however,
8 there are a lot of things that have not
9 been addressed. We're very tired of coming
10 here and never getting phone calls, never
11 getting any -- anything accomplished.

12 We want you to understand that
13 we all have to live together, but you need
14 to help us, and you have not. You have
15 failed. We need cleaner streets. We need
16 parking. You cannot bring nightclubs into
17 Sunset Harbor. We can't even park there
18 ourselves. We have children playing there,
19 there's glass there.

20 We have joggers at five and six
21 o'clock in the morning, they're coming out
22 of the bars, they have no respect for each
23 other, there's never a good morning and,
24 hi, I had a great time, and now I'm
25 jogging. It's always abuse, there's always

1 spitting.

2 I mean, if we're going to work
3 together, let's work together, but you need
4 to work with us. We need your help. I'm
5 very tired of coming here and asking for
6 it, and I hope you pass this. It's very
7 important for us.

8 MAYOR DERMER: Thank you. Okay.
9 Next we have Joe Mahoney. Welcome.

10 MR. MAHONEY: Thank you, Your Honor,
11 and commissioners, nice to see you. I'm
12 sorry about the way I dressed, I heard
13 about this at the last minute. First off,
14 I'd like to say I love Miami Beach.
15 I moved away 17 years ago. I've been back
16 now two months.

17 It's noisy. I live of 5th Street,
18 all right, on Meridian Avenue. It's noisy,
19 no doubt about it, but I'm also brand-new
20 to the area, and I needed (Inaudible.) All
21 right?

22 So when I walked in here I was
23 proceed residents. By the time I heard the
24 first speaker, I was pro -- but now I'm
25 resident and on the edge, so you guys have

1 got to clarify this for me.

2 MAYOR DERMER: You should run for
3 office, you'd be perfect.

4 MR. MAHONEY: The day will come
5 Dermer, the day will come. All right.
6 Enough said. Thank you.

7 MAYOR DERMER: Thank you, sir.

8 UNIDENTIFIED SPEAKER: (Inaudible.)

9 MAYOR DERMER: All right. Let's get
10 David Wallack followed by Tracy Gordon.

11 MR. WALLACK: David Wallack, Mango's
12 Tropical Cafe. A long, long time ago on
13 South Beach, we had the word "moratorium."
14 Stop, constriction of business, and South
15 Beach stopped, and as it stopped, it died.

16 We have to keep moving in order to
17 survive. That's what business is about.
18 That's what our city is about. When you
19 put a tourniquet on something, it's to stop
20 something from flowing. This ordinance is
21 a tourniquet. We are going to stop
22 business from flowing. We will curb jobs,
23 we will curb tax revenue at a time where
24 I believe our city manager is looking for
25 where he can make tax revenue grow.

1 David Kelsey brought out the most
2 important point, and although David gives
3 it in a way that some people absolutely
4 recoil from, he still gives the truth. On
5 Ocean Drive in 1992 and '93 and '94
6 we begged for police on a Sunday.

7 Now, Lincoln Road was closed. There
8 was no South Pointe. Washington Avenue had
9 not even gotten going yet. Ocean Drive was
10 where everybody was. We had two police on
11 Sunday for maybe 25,000 people coming
12 through. Two police, and that was because
13 we begged and we got it. We had one.

14 Seven policeman where the entire
15 shift, and how many were walking at the
16 same speed as all the pedestrians? None.

17 We have a serious problem in this
18 city, and that means that business and
19 government have to come together, because,
20 quite frankly, the residents are just
21 caught in the middle. All these people
22 moved to Miami Beach because we are who
23 we are, and that's what made us great, the
24 Renaissance, nightlife, the beach is not
25 even nearly as beautiful as it used to be

1 before they dredged it. It used to be
2 magnificent. Now it's a nice beach, but
3 it's not the beach.

4 I once did a survey. She did 250
5 people, I did 3,500 people when the
6 planning board wanted to shut down and did
7 shut down the dancing and Alex Fox at the
8 Breakwater on Ocean Drive. What we did at
9 the Breakwater by shutting the nightlife --

10 MAYOR DERMER: Dave, I've got to ask
11 you to (Inaudible.)

12 MR. WALLACK: -- was that all of a
13 sudden right in the middle of Ocean Drive,
14 it became dark at 11:30. The Breakwater
15 went dark. As soon as Miami Beach gets
16 dark, because we are a mini New York,
17 crime, drugs, prostitution, and violence
18 fill in the darkness. Make South Pointe
19 quiet and dark early in the evening without
20 filling in city services of police --

21 MAYOR DERMER: David, I've got to --

22 MR. WALLACK: -- and what will
23 happen is these people will get banged on
24 their head in their million dollars condos,
25 and that's Miami Beach.

1 One more point, one more point.

2 MAYOR DERMER: Please, David, you've
3 got to --

4 MR. WALLACK: I grew up on South
5 Beach, I grew up on Miami Beach, Mr. Mayor.

6 MAYOR DERMER: That's enough,
7 already.

8 MR. WALLACK: Mr. Mayor, I grew up
9 on Miami Beach. This is my city. I've
10 watched it grow, and I've helped it as best
11 as I could. This -- this ordinance is a
12 constriction which you will have difficult
13 in changing.

14 MAYOR DERMER: Okay. Last thought.

15 MR. WALLACK: Please weigh the
16 economics of it before you chop.

17 MAYOR DERMER: Thank you, sir.

18 MR. WALLACK: Thank you.

19 MAYOR DERMER: Okay. Let us get --

20 MR. WALLACK: And city services are
21 the future.

22 MAYOR DERMER: Okay. Let us go to
23 Tracy Gordon followed by Rick Delgado.
24 Tracy, welcome.

25 MS. GORDON: Good evening. My name

1 is Tracy Gordon, and I -- I live at 135
2 Ocean Drive, prior to there I lived at 335
3 Ocean Drive, and prior to that I lived in
4 my loft at 88 West (Inaudible) in Tribeca,
5 New York City.

6 I'm here to represent three people,
7 a former resident, a present resident, and
8 a future resident, maybe. The former
9 resident is my brother. His name is
10 Gilbert Stafford, he lived here for ten
11 years and worked in the nightlife industry.
12 I'm here because he can't be here. I know
13 that it would crush him, the things that
14 are going on in this chamber.

15 I'm a little nervous, so excuse me
16 (Inaudible.) And basically what you're
17 doing to the clubs like Opium and Prive,
18 I don't really understand all of the
19 technicalities, all I'm saying is don't
20 roll back the hours. I moved to this
21 neighborhood knowing what I was getting
22 into.

23 The president resident is me.
24 That's why I moved here, I like the
25 nightlife industry, and the future resident

1 is my mother. My mother is near 60,
2 I guess. I don't want to say an older
3 woman, but when she came here last year,
4 all she could do is tell her friends how
5 she hung out with her daughter until six
6 o'clock in the morning, and they couldn't
7 believe it, and she told me that -- this
8 month, yesterday, was her birthday, and
9 she'll be coming here on the 19th of the
10 month looking for a residence, and she
11 wants to live south of 5th.

12 And before my mother gives her
13 500,000 to \$1 million, I want to make sure
14 that the place is the way that she wants to
15 be, the place is the way that she left
16 it the last time it was here. I don't want
17 to tell her to invest in something that's
18 going to change, so when you guys
19 straighten this out, can you let me know,
20 because I've got a phone call to make.

21 MAYOR DERMER: Okay.

22 MS. GORDON: Okay.

23 MAYOR DERMER: Thank you. Let us go
24 to Rick followed by Santiago Echemendia.
25 Santi is present? Okay.

1 MR. DELGADO: Thank you for the
2 time. My name is Rick Delgado, born and
3 raised in South Beach. I've pretty much
4 lived everywhere, and currently I'm
5 employed in different places, odd jobs here
6 and there in the nightclub business, but
7 I've also produced events, one being the
8 Miami Beach Fitness Festival that I've done
9 for the past six years, and Volleypaloosa,
10 an Ocean Drive event that I've been doing
11 for ten years.

12 And the one thing that is always
13 asked halfway through the event is where am
14 I going tonight, what am I doing tonight,
15 I want to go out.

16 So the nightlife, I believe, has
17 created this wheel, this powerhouse that
18 has attracted so many businesses, and not
19 only businesses but also production.
20 If you look at mine, I'm producing two
21 event address, Volleypaloosa and the Sport
22 and Fitness Festival, also look at Victoria
23 Secret just had an event on the beach.

24 Everything is intertwined.
25 It cross-pollinates, and I believe if you

1 are going to restrict competition, because
2 I believe new business, nightclubs,
3 restaurants, and everything coming in,
4 if you restrict it, you're going to start
5 to chip on that wheel that's been so
6 powerful for us, for all of us here,
7 I believe, and that has created such an
8 incredible charm across the world, across
9 the world.

10 I mean, look at Art Basel came into
11 town. Look at the Winter Music Conference,
12 they all come for a reason, and I believe
13 the nightlife, it is intertwined.

14 If you start to restrict, I believe,
15 you are going to start to break that wheel,
16 that powerhouse, and I believe that if you
17 also start to restrict the hours of
18 operations, you're not only going to
19 economically start to kill these owners
20 which put all their life and energy into
21 what they're doing, but is also going to
22 hinder what we all love and what I've grown
23 up to become, somewhat of a night creature,
24 so thank you for your (Inaudible.)

25 MR. ECHEMENDIA: Good afternoon.

1 Santiago Echemendia, 201 South Biscayne
2 Boulevard on behalf of Penrod's Brothers.
3 We're concerned about becoming a legal
4 nonconforming use. I have what I think,
5 I am hopeful will be an embraceable
6 reasonable compromise, and that is the
7 zoning and progress terminates June 24th,
8 I think I heard Jorge say.

9 UNIDENTIFIED SPEAKER: (Inaudible.)

10 MR. ECHEMENDIA: May 24th. You
11 still have a May -- well, you have a May
12 26th hearing date that you can adopt a
13 temporary moratorium to look at this issue
14 on a more comprehensive level. You have a
15 two-day -- unfortunately, you have a
16 two-day window between the 24th and the
17 26th.

18 But a temporary moratorium would
19 enable you for a six-month period of time
20 to look at the issue of enforcement, to
21 possibly not render those that are legal
22 today legally nonconforming but them
23 continue to be legal and then put more
24 stringent conditions on those that apply
25 for dance hall and entertainment licenses.

1 That's really the reasonable way to go with
2 this. Thank you.

3 MAYOR DERMER: Thank you, sir. All
4 right. Let us go to Mallory followed --
5 yeah, Mallory I've got to the list. I'm
6 going to follow that with Josh and then
7 Juan, Rafael, and Frank will round us out.

8 MR. KAUDERER: Hello. My name is
9 Mallory Kauderer. I live in Miami Beach.
10 I've been a resident here for about 12
11 years and a business owner, commercial and
12 residential property, a nightlife business,
13 a photo studio, and I have a lot to say,
14 but we haven't a lot of time, so I'll keep
15 it brief.

16 The -- this is a tourist-based
17 economy, and we all know that in this room,
18 I think, I hope. You concern me recently
19 with some of the things that you've said in
20 the press, and that's why I'm here today.

21 The -- I also have had from my
22 various business filled out, I think, just
23 over 200 of these surveys and letters to
24 the city which I can provide tomorrow when
25 my staff get the balance of them together,

1 but I believe it's just over 200, and those
2 are all very -- many of those are voters
3 and residents of Miami Beach who are very
4 concerned about what's going on here, and
5 that was only done in a couple of days.

6 The -- I've invested here, I've
7 earned money here, I've raised a family
8 here. I certainly, certainly would not be
9 investing anything else now, and I am
10 strongly considering liquidating some of
11 what I own here based upon what I'm
12 hearing, because I see the beginning of
13 end, and that means moving me and moving my
14 family.

15 And its everyone in this room's
16 fault, because you're in control of what
17 happens in this community to a very large
18 degree. You're in control about what
19 happens in this building, and it's very,
20 very difficult to do business here, and I
21 don't think that many of you appreciate
22 that.

23 Some of you did appreciate that when
24 you ran for office, when you got our money,
25 when you solicited our votes, when you

1 misled us into voting for you, and some of
2 you I'm looking at right now as I scan the
3 room.

4 The people that came here are
5 like -- what my wife and I recently thought
6 of doing, are we going to live on the golf
7 course or are we going to live off the golf
8 course. Now, our issue wasn't any golf
9 balls falling in our backyard, but when you
10 move onto the golf course, expect it,
11 because they're going to hit your backyard.

12 This ordinance is poorly thought
13 out. It is -- the definitions require
14 refinement. I don't even understand why
15 you're voting on it yet, because it really
16 doesn't cover the issue completely, and
17 David Wallack is very much correct in what
18 he stated about it, and this gentleman had
19 a good suggestion. I have some of my own.

20 We have a city services issue.
21 That's sanitation, parking, and police, and
22 these are the things that you're supposed
23 to do. You're not supposed to ordinance us
24 to death. Keep us keep coming back here to
25 talk to you, keeping calling you and

1 writing you letters of what you should or
2 shouldn't be doing. You're all intelligent
3 people, you're all business people that
4 we voted on because we respected you.

5 MAYOR DERMER: Listen, I have to ask
6 you to wrap it up if you could.

7 MR. KAUDERER: I'll wrap it up.
8 What I want to know and I think what a lot
9 of the people that are in this room, and
10 unfortunately, many of them have left, but
11 the TV cameras are here, is what this
12 commission individually thinks today about
13 rolling back the hours and about
14 eliminating the ability of businesses that
15 are already open to stay open.

16 These are very two important things
17 that are the lifeblood of the community and
18 important to people investing in this
19 community, and we know what the mayor
20 thinks, because we're not sure -- we're not
21 sure. I mean, I'm not sure. I mean, what
22 do you think? Do you think one thing and
23 then you think another thing --

24 MAYOR DERMER: (Inaudible.)

25 MR. KAUDERER: -- (Inaudible) for

1 about 18 months. Before that --

2 MAYOR DERMER: Mallory, your time
3 has been expired for a while, and some
4 folks are waiting. If you could please
5 wrap it up.

6 MR. KAUDERER: Would this commission
7 be willing to individually state what they
8 think on these positions so we can all hear
9 that?

10 MAYOR DERMER: Mallory, I have to
11 ask you -- I have to ask you, please.

12 MR. KAUDERER: We can start -- we
13 can start from right to left or left to
14 right.

15 MAYOR DERMER: Mallory, I have to --
16 Mallory, your time is expired.

17 COMMISSIONER GARCIA: Mallory, I'll
18 start right here.

19 MAYOR DERMER: No, no, no.

20 MR. KAUDERER: Fine, let's start
21 right there, Commissioner Garcia.

22 COMMISSIONER GARCIA: I'll be happy
23 to start right here. No, I -- I --

24 MAYOR DERMER: Let's finish the
25 public hearing.

1 COMMISSIONER GARCIA: No, he might
2 rule me out of order, but I will definitely
3 make my views known.

4 MAYOR DERMER: I don't want to rule
5 anybody out of order, I just want to finish
6 the public hearing. That's all.

7 MR. KAUDERER: I'm sure you do, it's
8 embarrassing for you.

9 MAYOR DERMER: Come on.

10 MR. KAUDERER: I'm sure you want to
11 finish it.

12 MAYOR DERMER: Josh, come on. Thank
13 you. Thank you Mallory for your comments,
14 I appreciate it.

15 MR. KAUDERER: Thank you, Luis for
16 standing up and possibly wanting to say
17 what the public wants to hear.

18 MAYOR DERMER: Come on.

19 COMMISSIONER GARCIA: Well, I --
20 I --

21 MAYOR DERMER: Welcome.

22 MR. FISHER: My name is Josh Fisher.
23 I'm a resident of South Pointe, and, well,
24 it's not my nature to suck up, but somebody
25 has to really express some appreciation for

1 you all, because you've been put in a
2 really difficult position that is really
3 basically very unfair.

4 You're attempting to do a little bit
5 of land use planning, the most fundamental
6 thing a government body can do in a city,
7 and to have what you're trying to do
8 tonight characterized as being trying to
9 kill the golden goose in our town is just
10 flat out unfair to you, and you really have
11 my empathy.

12 UNIDENTIFIED SPEAKER: Don't worry,
13 we're veterans here, we've been --

14 MR. FISHER: Yeah, I know you've all
15 got the scars.

16 UNIDENTIFIED SPEAKER: That's why
17 we get the big bucks, Josh.

18 MR. FISHER: What is it, 6K a year
19 or something I remember reading once.

20 MAYOR DERMER: The mayor makes 10.

21 MR. FISHER: Do you get paid in
22 cash, that was the other thing (Inaudible.)

23 MAYOR DERMER: Go ahead.

24 MR. FISHER: So the simple fact is
25 that when South Pointe and Sunset Harbor

1 were planned, they were planned to be
2 residential neighborhoods, and our city has
3 got lots of residential neighborhoods.
4 It's got a nightlife district, and I don't
5 know anybody in my residential neighborhood
6 who isn't there for the life and vibrancy
7 of the city.

8 And anybody who thinks that can be
9 sustained by simply willie-nillie ignoring
10 planning, letting businesses do whatever
11 they feel like any place they feel like
12 doing it to whatever hour they want to do
13 it anywhere is just not really sensible
14 about the problem.

15 The problem is we built thousands
16 and thousands of apartments and are
17 building more, and those apartments are in
18 a place which is wonderful, I love living
19 there, my neighbors love living there,
20 those of us who have come down in the last
21 few years and hadn't lived here before are
22 stunned at what a terrific place it is, but
23 it has some incompatible uses that you
24 never intended to have there. You have a
25 loophole in the ordinances that are

1 allowing something, allowing a license you
2 can't come in and get to be gotten by a
3 means that is different from the means by
4 which you get that license, and you're
5 being asked to plug that loophole.

6 And again, I want to thank you for
7 having to endure what it is that you're
8 having to put up with in order to do this
9 most sensible thing.

10 MAYOR DERMER: Thank you, sir. Let
11 us have Juan followed by Rafael followed by
12 Frank.

13 MR COVIAN: Juan Covian, Portofino
14 Towers. You know, almost everybody that
15 has come to the podium has either a sign
16 that says they love the nightlife, they
17 don't want to kill the goose, and those
18 that didn't bring the sign have almost
19 expressed exactly the same thing, they
20 moved here because they love the vibrancy
21 of the city.

22 And part of that is because the
23 nightlife of the city is great. The people
24 that are responsible for the nightlife has
25 done a fantastic job, and they should be

1 congratulated for that. At the same
2 time -- at the same time they should
3 also --

4 MAYOR DERMER: You could stand up
5 if you want. This is not a senate hearing
6 or anything, you can stand up.

7 MR COVIAN: They should also be
8 congratulated, because I have never seen a
9 better utilization of scare tactics in my
10 life. They have basically done everything
11 under the sun to try to show us how passing
12 an ordinance that basically all that
13 it does is correct what is a little
14 loophole by which people are doing what
15 they're not supposed to do, they're telling
16 us that passing that ordinance is going to
17 create Armageddon, I mean, it's going to be
18 the destruction of our way of life, and
19 I think that is just terrible.

20 I am here to support the passing of
21 the ordinance. I think it is time.
22 I asked you last time to belly up to the
23 bar. It's time to get this over, because
24 what is going to continue to happen is get
25 worse and worse and worse.

1 COMMISSIONER GARCIA: Mr. Mayor, I'd
2 like to ask a question.

3 MR COVIAN: Thank you.

4 MAYOR DERMER: Sure. Commissioner
5 Garcia has a question.

6 COMMISSIONER GARCIA: Mr. Covian,
7 don't go away. Don't go away, because you
8 and I met in the presence of other
9 individuals.

10 MR COVIAN: Uh-huh.

11 COMMISSIONER GARCIA: Because, you
12 know, what you're expressing right now is
13 not exactly what you expressed to me at the
14 time. How do you feel about the
15 grandfathering clause?

16 MR COVIAN: I think that if it looks
17 like grandfather clock, each one of them
18 should be looked individual.

19 COMMISSIONER GARCIA: No, no, what
20 did you tell me at the time?

21 MR COVIAN: I told you that exactly.

22 COMMISSIONER GARCIA: No, no, that's
23 not what you told me, Mr. Covian.

24 MR COVIAN: I told you exactly.
25 I said I think it's a mistake to either

1 endorse it blindly or to reject it blindly.
2 Each one of those clocks should be looked
3 at individually, the ones that are there
4 now, and say should you keep it or
5 shouldn't you keep it. I think that's only
6 logical, and I said that the first meeting.

7 COMMISSIONER GARCIA: Well, first of
8 all, the way I recall it wasn't exactly
9 those words, and you said no way that
10 I would go with the grandfathering clause.
11 Okay? That's what you told me.

12 MR COVIAN: That's what I'm saying.

13 VICE MAYOR GROSS: Luis, he's not a
14 trial.

15 COMMISSIONER GARCIA: Well, you know
16 Commissioner Gross.

17 MR COVIAN: Luis --

18 COMMISSIONER GARCIA: Commissioner
19 Gross --

20 MR COVIAN: Luis, listen to me. I'm
21 saying exactly the same. I would not go
22 for a blind endorsement of the grandfather
23 clause no more than I would go for a blind
24 saying everyone should go in. It should be
25 looked at individually.

1 COMMISSIONER GARCIA: First of
2 all -- first of all, that's not what you
3 told me that time. Okay. Okay. I
4 remember. Number two, what I was getting
5 at -- what I was getting it is that type of
6 mentality is what has got everybody else
7 scared right here, because you know what,
8 right now you're -- right now you're
9 proposing to close a loophole, okay, but in
10 reality what you want is to put people out
11 of business.

12 MR COVIAN: I didn't say that.

13 MAYOR DERMER: Juan, let us get
14 Rafael -- Rafael, and our last speaker will
15 be Frank, and we'll close the public
16 hearing.

17 MR. RIVERA: My name is Rafael
18 Rivera, and I live on 211 Collins Avenue.
19 I've been living in South Beach for all my
20 life, 24 years, and I've grown to love this
21 place, it's a very beautiful place.

22 I'm coming over here to represent
23 the minorities, taxi drivers, culinarians,
24 people that live off the tourism business,
25 and I'm just -- I'm going to make this

1 brief and short, we live off of them, and
2 we work hard to make this place what it is
3 today.

4 MAYOR DERMER: You said taxi drives
5 and?

6 MR. RIVERA: Taxi drivers and
7 culinarians.

8 MAYOR DERMER: Oh, culinarians.
9 Okay.

10 MR. RIVERA: People that work in
11 restaurants.

12 MAYOR DERMER: I got it.

13 MR. RIVERA: Even bouncers, you
14 know, bartenders.

15 MAYOR DERMER: I heard you, I heard
16 you.

17 MR. RIVERA: The list goes on and on
18 and on. We live off the tourism, and to
19 be -- I'm -- to be honest with you, as far
20 as I'm concerned, we pay like more taxes
21 than any other county so we could have
22 security with the police. We pay a cent
23 more or something like that, correct me if
24 I'm wrong but whatever.

25 The point that I'm trying to make is

1 that I agree that we should have some sort
2 of stipulations like have more police
3 officers. If we're going to have all these
4 tourists like the Source Awards, the Latin
5 Grammys. Everyone around the world is
6 looking at Miami Beach because we --
7 because of the nightlife, you know, and
8 because what we've become -- what we are
9 today, and I just -- I just wanted to say
10 that, I came over here to say that.

11 MAYOR DERMER: I thank you, sir.
12 Thank you.

13 MR. RIVERA: Thank you.

14 MAYOR DERMER: Our last speaker.
15 Welcome.

16 MR. DEL VECCHIO: Frank Del Vecchio,
17 301 Ocean Drive. I think this ordinance is
18 pro-residential to these two residential
19 neighborhoods. It will be good for
20 residential investment, it will be good for
21 the beach economy, and what it does,
22 it stops the inevitable conflicts in these
23 residential areas if there is going to be
24 an increase in nightlife.

25 I think, however -- in those areas.

1 I think there's something missing that
2 you're going to have to turn to. I think
3 you should enact this ordinance. I think
4 the pro-business aspect of this kind of
5 planning, which I think should be holistic,
6 it should deal with residential investment,
7 it should deal with the asset of nightlife
8 and entertainment, and that part of the
9 equation hasn't really been adequately
10 addressed.

11 I think we need to take the next
12 step, which -- which was generally referred
13 to the planning board, but it was not
14 articulated in a way in which the nightlife
15 industry and the business community can see
16 within it something of value to them, and
17 they have legitimate concerns.

18 We're all concerned about police,
19 sanitation, services, and (Inaudible) over
20 regulation in the residential districts and
21 in the commercial district. I need --
22 I think you need to take a holistic view of
23 where nightlife investment, new nightlife
24 investment should be welcomed and
25 supported.

1 You need to look at the
2 entertainment district, its boundaries, how
3 it's regulated. You've have several issues
4 of existing zoning that may no longer be
5 appropriate. You know the issue of
6 services. So I think we need to have --

7 I think you should enact this
8 ordinance, but I think you need to do a
9 major look at our entertainment district,
10 and it should get the same kind of focus
11 that you've been giving to residential
12 quality of life. You've recognized the
13 change in these residential districts and
14 how they should be improved, and I think
15 we -- we -- we members of neighborhood
16 organizations appreciate and understand the
17 pressures on the commercial district, and
18 we would like to work on that, too. Thank
19 you.

20 MAYOR DERMER: Thank you, sir.
21 Okay. Motion to close the public hearing?

22 VICE MAYOR GROSS: I'll move it.

23 MAYOR DERMER: Okay. Motion to
24 close the hearing is now closed. There's a
25 motion.

1 VICE MAYOR GROSS: I'll make -- I'll
2 make a motion.

3 MAYOR DERMER: Motion, Commissioner
4 Gross on the ordinance or any other
5 (Inaudible)?

6 VICE MAYOR GROSS: Yeah, I think
7 that we need to send a few messages today,
8 because there are two communities, and
9 I think we need to send different messages
10 to the two communities. The first one to
11 the nightclub community, I say let's not
12 discuss rolling back the hours. I think
13 that's a mistake. I think that we should
14 direct the planning board not to consider
15 rolling the hours back from five to
16 two o'clock.

17 Because for whatever reason, the
18 message has gone out that has scared the
19 nightclub industry. That's not our purpose
20 in doing that, and I think that would send
21 a strong message both locally and abroad to
22 other people in the county, other places in
23 the United States, and internationally as
24 well, I don't think that we should be
25 sending a message that we want to roll the

1 hours back. That's number one.

2 Number two, the ordinance that's
3 before us has a lot of validity, and
4 I think that we should pass it, because
5 I think that's a separate issue from the
6 hours issue, and I think the residents
7 deserve to know that there's not going to
8 be anymore proliferation of nightclubs in
9 these two residential neighborhoods.

10 So in a way we can please both sides
11 here by doing that, and I think that's the
12 right thing to do, but I think the city
13 also does need to accept responsibility for
14 not providing the kind of services that
15 need to be provided. I think that's one
16 thing everybody in the room can agree upon.
17 We -- we do have to do better in providing
18 cleanliness and police and safety.

19 But I think the last -- one of the
20 other pieces of the equation that we do
21 need is an ordinance that really was not --
22 didn't receive a lot of attention at the
23 last meeting, but it discusses the rules
24 under which the clubs are expected to be
25 good citizens, and if they don't, then

1 there are ramifications to that.

2 Because I think really the failure
3 that we've had is that the city has had no
4 way of saying to the clubs, we want you to
5 be good citizens, we want you to be
6 successful, but at the end of the day,
7 if you don't do that, there are going to be
8 consequences, your license will either be
9 revoked or it will be suspended, and
10 we have to agree with the nightlife and
11 with the residents on exactly what those
12 rules are, because the uncertainty to
13 business is a very bad thing.

14 I'm in the real estate business,
15 I've heard people talking in the last month
16 since we -- since we meet, I'm not
17 investing in that neighborhood, I'm not
18 buying that building. That's a bad thing.
19 That's not good for anybody on the beach,
20 and the lack of certainty is what creates
21 that.

22 So I would say let's not roll back
23 the hours, let's set guidelines that the
24 businesses have to live by. If they don't,
25 they're going to be subject to having their

1 license suspended or revoked, let's pass
2 this ordinance, and let's provide better
3 city service.

4 MAYOR DERMER: Let me -- let me do
5 this. There's a motion. The motion as I
6 understand it, the ordinance, direction to
7 planning not to roll back hours, and to
8 deal with --

9 COMMISSIONER BOWER: I will second
10 that motion, but I need to --

11 MAYOR DERMER: I just want to
12 articulate the element --

13 COMMISSIONER BOWER: I need to ask a
14 question.

15 MAYOR DERMER: No, no, hang on, hang
16 on. I just want to articulate it properly.
17 Your two components along with the
18 ordinance to the to roll hours and --

19 VICE MAYOR GROSS: Well, this
20 providing better services is a direction to
21 the manager, but the other one, we need to
22 have a community meeting on this -- the
23 rules by which we're going to have the
24 clubs live by in terms of the periodic
25 violations, and over time if they

1 demonstrate that they're not going to be
2 good citizens, at one point the license is
3 going to be subject to suspension or
4 revocation.

5 MAYOR DERMER: Okay. That's
6 (Inaudible.)

7 VICE MAYOR GROSS: And that's what
8 the federal court has asked us to do in the
9 litigation that was pending with Opium.
10 They said, you know, the city had tried to
11 revoke their license, and the Court said
12 you don't have any criteria to do this.
13 We want you to establish those criteria.

14 MAYOR DERMER: Okay. Is there a
15 second to the (Inaudible.)

16 UNIDENTIFIED SPEAKER: I'll -- I'll
17 second it.

18 COMMISSIONER BOWER: No, but I want
19 to ask a question.

20 MAYOR DERMER: (Inaudible.)

21 VICE MAYOR GROSS: One other item,
22 because I agree with Frank, and also
23 it might have been David Kelsey who said
24 it. We do need to look at what
25 neighborhoods we want to encourage

1 nightlife to flourish in, and what we're
2 saying here is don't open new nightclubs in
3 South Pointe. Okay?

4 Let's go to the planning board,
5 let's pick the entertainment district,
6 let's say what neighborhoods we want new
7 nightclub investment to be in, which is
8 what Commissioner Garcia has been saying.

9 COMMISSIONER GARCIA: For four
10 years.

11 VICE MAYOR GROSS: And let's --
12 let's give certainty to people who want to
13 invest in our community and open businesses
14 so that they can be successful.

15 MAYOR DERMER: Okay. There's a
16 motion and a second. And that, I think,
17 was a good motion, because you got both
18 sides clapping for you. I've got to
19 commend you on that one.

20 Go ahead, what is your --
21 Commissioner Cruz had his light on first,
22 and then we'll entertain Bower, Garcia,
23 Smith, Steinberg.

24 COMMISSIONER CRUZ: That's the wise
25 thing to do here. And again, because of

1 the uncertainty that was going out and as
2 I stated at the beginning, this was a
3 narrow ordinance directed at closing a
4 loophole, but not to discourage the
5 nightlife industry. That's why the
6 rollback became such a critical issue, and
7 it's not something that we want to send a
8 message wholesale that we're shutting down,
9 because we're not.

10 So maintaining and putting aside the
11 whole rollback issue is a smart thing to
12 do. However, the entertainment component
13 which you brought up and David Wallack has
14 in the past and now Frank Del Vecchio has
15 brought up as far -- as well as David
16 Kelsey, we need to look at that, because
17 we do need to at least tell the people that
18 do want to invest, this is an area that
19 you're going to invest that we are going to
20 respect the ground rules.

21 It's the same thing we did when
22 we had the development issues back here in
23 '98. We drew the line and said this is
24 what we'll allow to do in these areas and
25 not in these. There's nothing worse for

1 investment than uncertainty for both
2 residents and business people.

3 Hopefully, this will put it to a
4 rest that we welcome both and that the
5 nightlife industry, which has become an
6 extremely important industry for us, will
7 be respected and tolerated, but the clubs
8 also have to do their fair share.

9 They have to maintain their outside.
10 They have to control their crowds.
11 Taxicabs are a huge problem in the
12 neighborhoods, because they go back and
13 forth. That's not the problem of the
14 nightclub, but we as a body need to send
15 that message out as well, because it's --
16 it is out of control, and it's not
17 necessarily in the control of the clubs to
18 be able to do that.

19 We're going to have to do a better
20 job. We need to define exactly what it is
21 that we expect from them, and we need to do
22 it and hold them accountable to it, because
23 if we tell them what we expect, then they
24 have ground rules, and it is unacceptable
25 to have at five in the morning or from,

1 what, one to five, which is really when
2 they're thriving, you know, huge masses of
3 people congregating outside and creating
4 problems, and the clubs have to understand
5 that and work with us on that, because that
6 will only inure in your favor if you can
7 handle that.

8 And outside of that, look, I think
9 we've come a long way, and I think that
10 this will hopefully put this at ease and we
11 can all have a good and quiet summer,
12 because I dreaded spending another
13 commission meeting getting phone calls. So
14 hopefully everyone can rest assured that
15 their interests are preserved.

16 MAYOR DERMER: I had Bower, then
17 I had -- how did I do the order, Bower,
18 Garcia, Smith, and Steinberg. I'm sorry,
19 well, let me get Richard after Bower, he's
20 usually hanging out there. Okay.

21 COMMISSIONER BOWER: Okay. My
22 question is I -- I don't disagree with this
23 so far, except I'm not quite sure where
24 we're handling the outside entertainment
25 and the noises that it creates, because

1 we're -- I was never concerned with rolling
2 back any -- any hours any place, but my
3 concern is with the outdoor entertainment,
4 and I don't know, Saul, how you are
5 addressing that issue in this motion, which
6 is why we send it -- at least it was my
7 perception that that's why we sent it to
8 the planning board, because if it's --

9 VICE MAYOR GROSS: Right, I --
10 uh-huh.

11 COMMISSIONER BOWER: -- if it's in
12 doors, I'm not concerned, it's the --

13 VICE MAYOR GROSS: Well, I agree
14 with you, but I think what we also had sent
15 to the planning board was consider the
16 rollback of the hours as well, and I think
17 that that was an error, and that's what I'm
18 saying today.

19 COMMISSIONER BOWER: But what if --
20 well -- well -- no, but I want to --

21 MR. GONZALEZ: Commissioner Bower, I
22 want to understand your question.

23 COMMISSIONER BOWER: Yes.

24 MR. GONZALEZ: Is it the concern
25 with entertainment or with outdoor open

1 air?

2 COMMISSIONER BOWER: Outdoor open
3 air.

4 VICE MAYOR GROSS: And Matti is
5 saying --

6 MR. GONZALEZ: The collateral --

7 VICE MAYOR GROSS: She's talking
8 about the collateral impacts of the
9 nightclubs, I believe, when the people --

10 MR. GONZALEZ: Are outside.

11 VICE MAYOR GROSS: (Inaudible) out
12 of the nightclubs.

13 MR. GONZALEZ: I think you're
14 talking about an open air.

15 COMMISSIONER BOWER: (Inaudible.)

16 VICE MAYOR GROSS: Open air,
17 we already dealt with that.

18 MR. GONZALEZ: We did that one.

19 COMMISSIONER BOWER: We dealt with
20 that?

21 VICE MAYOR GROSS: Yeah, that's
22 done.

23 COMMISSIONER BOWER: All over?

24 MR. GONZALEZ: In south -- in South
25 Pointe.

1 VICE MAYOR GROSS: In South Pointe.

2 COMMISSIONER BOWER: Only?

3 VICE MAYOR GROSS: Yes.

4 COMMISSIONER BOWER: And that is
5 grandfathered in?

6 MR. GONZALEZ: You allowed for
7 grandfathering in as well.

8 VICE MAYOR GROSS: Yeah.

9 COMMISSIONER BOWER: In the -- in
10 the (Inaudible.)

11 MR. GONZALEZ: In South Pointe.

12 COMMISSIONER BOWER: So how do
13 we resolve in your -- in your issues of,
14 you know, code of conduct, are we going to
15 address, then, issues -- that's the last
16 ordinance we passed, the issue is if you
17 break the law and the noise.

18 MR. GONZALEZ: The -- what you
19 passed as first reading in your last
20 meeting and asked us to go out and do some
21 outreach, which we have some meetings
22 trying to get scheduled, is the issue of
23 our occupational license and habitual
24 offenders where we would determine at what
25 point the multiple violations make you a

1 habitual offender, which allows us to
2 pursue a license revocation hearing before
3 the special master or some other
4 (Inaudible.)

5 COMMISSIONER BOWER: Well, that
6 actually will take care of the problem.

7 MR. GONZALEZ: That should come
8 back, I believe it's in your June meeting.
9 Is that when (Inaudible.)

10 VICE MAYOR GROSS: But let's make
11 sure we have plenty of dialogue
12 (Inaudible.)

13 MR. GONZALEZ: Yeah, and that's the
14 intent is that -- that's why we put it to
15 June, to allow for sufficient time to reach
16 out to the neighbors and to the business
17 owners so that we can reach consensus.

18 COMMISSIONER BOWER: Okay.

19 UNIDENTIFIED SPEAKER: What about
20 entertainment without dancing.

21 MAYOR DERMER: Hang on one second,
22 here. Commissioner Steinberg (Inaudible.)

23 COMMISSIONER SMITH: I'm going to
24 deal with that.

25 MAYOR DERMER: He's going to race

1 that issue.

2 COMMISSIONER STEINBERG: I have a
3 question of clarification for the
4 administration and that's there -- you have
5 listed seven restaurants in South Beach
6 that you identify as having dance licenses
7 and two in the Sunset Harbor area. Is
8 it your opinion that we're grandfathering
9 in those nine establishments, all of them?

10 MR. GONZALEZ: The -- the intent of
11 this ordinance would grandfather any
12 licensed legal establishment. Those are
13 the seven that are listed in our report.
14 I'd like to actually read them into the
15 record at some point once the ordinance is
16 passed.

17 COMMISSIONER STEINBERG: Because
18 I want to clarify, I don't want anyone to
19 go out not thinking that they are or aren't
20 grandfathered. I just want to --

21 MR. GONZALEZ: Right, I think
22 we should clarify those.

23 COMMISSIONER STEINBERG: I want
24 people to know where they stand going out
25 of here.

1 MR. GONZALEZ: Exactly.

2 COMMISSIONER STEINBERG: So there's
3 no --

4 MR. GONZALEZ: That's appropriate,
5 and that's something we were planning to do
6 as part of the motion was to make sure that
7 we were very clear on which establishments
8 are as far as our understanding through our
9 occupational license have legal standing
10 and would be vested with the legal
11 nonconforming use, and if you want to do
12 that now, we can do that now, or we can do
13 it -- Jorge (Inaudible.) Go ahead, yeah.

14 MR. GOMEZ: These are the following
15 restaurants with the entertainment license
16 that are currently in existence. That
17 would be Penrod's, Opium, Pure Lounge,
18 Monty's, Taverna Opa, Harrison's,
19 (Inaudible), and that's it. Those are the
20 seven that right now.

21 MR. GONZALEZ: And then South
22 Pointe. And then what are the --

23 MR. GOMEZ: South of 5th Street.

24 MR. GONZALEZ: And then the ones on
25 Sunset.

1 MR. GOMEZ: On Sunset.

2 VICE MAYOR GROSS: You don't read
3 Joya, did you?

4 UNIDENTIFIED SPEAKER: Pure lounge.

5 MR. GOMEZ: Pure lounge.

6 VICE MAYOR GROSS: But that's
7 different, pure lounge is a different
8 business.

9 MR. GOMEZ: No, they have the same
10 liquor license for the entire complex.

11 VICE MAYOR GROSS: No, no, I don't
12 think so.

13 MR. GONZALEZ: No, let's do them
14 separately, Jorge. Notice down here they're
15 listed twice, Pure Lounge and Joya. Down
16 about a little bit past half of your list,
17 right above (Inaudible.)

18 MR. GOMEZ: I'm sorry, yes, yes.

19 VICE MAYOR GROSS: You see, Pure is
20 a different animal.

21 COMMISSIONER BOWER: Is Opa
22 (Inaudible) now.

23 MR. GOMEZ: Opa has an entertainment
24 license, yes.

25 VICE MAYOR GROSS: No, there's a

1 Taverna Opa and --

2 MR. GOMEZ: Taverna Opa.

3 COMMISSIONER BOWER: So when it came
4 to land use and we spent all that time in
5 land use making sure that it wasn't going
6 to be a noise making entertainment, and you
7 told me no.

8 MR. GOMEZ: Right, they have --

9 COMMISSIONER BOWER: No, 300 times
10 until I finally voted for this. It's now a
11 cabaret?

12 MR. GOMEZ: The entertainment is
13 only indoors, they're not allowed to
14 have --

15 COMMISSIONER BOWER: So then it's
16 not --

17 MR. GOMEZ: It doesn't --
18 it doesn't -- it has an entertainment
19 license for outdoor only.

20 COMMISSIONER GARCIA: For outdoor
21 entertainment.

22 MR. GOMEZ: The ordinance that you
23 passed --

24 MR. GONZALEZ: Matti, that's the
25 loophole that you're trying to close.

1 MR. GOMEZ: That's the ordinance
2 that you passed was about outdoor
3 entertainment.

4 COMMISSIONER BOWER: Yeah, but my
5 God.

6 MAYOR DERMER: Okay.

7 MR. GONZALEZ: That's the loophole
8 you're trying to close with this ordinance,
9 to prevent that from happening, that's a
10 restaurant that has a dance license.

11 UNIDENTIFIED SPEAKER: (Inaudible.)
12 So now Taverna Opa cannot open.

13 MAYOR DERMER: Fine, let us go to
14 Commissioner Steinberg (Inaudible.)

15 COMMISSIONER STEINBERG: And in
16 Sunset Harbor are there any that are being
17 grandfathered in?

18 MR. GOMEZ: Right now Sunset Harbor
19 has Jade and the Purdy Lounge, and
20 I believe that there was a -- that's
21 it I think, those are the only two that
22 we have licensed right now.

23 COMMISSIONER STEINBERG: Okay.
24 Secondly, I want to -- it's interesting,
25 because when we were here at the last

1 meeting, the conversation of rolling back
2 the hours, some of my colleagues were
3 trying to pin me into reporting that, and
4 there's been a little bit of a
5 metamorphosis and people changing their
6 opinions and now all of a sudden advocating
7 not doing that, so I find that to be quite
8 interesting.

9 I for one never supported the idea.
10 I reluctantly went along with it saying
11 that we'd discuss it between then and now
12 and on the referral of the planning board,
13 but it's interesting that at the time the
14 sentiment up here was somewhat different,
15 and there were people that were trying to
16 pin me into doing something and take a
17 position on it, and I refused to do so.

18 As I said at the last commission
19 meeting and maybe not in these words, the
20 finger should not be pointed at the
21 industry or the residents. The finger to a
22 large extent should be pointed at the city.
23 The city has failed. We have failed to
24 have ordinances that we can enforce
25 properly. We have failed to enforce our

1 noise ordinance. We have failed to provide
2 the sanitary services that we need.
3 We've failed to provide the police services
4 that we need.

5 And we should not punish the
6 residents or the business because of that,
7 but instead we should find the resources to
8 address this, and especially in South
9 Pointe where we have the RDA and we have
10 the ability to use money from the RDA for
11 policing, we should be making sure we have
12 adequate, sufficient -- we have adequate
13 funding to provide the policing necessary
14 to make sure that the industry can coexist
15 with the residents. There's no reason why
16 we shouldn't be able to do that.

17 When it came to the issue probably
18 over a year ago on open air entertainment,
19 I was the only vote, I believe, against
20 that, and I voted against it because I said
21 what was next. Where were we going next,
22 and it seemed that there wasn't a whole
23 look at how to go forward and how to plan
24 where the industry would be and how it would
25 be.

1 So instead what happens is you have
2 groups in one area that become vocal and
3 then we react, and then you have a group in
4 another area that becomes vocal and then
5 we react.

6 Well, the nightlife industry here to
7 a large extent has always shifted slightly
8 throughout the city, and my theory is as
9 soon as you pigeonhole it into one area too
10 tightly, the next shift will not be from
11 one couple of blocks to another couple of
12 blocks, it will be across the bay or to
13 Fort Lauderdale, and that will -- and that
14 will have drastic impacts on the economy of
15 our city.

16 All of my colleagues have an
17 alternative ordinance that legal put
18 together which was part of the discussion
19 that we had last time here about only
20 allowing the -- well, the loophole that
21 exists today was created, and I think the
22 intent behind it was actually very right,
23 the intent was there are legitimate
24 restaurants that have the -- that should be
25 able to have entertainment or dancing, and

1 the example of belly dancer, if there's
2 nothing more going on there, is a perfect
3 example.

4 A place that has TVs that wants to
5 have sports programming and turn the volume
6 up for Super Bowl is another example.
7 There are -- there are legitimate uses in a
8 real restaurant to do that, and what I had
9 suggested doing was looking to the state
10 statutes that deal with what type of liquor
11 license people have.

12 And I'll call on Gary (Inaudible)
13 from legal to get into the details of the
14 alternative amendment that you came up
15 with, and I thank you for doing that and
16 for your hard work that ties it to the
17 state liquor license, so that a restaurant
18 with an SRX alcohol beverage, which means
19 that a majority of their sales must be from
20 food, they must continue to sell food at
21 all times.

22 So you can't have a restaurant
23 during the day or part of the night and
24 turn it into something else. It actually
25 goes to what the intent of it was. The

1 commission's intent was saying if you're a
2 legitimate restaurant, we'll let you be a
3 legitimate restaurant and have these other
4 uses. That was the commission's intent at
5 the time, and that's why they put the
6 language in there.

7 Unfortunately, the way the language
8 is in there, it's so vague that it's
9 created a loophole. It was not intended as
10 a loophole, it was intended to allow
11 legitimate businesses to exist, and I will
12 not support this ordinance unless it is
13 tailored in a way to allow legitimate
14 restaurants to exist. And I'll -- I'll
15 turn to Gary to explain the amendment.

16 MAYOR DERMER: Gary.

17 MR. HELD: Well, I know we've been
18 here a long time, I don't know how much you
19 want me to go into it, but the intent of
20 the ordinance as codified was to exempt
21 restaurants that we considered bona fide
22 restaurants, that we defined as having a
23 full kitchen, and I believe serving full
24 meals -- serving full meals. That has
25 turned into not resulting in bona fide

1 restaurants.

2 When you look at rules that
3 determine what is a bona fide restaurant,
4 the state license for alcohol for
5 restaurants does that, it requires --
6 it has five criteria starting with at least
7 51 percent of the total gross revenues must
8 come from retail sales of licensed premises
9 food and nonalcoholic beverages.

10 The -- there are five criteria, the
11 intent of the five criteria is to truly
12 establish that there's a bona fide
13 restaurant, so if you wanted to maintain
14 the bona fide restaurant exemption --

15 COMMISSIONER STEINBERG: Can you
16 read from the five, Gary.

17 MR. HELD: In Dade County there are
18 two size limitations. The first is that
19 it be a minimum of 4,000 square feet, the
20 second that it be a minimum of 250 seats.
21 That is not a standard statewide rule that
22 was -- that was increased for Dade County
23 alone.

24 The third standard is the 51 percent
25 rule from license -- from food and

1 nonalcoholic beverages. The fourth
2 standard is that full course meals must be
3 available at all times when the restaurant
4 is serving alcoholic beverages, and
5 it defines a full course meal as including
6 salad or vegetable, entree, beverage, and
7 bread.

8 The fifth criteria is that the
9 establishment is a bona fide restaurant
10 primarily engaged in food and nonalcoholic
11 beverage sales and service, and that has
12 been explained to me as a component of
13 their advertising and what they hold out
14 the business to be.

15 So the amendment, the alternate
16 ordinance merely substitutes the state SRX
17 alcoholic beverage license for the phrase
18 "full kitchen serving full meals" to
19 establish that it be a bona fide
20 restaurant.

21 Admittedly, there are establishments
22 that don't qualify for SRX that are
23 restaurants that may be bona fide
24 restaurants but for one reason or another
25 don't have the SRX license. For example,

1 if you're between 60 seats and 99 seats,
2 you don't qualify for an SRX license,
3 because you don't meet the minimum size.
4 Also there are restaurants that are over
5 200 seat that is have chosen a 4COP, which
6 is the (Inaudible) license, because they
7 don't either want to be subject to the
8 state audit rules or, you know, other
9 strict rules meeting the SRX criteria.

10 So there are gaps in this that will
11 only create a limited exemption for those
12 that meet the five criteria even though
13 there may be other kinds of bona fide
14 restaurants.

15 MAYOR DERMER: Okay.

16 COMMISSIONER BOWER: Can I just ask?

17 MAYOR DERMER: Sure.

18 COMMISSIONER BOWER: So -- so
19 if there is a smaller restaurant that does
20 not seat 250, they cannot have
21 entertainment?

22 MR. HELD: Not under this alternate.
23 There is an option, but it's very
24 burdensome administratively. It's to look
25 at whether a restaurant could qualify for

1 the SRX rules but for the size of the
2 establishment and the number of seats, but
3 that means that we would be in the
4 business, we the city, of doing the audits
5 to evaluate the other criteria rather than
6 relying on the state to do its audits and
7 maintaining the SRX rules.

8 MAYOR DERMER: Okay. Was there
9 anything else Richard or was that --

10 MR. GONZALEZ: That -- just to
11 clarify that, that amendment would not
12 allow a restaurant that chose not to sell
13 liquor from opening up, you would require
14 the SRX license.

15 MR. HELD: That's correct.

16 MR. GONZALEZ: You have to have the
17 liquor license (Inaudible.)

18 MR. HELD: Right, then you have an
19 after hours club which is a whole 'nother
20 story.

21 MR. GONZALEZ: Okay.

22 COMMISSIONER STEINBERG: Actually,
23 let me make a motion on the amendment.
24 I'll move the amendment. Well, the mover
25 accepted as a friendly amendment is the

1 first question.

2 COMMISSIONER SMITH: Richard, let me
3 explain -- let me explain the problem I'm
4 having here. I'm not trained as an alcohol
5 expert.

6 COMMISSIONER STEINBERG: Nor am
7 I (Inaudible.)

8 UNIDENTIFIED SPEAKER: I don't know
9 what the ramifications -- I don't know what
10 the ramifications of this license are, how
11 many people could take advantage of it,
12 whether you can transfer it from one
13 location to another, I don't know how many
14 people it would effect, so we're kind of
15 operating blindly here.

16 I mean, I don't mind studying the
17 issue, and I don't mind coming back and
18 giving you an opinion as to how I feel at
19 the meeting, but to -- to introduce a
20 totally new concept to an ordinance that
21 we have already debated for weeks, I don't
22 know that this is the right forum for us to
23 be able to do that.

24 COMMISSIONER STEINBERG: With all
25 due respect, because I had brought this up

1 at the last meeting, this is not new. The
2 direction from this body was between first
3 and second reading for the administration
4 and legal to do this analysis and get back.

5 I don't want to be faulted for the
6 fact that the administration and legal did
7 not do the thorough -- do an analysis well
8 enough for you to be satisfied, but the
9 reality is I don't want to go through this
10 again. I don't want to have to have these
11 people come back here again to debate this
12 issue again, to have to find five votes now
13 to change this.

14 I mean, the reality is right now
15 if there's not three votes for it, if I can
16 get two other people to agree with me on
17 this, it happens. Conversely, I need five
18 votes to add it in later.

19 UNIDENTIFIED SPEAKER: Well, today
20 is the first day that (Inaudible.)

21 UNIDENTIFIED SPEAKER: Commissioner,
22 Commissioner Steinberg, Mr. Smith, as you
23 know, I do a lot of legal work on alcoholic
24 beverage licenses, so let me just make a
25 statement for the record.

1 It's impossible to qualify for the
2 SRX license in Dade County unless you have
3 4,000 square feet and 250 seats. I can't
4 think of hardly any places that are left in
5 this town that would be qualified for that
6 license. Joe's Stone Crabs is one of the
7 few places that would actually make it.

8 COMMISSIONER SMITH: So it's in your
9 opinion as an expert in liquor law --

10 UNIDENTIFIED SPEAKER: It would --
11 it's the worst possible thing we can --

12 COMMISSIONER SMITH: -- this
13 wouldn't affect anybody?

14 UNIDENTIFIED SPEAKER: No, because
15 if you put the SRX designation on
16 qualifications, then you're automatically
17 saying you have to have 4,000 square feet
18 under roof, and you have to have 250 seats
19 on the floor, and I don't know of any of
20 the places that are available --

21 COMMISSIONER STEINBERG: I
22 understand --

23 UNIDENTIFIED SPEAKER: -- that you
24 could possibly buy or rent that would
25 qualify.

1 UNIDENTIFIED SPEAKER: (Inaudible)
2 to Gary.

3 COMMISSIONER STEINBERG: I think
4 there are four SRX licenses in South
5 Pointe?

6 MR. HELD: Yeah, Monty's On the
7 Beach, Smith and Wollensky, Big Pink, and
8 China Grill.

9 UNIDENTIFIED SPEAKER: Right, that's
10 how big you have to be, so if you --

11 COMMISSIONER STEINBERG: That's
12 fine, but at least -- at least those places
13 that are legitimate restaurants, if they
14 want to remain legitimate restaurants and
15 have this accessory use, they can. Think
16 of the -- the flip side is you're telling
17 them they can't. The flip side is you're
18 telling those people that are true
19 restaurants, and the commission's intent
20 when they passed this initially was clearly
21 to allow a bona fide restaurant to have an
22 accessory use of dancing or entertainment.

23 UNIDENTIFIED SPEAKER: (Inaudible.)

24 UNIDENTIFIED SPEAKER: I'm saying
25 that you're -- you're -- you're -- the

1 equality of that, you're discriminating,
2 because the places that are that large --

3 COMMISSIONER STEINBERG: I'm just --

4 UNIDENTIFIED SPEAKER: -- are the
5 only ones that are going to be able to
6 qualify for that particular (Inaudible.)

7 MAYOR DERMER: Steve, I
8 appreciate --

9 COMMISSIONER BOWER: But I wanted to
10 help him.

11 UNIDENTIFIED SPEAKER: (Inaudible.)

12 UNIDENTIFIED SPEAKER: See, but
13 there's something.

14 COMMISSIONER BOWER: You can't help
15 him or the other gentleman (Inaudible.)

16 UNIDENTIFIED SPEAKER: (Inaudible.)

17 UNIDENTIFIED SPEAKER: Okay. I just
18 wanted to go on the record because there
19 was a question.

20 MAYOR DERMER: Sir, sir, we're not
21 taking (Inaudible.)

22 UNIDENTIFIED SPEAKER: I just want
23 to say one thing.

24 MAYOR DERMER: Sir.

25 UNIDENTIFIED SPEAKER: My restaurant

1 is 66 seats. How could it be bona fide?

2 MAYOR DERMER: Sir, sir, please be
3 seated. Thank you.

4 Richard, you have a sentiment here
5 that Jose is not comfortable with it as far
6 as not dismissing it, but it has not --
7 this has not traveled through committee,
8 this has not been debated internally in the
9 city.

10 COMMISSIONER SMITH: Well, I'm not
11 saying that we're not telling --

12 COMMISSIONER STEINBERG: And we are
13 going -- we are going -- the rationale here
14 is we are closing a loophole. We are not
15 closing a loophole, then. We are changing
16 the law. The law was to allow restaurants
17 to have -- legitimate restaurants have the
18 ability to have entertainment and to have
19 dancing.

20 If a place, a legitimate restaurant
21 wants to have those and still wants to
22 function as a legitimate restaurant --

23 COMMISSIONER BOWER: (Inaudible.)

24 COMMISSIONER STEINBERG: -- then
25 they should be able to. That is the

1 original intent of the commission. If our
2 intent here is to close the loophole
3 because there's been abuse of it, then
4 we should look for a way to prevent the
5 abuse but not prevent legitimate business,
6 and that's what I asked the administration
7 and legal to do before first and second
8 reading, and this is what they came up with
9 as a possibility to do that.

10 If you want to go back and look at
11 it after, I'm fine with that, but I don't
12 want to throw out the baby with the bath
13 water. I don't want to take this further
14 than it has to go, and if we need to expand
15 it a little bit later, we can.

16 I'm not saying that we can't come
17 back to it, but why if we have a
18 classification that we know are people that
19 have to abide by the state laws, subject to
20 state audit, that they are legitimate
21 restaurants, they are exactly the people
22 that this commission when they passed the
23 ordinances in the past intended to allow to
24 operate, and now we're telling them, I'm
25 sorry, we're changing the game.

1 We told you if you were a legitimate
2 restaurant you can come in and comply or
3 get this license, no more. We're no longer
4 closing the loophole, we are changing the
5 law.

6 COMMISSIONER BOWER: But what I want
7 to know is those four names that were
8 brought up, they don't have any -- they
9 don't -- they're not complaining because
10 they don't do that, but I wanted to help
11 the ones that were here that are smaller
12 that don't qualify. What can we do for
13 those?

14 COMMISSIONER STEINBERG: I don't
15 mind that. If legal can tell me a way for
16 us to do that.

17 COMMISSIONER BOWER: (Inaudible.)

18 MAYOR DERMER: Sir, please.

19 UNIDENTIFIED SPEAKER: Let me help
20 you out.

21 MAYOR DERMER: No.

22 UNIDENTIFIED SPEAKER: Let me help
23 you out.

24 MAYOR DERMER: Sir.

25 UNIDENTIFIED SPEAKER: Why don't you

1 just roll back to two o'clock.

2 MAYOR DERMER: Sir, sir.

3 UNIDENTIFIED SPEAKER: (Inaudible)

4 ledge restaurants to two o'clock.

5 MAYOR DERMER: Sir, sir.

6 COMMISSIONER BOWER: Sit down. Sit

7 down.

8 MAYOR DERMER: Please, please.

9 COMMISSIONER GARCIA: Mr. Mayor,

10 sometime I would like to get into the

11 discussion.

12 MAYOR DERMER: I'm going to get you

13 in. I have -- Richard, any further

14 discussion?

15 COMMISSIONER STEINBERG: If you can

16 find a way, Commissioner Bower, that we can

17 pass today or if legal can come up with

18 something, this -- it's been three weeks

19 since they were given the charge to find

20 a --

21 MAYOR DERMER: (Inaudible) question

22 by (Inaudible.)

23 COMMISSIONER STEINBERG: -- and the

24 answer -- this is the answer that

25 we think --

1 MAYOR DERMER: All right. Hang on.

2 COMMISSIONER SMITH: Is the reason
3 that you're proposing this so that the four
4 restaurants that were mentioned will not be
5 deemed nonconforming?

6 COMMISSIONER STEINBERG: No, it's in
7 case someone --

8 COMMISSIONER SMITH: Is that the --
9 is that the idea?

10 COMMISSIONER STEINBERG:
11 If someone -- no, my idea was if someone is
12 a true restaurant, a bona fide restaurant,
13 not someone who is parading to be a
14 restaurant, a bona fide restaurant that
15 wants to have these uses. If it's a
16 place -- for example, in North Beach, we've
17 all probably been to the Greek restaurant
18 on 71st Street.

19 They have belly dancer on the
20 weekend. They presumably need a dance
21 license because they have belly dancer, and
22 probably an entertainment license also
23 if they turn up the music loud enough.

24 MAYOR DERMER: Gary, you wanted to
25 comment?

1 MR. HELD: You know, this has been
2 raised before. The referral to the
3 planning board includes looking at the
4 definition of "entertainment" and planning
5 and legal both believe we can deal with
6 that at that time.

7 MAYOR DERMER: Okay.

8 COMMISSIONER STEINBERG: But my --

9 MR. HELD: (Inaudible) restaurants
10 with the limited entertainment.

11 COMMISSIONER STEINBERG: My concern
12 is you'll need five votes at that time to
13 change the definition of "entertainment."
14 We're going to have residents that are
15 going to be out here telling us not to do
16 that, that we're opening up Pandora's box
17 by doing that, and I don't want to put the
18 commission in that position to the extent
19 that we don't have to.

20 If we can create an exemption for
21 legitimate business, and others may come
22 on. There are four right now, there could
23 be a fifth one tomorrow who applies for
24 that license or a restaurant. For example,
25 Joe's didn't have -- has a CPO4 license,

1 but perhaps their food sales I assume are
2 high enough, they probably could go to a
3 license to the -- to the other license
4 if they wanted to and get dancing or
5 entertainment if they chose.

6 MAYOR DERMER: All right. Let us --
7 let us continue the discussion if we can.
8 Commissioner Smith, then Commissioner
9 Garcia.

10 COMMISSIONER GARCIA: Go ahead.

11 MAYOR DERMER: I have you after --

12 COMMISSIONER GARCIA: (Inaudible)
13 no, I -- I (Inaudible.)

14 MAYOR DERMER: Okay. Commissioner.

15 COMMISSIONER SMITH: Gary, you --
16 you made a statement just a couple of
17 moments ago about the referral to planning
18 to consider what exactly is an
19 entertainment establishment and what is
20 allowed and what is not allowed.

21 Obviously, we don't really see a
22 problem with belly dancer in and of itself
23 or a comedian or a Super Bowl show or a
24 Heat game or a band -- a Mariachi band or
25 whatever -- whatever -- whatever

1 we suggested is an extreme reaction to --
2 to the ordinance.

3 I think we need to find a definition
4 that deals with that issue. I mean, we --
5 we know we don't want DJ's at five o'clock
6 in the morning, we don't want bands at five
7 o'clock in the morning, but there's --
8 there's -- there's a middle road here, and
9 I think that that issue needs to --

10 MR. HELD: Right, and that's not an
11 issue for tonight, it's an issue that will
12 be discussed, and we probably will be able
13 to come up with something to satisfy the
14 small business needs.

15 MAYOR DERMER: Okay. Commissioner
16 Garcia.

17 COMMISSIONER GARCIA: Yeah, but
18 on -- on that note, we will come up with
19 something. I mean, what are you going to
20 come up with, when are you going to come up
21 with, and that's what scares me.

22 You know, my good friend Mary
23 Dollins out there says that there's an old
24 Mexican occurs where you (Inaudible) on
25 Cinco de Mayo that says, may your life be

1 filled with lawyers, and, you know, this is
2 basically what's happening here. Okay?

3 I -- I -- I started with an idea,
4 okay, which I made -- I made a motion to
5 postpone the passing of this ordinance
6 until it was properly crafted. Okay. You
7 know, I -- I -- this man, he came out with
8 a good proposal that he almost had me.
9 Okay?

10 When this ordinance first came
11 about, I voted to -- I voted to approve
12 it on first reading with some caveats, to
13 go -- to go to the planning board for not
14 to roll back the hours, you know, I -- but
15 for the creation of a cabaret district.
16 Okay?

17 Mr. Mayor, with all due respect to
18 you, you shoulder -- you shoulder all the
19 blame on this uncertainty right here,
20 because (Inaudible.)

21 MAYOR DERMER: Thank you.

22 COMMISSIONER GARCIA: No, you know,
23 I said it before, you weren't here, I'm
24 going to make sure I, again, to you in your
25 face, you know, when --

1 MAYOR DERMER: You don't have to,
2 it's all right.

3 COMMISSIONER GARCIA: But I will.
4 But I will.

5 MAYOR DERMER: All right.

6 COMMISSIONER GARCIA: You know, at
7 the -- at the (Inaudible) you know, which
8 is around TV a number of times, you kept
9 saying you will even be willing to
10 (Inaudible) roll back the hours.

11 MAYOR DERMER: That's not accurate.
12 That's not accurate. That was never
13 mentioned.

14 COMMISSIONER GARCIA: Well, you
15 know, look -- look at the tape. Anyway --

16 MAYOR DERMER: I know the tape.
17 I know -- I wrote the speech. I said the
18 speech, I know what's in it.

19 COMMISSIONER GARCIA: Well, you
20 know, you said it.

21 MAYOR DERMER: Well, I'm not
22 gonna -- we'll leave it as is.

23 COMMISSIONER GARCIA: If you didn't
24 do it there, you did it at the subsequent
25 meeting. Okay? So with that said, that

1 created a tremendous amount -- a tremendous
2 amount of uncertainty in the community, and
3 that's why the people are here, because,
4 you know, most of the people are here not
5 because of this loophole that we're
6 trying -- that we're trying to close, most
7 of the people are here because they feel
8 that they are going to --

9 MAYOR DERMER: (Inaudible.)

10 COMMISSIONER GARCIA: That they are
11 going to roll back the hours, you know.
12 (Inaudible) and some people have stressed
13 feeling that they don't want to grandfather
14 anybody in, okay, and that creates anxiety.
15 Okay?

16 MAYOR DERMER: Your position --

17 UNIDENTIFIED SPEAKER: (Inaudible.)

18 MAYOR DERMER: Your position --
19 please, sir, please, please, please.

20 COMMISSIONER GARCIA: My position --
21 my position -- first of all, I don't think
22 the hours should be rolled back, not now,
23 not ever, number one.

24 Number two -- number two, any
25 business that's in operation right now

1 that's been playing by the rules, you do
2 not change the rules of the game at this
3 place and time. Okay? That's an
4 investment of money, and you know what,
5 they -- they deserve to be -- they deserve
6 to be -- to recoup their money.

7 Number three, I think the city is to
8 blame for the lack of services. For
9 years -- for years I have been -- I have
10 been asking for the creation of districts
11 like the ones we have before. They used to
12 work, they were properly, the streets were
13 clean, there were walk patrol, and you know
14 what, we haven't had it.

15 If there's a district that deserves
16 to be made a semi-autonomous district, it's
17 South Beach. You go the RDA. You can get
18 funding from the RDA for -- for the
19 services down there, you know.

20 MAYOR DERMER: I don't know
21 if that's quite accurate, but I'm not going
22 to debate that issue with you right now.

23 COMMISSIONER GARCIA: You know what,
24 you can do it, people are receptive. We --
25 we as a city, let's face it, Mr. Manager,

1 we are not the most efficient entity in the
2 world. The streets are dirty, the police
3 are not on the streets, and, you know, and
4 the complaints are not answered -- are not
5 answered on -- on -- on a timely manner.

6 COMMISSIONER BOWER: You know why
7 the streets are dirty --

8 COMMISSIONER GARCIA: With that --
9 with that said, also -- also.

10 COMMISSIONER BOWER: -- and we don't
11 have enough police and we don't have -- why
12 there's all that? Because there's not
13 enough money in the budget. You know every
14 time somebody stands up here, oh, please,
15 my foot, you know.

16 COMMISSIONER GARCIA: You know what,
17 guy -- you know what, guys.

18 COMMISSIONER BOWER: When we are
19 here debating issues of how much we're
20 going to pay for the unions, and when
21 people -- we're fighting here to raise a
22 little bit of 2.50 for a square foot in
23 Lincoln Road for -- to pay for the cleaning
24 of Lincoln Road one time a year for the
25 tables, everybody comes, all the businesses

1 come out, and we say let's not raise it.

2 When we raise the park fees, there's
3 nobody here because the citizens are not
4 really -- you know.

5 COMMISSIONER GARCIA: Mr. Mayor, do
6 I have the floor.

7 MAYOR DERMER: Hang on.

8 COMMISSIONER GARCIA: Do I have the
9 floor? You know --

10 COMMISSIONER BOWER: Yes, I have the
11 floor.

12 COMMISSIONER GARCIA: I have the
13 floor.

14 COMMISSIONER BOWER: You know,
15 I have the floor.

16 MAYOR DERMER: We're not taking the
17 discussion back (Inaudible.)

18 COMMISSIONER GARCIA: You know what,
19 I -- I have been -- I have been --

20 COMMISSIONER BOWER: It really
21 saddens me what goes on in this city.

22 COMMISSIONER GARCIA: I have been
23 very patiently.

24 MAYOR DERMER: We'll come back.
25 Okay.

1 COMMISSIONER GARCIA: You know what,
2 I have been very patient to listen --
3 listening to the arguments for a while.
4 I haven't opened my mouth, I haven't
5 participated. The only thing I'm asking is
6 the same good manners that I have shown to
7 my fellow commissioners.

8 MAYOR DERMER: You don't want those.

9 COMMISSIONER GARCIA: Well, you know
10 what, to be honest with you, at this point
11 in time --

12 MAYOR DERMER: Go ahead.

13 COMMISSIONER GARCIA: -- it's very
14 (Inaudible.)

15 MAYOR DERMER: Go ahead.

16 COMMISSIONER GARCIA: You know what,
17 if we want to have the -- if we want to
18 have the night club, we won't have to worry
19 the police, you know why, because we won't
20 have money -- we won't have money to pay
21 for police services.

22 COMMISSIONER BOWER: You know why,
23 because (Inaudible.)

24 MAYOR DERMER: All right. All
25 right. All right. All right. All right.

1 Now, let's bring us back to context,
2 please.

3 COMMISSIONER GARCIA: No, no, let --

4 MAYOR DERMER: Hang on.

5 COMMISSIONER GARCIA: I'm not
6 finished.

7 MAYOR DERMER: But we have a motion.
8 I'm just refreshing the memory of the
9 people as to what we're voting on, what's
10 on the table.

11 Commissioner Gross has made a motion
12 in support of the ordinance, asking also
13 that there be no rollback sent to
14 discussion of planning.

15 COMMISSIONER BOWER: (Inaudible)
16 made the motion.

17 MAYOR DERMER: And --

18 COMMISSIONER GARCIA: Can I -- can
19 I have the floor.

20 MAYOR DERMER: No.

21 COMMISSIONER GARCIA: You know what,
22 no, no, at this point in time you
23 interrupted me. The Commissioner Bower
24 interrupted me, and I'm losing my patience,
25 you know what --

1 MAYOR DERMER: Commissioner, you
2 have to calm down, calm down a little.

3 COMMISSIONER GARCIA: You know what,
4 my rights are being violated here,
5 Mr. Mayor. What are you talking about?

6 MAYOR DERMER: (Inaudible.)

7 COMMISSIONER GARCIA: You know
8 (Inaudible) what I said, you used to have
9 enough class -- you used to have enough
10 class (Inaudible.)

11 MAYOR DERMER: Don't -- don't.

12 COMMISSIONER GARCIA: The heck with
13 it, you know.

14 MAYOR DERMER: Just relax.

15 COMMISSIONER GARCIA: You know at
16 this point in time, you provoked all this,
17 you know, with -- with your incendiary
18 remarks, and we have been listening to
19 three hours while you (Inaudible.)

20 MAYOR DERMER: (Inaudible.)

21 COMMISSIONER GARCIA: (Inaudible.)

22 MAYOR DERMER: Recess, five minutes,
23 five minute recess.

24 COMMISSIONER GARCIA: Yeah, you know
25 what, this is censure, man.

1 MAYOR DERMER: Cool down.

2 COMMISSIONER GARCIA: What the hell.
3 You know what, I have the floor when you
4 come back. Don't be a coward. Don't be a
5 coward. Don't run away from here.

6 (Thereupon, meeting stands in recess
7 for a five-minute break.)

8 MAYOR DERMER: Let's reassemble,
9 folks, if we is have our seats. If we can
10 have our seats, please. How are you?

11 Folks, come on now, it's getting
12 late. Let's try and get our seats. What
13 we will do is we're going to have
14 Commissioner Gross will repeat the motion
15 that is on the floor, and then Commissioner
16 Garcia will have the floor.

17 Commissioner Gross, please repeat
18 your motion.

19 VICE MAYOR GROSS: Okay.

20 MAYOR DERMER: Refresh us where
21 we are.

22 VICE MAYOR GROSS: I say number one
23 that we forever renounce the rollback of
24 hours from five to two, and that we -- that
25 we specifically address -- direct the

1 planning board not to address that issue.

2 MAYOR DERMER: Okay.

3 VICE MAYOR GROSS: Okay. That's
4 number one. Number two, that we continue
5 the public dialogue to flesh out the
6 ordinance that we passed on first reading
7 that would specify the circumstances under
8 which a club that's not being a good
9 citizen could have their license either
10 suspended or revoked after repeated
11 violations.

12 And at that hearing, though, I think
13 that June date is too soon to work that
14 out. I mean, it's a serious -- it's a very
15 serious issue, we have to achieve some kind
16 of consensus, so I would say, you know,
17 July if -- but I think June, to get it on
18 the agenda, is not going to be time, and I
19 don't think one meeting is going to do
20 that.

21 MAYOR DERMER: Okay. So the passage
22 of those two amendments.

23 VICE MAYOR GROSS: Yeah, then
24 we pass -- we pass the ordinance, and also
25 we should include, though, that the city

1 needs to do a better job of, you know,
2 providing the services and enforcing the
3 rules through code. And then the last
4 piece of it was to direct the planning
5 board, though, to look at where we want to
6 encourage nightlife investment, you know,
7 in the different entertainment sections of
8 the city and proactively, you know, make
9 that statement and direct the -- and look
10 at the Washington Avenue issue, look at
11 it on Ocean Drive with the cabaret
12 district, look at that entertainment piece
13 holistically as to where we want to let
14 investors know with certainty that this is
15 a place that you should go.

16 MAYOR DERMER: Okay.

17 VICE MAYOR GROSS: Okay.

18 MAYOR DERMER: Thank you.

19 Commissioner Garcia.

20 COMMISSIONER GARCIA: Thank you.

21 Thank you very much.

22 VICE MAYOR GROSS: Well, let's see
23 if there's a second, first.

24 COMMISSIONER SMITH: I'll second it.

25 MAYOR DERMER: There was a second.

1 VICE MAYOR GROSS: Oh, I'm sorry.

2 MAYOR DERMER: That will be
3 confirmed again.

4 COMMISSIONER CRUZ: I second it.

5 MAYOR DERMER: Seconded by
6 Commissioner Cruz and Smith.

7 COMMISSIONER GARCIA: Thank you very
8 much, Mr. Mayor, let me see if I can finish
9 my statement before I was rudely
10 interrupted.

11 Again, my intention in the beginning
12 has been the creation of a cabaret
13 district. This is an issue that I brought
14 up to the commission before there was a --
15 before there was a Commissioner Gross,
16 before there was a Commissioner Steinberg,
17 and you know, we never found any fertile
18 grounds for that -- for that idea to
19 foster. So that makes me very, very happy.

20 As far as the rollback of the hours,
21 also I do agree with that. I think that
22 that's basically what -- what all these
23 people are here, they fear that the hours
24 are going to be rolled over, that the party
25 might be rolled over, that the industry

1 might be crippled. Okay? So again,
2 that's -- that's another -- that's another
3 point that I agree with you.

4 As far as to stop the proliferation
5 of nightclubs, I do still think that South
6 Beach is a different animal than Sunset
7 Harbor, and I want to tell you why. South
8 Beach, yes, it's more -- more of a
9 residential area.

10 MAYOR DERMER: South Pointe.

11 COMMISSIONER GARCIA: I mean, I'm
12 sorry, South Pointe, I do -- I do
13 apologize. However, Sunset Harbor, if you
14 look at the map, I wish it was passed
15 around here, it was mostly an industrial
16 area. Where is Miami creating the
17 nightclubs?

18 UNIDENTIFIED SPEAKER: (Inaudible.)

19 MAYOR DERMER: Folks, folks, please.

20 COMMISSIONER GARCIA: The -- the
21 nightclubs that Miami is creating, they're
22 creating downtown in the industrial areas,
23 the areas that go dark at night, the areas
24 that before there weren't any apartments
25 out there, you know, they were empty.

1 So again, this is a little harder
2 (Inaudible) people out there, but, you
3 know, before there was the first building
4 out there, there was a boat factory, there
5 were tow yards.

6 UNIDENTIFIED SPEAKER: (Inaudible.)

7 MAYOR DERMER: Sir, please. Please,
8 no more screaming from the audience.

9 COMMISSIONER GARCIA: Okay. So at
10 that point in time I think those two things
11 need to be separated, they cannot be
12 treated the same way. You know, it's --
13 again, what I -- what I proposed at the
14 beginning of this meeting, and I still
15 think it's a valid issue is for us to look
16 at it before we -- we pass this on
17 second -- second reading.

18 I can agree with about 75 percent of
19 your issues. One thing that I would like
20 to be included is for the small clubs,
21 specifically the three clubs that have
22 (Inaudible) plans to be considered -- to be
23 considered in the pipeline and to be -- you
24 know, to be grandfathered in.

25 I think that would be -- you know,

1 you're talking about days, you're talking
2 hours practically, and the way the
3 bureaucracy -- the way the bureaucracy
4 works in this city, I think that would be a
5 good recommendation.

6 Again, I voted for this ordinance on
7 first reading, because I thought it was
8 closing a loophole. Since that time,
9 again, because of comments made as far as
10 the rollback of the hours, the level of
11 anxiety grew. This ordinance, you know,
12 it's not that big -- it's not that big of
13 an ordinance, but it's as a message that
14 we might have been sending. I think with
15 Commissioner Gross's -- Commissioner
16 Gross's recommendation, I think we could --
17 we could somewhat neutralize the message.

18 With that said, I could -- you know,
19 would also like to see the -- the small
20 operators, the ones that apply, to be
21 included on the -- on the ordinance, to be
22 included and be grandfathered in, and I
23 will -- you know, I will consider voting
24 for the ordinance that way.

25 MAYOR DERMER: Okay. Any further

1 discussion from anyone?

2 COMMISSIONER BOWER: (Inaudible.)

3 MAYOR DERMER: Yes, commissioner.

4 COMMISSIONER BOWER: Your motion
5 includes better sanitation service, better
6 police service, and -- and the motion is
7 the ordinance, again, and what was the
8 other thing?

9 VICE MAYOR GROSS no roll -- no
10 rollback of the hours, plus we don't --
11 we move forward with adopting the other
12 ordinance but not in June, maybe July.

13 COMMISSIONER BOWER: And I --
14 I don't have concerns with those, but
15 I have a concerns of wondering how we are
16 going to do, and I guess the question is to
17 the city manager, you know, when we've had
18 the police here saying that they don't want
19 anymore extensions of long hours, because
20 there are, you know, they're over taxed,
21 and when we have sanitation that all over
22 the city we have the same problem of no,
23 you know, the sanitation better.

24 I have a problem, and I guess it's a
25 moral problem more than, to include that in

1 that motion that I think it's not going to
2 happen, because if the manager, to make
3 this happen, has to take the policemen from
4 middle beach or North Beach to move them to
5 now where we have to say, let's improve
6 that, those residents are going to be
7 upset.

8 So I'm okay with your motion, except
9 that I think that those pieces that are
10 budgetary pieces that somehow either you
11 have to cut another area in the city to
12 move it to this area are taken out, and
13 I have a -- just a philosophical problem.

14 VICE MAYOR GROSS: Yeah, I -- let
15 me -- I agree with you. I didn't mean to
16 mandate in this motion that we're
17 allocating extra dollars. What I was
18 saying is let's acknowledge in the motion
19 that we failed to provide the kind of
20 services that we should.

21 COMMISSIONER BOWER: (Inaudible.)

22 VICE MAYOR GROSS: And also direct
23 the manager to try to improve it, but I'm
24 not -- you know, that's not -- part of the
25 motion is not to say put more police there,

1 it's to say do a more effective -- the city
2 needs to do a more effective job in
3 delivering the services, however the city
4 manager, you know, can arrange to make that
5 happen, and some of it may be from the
6 direction from of the commission and clear
7 direction, and this ordinance --

8 COMMISSIONER SMITH: What -- what
9 Matti is concerned about, and I tend to
10 agree with her is that whatever we do
11 should not be to the detriment of other
12 areas (Inaudible.)

13 VICE MAYOR GROSS: I agree, I agree.

14 MR. GONZALEZ: That becomes a budget
15 issue.

16 MAYOR DERMER: Yeah, I agree.

17 MR. GONZALEZ: I think that's a
18 discussion you better served from a
19 resource allocation perspective. I mean,
20 the direction I'm hearing -- I hear a lot
21 of (Inaudible) I've heard a before.

22 COMMISSIONER BOWER: That's why
23 I asked the question if it should be in the
24 motion.

25 MR. GONZALEZ: And we -- exactly,

1 and we've enhanced services there.

2 MAYOR DERMER: Why don't we take
3 that out of motion.

4 VICE MAYOR GROSS: Fine.

5 MAYOR DERMER: Okay.

6 COMMISSIONER GARCIA: Again, what
7 I would like to offer as a suggestion to
8 pay for that, that extra police, extra
9 sanitation, would be, again, the creation
10 of a district. And the creation of the
11 district is not a panacea, it's not a free
12 ride, because the (Inaudible) are required
13 to ante up some money. You know what, they
14 would have control of their services, and
15 I'm sure that these merchants right there
16 would be very happy to ante up money
17 if they know they're going to get the
18 services.

19 You know, this is something that,
20 again, going back probably ten years ago
21 was when it was done away with trying to
22 run -- 1994, we had the districts, we had
23 viable districts, they worked, and there's
24 to reason why they cannot work again.

25 Again, you know, just the same way

1 that Mr. -- Mr. Jones contributed \$12,000
2 to send kid to a ballpark -- I mean, to
3 play ball away from here, which is very
4 commendable, Mr. Jones, I'm sure, you know,
5 the neighbor -- the businesses are making
6 the money, are bringing the money in would
7 be very happy to ante up to expand the
8 services as long as they know the services
9 are going to be to that area. So I mean,
10 that's -- that's something to consider.

11 MAYOR DERMER: Okay. Further
12 discussion on the matter?

13 COMMISSIONER STEINBERG: I just want
14 to -- I want to see if I can get a second
15 on my motion which is to adopt the
16 alternative or to add the language that is
17 presented in the alternative to use the
18 state SRX license in place of the current
19 language in the ordinance as far as full
20 kitchens (Inaudible.)

21 MAYOR DERMER: You're offering it as
22 an amendment basically?

23 COMMISSIONER STEINBERG: Correct.

24 MAYOR DERMER: Is there a second to
25 the amendment?

1 Hearing none, that will die. Back
2 to the original --

3 COMMISSIONER GARCIA: Could I --
4 could I offer an amendment to include the
5 starting the creation of a district?

6 MAYOR DERMER: There's -- certainly.
7 You -- there's an amendment to study
8 (Inaudible.)

9 MR. GONZALEZ: I just want to be
10 very clear, I think what you're talking
11 about commissioner is a business
12 improvement district.

13 COMMISSIONER GARCIA: A business
14 improvement district.

15 VICE MAYOR GROSS: Well, or
16 alternatively to meet with the clubs to
17 work with them to figure out how to be
18 better neighbors and to work with the
19 residents together so that they can try and
20 address some of these issues of the
21 collateral impact on the neighborhood at
22 night when the people spill out of the
23 club. I mean, that's really the issue.

24 COMMISSIONER GARCIA: Well,
25 Commissioner --

1 VICE MAYOR GROSS: So the
2 cleanliness, the noise, you know, people
3 drinking beer out of the cups as they leave
4 the place, that whole litany.

5 MR. GONZALEZ: That's in their hands
6 today and --

7 COMMISSIONER GARCIA: But -- but --
8 but.

9 VICE MAYOR GROSS: Well, I'm just
10 saying, that that's the litany of
11 complaints that we hear from the residents,
12 and I think there are solutions to that.

13 COMMISSIONER GARCIA: But you know
14 what, that problem can be solved.

15 UNIDENTIFIED SPEAKER: (Inaudible.)

16 UNIDENTIFIED SPEAKER: They don't
17 allow that to happen. Their liquor license
18 is in jeopardy if they do that.

19 UNIDENTIFIED SPEAKER: Well, I don't
20 want you to have a dialogue.

21 MAYOR DERMER: All right, let us --

22 COMMISSIONER GARCIA: You know, you
23 know, again, if they -- if they are sure
24 that they can -- that they can provide
25 better services so their -- to their area,

1 if they increase their contribution to the
2 city, I'm sure, you know, and if they have
3 the control over that, I'm sure the
4 situation would be -- would be corrected.

5 MAYOR DERMER: Are we ready -- yes.

6 UNIDENTIFIED SPEAKER: (Inaudible.)

7 VICE MAYOR GROSS: One other
8 clarification, though.

9 MAYOR DERMER: All right.

10 VICE MAYOR GROSS: Because this
11 grandfather question is sort of lingering
12 out there, but it's undefined. What I want
13 to make clear is that anybody with a legal
14 license --

15 COMMISSIONER SMITH: Nonconforming.

16 VICE MAYOR GROSS: Legal
17 nonconforming use would be grandfathered,
18 but anybody who got their license through
19 the subterfuge of pretending to be a
20 restaurant but is really a club, I don't
21 think they have a legitimate license,
22 because they got around the whole intent of
23 this to open a club.

24 So I think we don't want to make a
25 legal judgment in this motion about who is

1 a legal nonconforming uses and who isn't.
2 That's -- you know, that's a separate
3 issue, but what we're saying is if you have
4 a legal license, if you're a legal
5 nonconforming use, you're grandfathered.

6 COMMISSIONER STEINBERG: But Saul,
7 there needs to be some certainty for people
8 as they leave here.

9 VICE MAYOR GROSS: Well, I'll give
10 you an example. Pure, which opened --
11 which basically opened under the loophole
12 I don't believe is a legal nonconforming
13 use.

14 COMMISSIONER STEINBERG: Are there
15 others? I mean, I don't want -- you have
16 nine business here, and they all -- someone
17 may argue that each of them are
18 nonconforming -- or illegal uses that are
19 nonconforming.

20 So we just enumerated nine business
21 here that were being grandfathered in. Now
22 we're saying that some of those, even
23 though they were mentioned here in saying
24 they were being grandfathered in, may not
25 be grandfathered in. I mean, these

1 businesses have a right to know --

2 VICE MAYOR GROSS: But they know.
3 The point here is that they were -- they
4 were entitled to a license as a restaurant,
5 right? That's what the code says, a full
6 service restaurant. Now, you know and
7 we -- everyone knows that Pure does not
8 operate as a full service restaurant.

9 COMMISSIONER STEINBERG: I've never
10 been there.

11 VICE MAYOR GROSS: Well, they went
12 to the planning department and they said
13 how do we get open, and they said, well,
14 you know, you have to have a full kitchen
15 and you have to serve full meals.

16 Now, you go there at three o'clock
17 in the morning, they're not serving full
18 meals. So, you know, I don't -- in their
19 case, I don't think that they have a
20 legitimate license.

21 MR. DUBBIN: Let me -- may
22 I suggest, these are all very factually
23 driven as to what -- what was a legal
24 operation, what was not a legal operation.
25 I don't think you can stand -- sit up here

1 and make a judgment that will cover all the
2 situations. All you can do is declare
3 that's your intent, which is really
4 contained in the ordinance -- proposal,
5 that those legal -- those that were
6 operating legally will continue as a legal
7 nonconforming use.

8 VICE MAYOR GROSS: Right.

9 MR. DUBBIN: Now, that doesn't mean
10 we're not going to be in court trying to
11 prove that they were illegally operating or
12 defending against that, because those are
13 factually driven, but it's your intent that
14 the operation be a legal operation and then
15 become a legal nonconforming use.

16 COMMISSIONER STEINBERG: Let us --

17 VICE MAYOR GROSS: That's correct,
18 that's right.

19 COMMISSIONER STEINBERG: But Murray,
20 how do you define --

21 VICE MAYOR GROSS: That's right,
22 I think he's right.

23 MR. DUBBIN: What's that?

24 COMMISSIONER STEINBERG: Not
25 complying with the ordinance that

1 (Inaudible.)

2 VICE MAYOR GROSS: Exactly. That's
3 right.

4 UNIDENTIFIED SPEAKER: Take whatever
5 action you need.

6 VICE MAYOR GROSS: Right.

7 MAYOR DERMER: Okay. As we can
8 already, obviously.

9 VICE MAYOR GROSS: That's right.

10 MR. DUBBIN: Make it clearer.

11 MAYOR DERMER: All right. That is
12 the motion, seconded.

13 COMMISSIONER GARCIA: Well, where do
14 we stand -- where do we stand with the
15 creation of a district? Could that be part
16 of the motion?

17 MAYOR DERMER: You take that, you've
18 heard discussion, that is not -- unless you
19 want to offer it has an amendment, the
20 mover is not accepting it at this point.

21 VICE MAYOR GROSS: Well, I would
22 accept a broader one, which is that, you
23 know, in the course of discussing the
24 ordinance with the clubs and with the
25 residents about under what circumstances

1 they would be considered a habitual
2 violator and that their license would be
3 subject to --

4 COMMISSIONER GROSS: At least
5 (Inaudible.)

6 VICE MAYOR GROSS: I know, I'm
7 saying during that same discussion that
8 we also discuss with them this issue of how
9 they can participate in mitigating the
10 negative collateral impacts from people
11 pouring out of their club late at night.
12 I mean, that's the big issue.

13 COMMISSIONER GARCIA: But the big
14 issue is that the clubs do not trust the
15 administration, because the administration
16 has (Inaudible.)

17 VICE MAYOR GROSS: That's why
18 I rather them do it themselves. I don't
19 think they need the city --

20 COMMISSIONER SMITH: I don't know
21 that we want to link an ordinance --

22 VICE MAYOR GROSS: Your mic.

23 COMMISSIONER SMITH: I don't know
24 that we want to link an ordinance which is
25 presently under challenge in court and

1 which we have to redraft.

2 VICE MAYOR GROSS: Which one is
3 that?

4 COMMISSIONER SMITH: The habitual
5 offender ordinance.

6 VICE MAYOR GROSS: Uh-huh.

7 COMMISSIONER SMITH: The license
8 revocation ordinance. I don't know if you
9 want to along that with anything else.
10 I think that that should either stand or
11 fall on its own. I don't want to link
12 it with districts. Districts don't have
13 anything to do with that.

14 VICE MAYOR GROSS: No.

15 MR. GONZALEZ: I think what
16 Commissioner Gross is saying is when we go
17 out to the community and we've been
18 directed to go out and neighbors and the
19 businesses and discuss this proposed
20 amendment which you passed on first
21 reading, that at that same time we talk
22 about various strategies from a business
23 improvement district to a self-imposed self
24 fee -- some kind of condo association type
25 of setup or whatever the case may be,

1 discuss how it is that we might be able to
2 solve this collateral damage issue.

3 VICE MAYOR GROSS: Those options --

4 UNIDENTIFIED SPEAKER: Yeah, but --

5 VICE MAYOR GROSS: -- it's got to be
6 floated with or without (Inaudible.)

7 COMMISSIONER GARCIA: Yeah, but --
8 but you know -- but you know what --

9 VICE MAYOR GROSS: Yeah.

10 COMMISSIONER GARCIA: And again,
11 Mr. Manager, I'm going to be a cynic on
12 this, you know, in what good faith would
13 the administration deal on that issue,
14 because I know that this is not something
15 that you're looking forward to create, a
16 special district.

17 MR. GONZALEZ: Commissioner --

18 COMMISSIONER GARCIA: Seriously.

19 MR. GONZALEZ: I follow the
20 direction of this commission.

21 COMMISSIONER GARCIA: But you're
22 going to --

23 MR. GONZALEZ: We always negotiate
24 in very good faith. I have had
25 conversations with almost all -- most of

1 the residents or their representatives.
2 I've had conversations with the business
3 owners --

4 COMMISSIONER GARCIA: Could I --
5 could I --

6 MR. GONZALEZ: -- or their
7 representatives. Whatever direction you
8 give me, we will implement. We've had
9 conversations around this before, and
10 if there's a better solution than the city
11 providing that service, because it always
12 costs the city more.

13 COMMISSIONER GARCIA: (Inaudible.)

14 MR. GONZALEZ: That makes sense.

15 COMMISSIONER CRUZ: If the
16 commissioner wants to make at that separate
17 motion, let's vote on this motion and then
18 we can make a separate motion, and we will
19 vote on that, and he will know the
20 sentiment of the commission. That's the
21 easiest way. You're interested in a
22 district, make a motion and we'll decide on
23 it.

24 COMMISSIONER GARCIA: Wait a second,
25 I want to address what the man said.

1 COMMISSIONER CRUZ: That's fine, but
2 if you want to make a motion, you can do
3 that.

4 COMMISSIONER GARCIA: Could I --
5 could I -- could I request that a
6 commission liaison be appointed to the
7 negotiations, and I will volunteer to be
8 (Inaudible.)

9 MR. GONZALEZ: There's not a
10 negotiation. There's a conversation
11 (Inaudible.)

12 COMMISSIONER GARCIA: (Inaudible.)

13 MR. GONZALEZ: It's a public
14 meeting. Anybody could come.

15 MAYOR DERMER: I think let's get --
16 let's get this off of table, Commissioner
17 Gross's motion and second, and then we'll
18 deal with any other matters that the
19 commission entires.

20 VICE MAYOR GROSS: All right. Let's
21 call the question.

22 MAYOR DERMER: The question has been
23 called. This is a five-sevenths vote.

24 THE CLERK: All right.
25 Commissioner, I just want to verify one

1 thing, that the issue of -- the issue of
2 the -- the city accepting responsibility
3 for the service, we removed that as part of
4 the motion?

5 VICE MAYOR GROSS: Yes.

6 THE CLERK: Because it's a
7 budgetary --

8 VICE MAYOR GROSS: That's right,
9 we can acknowledge in the motion that we've
10 done a bad job at providing (Inaudible)
11 service.

12 THE CLERK: We're not going to do
13 anything with that. Okay.

14 VICE MAYOR GROSS: Yeah.

15 THE CLERK: Okay.

16 UNIDENTIFIED SPEAKER: What are
17 we -- what are we voting on?

18 MAYOR DERMER: We are voting --
19 commissioner -- Commissioner Gross's --
20 we are voting on the ordinance which has
21 been seconded along with the hours not
22 being discussed at the planning board along
23 with basically clubs being good citizens
24 and possibly entertainment districts,
25 looking into that aspect.

1 MR. DUBBIN: And Mr. Mayor,
2 I recommend that there be two votes,
3 because by adopting an ordinance, you're
4 passing a law, and you can't pass a law
5 that's -- by throwing other stuff in it.

6 MAYOR DERMER: We do --

7 VICE MAYOR GROSS: We did on first
8 reading, but, you know, I don't care.

9 MAYOR DERMER: (Inaudible.)

10 VICE MAYOR GROSS: That's fine
11 we can do --

12 MAYOR DERMER: Let's do the
13 ordinance, let's go the ordinance itself.

14 THE CLERK: Okay.

15 MAYOR DERMER: Okay. On the itself
16 there's a motion and second on the
17 ordinance, a five-sevenths vote. Please
18 call the question, call the roll.

19 COMMISSIONER BOWER: On the
20 ordinance?

21 THE CLERK: Just on the ordinance.
22 Commissioner Garcia.

23 COMMISSIONER GARCIA: No, I cannot
24 vote for an ordinance that I don't trust
25 the -- the commitment of the administration

1 or the commission, no.

2 THE CLERK: Commissioner Bower?

3 COMMISSIONER BOWER: Yes.

4 THE CLERK: Commissioner Steinberg?

5 COMMISSIONER STEINBERG: No.

6 THE CLERK: Commissioner Smith?

7 COMMISSIONER SMITH: Yes.

8 THE CLERK: Vice Mayor Gross?

9 VICE MAYOR GROSS: Yes.

10 THE CLERK: Commissioner Cruz?

11 COMMISSIONER CRUZ: Yes.

12 THE CLERK: Mayor Dermer.

13 MAYOR DERMER: Yes.

14 THE CLERK: Five in favor, two
15 against. The ordinance carries.

16 MAYOR DERMER: Okay. Now let's go
17 and start discussing some of these other
18 issues.

19 VICE MAYOR GROSS: Yeah, the other
20 issue would be the direction to the
21 planning board not to consider the
22 rollback -- that the sentiment of the
23 commission is not to consider rolling back
24 the hours.

25 COMMISSIONER STEINBERG: I second.

1 UNIDENTIFIED SPEAKER: Oh, you're
2 going to do them as one individually.

3 UNIDENTIFIED SPEAKER: That would be
4 a resolution.

5 VICE MAYOR GROSS: That would be a
6 resolution to the planning board. You do
7 not -- you do not want them to consider
8 it period.

9 MR. DUBBIN: Mr. Mayor --

10 MAYOR DERMER: Yes.

11 MR. DUBBIN: May I suggest that the
12 way it be worded is that the request be
13 withdrawn from the planning board.

14 VICE MAYOR GROSS: Withdrawn.

15 COMMISSIONER STEINBERG: I'll second
16 that.

17 MAYOR DERMER: Okay. That's a
18 motion by Gross, second by Steinberg. All
19 in favor?

20 Opposed? Hearing none, that will
21 pass.

22 Now let us go to the issue -- your
23 next issue, the entertainment district
24 discussion?

25 VICE MAYOR GROSS: Well, we already

1 referred that issue, I think.

2 UNIDENTIFIED SPEAKER: Referral.

3 MR. GONZALEZ: Yeah, that's going to
4 planning, the entertainment district is
5 different than yours, commissioner.

6 VICE MAYOR GROSS: Formal referral
7 than -- well, without objection.

8 COMMISSIONER GARCIA: I would like
9 to make a motion (Inaudible) reinforce the
10 fact that we would like to (Inaudible.)

11 MAYOR DERMER: Well, for discussion
12 of the planning board you're saying?

13 VICE MAYOR GROSS: Turn your mic on,
14 too.

15 COMMISSIONER GARCIA: Yeah, for
16 discussion of the planning board, I would
17 like to emphasize that this commission's
18 feeling is that the cabaret district be
19 created.

20 UNIDENTIFIED SPEAKER: No, not the
21 (Inaudible.)

22 COMMISSIONER BOWER: A what?

23 COMMISSIONER GARCIA: A cabaret
24 district.

25 VICE MAYOR GROSS: Cabaret district.

1 COMMISSIONER BOWER: Oh, I'm sorry,
2 I thought you --

3 COMMISSIONER SMITH: Can I -- can
4 I get clarification on exactly what that
5 means.

6 COMMISSIONER GARCIA: That means
7 that will be an area in the future that
8 will prevent -- it will prevent meetings
9 like this. There will be guidelines, of
10 course. And again, keep in mind that the
11 creation of a cabaret district is not going
12 to supersede county ordinances about noise;
13 however, it will be an area that cabarets
14 can flourish, can -- you know, people can
15 go.

16 You know, like if you go to New
17 Orleans, you go to Bourbon Street. Here
18 they will know that they can go to Ocean
19 Drive or -- or Washington Avenue or Collins
20 Avenue, and, you know, there will be --

21 MAYOR DERMER: I'm in favor of
22 discussion.

23 VICE MAYOR GROSS: Me too, I don't
24 have a problem with discussion.

25 MAYOR DERMER: I don't know

1 (Inaudible) sentiment, but certainly
2 discussion is fine, and see -- let the
3 planning board operate in a way that
4 they're free to (Inaudible) the issue.

5 COMMISSIONER GARCIA: Well, you
6 know --

7 UNIDENTIFIED SPEAKER: I think
8 eventually, commissioner --

9 COMMISSIONER GARCIA: Mr. Mayor, my
10 concern, though, in the past the planning
11 board has been on the record as trying
12 to -- trying to turn the lights on at two
13 o'clock, you know. It happened with --
14 it happened with the Breakwater, it's
15 happened with Mango, with the Edison.

16 I mean, they have -- they were
17 taking some steps that were -- again,
18 that's part -- that's part of the fear of
19 the community, that this is only the first
20 step. So I'm --

21 MAYOR DERMER: Well, you want to
22 make it as direction to look -- to
23 institute a cabaret district.

24 COMMISSIONER GARCIA: Correct.

25 MAYOR DERMER: Is there a second to

1 that motion?

2 COMMISSIONER CRUZ: I'll second it.

3 MAYOR DERMER: Second by
4 Commissioner Cruz. All in favor?
5 Opposed?

6 VICE MAYOR GROSS: Okay. The last
7 piece of it, Mr. Mayor, which the way we do
8 it by reso or however, is the good citizen
9 piece for the clubs, which is both that
10 we bring back the ordinance for second
11 reading that talks about this --

12 MAYOR DERMER: Wow, what is that?
13 Is that Cinco de Mayo. My gosh, Roman,
14 what do you got going at your club?

15 UNIDENTIFIED SPEAKER: What the hell
16 is going --

17 UNIDENTIFIED SPEAKER: What is
18 happening.

19 MAYOR DERMER: I don't know what
20 it was. It was a band, a drum, fireworks
21 are here. Okay.

22 UNIDENTIFIED SPEAKER: Cinco de
23 Mayo, yeah.

24 MAYOR DERMER: Let me just break for
25 one moment. I want to commend everybody

1 for their -- for -- it was a difficult
2 hearing, but we got through it. I want to
3 commend everybody for doing such a good job
4 with it. I appreciate it very, very much.
5 I commend also the hard work on this
6 ordinance that legal, especially, I know
7 has gone through a lot. Planning's gone
8 through a lot, committees, commission has
9 gone through a lot.

10 I also want to take a moment to
11 commend Roman for your donation. I thought
12 that was one of the big successes of the
13 night of \$12,000 to fly the kids to the
14 Little League World Series, I think that
15 was wonderful, and I hope that some of your
16 other colleagues in the nightlife industry
17 will follow suit from your example of doing
18 this, and -- and work with some good
19 programs for kids in the community.

20 And we'll keep the dialogue going,
21 we'll keep working this issue as, you know,
22 as long as it takes, we appreciate it very
23 much.

24 ROMAN: Thank you.

25 MAYOR DERMER: Now, let us -- let us

1 continue. Commissioner Gross, you had one
2 more thought?

3 VICE MAYOR GROSS: Well, it's the
4 good citizen part which is both the --

5 MAYOR DERMER: Okay. One more --
6 back up. Roman, in your discussion, you
7 did bring up something to me, and I'm going
8 to, with your permission, say it publicly
9 in reference to the flyering, which was an
10 issue that Commissioner Gross brought up.

11 Roman has voluntarily said no more
12 flyers on the street, that he's not going
13 to hire promoters, kids, or anything like
14 that to put anything on the street.

15 Come on up. Am I mischaracterizing
16 what --

17 ROMAN: No, no, what I said -- what
18 I said, mayor, is that I would sponsor a --
19 if other businesses obviously went along
20 with me, because I can't be the only one
21 riding a bicycle if everybody else is
22 cruising in a Porsche, but the idea is that
23 I will -- we will sponsor, a group will
24 sponsor and we'll endorse an end to
25 flyering as --

1 COMMISSIONER BOWER: Ordinance.

2 ROMAN: If an ordinance is passed --

3 MAYOR DERMER: And end to flyering.

4 ROMAN: -- we will be the first to
5 sponsor the ordinance and to abide by it.

6 MAYOR DERMER: See, that's not an
7 ordinance, per se, but it would be a
8 voluntarily agreement that the clubs --

9 VICE MAYOR GROSS: And I think
10 there's been a reduction in the flyering in
11 the last couple of weeks.

12 ROMAN: I -- the biggest problem is
13 that we have competition coming from other
14 towns. If we --

15 MAYOR DERMER: Well, we're just
16 concerned with our own here and their
17 behavior here.

18 ROMAN: Yeah, but it's -- it's
19 the --

20 UNIDENTIFIED SPEAKER: (Inaudible.)

21 ROMAN: Exactly.

22 UNIDENTIFIED SPEAKER: (Inaudible.)

23 ROMAN: It's -- you know, businesses
24 come to, as we talked about before
25 successfully --

1 MAYOR DERMER: All right. Let's put
2 that in abeyance then. I -- I thought
3 we were further along than that.

4 ROMAN: But -- but the sentiment is
5 there, the sentiment is there, mayor, that
6 we're definitely willing to work with the
7 commission.

8 MAYOR DERMER: Okay. Thank you.
9 I -- you know, I --

10 VICE MAYOR GROSS: Well, just --
11 I want part -- no, I want part of this
12 whole conversation to be an acknowledgment
13 that there are collateral damages at night
14 after the public spills out of the clubs,
15 that there's going to be a dialogue between
16 the clubs and the residents to try and work
17 to resolve that issue, because I don't want
18 to sweep that under the rug.

19 COMMISSIONER BOWER: How do we do
20 that?

21 MAYOR DERMER: Okay. Well, I think
22 we got a Nightlife Industry Task Force,
23 they dialogue quite a bit. Maybe us being
24 more involved with them, discussing
25 options.

1 VICE MAYOR GROSS: Well, I think as
2 we discuss the ordinance we passed on first
3 reading, which is, you know, the teeth
4 behind the nightclubs --

5 UNIDENTIFIED SPEAKER: As a
6 resident, I'll help head up a task force,
7 and Roman will from his side, and we'll get
8 together and we'll work together.

9 VICE MAYOR GROSS: Okay.

10 ROMAN: I mean, that's the idea.
11 The idea is to have meet things where
12 residents will field concerns from other
13 residents, I will field concerns maybe from
14 other businesses in the area, and we will
15 per dialogue -- you know, we're all
16 reasonable and we're all quite bright.

17 MAYOR DERMER: Okay.

18 ROMAN: So we'll find a solution.

19 UNIDENTIFIED SPEAKER: And we as the
20 nightlife task force could invite the
21 residents and those that represent them to
22 the meetings, and we would be happy to take
23 the time to dialogue them.

24 VICE MAYOR GROSS: Well, what a good
25 note to end the meeting on, right.

1 MAYOR DERMER: It's a positive note.
2 Very good. Thank you all very much for
3 coming out, I appreciate it very much.
4 (End of recording.)

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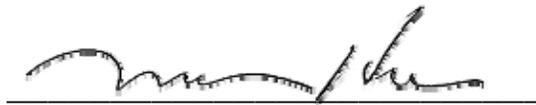
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CERTIFICATE

- - -

I, Matthew J. Haas, Court Reporter and
Transcriptionist, do hereby certify that I was
authorized to and did listen to and
stenographically transcribe the foregoing
recorded proceedings and that the transcript is a
true record to the best of my professional
ability.

Dated this 21st day of January,
2017.



MATTHEW J. HAAS
Court reporter

IN RE: CITY OF MIAMI BEACH COMMISSION MEETING

ITEM NO.: ITEM R5D PUBLIC HEARING

CITY OF MIAMI BEACH
COMMISSION MEETING

APRIL 14, 2004

ITEM R5D PUBLIC HEARING

ELIMINATE DANCE HALLS/ENTERTAINMENT
ESTABLISHMENTS IN CERTAIN DISTRICTS

1 COMMISSION MEMBERS:

- 2 DAVID DERMER, MAYOR
3 SAUL GROSS, VICE MAYOR
4 SIMON CRUZ, COMMISSIONER
5 MATTI HERRERA BOWER, COMMISSIONER
6 LUIS R. GARCIA, JR., COMMISSIONER
7 JOSE SMITH, COMMISSIONER
8 RICHARD STEINBERG, COMMISSIONER

9

ALSO PRESENT:

10

- 11 MR. GOMEZ GONZALEZ, CITY MANAGER
12 MURRAY DUBBIN, CITY ATTORNEY
13 ROBERT E. PARCHER, CITY CLERK
14 MR. GOMEZ GOMEZ, PLANNING DEPARTMENT

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1 (Thereupon:)

2 MAYOR DERMER: The 11:30, R5D,
3 eliminate dance halls/entertainment
4 establishments in certain districts. This
5 is first reading, five-sevenths vote is
6 required. Please read the ordinance.

7 THE CLERK: An ordinance of the
8 Mayor and the City Commission of the City
9 of Miami Beach, Florida, amending the code
10 of the City of Miami Beach by amending
11 Chapter 142, zoning district and
12 regulations, Article 2, district
13 regulations, Division 5, CD-2, commercial
14 medium intensity district; Section 142-302,
15 main permitted uses, Division 11, I-1 light
16 industrial district; Section 142-485,
17 prohibited uses, and division 18, PS
18 performance standard districts; Section
19 142-693, permitted uses.

20 By eliminating dance halls and
21 entertainment establishments also operating as
22 alcoholic beverage establishments and
23 restaurants with full kitchens and serving
24 full meals as permitted uses in certain
25 areas of the CD-2 commercial medium

1 intensity district, the I-1 light
2 industrial district, and the PS performance
3 standard district providing for repeal or
4 severability, codification and an effective
5 date.

6 MAYOR DERMER: And this is a public
7 hearing. Is there a motion to open the
8 public hearing.

9 COMMISSIONER BOWER: Move it.

10 MAYOR DERMER: Public hearing is now
11 open. Just for show of hands, those that
12 are here to speak in favor of the
13 ordinance, if you can raise your hands in
14 favor.

15 Okay. And those who are here to
16 speak against the ordinance? Oh, this is
17 getting -- okay. It's going to be a
18 process today.

19 VICE MAYOR GROSS: We're breaking
20 for lunch.

21 MAYOR DERMER: Well --

22 COMMISSIONER GARCIA: Yeah, you want
23 to cater lunch, Mr. Mayor?

24 MAYOR DERMER: Yeah, what we'll do
25 is we'll have our brief opening, of course,

1 and some questions, and then we'll take
2 some testimony. What I would just request,
3 everybody, if you could limit your remarks.
4 We'll give everybody two minutes, and
5 if you need a little more time, then we'll
6 give you a little more, but if somebody has
7 said something already that has basically
8 stated your position pretty consistently,
9 I'd appreciate if you were to waive your
10 time to allow us to progress. Thank you
11 all very much for being here, go ahead.

12 MR. GOMEZ: I'll try to do this,
13 Mr. Mayor.

14 MAYOR DERMER: Yes.

15 VICE MAYOR GROSS: Let me just
16 preface these zoning remarks a little bit.
17 The -- this issue is one that has been
18 brewing in the community for a while.
19 We've had a number of public hearings even
20 here on the floor of the commission.

21 Staff had been working on a series
22 of different zoning regulations that would
23 address some of these quality of life
24 issues that have risen, particularly as
25 it relates to the area south of 5th Street.

1 I've met with the -- many of the
2 homeowners south of 5th Street, as have
3 you, as have I'm sure all of you at various
4 times. We've had our Mayor on the Move
5 meeting. Clearly, the issue of noise and
6 the degradation of quality of life in that
7 area is something that is of an urgent
8 matter.

9 Late last year we brought a number
10 of ordinance-type measures to the planning
11 board, and they didn't endorse all of them.
12 They asked us to work on some of them and
13 not work on others. This is something that
14 kept going as part of their recommendation.
15 We're here now at first reading, and it --
16 the timing is propitious.

17 It follows a Mayor on the Move
18 meeting we had last month where we heard
19 loud and clear that there was a concern
20 about the proliferation of nightclubs in
21 the South Pointe area.

22 And so what we have before you today
23 is an area that -- a zoning change that
24 effects that area and the area near the
25 Sunset Harbor condominiums, industrial area

1 and CD2 area, and it only effects those
2 areas, and it addresses proliferation and
3 future items.

4 What I ask in my write-up as part of
5 this ordinance is, notwithstanding the
6 proliferation, you still have the issue of
7 the current uses and, you know, whether
8 you're going to allow legal nonconforming
9 uses to continue or not, and if not, how
10 you might approach it is something that
11 is -- is worthy of debate here on the
12 floor.

13 I'm sure a lot of the residents and
14 the club owners will give you their
15 thoughts on it, but I'll let Jorge walk you
16 through the specifics of it.

17 UNIDENTIFIED SPEAKER: Okay.
18 Commissioner, do you have a question.

19 COMMISSIONER GARCIA: You know, let
20 me throw something in the air for public --
21 public consumption, and this might ease
22 some of the tension on both sides. How
23 about creating a cabaret district?

24 You know, and again, I think
25 if we can float that idea and we can get

1 (Inaudible) support from both sides, we can
2 work together (Inaudible.)

3 VICE MAYOR GROSS: That's a possible
4 outcome from this. This -- this what your
5 considering today affects only the area
6 south of 5th Street, but it could end up
7 that (Inaudible.)

8 COMMISSIONER GARCIA: Yeah,
9 (Inaudible) because I -- my -- I have --
10 I have spoken to both sides and the
11 residents, and I see the residents' point
12 of view. At the same time I see the
13 industry's point of view --

14 VICE MAYOR GROSS: Sure.

15 COMMISSIONER GARCIA: -- that this
16 could be the first dominos to fall before,
17 you know, you kill the city.

18 VICE MAYOR GROSS: Uh-huh.

19 COMMISSIONER GARCIA: So this could
20 be a win-win situation. We could --

21 VICE MAYOR GROSS: And that's a
22 debate you guys can -- can do here, because
23 I think it's a valid point and one that
24 should be -- you know, you should take up.
25 It's how you make sure that you don't get

1 those unintended consequences and deal with
2 this appropriately.

3 MAYOR DERMER: Commissioner Bower?

4 COMMISSIONER BOWER: I just want to
5 urge, because I have heard, you know, the
6 Cabaret district is an idea that has
7 floated around, and I think that you are
8 probably very correct that it is something
9 that we should look at, but when we do
10 that, we involve the neighbors that are
11 under that part of -- because, you know,
12 I just (Inaudible.)

13 COMMISSIONER GARCIA: Sure.

14 VICE MAYOR GROSS: Right now staff
15 is not working on any proposal like that.

16 COMMISSIONER GARCIA: (Inaudible.)

17 COMMISSIONER BOWER: No, no, I
18 understand, but I just want to put that on
19 the record.

20 COMMISSIONER GARCIA: You know,
21 commissioner, this goes back to the
22 previous commission, because I remember
23 I brought the issue back --

24 COMMISSIONER BOWER: Right.

25 COMMISSIONER GARCIA: -- probably

1 three, four years ago.

2 COMMISSIONER BOWER: Right.

3 COMMISSIONER GARCIA: And at that
4 time, you know, the commission (Inaudible)
5 was very much opposed to it and a so --

6 COMMISSIONER BOWER: Well, and
7 it could be when I hear from the neighbors,
8 that I'm still opposed to it.

9 COMMISSIONER GARCIA: (Inaudible.)

10 UNIDENTIFIED SPEAKER: I don't
11 remember that issue.

12 VICE MAYOR GROSS: But Commissioner
13 Garcia --

14 COMMISSIONER GARCIA: That was
15 (Inaudible.)

16 VICE MAYOR GROSS: What you're
17 talking about, if I understand it,
18 Commissioner Garcia, in the commercial
19 districts you're talking about maybe
20 creating some kind of cabaret.

21 COMMISSIONER GARCIA: Yeah, you
22 see --

23 VICE MAYOR GROSS: But we're here
24 today talking about the residential
25 district.

1 COMMISSIONER GARCIA: No, no, and
2 I agree with you, but what I'm trying to
3 do, I'm trying to minimize the friction
4 between one group and another, because
5 I think that this idea that we can both get
6 behind, work it out, and work our solution,
7 a long-term solution. You understand?

8 Right now you're going to hear from
9 one side, you know, all the noise, all the
10 complaints and whatever, and from the other
11 side you're going to hear all the -- all
12 the concerns about killing the industry.

13 So I think if we start, if we break
14 this down to the point of, you know, work
15 together instead of against each other, you
16 know, it would -- it would go a long way
17 and it would -- it might expedite the
18 process.

19 VICE MAYOR GROSS: Maybe, I just
20 don't think that there's going to be any
21 nightclubs that are going to come up and
22 stand up here and say that they think they
23 should be allowed to make loud noise in a
24 residential district until five in the
25 morning.

1 COMMISSIONER GARCIA: (Inaudible.)

2 VICE MAYOR GROSS: Okay. So --

3 COMMISSIONER GARCIA: Commissioner
4 Gross, we got -- we have county laws,
5 county ordinances that can be enforced.

6 MAYOR DERMER: Okay. Let's try to
7 move along a bit. Welcome Jorge Gomez,
8 planning director.

9 MR. GOMEZ: Again, to try to sort of
10 focus the discussion what this ordinance
11 does, you as a commission as a matter of
12 policy stated that in these two particular
13 areas south of 5th Street and the area,
14 what we call the Sunset Harbor area which
15 is from Dade Canal and Alton Road over to
16 the west, that you did not want to allow
17 dance halls or entertainment
18 establishments. You set that policy and
19 you put that into the code.

20 What you did also do is that
21 if those establishments were also operating
22 as restaurants, the dance halls or the
23 entertainment establishments, then they
24 were exempt from the prohibition.

25 We've heard testimony in various

1 community meetings and at various other
2 venues as to how that exemption has begun
3 to cause problems and has affected the
4 quality of life for the residential uses,
5 and we're proposing this ordinance that
6 says in those areas where you've already
7 banned the dance halls and the
8 entertainment establishments, that you
9 should remove the exemption for the
10 restaurant, and that's basically what's
11 happening here.

12 In the South Pointe area, for
13 example, and we've included that list in
14 your package, there's about 30 licensed
15 restaurants. 7 of those restaurants have
16 the dancing or the entertainment license.
17 That leaves a potential of another 23
18 establishments in South Pointe alone that
19 could because of the exemption add the
20 entertainment and/or the dance hall
21 license.

22 We have a much smaller number in the
23 Sunset Harbor area, but, you know, the
24 potential is there where people could come
25 in and put a restaurant and have those

1 entertainment establishments. The basic
2 policy question before you is if you
3 banned -- already have banned the dance
4 halls and entertainment establishments, do
5 you still want to have that exemption with
6 the restaurants.

7 MAYOR DERMER: Okay. Thank you.
8 If you could remove the board, unless
9 there's some questions from commissioners
10 on -- let's begin the public hearing
11 if we could. Let's start and work our way
12 across the room.

13 Who would like to kick us off? A
14 show of hands. I've got somebody --
15 anyone, here, here, here, here? I'm going
16 across. Okay. Let's get this gentleman.
17 Welcome. Come on up.

18 If you can state your name, give us
19 a quick address, if you could, and tell us
20 what you think.

21 MR. O'LARA: Good morning, everyone.
22 My name is Mark O'Lara. I'm a resident of
23 Murano Grande, 400 Alton Road. My opinion
24 is that most of the commissioners are
25 well-meaning servants of the Miami Beach

1 community. I want you all to envision
2 where we should be as a community, business
3 and residential, five years from now.

4 Please roll back the club hours of
5 hours of operation. Police and sanitation
6 costs will decrease substantially if clubs
7 close at 2 or 3 a.m. Roll back the last
8 call, will lower taxes and open up more
9 resource to an already overburdened police
10 department and sanitation department.
11 Cleaner, safer streets bring more business
12 to the beach.

13 Some special interests want to
14 mislead you into thinking the issue at hand
15 is a conflict between residents and
16 business. That is untrue. Ask any
17 business on the beach or anywhere else for
18 that matter, and they will tell you that
19 the most important customer is the
20 returning customer. Those customers are
21 residents.

22 The nightclub crowd accounts for
23 most of the litter and police calls, and a
24 very small portion of the revenue. Let's
25 look at the success of Fort Lauderdale.

1 The name "Fort Lauderdale" at one time was
2 synonymous with spring break. Now they've
3 grown their tourism and attracted visitors
4 that spend more. I think that is a better
5 direction for Miami Beach.

6 If you're a commissioner with
7 sympathy for small businesses, then you
8 must roll back the nightclub hours.

9 If you're a commissioner with sympathy for
10 realtors or developers, you must roll back
11 these hours. If you're a commissioner with
12 sympathy for the nightlife industry, you
13 must act as a conduit to the community to
14 compromise or they will face inevitable
15 conflicts according to existing Miami Beach
16 codes. I have to couple of more.

17 MAYOR DERMER: Go ahead, finish up.

18 MR. O'LARA: If you're a
19 commissioner with sympathy for the
20 residents, then you know what to do.
21 I think our mayor is probably the best
22 mayor this city has ever seen. In closing,
23 I want to -- I want you to envision.

24 MAYOR DERMER: Probably a couple of
25 people up there or their families would

1 disagree, but that's -- but thank you
2 anyway.

3 MR. O'LARA: I've never met them,
4 but --

5 MAYOR DERMER: I'm not going to
6 argue with you on that one.

7 UNIDENTIFIED SPEAKER: What about
8 that guy Jay.

9 MAYOR DERMER: Yeah, Jay -- Jay also
10 was a pretty good mayor.

11 UNIDENTIFIED SPEAKER: All right.
12 Meeting adjourned.

13 MR. O'LARA: I want you to envision
14 where we should be as a community of
15 businesses and residential citizens five
16 years from now. Is this direction we're
17 going toward, is it -- is it towards a more
18 culturally refined community or is -- is
19 your vision more a vision to see Miami
20 Beach become the capital of spring break
21 for the world. Thank you very much.

22 MAYOR DERMER: Thank you for your
23 comments. All right. Let's move along.
24 Yes, come up here, Mr. Fisher, welcome.

25 MR. FISHER: Thank you, mayor and

1 commissioners. I'm Josh Fisher, I'm the
2 vice president of the Murano and Portofino
3 Condominium Association speaking for
4 myself.

5 So I think the issues are pretty
6 familiar here. We have in the middle of
7 the night many nights a week a pretty
8 serious invasion south of 5th, and I know
9 when I bought my unit, I think I can say
10 it's true of most of my neighbors and the
11 thousands of units we're putting up there
12 and we've been putting up for the last few
13 years, my picture was this was a place
14 where you could have a terrific urban
15 environment, very different from a suburban
16 environment, very close to the
17 entertainment district and all that that
18 engenders, but at the same time you could
19 be in a residential environment where
20 people could raise families, good access to
21 Miami, good access to what Miami Beach
22 offers, and the ocean.

23 By and large, you know, it's a --
24 it's a new area, it's tough for the city
25 services to get ramped up, but we can see

1 all of those things improving. The one
2 thing that's gone backwards even in the
3 close to two years now I've lived here is
4 the invasion we have every single night,
5 and this invasion does not come from the
6 tourists who fill our hotels and it doesn't
7 come from the residents living in our
8 buildings, this is yet another group.

9 And this is a group that comes and
10 makes our streets pretty difficult to walk
11 around in late at night or early in the
12 morning when you walk your dog, if you're
13 early enough on weekends, or bringing your
14 kids to school.

15 If nothing else, the litter that's
16 left behind is incredible. Fred Beckman
17 and Al Samora have walked the streets with
18 us, and they have really worked hard to
19 deal with all the construction litter and
20 all the normal litter, but nobody can cope
21 with what we find on Sunday mornings after
22 the night of nightclubs.

23 And, you know, the picture that
24 people had was not that this is what
25 we were getting. This one aspect has

1 really gone pretty awry, and that is not
2 the majority of the businesses in our area.
3 The restaurants are fabulous. My neighbors
4 and I all patronize them. I think we're
5 probably the largest group who does, and
6 they seem to be doing very well. It's just
7 quick buck artists who have been putting in
8 nightclubs late at night in an area that's
9 not meant for them.

10 I'd just like to comment -- I'll
11 just be another minute if that's okay. I'd
12 just like to comment on some of the
13 publicity that's been coming out of a few
14 people, which is the idea that these
15 arrogant new condo owners, and you'll hear
16 this, I'm sure, in the course of this
17 morning, these arrogant new condo owners
18 are trying to change the character of South
19 Beach, and nothing could be further from
20 the truth.

21 It's pretty insulting thing to say,
22 actually. People made a big investment to
23 get this residential neighborhood, this
24 urban residential neighborhood, turning
25 it into Aventura, a fine place, but not

1 what people want. It's the farthest thing
2 from people's minds, and the thing that
3 could actually have the negative effect
4 would be letting this all just run
5 unfettered.

6 And I think what we have here is
7 essentially a loophole. Nightclubs were
8 not intended in these districts, and we're
9 letting them in for an unintended reason.
10 You know, we moved here for the ocean, too,
11 and as much as we love the ocean, we have
12 to take measures to make sure that
13 it doesn't flood our homes, and that's what
14 we've got here.

15 We have nightlife and entertainment,
16 we have to make sure it doesn't flood where
17 we live. It doesn't make you anti-beach
18 and anti-ocean to want that.

19 MAYOR DERMER: Thank you, sir.
20 Okay. Come on up here.

21 MS. REMMINGTON: I'm Joan Remmington
22 from Murano Grande. I'm not arrogant. I'm
23 a lady from Brooklyn who loves this city.
24 We moved here in October, and we intend to
25 die here, but --

1 MAYOR DERMER: Well, we hope it's a
2 long time off.

3 MS. REMMINGTON: -- not soon, not
4 soon, but -- but certainly after growing up
5 in Brooklyn, New York and in Boston, cities
6 that really have become so great because
7 they changed a lot of their act, whether
8 it's the -- the part in Boston that was
9 night clubs and the girlie shows in New
10 York City, and it's a turning point.

11 I think it's such a great place, and
12 I hope it will become a place where you can
13 live and dance, too, but it's just --
14 it needs to be done.

15 MAYOR DERMER: Okay. Come on up.

16 MS. BLECKER: Good morning, mayor,
17 commissioners, city manager. My name is
18 Judith Blecker. I've lived in Miami Beach
19 since 1932, so you know I've seen a lot of
20 changes. Today I'm speaking as a resident
21 of Sunset Harbor North.

22 We want to thank you for trying to
23 address an issue that has had a negative
24 impact on the quality of our lives. When
25 we moved to Sunset Harbor, we knew that the

1 neighborhood had businesses, but that they
2 would be working primarily during the day.
3 Since then, the city has permitted the
4 following: Two restaurants, Joe Allen's
5 and BU's Lounge; two nightclubs, Purdy
6 Lounge and Jade Lounge, and an art gallery
7 that's connected by an interior staircase
8 to the Jade Lounge and operates as a
9 nightclub. If you go by there at night,
10 you see the lines of people waiting to get
11 into the upstairs.

12 Our streets have been filthy with
13 bottles, beer cans, plastic cups, and
14 flyers, and particularly the children's
15 park across the street has been impacted by
16 that. We have people drinking and
17 urinating in them on the weekends, and
18 taxis and other vehicles parked illegally.

19 The other night my husband and
20 I were coming home from a concert, and
21 we couldn't get through, we had to go
22 around by Publix and come back on the other
23 side because the people were busy talking
24 and simply would not move.

25 Police code compliance and

1 sanitation seem to be missing, and we'd
2 like to know why the laws are not enforced
3 and why our complaints go unanswered. The
4 residents in Sunset Harbor, Sunset South,
5 North, and the town homes, pay an estimated
6 three point million dollars in property
7 taxes annually. Our tax dollars need to be
8 used to solve these problems.

9 I have a petition with 213
10 signatures from the residents of the Sunset
11 Harbor neighborhood requesting the
12 following: Sanitation cleanup on Sunset
13 Harbor Drive and Island View Park on
14 Saturday, Sunday, and Monday mornings, just
15 as it is done on Collins Avenue and
16 Washington Avenue. Rolling back the hours
17 of the liquor sales in the Sunset Harbor
18 neighborhood to 2 a.m.

19 Please don't allow restaurants to
20 operate as nightclubs or art galleries to
21 operate as nightclubs, and please do not
22 grandfather the problem, take care of
23 it now. Thank you all very, very much.

24 MAYOR DERMER: Thank you. Ma'am,
25 if you -- ma'am -- ma'am, if you can give

1 that to the clerk, your petition, and we'll
2 make that part of the record.

3 Erica, come on up.

4 MS. BRIGHAM: Hi, Erica Brigham.
5 I bought a building at 735 2nd Street in
6 1988, and I now live there. I was a member
7 of the South Pointe Advisory Board for many
8 years until it was disbanded approximately
9 two years ago, and I have a feeling that
10 if it had still been allowed to exist, the
11 problem might not have gotten quite as bad
12 as it is now, because at least there were
13 city personnel that would come to the South
14 Pointe Advisory Board meeting from the
15 police, from code enforcement, and from
16 other parts of the administration when they
17 were asked to, and it is in the past two
18 years that this has gotten out of control.

19 Although, historically it's been out
20 of control for years. This is a
21 court-ordered settlement between the city
22 and Amnesia dated 1970 -- 1997 where
23 Amnesia was going to agree to put a roof
24 on, and as you all know, that's been the --
25 sort of the catalyst for -- for the

1 problems that have existed in South Pointe
2 from the very beginning of the
3 redevelopment process when people really
4 started moving in and rehabbing their
5 projects.

6 One thing that bothers me more than
7 anything else is the fact at that there is
8 an NXE district which is mixed use
9 entertainment, and the South Pointe area,
10 residential area were supposed to have only
11 neighborhood businesses, and a good
12 restaurant service serves as a neighborhood
13 business as, of course, Joe's Stone Crab
14 and all the other restaurants down there,
15 but I don't really understand how this
16 slipped through, and the zoning simply
17 should never have allowed it.

18 If -- if Ed Resnik were still
19 around, he would not have allowed it, I'm
20 sure of that, because he didn't even want
21 sidewalk cafes south of 5th Street.

22 We live on the American Rivera,
23 we have worldwide publicity. There's no
24 place like it in the world. It's sort of
25 the prototype for what everyone wants for

1 the new urbanism, a wonderful walking
2 community with wonderful gorgeous
3 architecture that everybody can relate to
4 in one way or another, and we shouldn't --
5 we should enhance the quality of life, and
6 there's plenty of venues for good
7 entertainment, there's plenty of people
8 with money who will be attracted by good
9 entertainment from all over the world.

10 MAYOR DERMER: Thank you. Thank
11 you. Okay. So to gauge where we're at,
12 who wanted to speak on this end that has
13 still not gotten a shot? We've got about
14 another three speakers. When I go to the
15 next end, I'm not coming back to this end,
16 so tell me. Okay. Go ahead.

17 MR. SASOVILLE: Great. Hi, I'm Paul
18 Sasoville from Sunset Harbor South. I just
19 want to add a little balance to it. Sunset
20 Harbor South is a great mixed area. When
21 people moved in there, they knew there
22 would be restaurants and bars and
23 residential.

24 I do want to say that we would like
25 just to see some of the existing code

1 enforced as far as sanitation and police
2 and keeping it quiet before they shut down
3 those businesses. So rather than limit the
4 hours to 2 a.m., let's try to just to keep
5 them open until 4 and just do a better job
6 of following the existing code.

7 MAYOR DERMER: Thank you for your
8 comments. Okay. Next let us get Ruth come
9 on up here.

10 MS. REMMINGTON: Hi, I'm Ruth
11 Remmington. I live at 1000 South Pointe
12 Drive. I think this is a pretty obvious
13 loophole to close, and I just -- I'm
14 anticipating this side of the room starting
15 to speak, and I just want to say, again,
16 we're not against business, we need so many
17 things in South Pointe, and I would imagine
18 Sunset Harbor might also, but we need more
19 restaurants, we need a dry cleaner, we need
20 a book store, we need a newsstand, we need
21 another couple of coffee shops. We need a
22 pet store.

23 We need all kinds of shops, and --
24 and we welcome all those businesses, and
25 we'd be happy to work with the business

1 community to -- to support those businesses
2 if they come to South Pointe.

3 And what we don't need are
4 restaurants that are disguising themselves
5 as restaurants and really are something
6 else. The restaurants that do open there
7 are -- are doing gangbuster business, and
8 we could certainly support a lot more, but
9 we don't need them open until 5 a.m.
10 Thanks.

11 MAYOR DERMER: Thank you. Anybody
12 else? Yes, sir, come on up.

13 MR. HARRIS: Good afternoon.
14 Richard Harris from Portofino. I've been
15 living on the beach for the last eight
16 years and frequenting it since 1975.
17 I first want to turn back to the audience
18 and look at a show of hands again of who is
19 in favor of this amendment.

20 And then who is opposed to the
21 amendment. And then of the people opposed
22 to the amendment, how many people live
23 south of 5th? I mean, I think that is
24 quite interesting to note.

25 The second point I'd like to make is

1 that I think that you all have to look at
2 this from a business perspective, and like
3 any business, if you're going to grow an
4 area by adding more business or a club or
5 infrastructure, that you have to analyze
6 whether or not the area can handle the
7 particular -- well, I think like Matti
8 says, where are they going to park.

9 You have to look at whether or not
10 you have the control and whether or not you
11 have the enforcement, and, frankly, whether
12 or not you have the money.

13 As I, you know, run through those
14 quick points in my head, right now it seems
15 to be a free-for-all. Loopholes are great
16 for some, especially during tax time, but
17 this particular loophole to me opens the
18 door for chaos on the beach.

19 This last weekend I, you know, woke
20 myself up at five in the morning to -- to
21 personally witness, you know, what all the
22 hubbub was about, because I had only heard.
23 Firsthand is always best, and I was
24 embarrassed, appalled with the noise, the
25 disrespect for the neighborhood, the

1 litter. Absolutely, this must be -- be
2 closed, this loophole, and the
3 grandfathered in strategy that may be put
4 forth I think has to be analyzed, because
5 this is a residential area first and the
6 people must be heard.

7 MAYOR DERMER: Thank you, thanks for
8 your time. Okay. Joe. Anybody else after
9 Joe. Was there another hand? Yes, we'll
10 get Morris, and that will close with you on
11 this side, and we'll move to the other.

12 Go ahead, Joe. Welcome.

13 MR. VELARI: Good afternoon,
14 commissioners, mayor, city manager. My
15 name is Joe Velari. I live at 240 Collins
16 Avenue, and we all know what's happening at
17 136 Collins Avenue. That's my favorite
18 line. You can quote me.

19 I own this property that I'm in now
20 from 1997. My wife -- I'm sorry, 1987. My
21 wife and I moved here in 1991, and that's a
22 lot of taxes we're still paying, and
23 we come down here from Rhode Island. Rhode
24 Island is a small place up north, it's in
25 the United States, and up there they have a

1 funny little saying that's says,
2 "If it ain't broke, don't fix it."

3 But, boy, this is broke, and you
4 guys got to fix it. Yes, I was on the
5 board with Erica the same time. We hated
6 to see that dissolution -- dissolve, but
7 such is that. Okay.

8 MAYOR DERMER: Thank you, sir.
9 Appreciate it. Okay. Morris, doctor.

10 MR. SUNSHINE: For the record, my
11 name is Morris Sunshine, and I live in
12 South Pointe. This is a perfect
13 illustration how better zoning and better
14 planning and better legislation means less
15 enforcement, less strain on code, less
16 strain on the police, it's forward looking.

17 I remember this issue of restaurants
18 turning into nightclubs, discussing that
19 with Dean Grandon who is Jorge Gomez's
20 predecessor back in 1995. Things sometimes
21 move slowly in Miami Beach, but today is
22 the day to stop an issue which has been on
23 the table for nine years at least.

24 I attended the meeting of the
25 Nightlife Industry Task Force yesterday

1 chaired by Steve Polisar, and I'm sure you
2 know Steve. There was no objection to this
3 particular legislation that I heard while
4 I was there, though I'm sure you'll hear
5 some today.

6 Finally, I would like to say that
7 if you -- well, penultimately, if you would
8 like to know what we confront in South
9 Pointe, all you have to do is read the last
10 issue of the Sun Post. It gave, I think, a
11 very realistic description what life is
12 like down there after dark.

13 And finally, mayor, I'd like to
14 commend you for raising -- during one of
15 your Mayor on the Move meetings, for
16 raising the issue of rolling back the hours
17 for alcohol beverage establishments to
18 2 a.m. I think it's time this became a
19 public issue, that we discuss this matter,
20 and I hope that you will take that issue in
21 the future seriously. Thank you.

22 MAYOR DERMER: Thank you. Okay.
23 Let us -- yes, ma'am, come on up.
24 We can -- yes, why don't we help her out
25 over here. Come on up, right next to the

1 podium so the camera can get you. There
2 you go. You got it.

3 MS. COHEN: Hi everybody. My name
4 is Sabrina Cohen, and I live in Sunset
5 Harbor South Tower. I've been there for a
6 little bit over two years, and I'd just
7 like to say that I've -- I grew up in Miami
8 Beach, I've lived here my whole entire
9 life, and I'm ecstatic about what South
10 Beach and Miami Beach is becoming.

11 To me it's very exciting, and I love
12 the fact that I have Purdy Lounge across
13 the street from my house and Jade and
14 I have friends in the building that I know
15 as well they like it, and I think that's
16 what South Beach is all about.

17 I think -- I'm not telling anybody
18 to move from South Beach, but there's
19 Aventura, there's Bay Harbor, there's
20 Kendall, those places are much quieter, but
21 I do not think that South Beach and Miami
22 Beach is equivalent to those places,
23 I think there's more excitement here, and
24 I think that's what brings tourism and more
25 people to come down here to have a good

1 time.

2 And the beach stretches for miles
3 and miles. I mean, you have Collins Avenue
4 and all those condominiums down there are
5 quiet, so if that's what, you know, people
6 need or are seeking, I think, you know --
7 you know, that's why they're there.
8 I think primarily, though, South Beach and
9 Lincoln Road and all the clubs that are
10 going on, I think that's what keeps the
11 city exciting, and I think it should -- you
12 know, if anything, maybe sanitation and
13 cleaning up and the bottles, that needs to
14 be, you know, under closer observation and
15 under tighter restrictions, and that needs
16 to be looked into a little more, but for
17 the most part, I think it adds value to our
18 society here or our community here.

19 MAYOR DERMER: I thank you very much
20 you're your comments. Okay. That will do
21 it for this side of the room. We're moving
22 on to this here. Frank, would you like to
23 start, and then we'll come across.

24 MR. DEL VECCHIO: Frank Del Vecchio,
25 301 Ocean Drive. The -- the people who are

1 buying the expensive new condos in South
2 Pointe --

3 MAYOR DERMER: You've got an
4 assistant now handing these memos. All
5 right.

6 MR. DEL VECCHIO: That's my brother,
7 Joe Del Vecchio.

8 MAYOR DERMER: Oh, hi, Joe. Nice to
9 see you.

10 COMMISSIONER GARCIA: You mean
11 there's two of you?

12 MAYOR DERMER: That means twice --
13 that means twice the paperwork now, right?

14 MR. DEL VECCHIO: Just you wait.

15 COMMISSIONER GARCIA: There goes
16 another tropical forest.

17 MR. DEL VECCHIO: They could have
18 afforded Aventura, Biscayne, Key Biscayne,
19 but they love what Miami Beach has to
20 offer. This is not a battle between
21 businesses and the nightlife industry,
22 which I think has been misled. We want the
23 predominantly residential area of Miami
24 Beach, which is south of 5th, which was
25 zoned residential, which had a nightclub

1 prohibition, to be a predominantly
2 residential and recreational area with all
3 of the supporting businesses, tourists and
4 residents benefit from having well-placed,
5 lovely, safe, beautiful walking areas a few
6 blocks from the entertainment district.

7 We have an entertainment district
8 which is run down. The city's resources
9 cannot keep up with the policing, the
10 sanitation costs, the code costs. We would
11 like the city's budget, which is being
12 wasted in trying to clean up South Pointe
13 residential streets from the litter and
14 trash and disruption, which is brought in
15 every weekend and on major event weekends
16 by three to five thousand occupancy
17 existing nightlife establishments with a
18 loophole that could bring in many more.

19 I think we have a -- a common
20 business and economic interest with the
21 business community and with the nightlife
22 and entertainment community.

23 Now, Commissioner Garcia always
24 talks about being holistic and about a
25 balance. I think we're looking at this

1 holistically. These residents bring their
2 families, their business associates, their
3 friends to shop here, they patronize the
4 hotels, they patronize the restaurants.

5 Our two kids were down -- they're
6 not our kids anymore, they're in their
7 thirties. They came down. They went to
8 the clubs. They went to Crobar. I was
9 going to try to get them to go to Opium,
10 but I thought that would not be politically
11 appropriate. They, too, were surprised at
12 the kind of outside activity that is now
13 being attracted into our residential area.

14 If we can concentrate our resources
15 in the mixed use entertainment area,
16 support those businesses, give them clean
17 streets and enforcement and let them
18 operate properly, I think we have the
19 balance we are looking for.

20 What we are doing here today is
21 simply asking the city commission to close
22 a loophole which was never intended, which
23 permits restaurants south of 5th and in
24 Sunset Harbor to operate as nightclubs
25 until 5 a.m. That's not right, it's not

1 right for the business, it's not right for
2 the residents, it has an adverse impact on
3 tourists. We like you, we patronize you,
4 and I think this will not be a disaster for
5 the -- for the nightlife industry. Thank
6 you.

7 MAYOR DERMER: Thank you, sir. All
8 right. Moving across. Any hands here?
9 Any folks from the back want to come in?
10 Any competing view at all? Nothing? Okay.
11 Come on.

12 MS. CLAYTON: Good morning,
13 commissioners, mayor, city manager. I've
14 been here since 1985. I hope -- I'm going
15 to try and stay --

16 UNIDENTIFIED SPEAKER: Your name.

17 MS. CLAYTON: -- nonemotional.

18 UNIDENTIFIED SPEAKER: Judy, just
19 for the record just say your name and
20 your --

21 MS. CLAYTON: Judy Clayton, sorry.
22 205 and 221 Collins. In 1987 I was
23 appointed as chair of finance of the
24 original redevelopment agency. At that
25 time the South Pointe Towers wasn't even

1 up. What we did, we got together with Rob
2 Parkins, we worked very hard with the city
3 to get the developers to come down here.

4 I'm very, very upset and sad, I'm
5 sorry, that what I'm seeing after all our
6 hard work, the RFP, the first one we put up
7 was The Courts, and we worked so diligently
8 and so hard, worked with the police, worked
9 with the code compliance and code
10 enforcement to get the buildings up and
11 operating, beautified, and consequently,
12 what upsets me so much is that here today
13 after all our hard work, we had a vision of
14 a world-class city, we had a vision of
15 making South Pointe the place to come.

16 We did our PR, we did the image and
17 the PR. We worked diligently with the
18 police, and for me to walk out on the
19 corner of 2nd and Collins -- I have
20 pictures of my building when it was --
21 it was the ugliest building in the whole
22 beach. Let me tell you, it was ugly.

23 And when I walk out now and see all
24 of our hard work and all the buildings that
25 we tried so hard to get the developers to

1 come and beautify this beach, and I walk
2 out now and I see what's happening to our
3 neighborhood, because as they call it, a
4 loophole.

5 I'm in the entertainment business.
6 I'm an entertainer. I'm a singer. I have
7 records out. I would love to have my
8 record played in Opium, and if it was
9 located at another place. I would love to
10 have the entertainment have another
11 section. We are not against entertainment.
12 It's just that it cannot survive here with
13 our vision of what we had when we started
14 this whole action back in 1987.

15 I beg of you, don't let the domino
16 effect go back to a ghetto, because that's
17 what we started out as. Thank you.

18 MAYOR DERMER: Thank you. Okay.
19 Come on up, please.

20 MR. MOZOU: Hello, my name is Tofik
21 Mozoui. I own the Oasis in South Beach,
22 it's right on 1st Street between Alton and
23 Washington. I have a small restaurant.
24 It's a 60-seat restaurant. It's a Greek
25 and Mediterranean restaurant, and part of

1 our heritage is to have belly dancer, and
2 it's an entertainment, and because of that,
3 I'm not allowed to have my belly dancer
4 come and dance at my restaurant.

5 I have been closed by the policeman
6 at one o'clock because they said I don't
7 have the dancing and entertainment for
8 having a belly dancer in my place. They
9 threw all my customers out. I'd love to
10 have all those people come to my place.
11 They're all my neighbors, and I do live on
12 221 Meridian. This is our neighborhood.

13 I don't like the big clubs to do
14 what they're doing, but my restaurant will
15 be affected greatly because of that. Thank
16 you.

17 MAYOR DERMER: Thank you. Sir.
18 Okay. Come on up.

19 MS. ETTTELSTEIN: (Inaudible.)

20 MAYOR DERMER: Please.

21 MS. ETTTELSTEIN: Good morning. My
22 name is Terry Etttelstein. I live at 100
23 Meridian Avenue, Apartment 214. I am this
24 gentleman's neighbor. Our apartment faces
25 in towards the pool at The Courts, but

1 we are essentially across the street from
2 from his establishment. We have actually
3 gone over and had dinner when it first
4 morphed from a sort of take-out deli-type
5 place to a restaurant, and we enjoyed our
6 dinner there.

7 The problem is that the belly
8 dancer, I don't think, is really what the
9 problem is. It's the glass on the street
10 the next morning, the cars honking, people
11 waking us up at 5 a.m. when the
12 establishment closed. The -- the notion
13 that it's s belly dancer that's causing the
14 problem is entirely wrong.

15 You need to walk the streets, and
16 we're two blocks away from Ocean and three
17 from -- or three from Ocean and two from
18 Collins, and the people who walk on the
19 street in the middle of the night wake us
20 up.

21 There's yelling and traffic, and
22 drunken brawls, and I'm not sure that --
23 I signed up to live in a -- in a
24 residential area. I was told that by the
25 developer, and what's happening is we're

1 being assaulted by activities that are
2 entirely inconsistent with that character.

3 MAYOR DERMER: Thank you.

4 MS. ETTTELSTEIN: And I used to come
5 here in the 1970s with my children, and my
6 mother was actually one of those people in
7 (Inaudible) waiting room who would come to
8 the Deledo for three months every winter,
9 and we always lamented that we couldn't
10 enjoy the character of the place, the
11 history, the art history, and we were
12 thrilled by the redevelopment south of 5th,
13 and that's what caused us two years ago to
14 buy what is our vacation home but will be
15 our retirement home in 2001, but we can't
16 live in a place where we can't sleep at
17 night.

18 MAYOR DERMER: Thank you, ma'am.
19 Yes, sir. We'll get the gentleman -- we'll
20 get you first, come on, and we'll get you
21 second. Welcome.

22 MR. JOHNSON: Hi, David Johnson, 208
23 Jefferson Avenue. I thought the comments
24 of the last two people were interesting,
25 because the -- the -- I've been in south of

1 5th Street for eight years now, and it's
2 tremendous what the residents and the
3 redevelopment agency and you as
4 commissioners have accomplished in that
5 neighborhood, it's really fabulous, but
6 without a question in the last couple of
7 years there's been a serious decline.

8 And I think what's -- the real
9 source of that is the clientele that is
10 coming to these places, and unfortunately
11 some of them, I think the Oasis, I don't --
12 I'm not right across the street from it,
13 but I suspect that it's probably a place
14 that really doesn't cause that much
15 trouble, but you have to -- you can't
16 discriminate between individual
17 establishments.

18 And the problem is that particularly
19 the larger ones are attracting a clientele
20 that is extremely rowdy on the streets and
21 it leaves all the litter and is
22 disrespectful to the residents and so
23 forth.

24 So you've got to strike a balance,
25 but it seems to me that the balance has

1 to -- has to come down in favor of -- of
2 the residents and the establishments that
3 are able to attract a clientele that don't
4 cause problems, and if -- I think that
5 closing up the loophole is your only option
6 at the moment to -- to address that. Thank
7 you.

8 MAYOR DERMER: Thank you, sir.

9 Yes, sir. A show of hands on this
10 side who is waiting to speak still. Oh,
11 okay. All right.

12 MR. ESDALE: How you guys all doing?
13 For the record, my name is Jared Esdale.
14 I've been on this beach for about ten
15 years, and I came here knowing the fact
16 that I wasn't coming to live in a quiet
17 area, I was coming to live in an area that
18 was going to be fun for me, as well as I'd
19 be able to still, you know, live here, and
20 there were quiet sections.

21 My parents have been on this beach
22 for close to 25 years as well. They're
23 business owners, and part of the business
24 that comes in here is the tourists that
25 come and go into their store and buy.

1 I have news that most of the people that
2 live here all year round are not -- are not
3 the people bringing us money, because when
4 it's not season, we're not doing any
5 business at our store. Okay?

6 If you want a quiet area, you go to
7 where I grew up in New Jersey in a suburb
8 area where there's families, where
9 everybody knows each other, and it's a
10 quiet neighborhood, but that's not what
11 South Beach is all about.

12 This is supposed to be a fun place
13 to live. This is supposed to be a place
14 where you can go have a good time, and not
15 exactly get -- get crazy and throw bottles
16 all over the place either, don't get me
17 wrong, but I truly believe that me
18 personally, I also work over at the Purdy
19 Lounge, and I personally every single
20 morning go out and clean up any bottles
21 I see, you know, in front of our
22 establishment or on the beach as well as
23 does everybody else that works with me.

24 So I just think that -- that really,
25 you have to really look at where you --

1 where you move to. This isn't supposed to
2 be an area that's supposed to be a quiet
3 area. We're supposed to be here to have
4 some fun as well, and I just think
5 everybody should take that into
6 consideration. Thank you.

7 MAYOR DERMER: Thank you. Next --
8 next speaker. Next speaker, yes, come on
9 up. Next, come on up.

10 MS. TENESOVA: My name is Daniella
11 Tenesova, and I'm here --

12 COMMISSIONER BOWER: (Inaudible.)

13 UNIDENTIFIED SPEAKER: Get closer.

14 MS. TENESOVA: -- and I live here
15 for 26 years. I've been here when we sold
16 the -- the -- the (Inaudible.) I've been
17 here when everything has happened. I came,
18 and I cannot forget it that I came from a
19 city, three -- four million city there,
20 every other house, basement of the houses
21 are now night -- nightclub.

22 I cannot forget that Gina
23 (Inaudible) walking with high -- high heels
24 was stopped by the police, tell her to take
25 her -- to take her shoes off because it's

1 two o'clock in the morning. I cannot
2 forget this. I think what they are
3 talking -- talking here are saying that
4 Miami Beach -- and I don't know who told
5 them that Miami Beach, and who can really
6 say, that South Miami Beach, it has to be
7 something that you cannot control.

8 Now, we -- what we are asking is --
9 is more civilized life in this site. This
10 is what we like. And we have seen it, and
11 it could be done. I cannot get out in the
12 morning in front of my building, it's
13 impossible. They are screaming like crazy.

14 Are these people that are bringing
15 the money here? No. I -- I have -- I am
16 seeing every night Joya's restaurant
17 treating at least 3,000 people. You know
18 what, there is no noise, and these people
19 are not other people. These people are
20 there to observe it on purpose. These
21 people only have older people, but not too
22 old, and the (Inaudible) are using the
23 promises, the gardens, and they go -- go --
24 they -- I don't know how they find the
25 parking, they are right (Inaudible) and

1 this is what we want to have in South
2 Beach. Thank you.

3 MAYOR DERMER: Thank you. Let me
4 get this gentleman, we'll work our way
5 around. Yes.

6 MR. STEVENS: Good morning. How you
7 all doing?

8 MAYOR DERMER: Good afternoon.

9 MR. STEVENS: My name is Brad
10 Stevens, good afternoon. Without beating
11 a -- beating this with -- this issue here,
12 it's all about quality of life, yes, and
13 basically you've seen from the residents
14 that it's a joke.

15 As far as people moving out of these
16 sections and going to places like Aventura
17 and up north and big beaches, well, that's
18 not an option, because people bought here
19 and they want things to change here.

20 The nightclub industry will survive
21 if you roll back the hours, obviously,
22 because you know what's going on in the
23 design district and downtown and other
24 places, it's always going to survive, and
25 the argument that the nightlife is the

1 foundation of what's happening here in
2 South Beach and the culture is just
3 ludicrous.

4 Miami Vice, the modelling industry,
5 all the models, the designers, Gianni
6 Versace, those are the things that put a
7 blueprint or a fingerprint on what's
8 happening in South Beach. There needs to
9 be a balance, and something -- something
10 has to be done.

11 As far as the gentleman with Oasis,
12 I don't know much about the place, but
13 I did get an email showing pictures of the
14 sound system in there, and it's like set up
15 for a big disco. I don't know if you guys
16 received any of that email, but -- Joya,
17 that's another place. The entrance is in
18 the alley. It's very disturbing to the
19 people that live in that area of the alley.
20 People are coming out all drunk, and it's
21 just -- it's not an appropriate place to
22 have an entrance.

23 There's many issues that everybody
24 has here, but I guess -- I guess my bottom
25 line is I'm opposed to it, so thank you.

1 MAYOR DERMER: Okay. Thank you.
2 Let's get Juan, and we'll follow Juan with
3 Ira, Ira Elegant followed by Gary. Go
4 ahead.

5 MR. COVIAN: Juan Covian, Portofino
6 Towers, South Pointe Towers. And no pun
7 intended, but I think it's time to belly up
8 to the bar. The commission has to make a
9 decision. The decision -- the only
10 decision is the one that has to go with the
11 residents. It is time to close the
12 loophole. Period.

13 It is time to give us back our city.
14 We have an area that is the pride of the
15 world, that we moved here because what it
16 was, but we have the right to have a
17 residence also. You know, it's really
18 funny. I think the majority of these
19 people, a lot of them, a lot of people that
20 everybody says we should move away from
21 this area because they really belong in
22 Aventura, a lot of those people go out to
23 eat to all those restaurants three and four
24 times a week.

25 So we are the biggest supporters of

1 the business, per se. We are not the
2 biggest supporter to what they do in terms
3 of the trashing, in terms of the noising,
4 everything that they do that is a disaster,
5 it's just killing our neighborhood.

6 We don't want to look five years
7 from now at this time as being the golden
8 times of Miami Beach, because we are --
9 if we don't stop the way we're going, we're
10 just going to go down hill more and more,
11 please.

12 MAYOR DERMER: Thank you. Ira.
13 We'll have Gary and then (Inaudible.)

14 MR. ELEGANT: Mr. Mayor and members
15 of the commission, Ira Elegant, Buchbinder
16 & Elegant, 46 Southwest 1st Street, Miami,
17 Florida. I'm representing Barbara
18 (Inaudible) the party.

19 In listening to everything today and
20 in reviewing the report that you've
21 received, it's a good staff report, you
22 really have distinct areas. You have
23 concerns south of 5th Street which are
24 really different than the -- then really
25 the industrial pocket near Sunset Harbor.

1 That is the only industrial pocket that's
2 existed on Miami Beach from the inception.

3 The reality is that folks purchased
4 there, they bought at Sunset Harbor, and
5 there's been a balance. My client has
6 attempted to work with the residents,
7 address their concerns.

8 For example, they'll be double doors
9 at that restaurant and lounge. There will
10 also be sound attenuation equipment. They
11 do the usually safeguard to be sure that
12 people don't leave with glasses and
13 other -- and other things of that kind.

14 The problem that we have is that
15 if you paint with this broad brush that's
16 suggested for this amendment, you're
17 dealing with two distinct areas.

18 I'm not here to deal with south of
19 5th Street, that may be a different thing,
20 and I think you've heard a number of
21 speakers address the concerns, because that
22 is truly partially residential and
23 partially the uses that have been
24 described.

25 When you deal with the Sunset Harbor

1 area, you have a distinct difference. You
2 have the industrial uses, you have other
3 heavy uses that existed when Sunset Harbor
4 was -- was built, and the reality is there
5 are two clubs, restaurants, that are
6 identified in the staff report, my client
7 and one other. There are two other
8 restaurants. They don't function as clubs
9 and do not provide any entertainment.

10 If you do consider this, at the very
11 least you've got to consider the
12 grandfather factors. One of the concerns
13 that I have with the grandfather issues are
14 certainly if -- if a use was destroyed by,
15 let's say, a hurricane or some unintended
16 action, certainly that use should be able
17 to be reestablished within a given period
18 of time.

19 In addition to that, if you don't
20 have that provision, you'll have insurance
21 issues which will almost render the
22 premises uninsurable.

23 I respectfully suggest to you that
24 insofar as the Sunset Harbor area is
25 concerned, that probably should go on for

1 further discussion and perhaps refinement.
2 South of 5th, that's another issue. How
3 far, if you do address this, certainly
4 we've got to deal with the grandfather
5 issues.

6 I know that many people have spoken
7 about hours, that's for another day and
8 another time. That's really not before you
9 today under the ambit of what's been
10 presented. We suggest to you that the
11 ordinance as it exists be left as
12 it presently is contained in the code for
13 the Sunset Harbor area, south of 5th is
14 another issue.

15 I mean, you have a delicate balance
16 between residents' concerns and very
17 substantial investments, and you've got to
18 come up with a fair balance. Thank you.

19 MAYOR DERMER: Let me ask you a
20 question before you go, Ira, and I believe
21 you to be correct that it is not properly
22 before us today as far as the hours are
23 concerned, but that is interjected as a
24 side issue into this whole conversation
25 when we look at it, and I'm curious, what

1 is your position or your client's position
2 as to a 2 a.m. rollback in your particular
3 area of Sunset Harbor.

4 MR. ELEGANT: I'll let my client
5 address that because, frankly, I haven't
6 been hired for that.

7 MAYOR DERMER: Okay.

8 MR. ELEGANT: But he's here.

9 MAYOR DERMER: That's a good answer.
10 All right. All right.

11 MR. ELEGANT: Come up.

12 MAYOR DERMER: All right. You're
13 retaining him now for the hours?

14 MR. ELEGANT: No, no, he's the
15 client.

16 MAYOR DERMER: Go ahead. What --
17 what is -- what is your position on that,
18 I mean how --

19 MR. DONOVAN: We don't want to
20 really limit any of our hours at all.

21 UNIDENTIFIED SPEAKER: Can you state
22 your name, please.

23 MR. DONOVAN: I'm John Donovan. I'm
24 the owner of the Purdy Lounge (Inaudible)
25 and my daughter, Caitlin.

1 MAYOR DERMER: Welcome.

2 MR. DONOVAN: I mean, we're -- we're
3 basically just trying to eke out a living,
4 and you rolling back the hours are limiting
5 us possibly of making money, and all we're
6 trying to do is -- you know, we're not
7 insurgents, you know, we're not members of
8 the Taliban. We're good neighbors, dads
9 and moms, members of the community, we're
10 regular folks that just want to eke out a
11 living.

12 We've always had our door open to
13 hear any complaints from any of the
14 neighbors. We live in an environment
15 that -- that has the luxuries of a city and
16 unfortunately the noise of city life.

17 We feel we enhance the quality of
18 life. I mean, we're in the midst of
19 installing double doors. We've hired a
20 contractor, but everything takes five times
21 longer in South Florida than you expect
22 it to take, and --

23 UNIDENTIFIED SPEAKER: Longer on the
24 beach.

25 MR. DONOVAN: Yeah, Miami Beach.

1 We're talking to police now to patrol
2 outside to eliminate the possibility of
3 loitering, if there is any loitering going
4 on. I know the community will see the
5 difference. Recently Club Mays, which was
6 Salvation just closed, and I felt
7 personally that was 70 percent of the
8 problems, because that club could hold, you
9 know, 1,300 people.

10 And, you know, in closing, we are
11 members of the community. I mean, we're
12 fathers, mothers, friends, neighbors.
13 I work hard.

14 MAYOR DERMER: If I may ask you, and
15 listen, this is not about you and your
16 family, you have a lovely wife and family.

17 MR. DONOVAN: (Inaudible.)

18 MAYOR DERMER: You seem like a hell
19 of -- you seem like a hell of a nice guy to
20 me, but I'm just -- I'm just curious as to
21 do you feel you can make a living with a
22 2 a.m. closing versus 5 a.m.?

23 MR. DONOVAN: No, I think that Miami
24 Beach is a 5 a.m. city. I mean, it
25 costs --

1 MAYOR DERMER: No, no, I'm talking
2 about you.

3 MR. DONOVAN: I'll use a perfect
4 example.

5 MAYOR DERMER: You talked about --

6 MR. DONOVAN: I'll give you a
7 perfect example.

8 MAYOR DERMER: Hang on. You talked
9 about you as it related to your family.
10 I'm talking about you as it relates to you,
11 too.

12 MR. DONOVAN: Exactly, (Inaudible.)

13 MAYOR DERMER: But don't give me
14 Miami Beach, tell me 2 a.m., you've got a
15 particular establishment there that sells
16 alcohol. You can't live with 2 a.m. at all
17 or is it not making enough money?

18 MR. DONOVAN: I have an
19 establishment in Coral Gables. As know
20 it's 2 a.m., and quite honestly, we don't
21 really make that much money there. We're
22 open for lunch, we're open for dinner,
23 we're open until 2 a.m., and Saturday
24 forget it, Saturday night we rang \$2,400,
25 and this is in the city of Coral Gables.

1 So you start -- what you're doing is
2 you're eliminating the nightlife, the
3 reason why people come into an area.
4 I mean, you start -- they're just going to
5 go to another place that's open until five.
6 So I mean, we make about 35 percent more
7 out of the Purdy Lounge than we do in Coral
8 Gables, and that 35 percent is probably
9 made between 2 and 5 a.m.

10 You know, unfortunately for the
11 people who lived there, it's zoned an
12 industrial area. You know, I mean --

13 MAYOR DERMER: Well, you're --

14 MR. DONOVAN: -- we picked our
15 location (Inaudible.)

16 MAYOR DERMER: Your issue is correct
17 when you say it's zoned in an industrial
18 area, but my understanding is there is no
19 rights to particular bar hours or liquor
20 license hours, so though you may be there
21 in an industrial and you may have a proper
22 establishment there, you don't have any
23 kind of right to a 5 a.m. versus a 2 a.m.,
24 so -- but that is going to be something
25 that I think that this commission is going

1 to tackle, we're going to explore, we're
2 going to talk about it.

3 MR. DONOVAN: I'm kind of confused
4 as to why -- I don't know why we do not
5 have the right. I mean, it's there
6 already, what, you're just going to take
7 away (Inaudible.)

8 MAYOR DERMER: My understanding
9 according to the legal advice that I have,
10 is that correct, Mr. Attorney, that you
11 have a right to a liquor license that may
12 be grandfathered, however, you do not have
13 a right as to those hours of 5 a.m.

14 MR. DONOVAN: (Inaudible), that's
15 what I'm kind of confused about.

16 MAYOR DERMER: That's the law. So
17 that's what -- why this is on the table
18 now. Okay? All right. Thank you very
19 much. Let us go -- let's go to
20 Mr. Wallack. I mean, I haven't seen you,
21 Dave, in a while, and you're wearing a
22 suit. My God. First time in years that
23 I've seen this.

24 MR. WALLACK: Is the tie nice?

25 MAYOR DERMER: Have you become the

1 solicitor general for North Beach or
2 something? What's going on here?

3 MR. WALLACK: Actually, I thought
4 there would be a lot of older people in the
5 room today, so I dressed a little more
6 formally.

7 MAYOR DERMER: Oh-oh, not a good
8 kickoff. Back up a little bit. Take a
9 step back and start again.

10 MR. WALLACK: Mr. Mayor, I am also
11 representing the Ocean Drive Association in
12 some of my comments, and so I would ask for
13 just a couple of more minutes than two
14 minutes, not many more but just a couple.

15 MAYOR DERMER: Sure, go ahead.

16 MR. WALLACK: The chamber of
17 commerce came to me a couple of months ago
18 and actually asked me to write a position
19 on noise and what I thought, how I thought
20 it should be remedied and the difficulties,
21 especially that many of these residents --
22 all of these residents are complaining of.

23 It was my position then, and I
24 standby it now, that zoning is the proper
25 recourse for our city to take to organize

1 entertainment. It is the only method by
2 which you can actually create the rules for
3 each zone with a logic that would stand the
4 test of law, I believe.

5 But we must remember the success of
6 our city is predicated not on our beach,
7 not on our concrete structures, it's
8 predicated on people, it's predicated on
9 human life, it's predicated on tourism.
10 That is the business of our city.

11 When you change the basic success
12 factor and you remove, let's say, a column
13 in this building, will this building
14 collapse? Maybe not, maybe just it will
15 sag a little bit, but if you pull another
16 main column, it may collapse.

17 I heard Fort Lauderdale mentioned.
18 Fort Lauderdale was a pretty wild scene in
19 the heyday of its spring break, however,
20 when they closed it the way they closed it,
21 it sent them into a spiralling depression
22 of 15 years.

23 My message to this commission is to
24 do this properly. Not to do it with an
25 axe, but to do this with a surgical blade

1 and create the proper zoning for your
2 entertainment zones.

3 We need to workshop. You need to
4 define the economic ramifications of what
5 it means to roll back to 2 a.m., Mr. Mayor.
6 Rolling back to 2 a.m., obviously this
7 gentleman is a bit new in the community and
8 new in business here. Let me explain to
9 you what rolling back to 2 a.m. would
10 actually mean.

11 It would mean literally thousands of
12 people unemployed. In my property, 900
13 Ocean Drive, when my parents ran it, they
14 had four employees in the season. I have
15 240 employees on the same property. I'm
16 only one property. Half of my employees
17 live on South Beach.

18 All of the small condos and the
19 apartments of South Beach are filled with
20 the employees of Lincoln Road and their
21 cafes. The employees of Ocean Drive, the
22 restaurants, the hotels that have sprung
23 up, and of the South Pointe area.

24 They spend their paychecks in the
25 stores that have sprung up to service them

1 living in the apartments. How many
2 hundreds of thousands and millions would be
3 lost in their tax revenue alone in spending
4 their paychecks. Will the residents pick
5 up those losses that the city suffers to
6 our tax revenue.

7 These are questions that you have to
8 look at an examine. "Preservation" is a
9 word that has been bandied around and
10 bandied around, and Saul, I know you are a
11 preservationist. Mr. Mayor, I know you are
12 a staunch preservationist, and Matti,
13 I know you are as well.

14 I'm not going to sit and go through
15 every single person on the board, because
16 it's not necessary, but I know these are
17 the three that have stood out, but to me
18 preservation goes beyond the concrete,
19 because we had the concrete when we were
20 dead. It's not the concrete, and it's not
21 the beach.

22 The concept of Miami Beach is also
23 what needs to be preserved, the concept of
24 why the buildings were built and in
25 which -- and the method in which they were

1 built reflected the mindset of the concept.

2 In the 1920's we were a resort.

3 We were a place to enjoy all night long 24
4 hours a day with casinos that were illegal.
5 In the thirties we had prohibition in this
6 country. You could not get a drink. In
7 Miami Beach the alcohol flowed more than
8 New York and more than Chicago.

9 In the forties we were filled with
10 thousands upon thousands of servicemen
11 training for World War II, and the party
12 flowed all night as well. In the fifties
13 with Frank Sinatra, Dean Martin, and Jerry
14 Luis, the stars of the hotels, it was
15 partying into the night, and you went to
16 Wolfies at four in the morning to see Sammy
17 Davis, Jr., and Frank Sinatra.

18 In the sixties Jackie Gleason,
19 Arthur Godfrey. It's all based in
20 entertainment. It's all based in
21 personalities. The Beatles, Cassius Clay,
22 and then we have the seventies and the
23 early eighties. Devastation. The party
24 stopped, the people got older, and they
25 died, and that is what happened to our city

1 as well.

2 The city services rolled back. City
3 salaries, benefits, forget about it, there
4 was no money to be had in this city, and
5 then we came back out. What led us coming
6 out? Entertainment. Miami Vice and all
7 the other movies that came in that era.

8 We must move in stages. And I am
9 not saying that this is a bad move by the
10 city. I think it's obvious you're going to
11 pass this ordinance. I think that any fool
12 sitting in the audience knows that, but
13 there are, as Ira Elegant said, certain
14 considerations that you should in your
15 discussion make note of.

16 We are a 5 a.m. city. To roll back
17 to 2 a.m. in any district you must realize
18 down to your bones will kill the
19 entertainment factor in that area. It will
20 not survive. 30 to 40 percent of every
21 restaurant, business, nightclub and cafe
22 will not be able to survive that in the
23 entire city, and you can factor all of that
24 income as well as 30 to 40 percent of all
25 employees that live in this city would

1 migrate, because as a bartender or waiter
2 or a server, you can live in any city in
3 the world. They would just migrate out,
4 break their leases, leases would mean
5 nothing.

6 We are a 5 a.m. city. That is our
7 unique asset. We don't have any other
8 unique asset in this city. Our hotels are
9 not unique, our beaches -- our beach is not
10 unique. You can go from here to North
11 Carolina and you can find a beach. You can
12 go up the west coast, you can find
13 absolutely beautiful beaches, you can go to
14 Panama City and find a gorgeous beach,
15 Cancun, the Bahamas, there are beaches all
16 over the place now, we're not the only one,
17 therefore, it is not unique. It's
18 beautiful and it adds to what we are, but
19 it is not unique.

20 Disney World is 2 p.m. If you want
21 to put us in direct competition with
22 Orlando, watch us die. Straight across the
23 board, and the only thing you'll have is
24 about 15 to 20 years of these faces before
25 I'm back in the ACLF business, and I want

1 to be head of the board. And I don't say
2 that -- I don't say that negatively,
3 because that's the truth and that's the
4 reality of our lives and who we are in each
5 season that we live our lives in.

6 The key is entertainment and your
7 organization of it. I am not standing here
8 opposed to this ordinance, however,
9 entertainment is the golden goose,
10 entertainment is our success, it is our
11 prosperity.

12 The way you grandfather and the way
13 you use a sculpturing tool is the key to
14 the success of this ordinance. Aside from
15 we on Ocean Drive have been begging for
16 more police protection, people walking the
17 beat rather than in cars and more clean up.
18 We even formed our own district to support
19 the city and pay for more police and more
20 clean up. There are areas of the city,
21 Ocean Drive included, that are still --
22 that would still like to participate with
23 your counsel, your government in creating
24 more city services.

25 So it's not that we don't want

1 organization. We do. Please do
2 it judiciously with consideration to our
3 industry. Remember people in our hotels as
4 far as the Loews, the Fontainebleau, they
5 all go to Nikki Beach. Not all but many.

6 They go to Opium, and I'm not saying
7 Opium has been running a clean shop, and
8 I'm not here to rubber stamp, and
9 if they've been abusive, they've been
10 abusive, but not all operators are, and
11 this city still can find ways to garner
12 control.

13 When you say we want to take our
14 streets back, please remember the tourists
15 created this city. The tourists created
16 the resurgence of this city, and it is
17 tourism that is our true business and our
18 only business. Residential came as a
19 result of tourism. Thank you.

20 MAYOR DERMER: David -- David --
21 David, before you go, just a couple of
22 quick questions. I want to -- I want to
23 focus on your position so I understand it.

24 As to the 2 a.m. versus the 5 a.m.
25 closing time for argument's sake, would you

1 be adverse to having a 2 a.m. closing time
2 for, hypothetically speaking, let's say
3 below 6th Street in the Purdy area and
4 let's say along Ocean Drive you had a
5 5 a.m., and that Ocean Drive district would
6 include 900 Ocean, Mango's. Would you be
7 adverse to doing that.

8 MR. WALLACK: I cannot stand the
9 concept of destroying Nikki Beach. It's
10 internationally known. I don't like the
11 concept. 2 a.m. would destroy these
12 businesses. It would turn them into
13 restaurants, period, and they're not
14 restaurants alone.

15 When you go to 2 a.m., David, you
16 have to realize you are taking something
17 and changing it. You are taking their
18 clientele and saying go home, get a new
19 clientele tell and change your business,
20 because --

21 MAYOR DERMER: But you would be up
22 here fighting against that if that were the
23 case that --

24 MR. WALLACK: I think that's where
25 the grandfathering and your contemplation

1 of the ripple effect and the domino effect
2 of your action need to be studied. I truly
3 think that this is really the job of an
4 economic expert to really show you how many
5 dominos are stacked up here. I don't think
6 you truly realize it, how many families,
7 how many children eat from 2 a.m. until
8 5 a.m.

9 MAYOR DERMER: If we went into a
10 2 a.m. closing in certain areas of the
11 city, you think it would be -- the dominos
12 would collapse on top of us, it would be
13 the end of Miami Beach, we'd spiral into
14 Somalia.

15 MR. WALLACK: Well, I -- I would
16 not -- I will not go ahead -- I could not
17 go ahead as an expert and stand here, and
18 I think I am one of the city's true experts
19 in this field, and (Inaudible.)

20 MAYOR DERMER: Everybody's an expert
21 in our city.

22 MR. WALLACK: Well, I say -- I'm on
23 the front lines of tourism, and I've been a
24 resident here since 1955. I think I know
25 South Beach pretty well. I've been here

1 before the prosperous period, and I've been
2 here during, and I've been successful,
3 quite frankly, in the ACLF business and
4 creating them for the state of Florida as
5 well as creating probably the number one
6 nightclub in the south. So I think that
7 I have something to say that maybe so.

8 I would say that even where I am at,
9 I would probably want to run thoughts
10 against economic experts in different
11 fields to truly understand how far the
12 ripple effect goes in the economics -- the
13 economic fabric of our city to answer your
14 question exactly.

15 I can say for certain that it would
16 be between 30 and 40 percent of all
17 businesses that would collapse, let's say,
18 if overall you rolled this city back to
19 2 a.m. There would be very few that could
20 survive.

21 VICE MAYOR GROSS: But that's not
22 what he's asking you, David. He's asking
23 you about residential zoning districts
24 which don't -- aren't allowed to have night
25 clubs to begin with, you know, and changing

1 the hours of liquor sales in those
2 residential districts that aren't permitted
3 to have nightclubs.

4 MR. WALLACK: Well, I'll tell you
5 what it -- what -- I don't know what
6 it wouldn't do, but what it would do is
7 severely curtail the business of Penrod's,
8 Pearl, Nikki Beach. It would severely,
9 if not put under, Opium Gardens, and I'm --
10 there are probably some other smaller
11 businesses that could maybe survive or eke
12 out a living as a restaurant, but certainly
13 not make it worth your while to work, you
14 know, as hard as we do work in this
15 industry.

16 If you -- I know that the cabaret
17 district is an eventuality, I knew it many,
18 many years ago, and I believe that is so,
19 and that is a five o'clock zone, and
20 if we change that, then we will destroy the
21 entire city. However, I also know that the
22 Ocean Drive area alone is not enough to
23 fill all the hotels even if we are a -- the
24 only five o'clock zone. It's not enough in
25 the diversity.

1 The diversity is what creates art.
2 Diversity is what art is about. Opium
3 Gardens, you may not like it, but it is a
4 piece of art. It represents an aspect of
5 art. Pearl and Nikki Beach are an aspect.
6 They each bring a certain clientele from
7 around the world that fill our hotels.

8 What would suffer the most David,
9 what would suffer the most is the entire
10 Collins Avenue corridor from 1st Street all
11 the way up to 88th Street, the smaller
12 hotels on the west side of the street.
13 They would not be able to survive that
14 impact of losing a major portion of our
15 tourist business.

16 MAYOR DERMER: Commissioner Cruz.

17 COMMISSIONER CRUZ: David, you
18 bought up something and now you've entered
19 into -- you've crossed the line of now into
20 hotels and the fact that the draw --

21 MR. WALLACK: The ripple effect.

22 COMMISSIONER CRUZ: -- and the
23 tourism, but I think the impression that
24 we have up here collectively and what
25 they're telling us, realistically it's

1 really the numbers that assault us on any
2 given weekend from Thursday to Sunday
3 night. It really isn't the clientele
4 that's coming and staying at the hotels and
5 going to the restaurants and going out to
6 one of these places.

7 I think we do have, even if we had a
8 cabaret district which, as you know,
9 business will always adjust to the
10 conditions and try to garner what it needs
11 to survive, but I think the real problem,
12 and we all have the pink elephant in the
13 room and no one wants to say it, is really
14 the bridge -- I was going to say the -- the
15 cause of bridge and tunnel, that's my New
16 York days, but really the Causeway, because
17 if you look at any given weekend what is
18 coming across the Causeway, it is amazing.

19 So the problem really comes down to
20 not what's filling the rooms but the
21 assault we get from the mainland that's a
22 lot of young kids who you see, because you
23 look into the cars, all you've got to do is
24 be in a car driving and look into the other
25 cars, and you see that it's mainly young

1 kids coming from other areas that are
2 driving up and down. They're playing the
3 loud music, and in general creating a
4 problem. It's not the tourism which we're
5 attracting, because the room rates that
6 we have going these days, we are an
7 expensive destination that is very
8 discriminating.

9 I would say Miami Beach has become a
10 boutique tourism destination. Forget about
11 boutique hotel, we are a boutique
12 destination driven by high quality standard
13 hotels and a nightlife that is very
14 discerning with the proliferation of
15 high-end establishments of VIP rooms and
16 Ocean Drive which has (Inaudible.)

17 MR. WALLACK: First those two. The
18 high-end night clubs fill the boutique and
19 the high-end hotels. That's the fuel.
20 Every (Inaudible.)

21 COMMISSIONER CRUZ: No, because the
22 VIP rooms, as you and I both know, because
23 you do also have a VIP room, becomes a very
24 select crowd, so that is -- that is a --
25 the numbers are minimal compared to the

1 general numbers that you get to fill up the
2 bigger dance floor and the like, but
3 it's -- I just wanted to differentiate
4 between the fact that we are getting --
5 I think the main problem we're fronting --
6 confronting, the kids coming over across
7 the causeway.

8 And as the mayor has asked,
9 if we look at certain areas, and because as
10 you said, we have to look at it with a
11 surgical scalpel and say --

12 MR. WALLACK: Right.

13 COMMISSIONER CRUZ: -- you know,
14 these areas were historically residential,
15 they were intended to be residential, and
16 by an act of oversight on the part of the
17 city, we allowed certain establishments to
18 creep in and begin to just sort of
19 proliferate.

20 MR. WALLACK: Yeah.

21 COMMISSIONER CRUZ: That is what
22 we're trying -- no one is saying we're
23 going to put out the entertainment
24 industry, because most of the people here,
25 because they have chosen to be here is

1 because they like the ability to go to a
2 restaurant, to a nightclub from time to
3 time and just even walk the streets and
4 feel the energy that, you know, vibrates
5 from just the essence of being out here.

6 The thing is, we do have a crisis,
7 and I think we all recognize that.

8 MR. WALLACK: Zoning is the answer.

9 COMMISSIONER CRUZ: We have a
10 crisis, and we're trying to do it the way
11 you said.

12 MR. WALLACK: Zoning is the answer.

13 COMMISSIONER CRUZ: With zoning,
14 but --

15 MR. WALLACK: I would say before you
16 go to 2 a.m. --

17 COMMISSIONER CRUZ: So the mayor's
18 question was germane. Isn't that a way of
19 moving forward?

20 MR. WALLACK: Yes.

21 UNIDENTIFIED SPEAKER: And is
22 it going to devastate the entire city?

23 MR. WALLACK: No, no.

24 COMMISSIONER CRUZ: Right, so
25 I think (Inaudible.)

1 MR. WALLACK: Zoning is the proper
2 answer.

3 COMMISSIONER CRUZ: Right.

4 MR. WALLACK: Zoning -- zoning is
5 the proper answer. You're leaning into the
6 concept, and we have a lot of attorneys on
7 the board, really attractive nuisance.
8 We've become an attractive nuisance to
9 people outside the clubs, as you say, just
10 hanging out on the street. They're young,
11 they're this, they're that, they're rowdy,
12 they're filthy, they're wild.

13 And our city maybe does not have the
14 resources to police it or we happen to
15 (Inaudible.)

16 MAYOR DERMER: No, no, David, I've
17 got to stop you here. I've got to stop you
18 here, and this is, I think, really you're
19 getting to the essence. You just said 20
20 seconds ago zoning is the answer.

21 MR. WALLACK: Correct.

22 MAYOR DERMER: And then you said,
23 oh, there's a problem because there's too
24 many people hanging out, this is attractive
25 nuisance. If the attractive nuisance

1 doesn't exist or it is limited, then you're
2 not going to have all the people hanging
3 out there if you're not going to have the
4 service.

5 MR. WALLACK: But wait, David --
6 David, you're wrong. You don't close the
7 swimming pool --

8 MAYOR DERMER: So you keep
9 contradicting yourself over and over.

10 MR. WALLACK: You don't close the
11 swimming pool because you have some
12 people -- one person who drowned and they
13 can't swim and you got -- you got to teach
14 them, no.

15 MAYOR DERMER: No, no, no.

16 MR. WALLACK: Don't close the
17 swimming pool.

18 MAYOR DERMER: But swimming pools
19 have hours in certain places.

20 MR. WALLACK: But you have to
21 realize --

22 MAYOR DERMER: Everybody -- you
23 know, you don't have a 24-hour swimming
24 pool going in certain neighborhood also,
25 you know.

1 MR. WALLACK: Again, what I'm saying
2 is --

3 MAYOR DERMER: Or 24-hour tennis
4 courts.

5 MR. WALLACK: Let's take Ocean Drive
6 for a moment, because it's a different
7 zone, and you're going to be discussing
8 this. It's a five o'clock area. If you
9 make it a 2 clock area, it will go dark.

10 MAYOR DERMER: Yeah, but David, this
11 is always --

12 MR. WALLACK: These people on their
13 strolls --

14 MAYOR DERMER: It's always blaming
15 the city. See, it's the old argument that
16 has gone on.

17 MR. WALLACK: No blame, no blame.
18 Organization.

19 MAYOR DERMER: It's always -- no,
20 no, what happens is when -- when there is
21 resistance in trying to regulate through
22 the zoning that you're advocating from the
23 industry, the nightlife industry, there's
24 always a shifting of the focus of the
25 issue, and we've sat here many, many years

1 listening to this, shifting of the -- to a
2 service issue, but the problem and focusing
3 in on the problem is out of your own
4 mouth --

5 MR. WALLACK: No, I agree.

6 MAYOR DERMER: Using your words, you
7 said it's zoning.

8 MR. WALLACK: All I'm saying is that
9 it's 2 a.m. rather than three or four, take
10 a look at --

11 MAYOR DERMER: All right. Now we're
12 getting somewhere. We're moving back a
13 little. All right.

14 MR. WALLACK: I'm saying take a
15 look --

16 MAYOR DERMER: We're around three or
17 four now?

18 MR. WALLACK: No, no, I'm saying --

19 MAYOR DERMER: All right.

20 MR. WALLACK: -- David, in those
21 areas --

22 MAYOR DERMER: Yeah.

23 MR. WALLACK: -- if you take five
24 o'clock away from our city in general and
25 these areas have emanated out of our

1 success -- I have neighbors behind me, I've
2 spent millions for my neighbors that
3 I didn't need to spend but for my
4 neighbors, and I don't have problems with
5 my neighbors, so I know what you're talking
6 about. I know -- I lived on my alley for
7 15 years. I know what the garbage truck is
8 at 7:30 in the morning everyday clanging
9 and clanging and waking you up. I know
10 what people are. I know what that is.

11 What I am saying is even in the
12 areas that we create as five o'clock
13 entertainment zones to keep the vitality,
14 it still has to be managed properly. In an
15 area such as South Pointe, you have the
16 ability, and that's correct, this city does
17 have the ability to say 2 a.m. You can say
18 11 a.m., you can say whatever you want, you
19 have that power, but you also have the
20 power to roll back a little slower and take
21 a look, and roll back and take a look
22 before you just axe it.

23 MAYOR DERMER: So you have no
24 objection to a phasing in.

25 MR. WALLACK: That is correct.

1 I think that is -- I think that is the
2 responsible thing to do. I think that it's
3 the way that the entertainment industry can
4 also make its proper adjustments so that
5 we're in step with the city, you can't get
6 in step and in sync with a city that just
7 lowers the guillotine. It's just too
8 quick.

9 MAYOR DERMER: If we were to have,
10 let's say, a 4 a.m. for six months and six
11 months after that a 3 a.m., and after that
12 go to a 2 a.m.

13 MR. WALLACK: I would be able -- you
14 would be able --

15 MAYOR DERMER: In phasing you have
16 no objection?

17 MR. WALLACK: I would say you would
18 be able to study it as you go and see the
19 effect and ripple effect as it occurs all
20 the way up to the Fontainebleau from what
21 you do at South Pointe.

22 MAYOR DERMER: Okay. I thank you
23 for your comment.

24 MR. WALLACK: Thank you.

25 MAYOR DERMER: Let's get Gary and

1 we'll try to move along as briskly as
2 possible so we can bring the discussion
3 more up here.

4 MR. KNIGHT: I'm Gary Knight.
5 I reside at 2401 Collins, and I'm speaking
6 on my own behalf. I'm in support of this
7 effort by my neighbors in Sunset Harbor and
8 South Pointe to -- to restrict -- to -- to
9 pass this legislation. I'm in favor of it.

10 I want to -- I want to make a couple
11 of different observations that I think
12 you've heard heretofore about some of the
13 issues that I think have to do with the --
14 with -- with -- with what is being
15 considered.

16 This is a very serious public policy
17 question. I don't want to live in a
18 city -- I came here because -- for one
19 reason, my house had been destroyed by
20 Hurricane Andrew. Second, I looked at Key
21 Biscayne, and I thought it was pretty dull.
22 Third, I came to Miami Beach, and Miami
23 Beach had an interesting set of activities,
24 especially located around Lincoln Road and
25 Ocean Drive at that time in the 1992.

1 And the -- what was interesting
2 about Ocean Drive is a lot of -- a lot of
3 people walking and blading and
4 skateboarding and bicycling and running and
5 so on, and a -- an interesting mix and
6 diverse number of people. And the same
7 thing applied on Lincoln Road with the
8 addition of a lot of cultural venues.

9 We can all develop our own wig
10 history of what saved Miami Beach or what
11 brought Miami Beach back, whether it was
12 the modelling industry and Gianni Versace
13 or the gay community or nightclubs or Miami
14 Vice or historic preservation. The reality
15 is it was a basket of elements, and it was
16 all weaved together, and we were pretty
17 fortuitous.

18 So the question now is how do
19 we preserve this wonderful place and to do
20 it in a -- in a way in which we can
21 preserve civil society at the same time.

22 I'm -- I'm -- I -- I -- there are
23 other 5 a.m. towns in the world beside
24 Miami Beach and maybe New York City, for
25 example, Paris, but when you go out of a

1 club in Paris at five in the morning, no
2 residents are disturbed.

3 So I think there are -- there are
4 ways to manage some of these problems that
5 we have -- we have to consider. One is --
6 has to do with we legislate for the -- the
7 best operators or the worst operators, and
8 currently we're having to legislate for the
9 worst operators, because we have some
10 pretty bad -- bad operations, and I -- and
11 I -- I think that one way to begin to do
12 this is to have our planning department,
13 we have our planning department crack down
14 on those organizations that are in
15 violation of the law regardless of what
16 they are said and presented to the city.

17 For example, in your -- in your
18 materials that you have for this meeting,
19 Monty's is listed as having a seating --
20 700 seats. China Grill, 486. Joe's Stone
21 Crab, 512. All sounds reasonable.

22 Opium at 136 Collins, 225. Does
23 that seem farfetched? I think so. In the
24 Sunset Harbor area, you have Joe Allen, a
25 place that operates pretty late at night,

1 100 seats. No problem. Jade Lounge, 61.
2 That doesn't strike me as -- as correct.
3 For one thing, if it's a restaurant, I'm
4 unaware of it, and I've never seen food
5 served, and I've never -- and I've been
6 there, and I've never seen only 61 people
7 in the place.

8 So I think it's time, perhaps, that
9 the planning department not just plan and
10 review but also get out at midnight, at
11 2 a.m., visits all the levels of the places
12 that we have licensed and actually
13 enforce -- and actually for the planning
14 director to be given the authority by the
15 manager to say to a place you are not --
16 are in violation of what you said you were
17 going to do, we're shutting you down.

18 That's point number one. Point
19 number two, one of the -- one of the things
20 that has happened here and I think one of
21 the reasons we have the crowds again goes
22 back to what we -- what you all did, or
23 several of you did when you were on the
24 commission when -- when you banned people
25 under 21 from the after hours clubs.

1 Commissioner Garcia remembers and
2 Commissioner Bower, we were all out one
3 very late night, we were a 5 a.m. town for
4 that particular morning and visited a
5 number of the after hours clubs, and after
6 that you then banned people under 21 in
7 bars and clubs, and I think that was a very
8 wise thing.

9 What that led to for a period of
10 time was a calming of our streets around
11 6th and 7th and Washington, and it led to
12 that because up until then, young women
13 were being led into the clubs with wrist
14 bands, those who were 18 to 21, and the
15 young men were out on the streets looking
16 to get in.

17 I would -- I would suggest to you
18 that two things have happened. First, a
19 lot of the venue for the 18 to 21-year-old
20 crowd to get drinks in a more easy fashion
21 has migrated from clubs to pool decks and
22 hotel lounges and restaurants, and that's
23 one of the reasons restaurants are
24 beginning to act like clubs, and again, the
25 door policy lets the young women in, and

1 all of a sudden we have the young men
2 outside looking for the young women who are
3 able to get in and the young men are not,
4 and we had a recent bust by the police in a
5 couple the clubs in the south end of the
6 city and on 6th street of a lot of underage
7 dinners.

8 I believe in addition to the kind of
9 law that you're -- you're -- you're
10 reviewing today, which should be passed in
11 my opinion, I believe a militant and
12 aggressive and, if necessary, undercover
13 support for the no drinking under 21 in the
14 hotels, restaurants, bars, and clubs needs
15 to be done, and I think that will also lead
16 to a -- a reduction of the problems that
17 we're having. Thank you.

18 MAYOR DERMER: Okay. Thank you.

19 UNIDENTIFIED SPEAKER: (Inaudible.)

20 UNIDENTIFIED SPEAKER: No, I agree
21 with Gary. I was going to -- well, I'll
22 save my remarks for later. I think you
23 made some excellent points.

24 MAYOR DERMER: Okay. Come on up
25 here, Carl, you wanted to speak after. Any

1 folks other -- okay. Let's take just a
2 couple of more and then we'll close
3 (Inaudible.)

4 MR. CULVEY: David Culvey -- oh, I'm
5 sorry.

6 MAYOR DERMER: Go ahead, please. Go
7 ahead.

8 MR. CULVEY: 841 19th Street,
9 formerly a residence of south of 5th
10 Street. I would just like to comment,
11 I don't think zoning is the problem -- is
12 the solution entirely. I think the problem
13 is enforcement. I think it's a little bit
14 of a cop-out from the commission to sit
15 here and say we really can't afford to
16 manage this huge success of the beach.

17 You know, taxes have skyrocketed,
18 the beach is booming. It would be as
19 if you said, well, the beach itself is
20 really crowded now, so we can't afford to
21 keep it clean. You know, I think there's a
22 little bit of an onus to enforce what
23 you -- what is in place.

24 I've always been for down zoning, so
25 if you want to say zone is the problem,

1 I would say yes, FAR is the problem on the
2 beach. The beach is simply overbuilt, and
3 I fought against that for decades, but what
4 I'm saying is I think that you have to take
5 a little bit of responsibility to enforce.

6 When I had a business south of 5th
7 and I had a party, at 11:15 we would have
8 the cops there with their little decibel
9 machine and, "wham," 250 bucks. The second
10 time 500 bucks. If you were to enforce
11 more stringently, I think that you can
12 remove some of the anomalies which are
13 making everyone so furious.

14 For example, Amnesia. Amnesia was
15 not a loophole. Let's be honest.
16 It wasn't. It was an outrage. We all knew
17 it when it was built. That's not a
18 loophole, it wasn't a mistake, right, and
19 it's been there forever, and it has
20 infuriated everyone.

21 I just want you to be careful
22 about -- about just, you know, react --
23 overreacting. My empathy is with all the
24 residents. I've always been for reducing
25 the building on the beach, preserving the

1 buildings. I've heard some speakers say
2 it's not about the buildings. Well, I've
3 got news for you, it was about the
4 buildings. It's always been about the
5 buildings, because the models or whatever
6 community, they never would have come
7 if it weren't for the buildings. So it was
8 always about the buildings.

9 And so all I'm -- all I'm saying is
10 be careful, because the beach right now,
11 it's booming and it's -- it's -- you know,
12 it's a huge success, but there is this buzz
13 and that opinion-forming community that
14 it's not as edgy as it was. We know it's
15 not. So just be careful and try to enforce
16 better.

17 You can't say that you can't have
18 nightlife because you're going to have
19 chaos and that the answer is atrophy. It's
20 up on you guys. You get the money from the
21 residents, from the business. You've got
22 to get rid of the anomalies that are
23 infuriating everyone, and they've been
24 there forever, and enforce the rules.

25 It is possible to have a club that

1 stays open late that doesn't destroy the
2 neighborhood. It's -- it's not legal to
3 break bottles on the beach. If you did
4 that consistently, you'd be arrested, and
5 what I'm saying is more enforcement, take
6 care of some of the anomalies, and I'm not
7 opposed at all to picking out areas and
8 maybe being more stringent about -- about
9 them.

10 I was against plastic chairs south
11 of 5th. I was against -- yeah, I think
12 they should be illegal. I think it's, you
13 know, disgraceful. And I had a restaurant
14 south of 5th, and I was against sidewalk
15 tables.

16 So I'm not -- I'm here just to say
17 be careful, be careful, because if you
18 suddenly slam two o'clock and that gets out
19 in the press, it's going to be bad for the
20 beach of, you know, overseas and up north.

21 MAYOR DERMER: I appreciate your
22 comments.

23 VICE MAYOR GROSS: But David, let
24 me -- let me ask you a question. You're
25 well traveled. What cities do you know

1 where the nightclubs are smack in the
2 middle of the residential neighborhoods?
3 I mean, usually nightclubs are more in
4 commercial zones, and that's really what
5 we're talking about here, trying to extract
6 the nightclubs from a residential district,
7 because the two, even with all the best
8 enforcement, are not really compatible.

9 MR. CULVEY: I agree with you, and
10 I -- I -- and that's why I'm not -- I'm
11 sort of half in favor of tightening up in
12 certain areas, but what I'm saying -- I was
13 actually watching this on TV. I haven't
14 been here for a long time, I try to stay
15 away.

16 MAYOR DERMER: Well, you're always
17 welcome.

18 MR. CULVEY: But there seems to be
19 this attitude that, well, we're going to
20 protect south of 5th and we're going to
21 protect up on Alton, exactly, but the
22 actually entertainment district, well,
23 that's a lost cause, just let it, you know,
24 run wild, because we can't afford --

25 MAYOR DERMER: I don't think that's

1 the message anybody here is sending. What
2 we're sending is a combination message.
3 We're talking about proper location, as
4 Commissioner Gross has mentioned, and, you
5 know, when you're trying to do police,
6 fire, and sanitation and you focus it on
7 one area of the city with your resources,
8 you get to have more success at it rather
9 than having it all spread out also.

10 MR. CULVEY: Well, yeah.

11 MAYOR DERMER: So I don't think
12 anybody's -- you know, nobody's throwing
13 their hands up in the air by any stretch of
14 the imagination trying to (Inaudible.)

15 MR. CULVEY: But I just -- I would
16 just like to impose that burden on the
17 commission to think hard about that.

18 MAYOR DERMER: Sure.

19 MR. CULVEY: Because in my day down
20 at the Century, you know, when the -- when
21 the beach had no property taxes to speak of
22 because everything down there was knocked
23 down anyway, right, those cops were there
24 in 15 minutes, and it used to really piss
25 me off, excuse me, but now seen in

1 retrospect, it was -- that was fair. That
2 was the law, and they were there, and they
3 measured it, and if it was over the noise
4 limit, we were shut down or we were fined,
5 consistently.

6 MAYOR DERMER: I thank you.

7 MR. CULVEY: And now you have a lot
8 more money that comes from that, you know.

9 MAYOR DERMER: Thank you, sir,
10 I appreciate your comments very much.
11 Let's get -- let's get Carl and then we'll
12 get you, and we've got two more. Go ahead.

13 MR. ZEBLOTNY: Hi. Carl Zeblotny,
14 1800 Sunset Harbor. Yes, I am a resident
15 here, so -- anyhow, the last speaker was
16 very good. I really want to second what
17 he said. He probably had the most
18 articulate ideas that have been presented
19 here today. Also David Wallack's concerns,
20 I share his concerns very much.

21 Now, when I moved into 1800 Sunset
22 Harbor, now, I particularly bought on the
23 Oceanside, because I love that ocean view,
24 but I knew exactly what I was buying into.
25 I knew Tremont Towing was right outside my

1 door. I knew the other towing company was
2 outside my door. I knew Purdy Lounge was
3 right downstairs from me. That doesn't
4 bother me. That's what I bought into.
5 It was -- those places were there before
6 I was there, and I thought it was -- you
7 know, I -- I love the entertainment and
8 nightlife.

9 That's why I moved to South Beach,
10 because of its cutting edge entertainment
11 and nightlife fun, and piece-by-piece we're
12 taking that away.

13 And I think also I would like to
14 second what Commissioner Garcia said, is
15 that the bigger picture, rather than
16 picking on neighborhood by neighborhood and
17 closing down this and restricting that, I
18 think you really ought to look at the big
19 picture and where the entertainment zone,
20 where the cabaret district ought to be
21 first and make sure that that -- I mean,
22 the big question here, the \$60 million
23 question is how do you keep residents happy
24 and how do you keep businesses happy, and
25 how do you keep our nightlife on the

1 cutting edge so that tourists will still
2 continue to come here.

3 Those are the issues that need to be
4 addressed, and maybe, as somebody else did
5 suggest, maybe we do need a workshop with
6 all parties involved, because right now,
7 you know, we have these tensions between
8 residents, tensions between businesses, and
9 I as a resident am somewhere in between,
10 because I love the entertainment,
11 I frequent these places, and I really don't
12 have a problem with the noise.

13 The issue here that I really see is
14 that -- is the noise, everybody keeps
15 bringing that up, the litter, the crowd
16 control. If you roll back hours to two
17 o'clock or if you roll back hours to ten
18 o'clock, it's still not going to alleviate
19 the problem. There still will be litter,
20 there still will be crowds, there still
21 will be whatever is in the streets.

22 I see it not as a polish, but as an
23 enforcement issue. We have rule after
24 rule, ordinance after ordinance on the
25 books, we're just not enforcing those rules

1 as much as we should, and when it comes to
2 noise, when it comes to litter, you know,
3 as the previous speaker said, they ought to
4 be fined, you know, immediately.

5 There are ways to work around that.
6 I don't want to see policy change, I don't
7 want to see the five o'clock closing ever
8 change on the beach. I would be willing to
9 compromise myself or accept a compromise as
10 a resident if we have that cabaret
11 entertainment district established, and
12 then we can say, okay, in some of these
13 other neighborhoods let's try to negotiate
14 what can happen. Thank you very much.

15 MAYOR DERMER: Thank you, sir.

16 COMMISSIONER CRUZ: Carl, Carl,
17 I understand what you're saying regarding
18 the cabaret district, we establish that
19 first and go, but if you know that an area
20 will not ever be considered a cabaret
21 district and it is a source of problem at
22 the moment, don't you think taking limited
23 measures on that particular area while
24 we move forward and establish a cabaret
25 district would resolve the issue more

1 promptly, at least with the individuals
2 that are being affected?

3 MR. ZEBLOTNY: But again, my fear is
4 that you'll never get to that point, that
5 there will be other neighbors -- after
6 we deal with Sunset Harbor, after we deal
7 with South Pointe, then you're going to
8 have the Collins Park neighborhood, they're
9 going to have about five other
10 neighborhoods who are going to say, me too,
11 me too, and we'll never get to establish --
12 to the point of establishing a cabaret
13 district. That's my fear.

14 And if -- if you're talking about
15 problems, again, I don't understand what
16 the problem is. If it's enforcement like
17 I mentioned, or is it -- what's the
18 difference of staying open until five
19 o'clock or two o'clock in terms of the
20 sanitation, crowd control, and everything
21 else?

22 COMMISSIONER CRUZ: Well, there
23 is -- there is a difference between five
24 o'clock and two o'clock, because if you're
25 out there at five o'clock in the morning,

1 I mean, you've had that much more time of
2 just the hollering and the noise and the
3 accumulation of additional litter. I mean,
4 it's very obvious.

5 But that's -- that's a problem,
6 really, that's germane south of 5th Street
7 because of the large amounts of crowds that
8 one club can attract. So it's kind of a
9 little different from your area, but it is
10 a very big concern can, and if you walk
11 it at a certain time of night, you see that
12 it's almost like it's, you know, Carnival,
13 because it's that many people out on the
14 street, and that is -- there's a big
15 difference between two and five because of
16 the sheer number.

17 And then you have the taxis, which
18 is a whole 'nother arena, because our taxis
19 need a little education on manners, because
20 they stand -- they park in the middle of
21 the street, don't allow anybody to go,
22 horns start honking, you know, arguments
23 break out, and that just adds. And it's --
24 it's the Chinese water torture, it's one
25 after the other, and it goes building and

1 it gets to the point where you have the
2 outcry that we have.

3 And we didn't have this before,
4 because we did not have the preponderance
5 of residential in the area, because South
6 Beach was a -- or South Pointe was a
7 redevelopment area, and the whole argument
8 and it was started back in the eighties was
9 to bring residential to that area and to
10 try to bring it back to life.

11 And then all of a sudden we achieve
12 what we were trying to do, and we have a
13 problem, because in the interim, certain
14 anomalies as they called it, I kept
15 thinking of The Matrix when they said
16 "anomalies," you know, crept in, and now
17 it's -- it's incompatible of, and that's
18 what we're trying to resolve, the
19 incompatibility so we can get back.

20 I don't think anybody wants to turn
21 off the light. Particularly, I don't.
22 I want to see this city -- city continue to
23 be vibrant and in the forefront. I think
24 everybody here believes the same thing, but
25 it's how we are able to reconcile the

1 conflicts that really are not compatible.

2 MAYOR DERMER: Commissioner Garcia.

3 COMMISSIONER GARCIA: Yeah, don't go
4 away yet, Carl. He said something that
5 made a lot of sense, okay, and he -- you
6 know, he pointed out the difference
7 between -- between South Pointe and Sunset
8 Harbor. You know, in South Beach the
9 problem is magnified. So anyway --

10 MR. ZEBLOTNY: I agree with the
11 (Inaudible.)

12 COMMISSIONER GARCIA: Also, also,
13 also if someone complained that I have
14 (Inaudible), every single member came here
15 in favor or against is cleanliness, code
16 enforcement, parking, traffic, all those
17 things that we have failed as a city in
18 controlling, plain and simple.

19 Yes, we didn't have the problem
20 before with parking and police and
21 whatever, but we didn't have the crowds.
22 At that time employees were being laid off,
23 and we were living in a desert, in a ghost
24 town. So, you know, we need to find a
25 solution, we need to have a happy median.

1 Frank -- Frank at one time mentioned
2 the entertainment district, and again, you
3 know, I was (Inaudible) entertainment
4 district. I think -- I think that's a
5 place where we can grow on. You know,
6 we can like a process, we can identify a
7 district.

8 You know, right now so many problems
9 that we have, it's we have put so many
10 regulations in -- in -- in what should have
11 been an entertainment district. For
12 instance, the -- the -- the space between
13 club and club, that what happens, you know,
14 that -- that is spreading out into the
15 community.

16 We live in a community that is only
17 seven square miles. We cannot be compared
18 to New York, we cannot be compared to
19 Paris, because, you know, the land area --
20 we're located in the land area.

21 MR. ZEBLOTNY: Uh-huh.

22 COMMISSIONER GARCIA: So, you know,
23 the residents and the entertainment is
24 going to be butting heads all along. You
25 know what, let's try -- let's -- let's try

1 to control it. At the same time, let's not
2 try to control it with one fail swoop.

3 Remember what happened with the sale
4 of -- sale of alcohol in the gas stations?
5 You know, we cut it back to, what, ten
6 o'clock or whatever, and little-by-little,
7 you know, we went back and, you know,
8 started loosing it a little bit, because
9 we realized that it had hurt an industry.
10 And, you know, you roll it back little by
11 little, you know, it -- it didn't make that
12 big of a difference.

13 Why this time don't we do it the
14 other way, let's go back, like you said,
15 every six months we go back an hour and
16 we'll evaluate it.

17 MAYOR DERMER: Exact --

18 COMMISSIONER GARCIA: You know
19 I think that will be a very good
20 (Inaudible.)

21 MAYOR DERMER: I think that's the
22 way to build -- to build compromise and
23 consensus. I -- I -- I have my own
24 personal feelings on it, but obviously
25 if that's the way to do it and the

1 commission is in agreement conceptually in
2 doing it that way and the manager, we've
3 had some discussion on that. I believe you
4 felt that that's an appropriate way to
5 handle it, then I see nothing wrong with
6 it.

7 COMMISSIONER GARCIA: Mr. Mayor, you
8 know, right now because of the way of the
9 Sunshine law, we cannot discuss this in
10 private, this is the way that we have to
11 brainstorm the issues, so I think this is a
12 perfect venue to brainstorm it. You know,
13 and you know what, you want to come up with
14 a better idea, Commissioner Steinberg might
15 come up with a better idea, Commissioner
16 Smith, Commissioner Bower.

17 MAYOR DERMER: Some of the folks --
18 some of the folks I think living down
19 there --

20 COMMISSIONER GARCIA: (Inaudible.)

21 MAYOR DERMER: Some of the folks
22 living down there have been very patient
23 for a long time, and if they see progress
24 being made where, hey, it's going to go to
25 four and then it's going to go to three and

1 then to two. I think those are Victories,
2 and I think that that would --

3 UNIDENTIFIED SPEAKER: Mr. Mayor --

4 COMMISSIONER GARCIA: One second,
5 and I want to (Inaudible) something that
6 Commissioner Cruz said as far as we try to
7 attract the residents down here. Let's
8 not -- let's not lose sight that the first
9 business that was there was Penrod's.
10 Penrod's was there before the first
11 high-rise was there, and at the time it was
12 not a problem. Am I correct?

13 UNIDENTIFIED SPEAKER: I didn't
14 exactly here what you said.

15 MAYOR DERMER: I'm sorry.

16 COMMISSIONER GARCIA: One, one of
17 the first businesses that was there was --
18 I'm sorry, one of the -- you know of the
19 first businesses that was there was
20 Penrod's, that was there before any of the
21 high-rises, and at that time because there
22 wasn't and over proliferation of it, it was
23 not a problem; am I correct?

24 UNIDENTIFIED SPEAKER: (Inaudible.)

25 COMMISSIONER GARCIA: You know, when

1 Penrod's was there, it was a good neighbor.

2 It brought --

3 UNIDENTIFIED SPEAKER: (Inaudible)

4 I'm happy to get a class act down there.

5 COMMISSIONER GARCIA: Huh?

6 UNIDENTIFIED SPEAKER: We were happy

7 to have (Inaudible.)

8 VICE MAYOR GROSS: Come on,
9 we can't -- you can't have a conversation.

10 MAYOR DERMER: All right. Let's --
11 let's continue. Carl --

12 MR. ZEBLOTNY: Can I just --

13 MAYOR DERMER: -- if we can wrap it,
14 I just want to get the rest of these three.
15 We've got to get rolling.

16 MR. ZEBLOTNY: Do I -- do I hear
17 support, though, for the establishment of
18 an entertainment district from the
19 commission, that --

20 MAYOR DERMER: There seems to be
21 some support there.

22 VICE MAYOR GROSS: Yeah, I think
23 we have a de facto entertainment district,
24 and we have for the last 15 years,
25 I mean --

1 MR. ZEBLOTNY: But that will be
2 changed to two o'clock in the morning.

3 VICE MAYOR GROSS: No, I think any
4 time anybody talks about changing the
5 hours, I think it always has to be said, at
6 least for me -- we're talking about in the
7 middle of a residential district in a zone
8 that doesn't permit nightclubs to begin
9 with.

10 You asked the question what's the
11 difference between two and five. The
12 reason really is because in the residential
13 districts where we don't want nightclubs,
14 if you make a two o'clock time hour instead
15 of five, of the nightclubs won't be able to
16 operate, because their business is between
17 two and five, and if what we want to do is
18 stop that, then that's the way to do it,
19 and rolling it back a half an hour at a
20 time is not going to solve that problem,
21 otherwise we're into enforcement.

22 You want code coming in at four
23 o'clock in the morning saying, let me see,
24 is the chef still working, are they still
25 serving food, you know, are you running an

1 entertainment use or are you running a
2 restaurant use. Nightclubs are not a
3 permitted use in that zone.

4 COMMISSIONER GARCIA: So let's
5 identify both zones. No, let -- let's
6 identify the residential zones (Inaudible)
7 and let's identify the independent zones,
8 and I think -- I think that's a really the
9 first step before we do anything.

10 MAYOR DERMER: Let's continue on.

11 VICE MAYOR GROSS: Well, the first
12 step is going to be today. That may be the
13 second step.

14 COMMISSIONER GARCIA: Well, you know
15 what, again, I -- I --

16 MAYOR DERMER: Listen, we're making
17 progress, we're making progress, you know.

18 COMMISSIONER GARCIA: (Inaudible.)

19 MAYOR DERMER: Come on. Let's --
20 let's keep moving.

21 Welcome.

22 MR. DISPENZIERI: Good afternoon,
23 mayor and commissioners. My name is rich
24 Dispenzieri. I am the owner of the Purdy
25 Lounge. What I hear -- what I'm hearing

1 now is kind of disturbing to me. I thought
2 we were just going to be discussing, you
3 know, possibly putting in a clause in the
4 ordinance that would prevent nightclubs
5 popping out of a restaurant. Now all of a
6 sudden we're turning hours back to 2 a.m.,
7 which I didn't know we would be talking
8 about.

9 Just to give you a little background
10 on me, I moved to Miami Beach in 1986, and
11 I worked with Tony Goldman, I worked with
12 Leonard Horowitz, and my family opened up
13 the News Cafe and the Van Dyke Cafe.
14 We moved here because we saw the beauty in
15 Miami Beach, and David Wallack is great,
16 everything he said, except he said that
17 Miami Beach -- Miami Beach was not unique.
18 Miami Beach is very unique.

19 It became a historic district in
20 1986, and that's really what surged the
21 second coming of Miami Beach. I saw the
22 beauty in that. I saw the beaches and the
23 buildings, and I helped Leonard, you know,
24 transform the old dilapidated Ocean Drive
25 hotels into what they are today.

1 And we had a vision. Miami Beach
2 was always 5 a.m. That was part of its
3 uniqueness. When the buildings became
4 beautiful, the beautiful -- so-called
5 beautiful people came down here. The
6 modelling agency and the movies, and from
7 that we have celebrities who come down
8 here.

9 These people come down here to work,
10 and they come down here to party as well.
11 They want to party until 5 a.m. This is
12 what Miami Beach is all about. It really
13 is, and as a resident and a business owner
14 since 1986, I can say that. I'm not just
15 some rich kid who wants to throw up a club.

16 MAYOR DERMER: But you can't be
17 partying until 5 a.m. in a residential
18 neighborhood. That's what we're focusing
19 on.

20 MR. DISPENZIERI: Okay.

21 MAYOR DERMER: If they want to party
22 in a different area of the city that --
23 that --

24 MR. DISPENZIERI: I did not open my
25 business --

1 MAYOR DERMER: That's not going to
2 have that great impact.

3 MR. DISPENZIERI: -- in a
4 residential area, though.

5 MAYOR DERMER: Then that's
6 (Inaudible.)

7 MR. DISPENZIERI: We were commercial
8 industrial.

9 MAYOR DERMER: What you say I don't
10 argue with, but one thing I think we're
11 forgetting, we're looking at the history of
12 this city, and the argument keeps being
13 made over and over again how we've evolved.

14 We're still evolving, we're evolving
15 right now, and as we evolve, we change,
16 we change to suit an area that's become
17 residential now. You have to be able to
18 have a certain quality of life in that
19 neighborhood, and granted, maybe when
20 Amnesia was there before, when it first
21 originated, it wasn't bothering anybody,
22 because nobody was there.

23 Now we have a whole new dynamic, and
24 I think it's our obligation to offensively
25 respond, or I should say respond on the

1 offense, not to be offensive to anybody,
2 when that happens.

3 And you've made the point of the
4 historic district. That was a response to
5 an evolving city. You know, all of this
6 happens, and so there's nothing wrong when
7 a city changes and then we try and ensure
8 quality of life for people that have moved
9 in there. I mean, that's -- that's all
10 this is about.

11 So it isn't I was there first, you
12 were there second, that's not what this is
13 about, and to manage it properly I think
14 conceptionally we're moving toward that
15 point where we're seeing a district that
16 can be more controlled at a later hour
17 versus a residential that can be protected.
18 I mean, what in the world would be wrong
19 with doing that as the mayor or commission
20 of a city?

21 MR. DISPENZIERI: There's nothing
22 wrong with appeasing the residents.

23 MAYOR DERMER: It's not appeasing,
24 it's doing the right thing for everyone
25 concerned.

1 MR. DISPENZIERI: Well, that's not
2 the right thing for the business owners,
3 because as David Wallack said, most of the
4 businesses will go out of business. Most
5 of the restaurants will go out of business.

6 MAYOR DERMER: There will be certain
7 businesses -- there will be certain
8 businesses that, as was the testimony
9 before, that will not make as much money in
10 a certain neighborhood that they would have
11 made at a 5 a.m.

12 MR. DISPENZIERI: (Inaudible.)

13 MAYOR DERMER: Now, when you balance
14 that, talk about balancing, those interests
15 of making those extra bucks for those three
16 hours versus the interest of those all
17 residents around them to sleep at night and
18 have a good quality of life, how do you --
19 you've got to come down on the residents.

20 COMMISSIONER GARCIA: Yeah, but
21 David --

22 MR. DISPENZIERI: There has to be --
23 there does have to be a compromise, and
24 I can't say anything below 5th Street,
25 I don't live there. All I can talk about

1 is the Sunset Harbor area. There's only
2 four places there right now. You've
3 already limited it. No new ones can come
4 in, no new nightclubs can come in. What
5 I ask you to do is to look at that area
6 separately, look that there's only four
7 places. At the very least grandfather the
8 current places in. Do not curtail our
9 hours, because if you curtail our hours,
10 you're killing us.

11 If you do that, I will sell the
12 place, and I will move away, and maybe
13 that's going to be great for the Sunset
14 Harbor people, but it's going to be bad for
15 business. Please think very seriously and
16 very long about cutting those hours back,
17 because it will really hurt Miami Beach a
18 lot. Thank you.

19 MAYOR DERMER: Okay. I thank you
20 for your comments.

21 COMMISSIONER GARCIA: Yeah, yeah.

22 MAYOR DERMER: We got to -- I just
23 want to so we can wrap it up, because
24 I know people -- we haven't even had a
25 lunch break yet. I'm going to have one,

1 two -- you're going to be fast?

2 UNIDENTIFIED SPEAKER: Fast.

3 MAYOR DERMER: Three and Clotile
4 Luz. We've got four speakers, and that's
5 it, we'll close it.

6 COMMISSIONER GARCIA: The only thing
7 I want to touch on what he said.

8 MAYOR DERMER: Yeah.

9 COMMISSIONER GARCIA: You know,
10 he mentioned the models and the film
11 industry and whatever, and what I was
12 going -- what I was going to bring out is
13 the fact that the film industry and the
14 modelling, whatever, we drove it out of the
15 city by overregulation. So that is my
16 concern. My concern is we might be
17 overregulating an industry to death. You
18 know, right now -- at one time
19 we complained about the film crews, that
20 they were blocking the streets, and they
21 had to get these permits, they had to get
22 27 permits, whatever. You know what,
23 they're not here anymore. Now we want
24 them. You understand?

25 MAYOR DERMER: Uh-huh.

1 COMMISSIONER GARCIA: So I think I'm
2 just trying -- you know, guys, I'm trying
3 to preserve the quality of life, while at
4 the same time I'm trying to preserve the
5 industry, you know?

6 MR. BAYELL: Well, good afternoon.
7 My name is Dominic Bayell. I'm a resident
8 of 208 Jefferson Avenue. I'm here --
9 I think there are a few arguments that do
10 not -- do not hold water as far as who was
11 here first, who is coming next, and we all
12 are here in the same boat.

13 I think there were a couple of
14 things brought up over the years.
15 I remember in 2001, end of the year 2001
16 when the industry asked us to come and
17 support them as residents, and I think
18 we did.

19 I also remember in 2003 when we had
20 the Mayor on the Move meeting where
21 we residents asked the industry to clean up
22 some of their acts, some of their members
23 were not acting correctly as good corporate
24 citizens. Now we are today here at the
25 same point. Nothing has happened.

1 They haven't held our part of the deal, and
2 I think it is time for you today to just
3 act and the time is now.

4 MAYOR DERMER: I thank you for your
5 comments.

6 MR. BAYELL: Yes, you're welcome.

7 MR. COUSINS: Mayor, commissioners,
8 thank you very much for putting this time
9 and effort into hearing everybody here.
10 This is a turning point in a watershed --
11 in our city's history.

12 VICE MAYOR GROSS: You need to state
13 your name.

14 MR. COUSINS: My name is Phillip
15 Cousins. I live at 240 Collins Avenue.
16 I've lived here for seven years and moved
17 here from Coconut Grove because Miami could
18 not do what our commission is doing here
19 today, make sense out of chaos.

20 I would like to share with you very
21 briefly the results of information I've
22 been gathering from community meetings as
23 part of a way to understand what our
24 problems are, and what you're looking at
25 right now is a series of maps. If people

1 wish to take a look at this in the group,
2 I'm happy to have you take a look.

3 The main point of my coming before
4 you today is simply to have you look at the
5 interrelationship between the issues that
6 we're facing together. I believe it is a
7 time to make a decision today, and
8 I support the decision on the table,
9 however, as a result of today's hearing,
10 there has to be a follow-up planning
11 exercise, and what is different for me
12 today is that there is a strong will to
13 carry forward from your decision today both
14 with planning, with input, and with
15 systematic understanding.

16 The three maps you're looking at,
17 you'll notice, show our strategic plan
18 that's on our website on the far map to the
19 left. The middle is a result of my
20 attendance last night at the Nightlife Task
21 Force, and the ten items listed Nos. 1
22 through, I guess, 11 are the agenda items
23 from last night's meeting, which was the
24 public hearing.

25 The third map has the 11 major

1 issues that the police chief has asked us,
2 the three maps across one page. There's
3 one -- one map -- I mean one page with
4 three maps on it. And the third map on the
5 far right shows the issues from policing
6 and safety.

7 And what I hope you'll recognize is
8 that the issues of graffiti, litter, trash,
9 assault, loitering, burglary, noise are
10 part of a systematic planning exercise that
11 we have to look at together, and that it's
12 not so much a matter today from what I've
13 heard of who's right or who's wrong,
14 although that's part of it, it's also a
15 matter of how does one issue interact with
16 the next.

17 I, as a local business person, am
18 also offering this information for the use
19 of the commissioners and our city members.
20 This is basically a pro bono exercise that
21 my partner and I are doing to help us all
22 make sense, and as people have called for
23 strategic planning, I would like everyone
24 who is interested in that to consider
25 participating in giving you input into this

1 next stage. Thanks very much.

2 MAYOR DERMER: Thank you, Phillip.

3 I appreciate your time.

4 Welcome. Come on up.

5 MS. RUBENSON: Mayor, commissioners,
6 my name is Jamie Rubenson. I am born and
7 raised in Miami Beach. I am also an
8 attorney and real estate agent, and I also
9 work with the Opium Group.

10 I had the great opportunity to hear
11 David Wallack's comments and wanted to
12 comment specifically on the synergy that
13 exists in Miami Beach between all business.
14 Specifically today we're dealing with south
15 of 6th Street and also in the Purdy Lounge
16 area, Sunset Harbor. I'm specifically
17 going to address south of 6th, because the
18 issues are the same.

19 I had the privilege of listening to
20 Mr. Wallack on the television and the
21 privilege of speaking with Myles Chefetz
22 from Nemo, Big Pink, Prime 112 on the way
23 over here, and what's very important and
24 why I think David's comments were so
25 important is that any rollback, be

1 it 2 a.m. or placing an entertainment
2 restriction on existing restaurants or new
3 restaurants south of 6th Street creates a
4 problem.

5 People invest and people invest in
6 their businesses, and people are reliant on
7 customers, and those customers in Miami
8 Beach eat at 10 a.m. -- at 10 p.m. They
9 eat at 11 p.m. I'm sorry, I'm like
10 shaking.

11 MAYOR DERMER: Take your time.

12 MS. RUBENSON: No, it's very funny,
13 I -- I flew in last night, so I'm a little
14 bit jet lagged.

15 MAYOR DERMER: Uh-huh.

16 MS. RUBENSON: In any case, I spoke
17 with Myles, and as you are well aware,
18 Opium was briefly closed last year, and
19 during that time Myles came to our
20 establishment every single day and said,
21 when are you opening, when are you
22 reopening, and that is because whether it's
23 Big Pink, Nemo, Prime 112, or any of the
24 other establishments in that area, they
25 derive their customers from our customer

1 base. It is synergistic.

2 The number one reservation in Miami
3 Beach at large is 10 p.m. or 11 p.m. It is
4 not eight o'clock. We are not in Chicago
5 where people dine at seven o'clock. This
6 is a different society that's comprised of
7 all the residents from many different
8 countries who have different cultural
9 experiences than in other places.

10 The 2 a.m. restriction would
11 obviously as you well know impact Opium and
12 Nikki Beach and the nightclubs you hope to
13 eliminate significantly, but more than
14 that, it would impact all of the businesses
15 in that area.

16 In addition, as David talked about
17 getting economic consultants, the reality
18 is that Miami Beach does receive resort
19 taxes, and those resort taxes are based on
20 the dollars that we do sell in our
21 establishments, in all establishments.

22 And while you're looking to limit
23 the activities south of 6th Street and in
24 the Purdy Lounge area, the reality is that
25 it could impact the city, citywide.

1 If people have no place to go once they're
2 done with dinner or if their place of
3 choice has now moved across the water, they
4 will now choose to spend their dollars in
5 other places for convenience.

6 Nemo, all those restaurants do what
7 they do because Opium is there, because
8 Pearl is there, and should you limit the
9 general activities there, those people and
10 customers all around Miami Beach may take
11 their business elsewhere.

12 Somebody -- a commissioner discussed
13 the hotel rooms. The reality is, and this
14 might be not the right time or place, but
15 the City of Miami Beach's hotel rooms as
16 far as I'm concerned are substandard, and
17 the reason why we do get the room rates
18 that we do get is because of the nightlife.
19 It's because of what we do have to offer.

20 Because if we -- if people were to
21 pay dollar for dollar, they would be
22 staying in Coconut Grove or other locations
23 based on the same room rate. They're
24 paying the room rates specifically --
25 particularly on the Collins Avenue corridor

1 and the Washington Avenue corridor because
2 of the nightlife. If the nightlife is
3 somehow curtailed, then those hotels would
4 suffer.

5 And one last thing. With response
6 to the people coming across the Causeway,
7 the fact is when you're hot, you're hot.
8 People want to be here. People get on a
9 plane to come here, people cost -- excuse
10 me, cross the causeway to be here. It's
11 unavoidable. And that's my (Inaudible.)

12 MAYOR DERMER: Thank you for your
13 comments. Okay. Last speaker will be
14 Clotile Luz.

15 MS. LUZ: Good afternoon, everybody.
16 Clotile Luz. I live at 301 Ocean Drive.
17 I'm at the confluence of three DJ's. I get
18 thump, thump from Joya. I get thump, thump
19 from Penrod's, and I get thump, thump from
20 the Marriott, and I wanted to make a
21 comment on balance as is being used by
22 proponents of you using hotels and
23 restaurants as nightclubs in a residential
24 area.

25 Balance by this definition only fits

1 the kind of balance that you find in a
2 consenting sadomasochistic couple. In
3 other words, you have -- you have one party
4 on the accepting end of distress and pain,
5 and the other party doling out the distress
6 and pain, and that is balance for some
7 people, but the problem is you --

8 MAYOR DERMER: I want to read that
9 line in the Herald tomorrow, Nichole. That
10 was the best line of the day, you got to
11 put that in. Go ahead.

12 MS. LUZ: The problem is, is I don't
13 think enough masochists bought enough
14 condominiums. And -- and I am not wired to
15 be a masochists, and I love music, but
16 I don't see why I am consistently on the
17 receiving end of someone else's DJ's. And
18 that is the problem with their notion of
19 balance. Thank you.

20 MAYOR DERMER: Very creative.

21 MS. LUZ: Thank you. And I just had
22 one more constructive comment to make.
23 I think that the commission might consider
24 a small investment in the kind of
25 technology which would be a laugh track,

1 and you would set that up, and that would
2 be triggered in this chamber any time
3 somebody from this microphone, this
4 microphone, or one of your microphones says
5 if you don't give us what we want, this
6 city is going back to be boarded up like
7 1980 with old people and you can drive 80
8 miles down Ocean Drive and not have
9 anybody.

10 I don't think there's any evidence
11 ever of your having passed a quality of
12 life ordinance and all of a sudden the
13 crowds, you know, coming to a screeching
14 halt at -- at the Causeway. I don't see
15 any evidence. When they said, oh, my God,
16 if you start handing out fines for the boom
17 boxes, the young people won't come anymore.
18 Did that work out that way?

19 I mean, I have not seen -- if --
20 if you down zone, this town is going to go
21 back to the bad old depressed days. That
22 did not happen. This is not going to
23 happen. People are going to always come to
24 Miami Beach. They should go to clubs.
25 I think indoor clubs are the answer.

1 Anything outdoors with amplification which
2 they did not have in the 1960s when it was
3 Sammy Davis, Jr., and people were doing bar
4 mitzvahs outside, the sound technology has
5 changed, the situation has changed. You do
6 have residents. We ask you to roll back
7 those hours in the residential
8 neighborhoods, and God help the people that
9 are going to be living in the Bourbon
10 Street area. Thank you.

11 MAYOR DERMER: Thank you. Okay.
12 Motion to close the public hearing?

13 UNIDENTIFIED SPEAKER: (Inaudible.)

14 MAYOR DERMER: All right. That is
15 closed. On the item itself, is there a
16 motion?

17 COMMISSIONER BOWER: I'll move.

18 MAYOR DERMER: That's a motion by
19 Bower, second by Smith.

20 COMMISSIONER BOWER: (Inaudible.)

21 MAYOR DERMER: Discussion by Gross.

22 VICE MAYOR GROSS: Yeah, I --

23 MAYOR DERMER: You cleared your
24 throat, I was --

25 COMMISSIONER BOWER: The item does

1 not discuss the rollback.

2 MAYOR DERMER: No.

3 COMMISSIONER BOWER: It --

4 MAYOR DERMER: That is for future,
5 but I hope somebody at the dais as will
6 make the motion to move that along, yeah.

7 COMMISSIONER BOWER: Well, we
8 could -- so do we have to do it
9 second -- separate?

10 MAYOR DERMER: I think we can do
11 it in two separate motions.

12 MR. GONZALEZ: I would recommend
13 that at a minimum you pass the ordinance
14 before you and give us direction if you
15 want us --

16 MAYOR DERMER: Right.

17 MR. GONZALEZ: -- to do any further
18 stuff that we go further.

19 MAYOR DERMER: First the ordinance
20 and then the record.

21 COMMISSIONER BOWER: Okay.

22 (Inaudible.)

23 COMMISSIONER GARCIA: How about the
24 grandfather clause?

25 VICE MAYOR GROSS: Right, that's my

1 comment, too.

2 MAYOR DERMER: Okay.

3 COMMISSIONER BOWER: Well, that's
4 the hours.

5 VICE MAYOR GROSS: Well, there are
6 other ways with possibly dealing with
7 grandfathering. So one of the things that
8 I think we have to make clear is that the
9 way the staff has written this up is
10 anybody with an existing license is going
11 to be grandfathered.

12 You know, if you were issued a
13 restaurant license and you're operating a
14 nightclub under a restaurant license, that
15 doesn't entitle you to grandfather.
16 I mean, you -- you're driving a truck
17 through the loophole and saying that you're
18 grandfathered.

19 So how we deal with the
20 grandfathering is I think the key issue
21 that -- that we have to address. One way
22 to do it is by talking about rolling the
23 hours back to two o'clock. There may be
24 other ways of doing it. I mean --

25 COMMISSIONER BOWER: What is the

1 (Inaudible.)

2 VICE MAYOR GROSS: I don't know.
3 I don't have the answer. I mean, that may
4 be something we want to send to the
5 planning board as a separate issue once --
6 once we are doing it, but I think we need
7 to be clear that we're not grandfathering
8 people who really don't have -- are not
9 really operating under the proper license
10 to begin with.

11 UNIDENTIFIED SPEAKER: (Inaudible.)

12 VICE MAYOR GROSS: Yeah.

13 COMMISSIONER BOWER: So the
14 ordinance as is written is the one that you
15 want to pass or --

16 MAYOR DERMER: It's the only one
17 that's before us.

18 COMMISSIONER BOWER: -- or do you
19 want to add an amendment to that ordinance
20 of somehow to address the grandfathering
21 in?

22 VICE MAYOR GROSS: Let's ask our
23 legal department.

24 COMMISSIONER BOWER: Okay. Let's
25 ask the legal department.

1 VICE MAYOR GROSS: Murray, can
2 we deal with the grandfathering separately?

3 MR. DUBBIN: Gary and I have not
4 really gotten into this, but my opinion is
5 this, the word "grandfather" is misused.
6 The word should be a "legal nonconforming
7 use," and under the law, legal
8 nonconforming uses may continue until
9 they're terminated also as provided by law.

10 This ordinance does not make
11 reference to legal nonconforming uses.
12 That's governed by the general law.

13 Gary, do you want to supplement what
14 I've just said?

15 MR. HELD: Sure. Obviously, there's
16 some intent on the commission to allow some
17 establishments, for example, that may have
18 made a particular kind of investment to
19 allow a use related to that investment
20 beyond this ordinance.

21 Between first and second reading, if
22 you give us some direction, we can look at
23 ways to address particular circumstances,
24 and you should give us guidance on the
25 kinds of circumstances that you're

1 interested in protecting.

2 COMMISSIONER SMITH: So I'm not sure
3 what you mean or anybody else means by
4 grandfathering. Suppose a club has a dance
5 license, and that club is currently
6 operating a restaurant and a club after
7 hours, are you saying that that club is or
8 is not grandfathered and distinguish that
9 from a situation where a restaurant has not
10 yet obtained a dance license, how do you --
11 how do you reconcile one situation with the
12 other situation?

13 VICE MAYOR GROSS: Right, I think in
14 my mind the places that opened to be
15 nightclubs that really are not restaurants
16 are the easier case, because I think that
17 they really don't have --

18 COMMISSIONER BOWER: Right.

19 UNIDENTIFIED SPEAKER: -- the valid
20 license. Now, we -- we may need some kind
21 of policy that says -- that says for those
22 people who got their license under, you
23 know, the fact that it was a restaurant
24 with a dance hall, when we say restaurant,
25 it means X, Y, and Z, because, you know,

1 there has to be some way of saying they're
2 really a restaurant if that's the license
3 that they got.

4 COMMISSIONER BOWER: Right, right.

5 VICE MAYOR GROSS: Now, the easy way
6 of avoiding that is by doing the hours,
7 because if you can't operate after two
8 o'clock, the clubs are not going to operate
9 in the residential zone. Again, I want to
10 always say, you know, when we're talking
11 about rolling the hours back is only in the
12 residential zones. I mean, we don't have
13 clubs in single-family neighborhoods.

14 MAYOR DERMER: Commissioner
15 (Inaudible.)

16 UNIDENTIFIED SPEAKER: Yeah,
17 whatever we do, I just want to make sure
18 that the rules are clear for everybody to
19 follow.

20 MR. HELD: But it sounds like --

21 UNIDENTIFIED SPEAKER: What
22 is allowable under a restaurant, what is
23 not allowable.

24 MR. HELD: We're not making this --
25 we're not making this retroactive in that

1 we're prohibiting uses that currently
2 exist. Those uses (Inaudible.)

3 VICE MAYOR GROSS: No, but we also
4 don't intend to say that somebody who got a
5 license pretending to be a restaurant but
6 is really a club, that that's legal what
7 they're doing, because it's not.

8 MR. GOMEZ: Right, that's --
9 that's -- and that's an enforcement issue.

10 VICE MAYOR GROSS: Yeah.

11 MR. GOMEZ: They come in and obtain
12 licenses with a restaurant with
13 entertainment, and they're not operating a
14 restaurant. Well, that's -- that's a code
15 issue. But then the question --

16 VICE MAYOR GROSS: But it's also a
17 policy, issue --

18 MR. GOMEZ: No, it is.

19 VICE MAYOR GROSS: -- because
20 there's no statement in the ordinance about
21 what it really means to be a restaurant.
22 The fact that -- the way we've interpreted
23 it before, as long as they built a kitchen,
24 even if they don't ever use it, and even
25 if they don't ever serve any food, then

1 that's a legitimate restaurant, and that's
2 part of where the problem has come in.

3 COMMISSIONER SMITH: That's not what
4 the ordinance says, though.

5 VICE MAYOR GROSS: I know, and
6 that's the problem. We need to give some
7 direction on it, because we don't want to
8 have somebody say, oh, okay, based on what
9 we passed today --

10 COMMISSIONER SMITH: And the
11 ordinance -- the ordinance -- the ordinance
12 never said just a full kitchen. It said
13 full kitchen and serving full meals.

14 VICE MAYOR GROSS: But how many,
15 when? So the fact that the chef serves a
16 meal for himself and for the staff, is that
17 satisfactory? I mean, you know, there's
18 all kinds of ways to look at it, and that's
19 how we got ourselves into the problem that
20 we're here today.

21 COMMISSIONER SMITH: That's why I'm
22 saying we need -- we need to know what the
23 rules are.

24 VICE MAYOR GROSS: Yeah, agree.

25 COMMISSIONER SMITH: And we don't

1 (Inaudible.)

2 VICE MAYOR GROSS: Right.

3 MAYOR DERMER: I think the
4 easiest -- we're going -- look, the history
5 of these ordinances have been, I believe,
6 that it's been so piecemeal, for any
7 particular person or business that wanted
8 to go anywhere, it's been to satisfy their
9 particular need. I think the cleanest way
10 to do this is with the hours.

11 VICE MAYOR GROSS: I agree.

12 MAYOR DERMER: And hopefully we can
13 get consensus on that. You know, I --
14 I would like -- let me suggest this.
15 If we do go with this on first reading
16 between first and second --

17 COMMISSIONER BOWER: (Inaudible.)

18 MAYOR DERMER: For us to work on
19 hours. Listen, if we can't get hours done
20 by the second reading, then we'll, you
21 know, put it off a little bit.

22 VICE MAYOR GROSS: But would hours
23 have to go to the planning board or can you
24 commission do that by itself?

25 MR. GONZALEZ: (Inaudible) on that.

1 MAYOR DERMER: Jorge, does it have
2 to go to (Inaudible.)

3 MR. GONZALEZ: If you're
4 distinguishing between zoning categories,
5 I believe it should be done through the
6 LDR's, Chapter 142, so you should refer
7 that issue (Inaudible.)

8 COMMISSIONER BOWER: What is that?

9 UNIDENTIFIED SPEAKER: It's a
10 planning board.

11 MR. GOMEZ: It needs planning board
12 approval.

13 UNIDENTIFIED SPEAKER: Mr. Mayor.

14 MAYOR DERMER: Well, we have to --
15 it has to be by zoning categories, I mean,
16 how else are we going to do it.

17 MR. HELD: Yes, something that is
18 done in the land development regulations.

19 MAYOR DERMER: It would have to run
20 through planning.

21 MR. HELD: Yes.

22 COMMISSIONER GARCIA: Mr. Mayor?

23 MAYOR DERMER: Okay. Yes.

24 MR. HELD: And separate -- we would
25 initiate a new ordinance.

1 COMMISSIONER GARCIA: You know, as
2 long as we're referring hours, Commissioner
3 Gross, commissioner --

4 VICE MAYOR GROSS: What?

5 COMMISSIONER GARCIA: As long as
6 we're referring hours, would you be opposed
7 to also referring the creation of a cabaret
8 district?

9 VICE MAYOR GROSS: Not at all.

10 COMMISSIONER GARCIA: You know,
11 I think that they go hand-in-hand, and, you
12 know, (Inaudible) community participation
13 on it.

14 MAYOR DERMER: Okay.

15 COMMISSIONER BOWER: Let me
16 understand this. If we pass this ordinance
17 today, we are only avoiding further --

18 VICE MAYOR GROSS: Proliferation.

19 COMMISSIONER BOWER: Proliferation,
20 but we are not helping the community sleep
21 any better, and what I would like to do is
22 somehow, and now you're telling me no,
23 somehow address and for second reading
24 we can do something about helping the
25 community sleep and letting them -- you

1 know, either roll the hours back, whatever
2 it is that needs to be done. I mean, why
3 are we going through -- we listened to 200
4 people with the hours on the thing, and now
5 we're saying we can't do it.

6 MR. HELD: Hours are covered in
7 Chapter 6, generally. If you wanted to
8 adopt a citywide ordinance, then you can do
9 it through Chapter 6. That's not even
10 what's before you.

11 MAYOR DERMER: Keep in mind this has
12 been traveling its own path. The hours
13 discussion has been recently interjected
14 into this entire discussion. This has
15 been --

16 MR. GONZALEZ: Yeah, the issue --
17 let me just say, the issue -- this has been
18 worked through from zoning to prevent
19 proliferation. The question as we've done
20 zoning matters like this, usually the case
21 is those legal nonconforming uses remain.

22 And what I've brought to the table
23 and we've been talking about it is if what
24 you really want to address is the root
25 cause of why you have this room full of

1 people here is this alone doesn't cover it.
2 This needs to be done, but then you need to
3 go one step further, which is give us
4 direction on how you want to capture those
5 entities that exist today in the areas in
6 which you're dealing with, south of 5th and
7 near Sunset Harbor, and you can do it by,
8 you know, any number of ways.

9 I've suggested, you know,
10 considering the hours and rolling that back
11 to 2 a.m. as a -- as a possible solution
12 that could accomplish what you want to
13 accomplish. This ordinance presented to
14 you today doesn't accomplish it just yet.

15 But what we have is we have zoning
16 and progress to prevent the proliferation,
17 and you want to pass this and bring it at a
18 subsequent in May as well so at least you
19 don't allow further erosion, but then give
20 us direction on what do you want to do with
21 the hours if it's the hours or some other
22 manner.

23 COMMISSIONER BOWER: Okay. Let's
24 move this one, then.

25 MAYOR DERMER: Yeah, okay.

1 COMMISSIONER BOWER: And let's
2 (Inaudible.)

3 MAYOR DERMER: Motion seconded, and
4 you also want to send to planning board the
5 discussion of hours along with
6 entertain the cabaret district.

7 UNIDENTIFIED SPEAKER: Mayor,
8 there's --

9 COMMISSIONER BOWER: Oh --

10 UNIDENTIFIED SPEAKER: (Inaudible)
11 separate motion.

12 MAYOR DERMER: Yes, I'm sorry,
13 Commissioner Steinberg.

14 COMMISSIONER STEINBERG: I thought
15 we were bringing up here for discussion
16 first not action immediately.

17 MAYOR DERMER: No, go ahead, please.

18 COMMISSIONER STEINBERG: First, let
19 me say that I think the biggest fault here
20 has been the city. The city hasn't done
21 its job to police the laws that we have on
22 our books today, and had we been doing a
23 good job of making sure the sound ordinance
24 was enforced properly, to make sure that
25 the streets were clean and that we were

1 doing our job to get the services that our
2 residents deserve and demand, we wouldn't
3 have a room full of residents and a room
4 full of the business community butting
5 heads, but unfortunately, that hasn't
6 happened yet, and I think it should.

7 Let's look back at the actual
8 language and think what would have been in
9 the commission's mind when it created the
10 loophole, which I think has been abused.
11 If you read the definitions of things an
12 the way the ordinance -- which,
13 unfortunately, I asked the administration
14 to distribute the definitions today to my
15 colleagues, but unfortunately even though
16 I asked for that in agenda review,
17 it didn't happen.

18 But if you look at the definitions
19 of what is a "dance hall," a dance hall is
20 any -- any place in which the owner allows
21 dancing to take place. What could that be?
22 If someone is at Joe's having a drink at
23 their bar and decides to dance around their
24 date, theoretically, they are a dance hall
25 at that time unless the owner tells them

1 not to.

2 Entertainment, the guy from Oasis
3 brought it up. If someone wants to have a
4 dancer as entertainment for their people
5 there, for their people in a restaurant,
6 that all of a sudden requires an
7 entertainment license. If a Mexican
8 restaurant opens up and wants to have a
9 Mariachi band going from table to table to
10 entertain their guests, that requires an
11 entertainment license.

12 I think the rationale of --

13 MAYOR DERMER: Hang on. If I can
14 interject one second. No one can figure
15 out exactly why you're here. It's kind of
16 like the guy that runs into the wrong
17 courtroom.

18 UNIDENTIFIED SPEAKER: That's on
19 Commissioner Garcia's --

20 MAYOR DERMER: Are you in the right
21 commission?

22 UNIDENTIFIED SPEAKER: I'm on
23 Commissioner Garcia's itemized (Inaudible)
24 on the condo.

25 MAYOR DERMER: Oh, it's a condo

1 wording.

2 COMMISSIONER GARCIA: I -- I -- I
3 never expected to have that type of
4 reaction.

5 MAYOR DERMER: Okay.

6 COMMISSIONER GARCIA: I'm sorry, all
7 I was doing is being sympathetic to
8 (Inaudible.)

9 MAYOR DERMER: I didn't want them to
10 be at a City of Miami Beach from Coral
11 Gables. You're in the right place, good.
12 All right.

13 COMMISSIONER GARCIA: You know,
14 Mr. Mayor, I'm almost as surprised as you
15 are (Inaudible.)

16 MAYOR DERMER: Okay. That's --
17 that's -- I'm sorry, Commissioner
18 Steinberg.

19 COMMISSIONER STEINBERG: That being
20 said, I think there has been abuse of the
21 loophole. I think -- I think it wasn't
22 intended as a loophole, it was intended to
23 allow restaurants that had a legitimate
24 reason to have a license to go in and get a
25 license so that they could have some

1 entertainment in their dining
2 establishment, some dancing in their dining
3 establish. Because they didn't find
4 themselves operating illegally.

5 What should we do to address it?
6 I think this goes too far, frankly.
7 I think what we should look at is finding a
8 way to identify places that are true
9 restaurants and let them have that
10 auxiliary use while they're operating as a
11 restaurant.

12 For example, instead of saying full
13 kitchen and full food, because as
14 Commissioner Gross pointed out, who knows
15 what that is. The state deals with this
16 all the time, and it deals with it based on
17 what type of alcohol permit they require
18 people to have.

19 If you're a restaurant, you can get
20 for a very nominal charge the proper
21 license to serve alcohol in your
22 establishment, and if you do that, no more
23 than 50 percent of your sales can be from
24 alcohol, and the state audits the
25 businesses to make sure they're complying

1 with that.

2 On the other hand, if they're really
3 a bar or really a nightclub, presumably
4 more than 50 percent of their sales will be
5 from alcohol. And so what we're doing is
6 we're taking the ability for a restaurant
7 to open up and have some entertainment or
8 some dancing, which I don't think any of us
9 would be against a mariachi band in a
10 Mexican restaurant that happens to be in
11 South Pointe or near Purdy Lounge. I don't
12 think any of us --

13 UNIDENTIFIED SPEAKER: (Inaudible.)

14 COMMISSIONER STEINBERG: I'm sorry?

15 UNIDENTIFIED SPEAKER: (Inaudible.)

16 COMMISSIONER STEINBERG: You don't
17 know what's going to be there in five years
18 from now.

19 UNIDENTIFIED SPEAKER: You're
20 missing the present problem.

21 COMMISSIONER STEINBERG: I'm not
22 missing the -- I'm not missing anything.

23 MAYOR DERMER: Go ahead.

24 COMMISSIONER BOWER: Okay, okay.

25 MAYOR DERMER: Hey, hey, keep the

1 discussion up here.

2 COMMISSIONER STEINBERG: But I think
3 we need to borrow one of David Wallack's
4 comments today, we need to look at this
5 with a surgical scalp -- scalpel rather.
6 We don't need to have something that goes
7 beyond what we need to address as far as
8 the proliferation. If you want --

9 MAYOR DERMER: David, you put on a
10 suit, you've been quoted three times
11 already.

12 COMMISSIONER STEINBERG: Instead
13 of -- instead of making this so broad brush
14 that you may prevent restaurants that the
15 neighbors may want, we should focus on
16 making sure it addresses those that are
17 basically operating as nightclubs and not
18 as restaurants, and that's truly what
19 we should be doing to preserve the intent
20 of the initial commission.

21 I honestly do believe, like I said,
22 I think the loophole has been abused,
23 I think it is too big, and I think it needs
24 to be tightened up. I just don't think
25 it needs to be tightened up to the point

1 that it makes it so new restaurants that
2 have a legitimacy as a restaurant cannot be
3 in place.

4 And just -- I want to comment on the
5 one comment that I heard earlier that the
6 zoning for this area was intended to make
7 these neighborhood establishments. I think
8 Joe from Joe's Stone Crab would be turning
9 over in his grave if he heard people
10 referring to Joe's as merely a neighborhood
11 establishment.

12 The reality is most of the
13 restaurants that are there, if they only --
14 if there was someone at that door that said
15 okay. You're now a neighborhood
16 establishment, people have to show you ID
17 that says you're from the neighborhood to
18 go there, they'd be out of business, and
19 you guys wouldn't have the facilities that
20 you want.

21 So I think there has to be a balance
22 of having people come in with things that
23 would appeal to the residents, appeal to
24 the neighborhood, and give them the
25 flexibility to have a restaurant that works

1 as a restaurant.

2 And I'm not saying Oasis does or
3 doesn't. I see you're nodding your head
4 no. I'm not saying they do or don't, I'm
5 just saying that if they are legitimately a
6 restaurant and happen to have something
7 going on that is basically a belly dancer
8 that comes by ever hour or so, who cares,
9 and, frankly, we should allow that to
10 happen.

11 If they're going beyond that, of
12 course, then we need to address it, but
13 I think we need to go ahead and have --
14 change this to look at the restaurant and
15 allow the restaurant that is a legitimate
16 restaurant to have those auxiliary uses and
17 not allow the auxiliary uses to be the
18 controlling use, and I would challenge my
19 colleagues to come up with a way to address
20 that.

21 I mean, maybe the votes are here
22 without that, but, frankly, I can't support
23 it if it goes to far, because I think in
24 hindsight, I think the commission will look
25 back at it as a mistake, because it will

1 prevent new restaurants from coming in the
2 future that the neighbors would want when
3 the reality is we should be making sure
4 that the restaurants that come in don't
5 turn themselves into a nightclub and
6 exploit the loophole but that the loophole
7 be used the way it was intended to be used.

8 COMMISSIONER BOWER: But can't
9 we look at it between first and second
10 reading?

11 VICE MAYOR GROSS: Richard, just out
12 of curiosity, what's your position on the
13 two o'clock on the hours in the residential
14 zone, because if they're really
15 restaurants, they're not going to be
16 operating past two o'clock?

17 COMMISSIONER STEINBERG: Well,
18 I think that you have people who have --
19 well, first, I think that the city needs to
20 enforce the laws. I think if the City was
21 out there enforcing the laws and cleaning
22 up, we would not have the concern from the
23 residents that we have today. That is my
24 belief.

25 MAYOR DERMER: Yeah, okay.

1 COMMISSIONER STEINBERG: And I think
2 that -- I think when this comes to the
3 hours --

4 MAYOR DERMER: But you've got to
5 still ask yourself, you know, what's there
6 going to be to clean up if the place is
7 closed at two.

8 COMMISSIONER STEINBERG: But I think
9 what's going to end up happening is the
10 places won't be closing at two, the place
11 will just close, and --

12 MAYOR DERMER: Yeah, and then
13 that's -- it will go back to a normal
14 intensity.

15 COMMISSIONER GARCIA: David --

16 COMMISSIONER STEINBERG: I'm not
17 here to put them out of business if they're
18 operating legally and if we enforce the
19 laws and we can make sure that the harmony
20 is there.

21 I think our challenge is to find the
22 resources to make sure that we can create
23 the harmony as opposed to throwing our
24 hands up in the air and saying we can't
25 deal with this problem so we're just going

1 to cut it off, because I don't think that's
2 fair to the people.

3 MAYOR DERMER: I don't think that's
4 the proper characterization of it.

5 COMMISSIONER STEINBERG: But you're
6 saying, David, you're saying let's cut back
7 the hours --

8 MAYOR DERMER: (Inaudible.)

9 COMMISSIONER STEINBERG: -- and
10 we know that -- we know that that may force
11 them out of business.

12 MAYOR DERMER: Well, you know, I got
13 to tell you something --

14 VICE MAYOR GROSS: Nightclub is not
15 a permitted use in a residential zone.

16 COMMISSIONER STEINBERG: They were
17 before.

18 VICE MAYOR GROSS: No, they weren't.
19 No, they were not.

20 COMMISSIONER STEINBERG: The
21 industrial building.

22 VICE MAYOR GROSS: No, I'm talking
23 about South Pointe.

24 COMMISSIONER STEINBERG: Okay.
25 Well, this ordinance deals with both.

1 VICE MAYOR GROSS: Yes, it does.

2 COMMISSIONER STEINBERG: And you're
3 treating an industrial area the same way as
4 you're treating a residential area.

5 COMMISSIONER GARCIA: Can I -- can
6 I bring something up, because I do happen
7 to agree with Richard. First of all,
8 I think that the city has failed miserably
9 enforcing the codes and the cleanliness and
10 whatever, and it's still doing it. Okay.
11 That's -- that's number one.

12 With that said, you know, as far as
13 restaurants closing at two o'clock. That's
14 not necessarily so. Because you know what,
15 traditionally Miami Beach, you know,
16 we have restaurants that have been open 24
17 hours a day.

18 COMMISSIONER STEINBERG: Should the
19 diner close at two o'clock?

20 COMMISSIONER GARCIA: How about
21 David's cafe, you trying to put David's
22 cafe out of business? I don't think so,
23 you know.

24 VICE MAYOR GROSS: They're not in a
25 residential zone.

1 COMMISSIONER GARCIA: Yeah, I
2 understand. I understand.

3 VICE MAYOR GROSS: That's correct,
4 yeah.

5 COMMISSIONER GARCIA: You know what,
6 guys, let's look at it, and right now,
7 right now we have a chance to do something
8 that is not reactive, something that is --

9 COMMISSIONER BOWER: Okay. So
10 I made a motion.

11 MAYOR DERMER: There's a motion and
12 a second, commission (Inaudible.)

13 VICE MAYOR GROSS: I'll call the
14 question.

15 COMMISSIONER SMITH: No, I have one
16 (Inaudible.)

17 MAYOR DERMER: I'm sorry,
18 Commissioner Smith.

19 COMMISSIONER SMITH: Yes, the city
20 has done some awful planning. My own
21 problem is with the accessory use language
22 in the code. We have allowed accessory
23 uses to become primary uses. We have
24 hotels that have 10, 15 rooms and 199
25 tables. We have areas of the city that

1 really do not -- are not compatible with
2 residential neighborhoods, and we concede
3 that.

4 Having said that, I think that the
5 industry has to take some responsibility
6 for the problems that we're seeing today.
7 When a recent club on Washington Avenue
8 closed at or was shut down, I should say,
9 by the City of Miami Beach, there were over
10 90 underage kids inside that had no
11 business being there.

12 The bouncers were arrested, the
13 bartenders were arrested. This goes on all
14 the time, and believe me, the word gets out
15 to all the high schools and even some of
16 the junior high schools throughout South
17 Florida that certain clubs cater to
18 underage drinking.

19 We also know for a fact that certain
20 service stations serve alcohol, beer to
21 minors. We know that. We know that
22 there's a lot of chaos, and we know that
23 there is a lot of drug dealing going on
24 outside of some of these clubs, but the
25 clubs seem to feel that they have no

1 responsibility, so everybody points the
2 finger at the city. I think the clubs have
3 caused a lot of these problems, and that's
4 why we're here today.

5 So I don't have a problem with the
6 hours, I don't have a problem with this
7 ordinance, I think it's a good first step.
8 It is not a panacea. We're still going to
9 have problems. We're going to have litter,
10 we're going to have a lot of stuff going on
11 outside, and we need better enforcement,
12 but we have to look at it in a holistic
13 way, as everybody likes to use that word,
14 not one --

15 COMMISSIONER GARCIA: (Inaudible.)

16 UNIDENTIFIED SPEAKER: Not one --
17 yes, and Matti also likes that word very
18 much, but -- but I think that --

19 COMMISSIONER GARCIA: Yeah, but
20 I coined it. I coined that word.

21 COMMISSIONER SMITH: Whatever --
22 whatever we decide to do, whatever we do,
23 let's make sure that we understand what the
24 rules are, what is appropriate and what is
25 not appropriate. If Joe's Stone Crab or

1 Smith and Wollensky decides to have a Super
2 Bowl party on a Sunday afternoon or a
3 Sunday evening, is that -- is that okay?
4 I don't know whether this ordinance deals
5 with that issue or not, I think that the
6 issue of the belly dancer is a legitimate
7 issue. Is that appropriate? If it doesn't
8 disturb the neighbors, I don't see why that
9 shouldn't be allowed.

10 So let's -- let's deal with all of
11 these issues collectively, and let's figure
12 out once and for all what is appropriate in
13 a residential district and what is not
14 appropriate. Thank you.

15 MAYOR DERMER: Okay. Thank you.

16 COMMISSIONER GARCIA: (Inaudible) do
17 that between the first and second reading.

18 COMMISSIONER BOWER: Yes.

19 MAYOR DERMER: That should be put in
20 there also for planning board discussion.

21 COMMISSIONER BOWER: Yes.

22 MAYOR DERMER: As you know, that's
23 part of the referral as well.

24 MR. GONZALEZ: All right. Let's
25 talk about --

1 MR. GOMEZ: Well --

2 MR. GONZALEZ: Hang on. Let's talk
3 about zoning in progress a sec, because --

4 MR. GOMEZ: You have issues that you
5 want us to deal between first and second
6 reading and things that you referred to the
7 planning board, so --

8 MAYOR DERMER: Okay. Excuse me,
9 let's -- you know what, let's just keep
10 knows hours where they are. Leave the
11 hours to the planning board.

12 VICE MAYOR GROSS: Yes, yes, and the
13 district.

14 MAYOR DERMER: Okay. So let's move
15 on the (Inaudible) -- and the district.

16 VICE MAYOR GROSS: And the cabaret
17 district.

18 MAYOR DERMER: There's a motion and
19 a second, let's call the question, call the
20 roll.

21 COMMISSIONER STEINBERG: Before
22 we do that, if I -- I will support this
23 if we limit it to the issue of the 50
24 percent. I don't think it makes sense.
25 I mean, you're saying we're going to deal

1 with this, yet we're going to pass on first
2 reading. When is it going back to the
3 planning board? Why not deal with that --

4 COMMISSIONER BOWER: (Inaudible) 50
5 percent.

6 MAYOR DERMER: No, the issue --

7 COMMISSIONER STEINBERG: As far as
8 the issue is one of --

9 MAYOR DERMER: (Inaudible) dealt
10 with --

11 COMMISSIONER STEINBERG: Allowing a
12 restaurant as Commissioner Smith pointed
13 out as well, there are legitimate concerns
14 for businesses, and that's why this
15 loophole was created, frankly, loophole,
16 the language is horrible, which is why it's
17 been used to abuse the law.

18 But what we should do instead is
19 address how do we leave the loophole to
20 allow legitimate businesses to operate and
21 make sure that the illegitimate ones that
22 are causing the problem can't.

23 MR. HELD: I thought that's what
24 we would be bringing back (Inaudible)
25 second reading.

1 COMMISSIONER STEINBERG: You're
2 going to bring that on second reading?
3 Okay. Then I'll support it.

4 UNIDENTIFIED SPEAKER: Bringing back
5 on second reading, because anything we --

6 MR. HELD: We have to refine when a
7 restaurant can continue to operate with
8 entertainment in this district -- in the
9 two districts that we're talking about.

10 MR. DUBBIN: I just don't want to
11 bollox --

12 VICE MAYOR GROSS: Right, and
13 I don't think you want to send the wrong
14 message to the planning board when -- well,
15 they're not going to do it between first
16 and second. They're just going to do --
17 they're going to do the hours.

18 COMMISSIONER BOWER: They're going
19 to do the hours.

20 COMMISSIONER STEINBERG: They are
21 going to deal with the hours of the
22 operation.

23 COMMISSIONER BOWER: The hours.

24 COMMISSIONER STEINBERG: And the
25 entertainment.

1 COMMISSIONER BOWER: We're doing the
2 ordinance.

3 COMMISSIONER GARCIA: Also, is there
4 any way that we can separate South Pointe
5 from Sunset Harbor? I think that -- that
6 might -- that might be another way to go.

7 MR. DUBBIN: I just want to say
8 we're dealing with a zone be ordinance, a
9 ban use ordinance that affects rights, and
10 I don't want -- I recommend that you do not
11 bollox it up with throwing in hours or
12 other (Inaudible.)

13 COMMISSIONER GARCIA: But Murray --

14 COMMISSIONER BOWER: We're just
15 (Inaudible.)

16 COMMISSIONER GARCIA: No I know,
17 Murray, but merely -- merely we are
18 differentiating between our industrial zone
19 and an residential zone; is that correct?

20 MR. DUBBIN: I -- well --

21 MR. HELD: Mr. Mayor, maybe
22 we should have two separate motions, one
23 dealing directly with the ordinance and
24 clarifying between first and second
25 reading, and the other motion would deal

1 with the referral to the planning board.

2 COMMISSIONER BOWER: That's what
3 we're going to do. We're just dealing with
4 the ordinance.

5 MR. GOMEZ: Right, but think --

6 UNIDENTIFIED SPEAKER: That's
7 correct.

8 VICE MAYOR GROSS: Well, hold on,
9 what Commissioner Garcia is trying to
10 bifurcate the zone.

11 MR. GOMEZ: (Inaudible) to split the
12 vote on the ordinance because it has
13 possible two areas, one (Inaudible.)

14 MAYOR DERMER: You want to do South
15 Pointe and (Inaudible.)

16 COMMISSIONER BOWER: Well, that is
17 not my motion. My motion is the ordinance
18 as in place (Inaudible.)

19 COMMISSIONER GARCIA: But just hear
20 my out, because, you know, my colleague to
21 the right right here, he's been stressing,
22 you know, residential, and I think
23 it carries a lot of weight. With that
24 said, we're dealing with industrial, you
25 know, and I think that to look at both of

1 them under the same legislation might be
2 wrong. You know, correct me if I'm wrong,
3 I don't know, Murray.

4 UNIDENTIFIED SPEAKER: (Inaudible.)

5 MAYOR DERMER: You're looking at it,
6 you're looking at it from -- for the
7 future.

8 UNIDENTIFIED SPEAKER: Gary, let
9 me -- Gary, let me --

10 COMMISSIONER GARCIA: Yeah, yeah,
11 right now -- right now --

12 UNIDENTIFIED SPEAKER: I mean, do
13 you want now --

14 MAYOR DERMER: Commissioner
15 (Inaudible.)

16 COMMISSIONER BOWER: Can
17 we bifurcate -- let me ask the question,
18 sir. Maybe I (Inaudible) can we do,
19 if we decide next -- if we look at that
20 issue also between first and second
21 reading, can we then vote for one and leave
22 the other one out if we --

23 UNIDENTIFIED SPEAKER: Let me -- let
24 me suggest it this way --

25 COMMISSIONER BOWER: I don't want to

1 bifurcate.

2 VICE MAYOR GROSS: Yeah, I don't
3 think you want to do that. I think your
4 issue, Commissioner Garcia, Mr. Mayor, has
5 more to do with how you deal with the legal
6 nonconforming uses, because I don't --
7 you're not advocating having more
8 nightclubs open in the Sunset Harbor
9 district.

10 COMMISSIONER GARCIA: Hear me out.

11 VICE MAYOR GROSS: Yeah.

12 COMMISSIONER GARCIA: I'm okay for
13 proliferation (Inaudible.)

14 VICE MAYOR GROSS: Yeah, so let's
15 pass this, because this stops
16 proliferation.

17 MAYOR DERMER: Stops proliferation.

18 COMMISSIONER GARCIA: Yeah, but, you
19 know, how it's going to affect the
20 (Inaudible.)

21 VICE MAYOR GROSS: That's what I'm
22 saying, that's what they're going to work
23 out between first and second reading.

24 UNIDENTIFIED SPEAKER: That was --
25 yeah, that's what I was about to ask. Back

1 to you to address that.

2 COMMISSIONER GARCIA: Yeah, you
3 know, if that is the case, I'll -- you
4 know, I mean, I'll --

5 UNIDENTIFIED SPEAKER: Okay.

6 COMMISSIONER GARCIA: As long as
7 we can look at it that way, and as long as
8 we can look at a (Inaudible) district,
9 I will support you.

10 MAYOR DERMER: Okay. We got a
11 motion, second. Call the question, call
12 the role, please.

13 THE CLERK: Just to be clear, this
14 is just on the ordinance?

15 MAYOR DERMER: It's on the
16 ordinance, correct.

17 COMMISSIONER SMITH: What are
18 we voting?

19 THE CLERK: Commissioner Bower?

20 COMMISSIONER BOWER: Yes.

21 COMMISSIONER SMITH: What ordinance
22 are we voting?

23 THE CLERK: Commissioner Cruz?

24 COMMISSIONER CRUZ: Yes.

25 THE CLERK: Commissioner Steinberg?

1 COMMISSIONER STEINBERG: Yes.

2 THE CLERK: Commissioner Smith?

3 COMMISSIONER SMITH: Yes.

4 THE CLERK: Vice Mayor Gross?

5 VICE MAYOR GROSS: Yes.

6 THE CLERK: Commissioner Garcia?

7 COMMISSIONER GARCIA: Yes.

8 THE CLERK: Mayor Dermer?

9 MAYOR DERMER: Yes.

10 THE CLERK: 7 in favor, the motion

11 carries. The second reading and second

12 public hearing is scheduled for, Jorge,

13 May -- Jorge, May 5th okay?

14 MR. GONZALEZ: Yes.

15 THE CLERK: Let's go for May 5th.

16 MAYOR DERMER: Let us -- wait a

17 minute, we have a motion now referral to

18 planning board on the hours and also the

19 (Inaudible.)

20 COMMISSIONER BOWER: I'll move that.

21 I move the hours --

22 COMMISSIONER SMITH: I'd like -- Mr.

23 Mayor, I'd like to the planning board to

24 once and for all define for us -- Jorge

25 Gomez, I'd like the planning board once and

1 for all to define for us what is an
2 "accessory use" as opposed to a "main
3 permitted use," because if "accessory use"
4 mean, you know, what everybody understands
5 them to be, we would not have allowed a lot
6 of these problems to exist, and by having
7 accessory uses become primary uses,
8 it aggravates the problem. So I'd like to
9 see a definition of that come back from the
10 planning board.

11 MR. GOMEZ: It's one of the issues
12 that we've identified that need -- that
13 needs to be addressed. Indeed, a year or
14 so ago we had an ordinance that would tie
15 the -- the scale of the restaurant to the
16 hotel rooms and the structure so that
17 we would have (Inaudible) restaurant with a
18 hotel.

19 Unfortunately, that ordinance was
20 not accepted by the planning board and
21 we've been (Inaudible.)

22 MAYOR DERMER: Well, bring -- bring
23 us an ordinance that deals with that issue.

24 VICE MAYOR GROSS: Right, I think
25 the problem there was it was packaged with

1 some other citywide initiatives that people
2 were against.

3 MR. GOMEZ: It was similar --
4 it also had this very similar ordinance.

5 VICE MAYOR GROSS: Yeah, but this
6 provision in the previous ordinance applied
7 citywide. What we did today was we said
8 we're not going to permit nightclubs in
9 residential districts.

10 MR. GOMEZ: Right, it had three
11 component. It had a citywide for
12 restaurants that had entertainment, and
13 outside of these areas it would be treated
14 just like a nightclub.

15 VICE MAYOR GROSS: Right.

16 MR. GOMEZ: Then we had this very
17 same provision and then the units and the
18 (Inaudible.)

19 VICE MAYOR GROSS: All right.

20 MAYOR DERMER: Okay. That will be
21 part of the referral as well, a discussion
22 item for planning to get the "accessory
23 uses" better defined, more defined.

24 VICE MAYOR GROSS: Right, and
25 I think that -- yeah, I think the referral

1 to planning should include -- I mean, they
2 need to look at the businesses that are
3 legal nonconforming uses, see how they're
4 going to be effected by the hours, see
5 whether the city contractually made
6 different deals with Nikki Beach.
7 I don't -- I don't know. We have a lease
8 with them, I don't know if that has
9 anything different in it. I mean, there's
10 other things that they have to look at.

11 MAYOR DERMER: I know.

12 COMMISSIONER BOWER: Yes.

13 MAYOR DERMER: Okay. You got it.
14 All right. That's a motion and a second.
15 All in favor?

16 Opposed.

17 UNIDENTIFIED SPEAKER: Who seconded?

18 MAYOR DERMER: Opposed?

19 UNIDENTIFIED SPEAKER: Who seconded?

20 MAYOR DERMER: Second was

21 Commissioner Gross.

22 UNIDENTIFIED SPEAKER: Okay.

23 MAYOR DERMER: Okay. I -- I just
24 want to in closing, first of all, I want to
25 thank the residents for coming out in force

1 like they did today, because if you want
2 to, just like I told you from the very
3 beginning at the Mayor on the Move, if you
4 want to succeed in this process, you've got
5 to keep on coming. Don't ever let up or
6 let your guard down.

7 This is going to go, the issue of
8 the hours is going before the planning
9 board, and, frankly, the more you are
10 proactive the more you are persistent, the
11 success will come at the end, but don't
12 leave this. This is going to take time and
13 time and time. If you're gone, the guard
14 goes down, and you know what I'm saying.
15 All right.

16 UNIDENTIFIED SPEAKER: Are you
17 encouraging Frank Del Vecchio further?

18 MAYOR DERMER: I'm encouraging
19 everybody that's interested, you know. Let
20 us adjourn.

21 (End of recording.)

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CERTIFICATE

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I, Matthew J. Haas, Court Reporter and
Transcriptionist, do hereby certify that I was
authorized to and did listen to and
stenographically transcribe the foregoing
recorded proceedings and that the transcript is a
true record to the best of my professional
ability.

Dated this 22nd day of January,
2017.



MATTHEW J. HAAS
Court reporter

Entertainment Use SOFI

Gelabert-Sánchez, LLC

May 10, 2017

Ana Gelabert-Sánchez, AICP, LF

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I. Introduction

The City is currently proposing an amendment that considers whether Entertainment Establishments should be permitted in the City's Commercial Performance Standard (PS) Districts ("South of Fifth Street" or "SoFi").

Over the last two decades the Mayor and the City Commission have adopted a series of land development ordinances that have regulated and ultimately prohibited entertainment establishments South of Fifth Street. (Ordinance Nos. 96-3050, 99-3222, 2003-3417, and 2004-3445)

Previous attempts to regulate Entertainment in SOFI have proved to be ineffective as illustrated by City Commission and Planning Board transcripts, in which the concerns and impacts of Entertainment uses in a residential area have not been attenuated and continue to be voiced.

Today, current regulations allow for limited entertainment in several of the Commercial Performance Standard (PS) Districts, specifically, in the CPS-2 District, non-amplified piano and string instruments are permitted as a conditional use south of Fifth Street between Michigan Avenue and Alton Road.

This document consists of an analysis of the City's regulations, their impact, and a review of regulations in other relevant cities, in order to evaluate whether the proposed Entertainment ordinance is consistent with the intent of the SOFI Performance Standard District to enhance the quality of the residential areas; and that this ordinance is supported by the Goals, Objectives, and Policies of the Comprehensive Plan.

I have examined the problems caused by Entertainment in the past in the SOFI District and the challenges to other neighborhood such as the Entertainment District that Entertainment uses cause today. (See Section C. under Analysis below).

I have examined the ways other cities have attempted to solve the problems (See Section D. under Analysis below) and I have concluded that none of the previously attempted solutions in The City of Miami Beach or the solutions used by other cities would be suitable; therefore I recommend the proposed ordinance.

II. Current Regulations and Timeline

A. South of Fifth Street Timeline of Land Development Regulations and Entertainment Regulations

(Prepared by City of Miami Beach Planning Department)

1989

Ordinance No. 89-2665, effective October 1, 1989, creates the district regulations for the City's performance standard ("PS") districts which are geographically located south of Sixth Street in Miami Beach. The purpose of the new zoning designation is stated in the city code as follows:

"Sec. 142-691. - Purpose.

(a) *Establishment of district and divisions.* The PS performance standard district is hereby established as shown on the map designated as the city zoning district map. The PS district consists of all land in the redevelopment area and consists of five districts including: a residential performance standard (R-PS) district, a commercial performance standard (C-PS) district, a residential limited mixed use performance standard (M-PS) district (each of which is further subdivided based upon the type and density or intensity of permitted uses), a GU government use district and MR marine recreation district."

* * *

(c) Commercial performance standards.

(1) The commercial performance standards districts are designed to accommodate a range of business, commercial, office and hotel uses, as well as medium to high density residential development pursuant to performance standards which control the permissible type, density or intensity, and mix of development. Performance standards development

will allow for modification of requirements affecting certain individual lots; greater flexibility, particularly for large-scale development; large commercial, medium to high density residential and mixed use developments in phases over time where the overall development at a single point in time or in a single instance by private owners would not be practical; providing incentives for provision of certain amenities and for conformance with specified objectives, thereby encouraging more flexible and innovative design and development in accordance with the goals and objectives of the comprehensive plan and the redevelopment plan.

1994

Ordinance No. 94-2908, effective February 26, 1994, amends the district regulations for the City's performance standard ("PS") districts, to prohibit nightclubs in the redevelopment area, except that hotels of 250 rooms or more in the C-PS3 and C-PS4 districts could have nightclubs as an accessory use, with access to the nightclub only from an interior lobby and not from the street.

1995

Ocean Beach Historic District (South of Sixth Street) established

1996

Ordinance No. 96-3050, enacted on July 17, 1996, prohibits outdoor entertainment establishments, open air entertainment establishments, and neighborhood impact establishments ("NIEs") in the R-PS1, 2, 3, and 4 districts, and RM-PS1 district (except that, in the R-PS4 district, these uses were permitted as accessory uses in oceanfront hotels with 250 or more hotel units with access to the establishment only from an interior lobby and not from the street). The Ordinance designated outdoor entertainment establishments, open air entertainment establishments, and NIEs as a conditional use, and only as an accessory use, in the C-PS1, 2, 3, and 4 districts.

1999

Ordinance No. 99-3222, enacted on December 15, 1999, creates a definition for “entertainment establishment” (among other terms), and amended the PS district regulations to prohibit the following uses in the redevelopment area: dance halls and entertainment establishments not also operating as alcoholic beverage establishments and as restaurants with full kitchens and serving full meals. However, in the C-PS3 and C-PS4 districts, dancehalls and entertainment establishments were permitted as accessory uses within hotels of 250 rooms or more with access to the dance hall or entertainment establishment only from the interior lobby and not from the street.

2003

Ordinance No. 2003-3417, enacted on June 11, 2003, prohibits outdoor entertainment establishments and open air entertainment establishments in all PS districts. NIEs remained prohibited in R-PS1, 2, 3, and 4, and RM-PS1 (except that, in the R-PS4 district, NIEs were permitted as an accessory use in oceanfront hotels with 250 or more units, as a conditional use, and with access to the establishment only from the interior lobby of a hotel and not from the street). NIEs were listed as a conditional use in C-PS1, 2, 3, and 4.

2004

Ordinance No. 2004-3445, enacted on May 5, 2004, prohibits all entertainment establishments South of Fifth Street, and eliminated the distinction between (i) standalone entertainment establishments, and (ii) entertainment establishments also operated as alcoholic beverage establishments and as restaurants with full kitchens that served full meals. (Previously, entertainment was permissible if associated with a restaurant.)

April 2011

The City of Miami Beach’s 2025 Comprehensive Plan, adopted on April 13, 2011 states in the future land use element, objective one (1), land use development regulations, policy 1.2, the Limited Mixed Use Commercial “Performance Standard” Category’s (C-PS1) purpose is to provide development opportunities for and to enhance the desirability and quality of existing and/or new residential areas which accommodate a mix of different residential types developed in accordance with flexible design standards. It further states that uses which may be permitted are single family detached dwellings, single family attached

dwellings, townhouse dwellings, apartments, apartment hotels, hotels and commercial uses. Furthermore, other uses which may be permitted are accessory uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to be subordinate to the main use...”

Also, in objective two (2), land use compatibility, policy 2.2, “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.

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;”

2015

Ordinance No. 2015-3948, enacted on July 8, 2015, amends the PS district regulations to allow restaurants in the C-PS2 district on the south side of Fifth Street, between Michigan Avenue and Alton Road, to play non-amplified piano or string instruments played at a volume that does not interfere with normal conversation as a conditional use, when full meals are served, and no later than 2:00 am.

November 2016

Ordinance No. 2016-4054, adopted on November 9, 2016, amends the PS district regulations to require alcoholic beverage establishments to close at 2:00 AM. South Fifth Street. The provisions of the ordinance did not apply to any alcoholic beverage establishments with a valid business tax receipt that is in application status or issued prior to June 28, 2016 with hours pat 2:00 AM.

See references in Appendix G.

B. Comprehensive Plan

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

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

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

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

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

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

Vision Statement:

The Vision Statement of the City of Miami Beach recognizes the core value of residential communities as well as importance of tourism and entertainment within the City:

“Cleaner and Safer; Beautiful and Vibrant; a Unique Urban and Historic Environment; a Mature, Stable, Residential Community with Well – improved Infrastructure; A Cultural Entertainment Tourism Capital; and International Center for Innovation and Resources”.

The following elements of the Comprehensive Plan speak directly to the role of the City, through land development regulation, to Enhance, Protect and Preserve the City’s Neighborhoods through the compatibility of land uses.

I. Future Land Use Element

Goal – “Ensure that the character and location of land uses maximize the potential for economic benefit and the enjoyment of natural and man made resources by citizens while minimizing the threat to health, safety, and welfare posed by hazards, nuisances, incompatible land uses and environmental degradation”.

Objective 1 – Land Development Regulations

Future growth and development and rehabilitation will be managed through the land development regulations.

Land Development Regulations implement the Comprehensive Plan and are based on the standards set by the Comprehensive Plan and in accordance to s.163.3202

1. Policy 1.1 (2), (7) and (8)

- *Regulates the use of land to ensure compatibility of adjacent land uses*
- *Ensures safe and convenient traffic flow and addresses parking needs*

- *Mandates that through Development Orders and Permits no reduction of services occur.*

2. Policy 1.2

Land Development Regulations to implement Comprehensive plan - Establishes Limited Mixed Use Commercial 'Performance Standard' Category (C-PSI)

- *The purpose and Intent of this category – “to provide development opportunities for and to enhance the desirability and quality of existing and/or new residential areas which accommodate a mix of different types developed in accordance with flexible design standards”.*
- *“Other Uses” are permitted as accessory in this land use category.*

Objective 2 – Land Use Compatibility

“Land Development Regulations will be used to address location, type, size and intensity of uses to ensure adequate compatibility between residential and non-residential uses”.

1. Policy 2.1

Land Development Regulations will address location and extend of non-residential uses as per the Future Land Use map.

2. Policy 2.2

Development of land use categories, which allow residential and non-residential uses, shall be regulated through land development regulations to ensure compatibility.

Policy 2.2 (1)

States that special land uses may be incompatible with residential uses and may be prohibited.

Objective 7 – Inconsistent Uses

Land Development Regulations will continue to discontinue non-conforming land and building uses, which are incompatible with the Future Land Use map.

1. Policy 7.2 –

- Regulations for buffering incompatible uses shall continue to be enforced through the Land Development Regulations.*

II. Transportation Element

Objective 7 – Enhance, Protect and Preserve the City’s Neighborhoods

1. Policy 7.2 – Neighborhood Protection

- The City shall strive to protect the residential neighborhoods from unnecessary traffic intrusion.*

III. Conservation/Coastal Zone Management Element

Objective 9 – Density Limits

- 1. Policy 9.2 – The City shall not approve future land use plan amendments that could cumulatively increase residential densities.*
- 2. Policy 9.3 – The City shall use the zoning administration process to achieve uses compatible with the City’s twin goals of strong residential neighborhoods and the tourism/visitors economic base.*

C. City of Miami Beach: Land Development Regulations – SOFI Neighborhood

In 1989, supported by the goals, objectives, and policies of the Comprehensive Plan, the City adopted an ordinance creating district regulations for the City’s Performance Standard (PS) districts (SOFI neighborhood).

The intent of this regulation is:

“...to provide development opportunities for and to enhance the desirability and quality of existing and/or new residential areas which accommodate a mix of different types developed in accordance with flexible design standards”.

During the last two decades, the City has continued to enact Land Development regulations within the PS districts to more directly address Entertainment Uses in the SOFI neighborhood seeking to protect and enhance the character and the quality of life in the SOFI neighborhood.

The following are excerpts of ordinances and corresponding sections of the Land Development regulations, which have been adopted in accordance with the goals and objectives of the Comprehensive Plan.

I. Performance Standard District

Comprehensive Plan - Future Land Use – Objective 1; Policy 1.1 and 1.2, Objective 2; Policy 2.1 and 2.2, Objective 7; Policy 7.2, support the following Land Development regulations:

Ordinance No. 89-2665, effective October 1989 creates the regulations for the City’s Performance Standard (PS) Districts south of Sixth Street.

Code Language:

***DIVISION 18 - PS PERFORMANCE STANDARD DISTRICT
Sec. 142-691. - Purpose.***

(a) *Establishment of district and divisions. The PS performance standard district is hereby established as shown on the map designated as the city zoning district map. The PS district consists of all land in the redevelopment area and consists of five districts including: a residential performance standard (R-PS) district, a commercial performance standard (C-PS) district, a residential limited mixed use performance standard (M-PS) district (each of which is further subdivided based upon the type and density or intensity of permitted uses), a GU government use district and MR marine recreation district.*

(c) *Commercial performance standards.*

(1) *The commercial performance standards districts are designed to accommodate a range of business, commercial, office and hotel uses, as well as medium to high density residential development pursuant to performance standards which control the permissible type, density or intensity, and mix of development. Performance standards development will allow for modification of requirements affecting certain individual lots; greater flexibility, particularly for large-scale development; large commercial, medium to high density residential and mixed use developments in phases over time where the overall development at a single point in time or in a single instance by private owners would not be practical; providing incentives for provision of certain amenities and for conformance with specified objectives, thereby encouraging more flexible and innovative design and development in accordance with the goals and objectives of the comprehensive plan and the redevelopment plan.*

(2) *In order to adequately and properly distinguish between types, densities and intensities of uses and mix of permitted commercial development in the redevelopment area, districts are divided as follows:*

C-PS1	Limited mixed-use commercial
C-PS2	General mixed-use commercial
C-PS3	Intensive mixed-use commercial
C-PS4	Intensive mixed-use phased bayside commercial

Sec. 142-692. - Uses permitted by right, uses permitted by conditional use permit and uses not permitted.

No building, structure or land shall be used or occupied except as a main permitted use, a conditional use, or an accessory use to a main permitted use, in accordance with the table and text of permitted uses. A use in any district denoted by the letter "P" is a use permitted by right in such district or subdistrict, provided that all requirements and performance standards applicable to such uses have been met. A use in any district denoted by the letter "C" is permissible as a conditional use in such district or subdistrict, provided that all requirements and performance standards applicable to such use have been met and provided that all requirements of chapter 118, article IV, have been met. A use in any district denoted by the letter "N," or specifically listed as a use not permitted in the text of section 142-693, is not permitted in such district or subdistrict. Uses permitted by right, as a conditional use, or as an accessory use shall be subject to all use regulations and performance standards contained herein and to such other regulations as may be applicable, including site plan review and design review. Uses not listed in the table of permitted uses are not permitted in the district or subdistrict. Notwithstanding any provision of this section, no use is permitted on a parcel, whether listed by right, as a conditional use or as an accessory use in such district, unless it can be located on such parcel in full compliance with all of the performance standards and other requirements of these land development regulations applicable to the specific use and parcel in question.

II. Performance Standard District

Comprehensive Plan - Future Land Use –Objective 2; Policy 2.1 and 2.2, Objective 7; Policy 7.2, Transportation Element – Objective 7; Policy 7.2,, support the following Land Development regulations:

Ordinance No. 96-3050, enacted July 1996, prohibits outdoor establishments, open air establishments and neighborhood impact establishments in R-PS1, 2, 3 and 4 and RM-PS1 (RPS4 –only as accessory uses in oceanfront hotels with 250 units) NIE’s as a conditional Use and only as accessory use in C-PS1, 2, 3, and 4 districts.

Ordinance No. 2003-3417, enacted June 2003, prohibits outdoor entertainment establishments and open air entertainment establishments in all PS districts NIE’s as conditional in C-PS1, 2, 3 and 4.

Code Language:

The following uses are permitted in the performance standard districts: (Please Note: Only selected uses are listed below).

Sec. 142-693. - Permitted uses.

<i>General Use Category</i>	<i>R-PS 1, 2</i>	<i>R-PS 3, 4</i>	<i>C-PS 1, 2, 3, 4</i>	<i>RM-PS1</i>
<i>Accessory outdoor bar counters, provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for an accessory outdoor bar counter which is adjacent to a property with an apartment unit, the accessory outdoor bar counter may not be operated or utilized between 8:00 p.m. and 8:00 a.m.</i>	<i>N</i>	<i>N</i>	<i>p* North of 5th Street only.</i>	<i>N</i>
<i>Outdoor entertainment establishments and open air entertainment establishments</i>	<i>N</i>	<i>N</i>	<i>N</i>	<i>N</i>
<i>Neighborhood impact establishments</i>	<i>N</i>	<i>N However, in the R-PS4 district, this use is permitted, as an accessory use in oceanfront hotels with 250 or more hotel units, as a conditional use. Access to the establishment shall be only from the interior lobby of the hotel and not from the street.</i>	<i>C</i>	<i>N</i>

Please note that the surrounding uses to CPS-1 do not allow outdoor entertainment establishments, open air entertainment, accessory outdoor bar establishments, and neighborhood impact establishments.

III. Performance Standard District

Comprehensive Plan - Future Land Use –Objective 2; Policy 2.1 and 2.2, Objective 7;Policy 7.2, Transportation Element – Objective 7; Policy 7.2, Conservation/Coastal Zone Management Element – Objective 9, Policy 9.2,and 9.3 support the following Land Development regulations.

Ordinance No. 99-3222, enacted Dec 1999, creates the definition for Entertainment Establishment and amends PS district regulations to prohibit from the redevelopment area certain uses including Entertainment Establishments not also operating as alcoholic beverage establishments.

Ordinance No. 2004-3445, enacted May 2004, prohibits all entertainment establishments South of Fifth, and eliminates distinction between standalone entertainment establishment and entertainment establishments also operated as alcoholic beverage establishment.

Code Language:

Sec. 142.693 – Permitted Uses

For purposes of this section, pawnshops and dance halls and entertainment establishments are not permitted as a main permitted or accessory use south of Fifth Street.

IV. Performance Standard District

Comprehensive Plan - Future Land Use – Objective 1; Policy 1.1 and 1.2, Objective 2; Policy 2.1 and 2.2, Objective 7; Policy 7.2, support the following Land Development regulations:

Code Language:

Sec. 142-695. - Performance standard regulations generally.

- (2) To protect the integrity of the comprehensive plan and the redevelopment plan and the relationships between uses and densities that are essential to the viability of these plans and the redevelopment area; and*
- (3) To promote and protect the public health, safety, and general welfare by requiring all development to be consistent with the land use, circulation and amenities components of the redevelopment element of the comprehensive plan and the capital improvements program for the area, as specified in the comprehensive plan.*

III. Proposed Amendment

C-PS2 ENTERTAINMENT

An ordinance amending Ch. 142 of the City of Miami Beach entitled “Zoning Districts and Regulations”, Article II, “District Regulations”, Division 18, “PS Performance Standard District”, Section 142-693, “Permitted Uses” Clarifying that Entertainment is not permitted in the City’s Performance Standard Districts.

The City has historically adopted ordinances to regulate Entertainment uses to address the issues of quality of life in the SOFI neighborhood through land development regulations. These ordinances have been progressively more restrictive in an effort to protect the residential character of this neighborhood.

This ordinance simplifies the language and clarifies the intent of the City’s Performance Standard District regulations that seek to enhance desirability and quality of residential areas.

IV. Analysis

A. History of SOFI Neighborhood

The Ocean Beach Historic District designation report describes the early SOFI neighborhood as follows:

“Situated at the southern tip of present day Miami Beach and surrounded by a magnificent expanse of tropical blue water and boundless sky, Ocean Beach became a magnet for pioneer tourists and adventurous residents of fledgling Miami in the early twentieth century. Today, this sweep of land remains a prime location at the edge of the Miami· metropolis, connecting the Atlantic Ocean, Biscayne Bay and the downtown Miami skyline.”

“During the 1920's and 1930's Ocean Beach south of 6th Street became a thriving seaside resort and· recreational· area. The 1935 Franklin Survey of Miami Beach records several substantial recreational facilities catering to tourists and residents alike...”

The report titled “Economic Impacts of Historic Preservation in Florida Update, 2010,” produced by the Center for Urban Policy Research at Rutgers University, describes the eventual economic decline of South Beach as follows:

“In the 1970s, Miami Beach as a whole began to face a difficult situation. The opening of Walt Disney World in Orlando in 1971 began to shift the attention of Florida bound tourists away from the Miami area, and new Caribbean resorts were attracting more visitors as air travel became easier (Stofik 2005, 19). These new destinations elsewhere were drawing tourists away from Miami Beach, and the community had no other industry to rely on. The city’s newer hotels still attracted visitors, but South Beach had become almost entirely a retirement community for seniors, many of them Jewish and poor. The whole city was beginning to get a reputation as a retirement haven for those of modest means rather than a destination resort ...”

To address this economic decline, in the mid-1970s the Miami Beach Commission created the Miami Beach Redevelopment Agency (RDA) and imposed a construction moratorium for the South Shore area (south of Fifth Street.). This action was taken in response to a finding that “there existed in the City of Miami Beach a blighted area (SOFI) and that the rehabilitation, conservation, or redevelopment ... of said area was necessary in the interest of the public health, safety, morals or welfare of the residents...” (Resolution No. 79-15887)

In 1989, adopting Ordinance No. 89-2665, the City created the district regulations for the City’s performance standard (“PS”) districts which are geographically located south of Sixth Street in Miami Beach. The intent of these district regulations was to “enhance the desirability and quality of existing and/or new residential areas which accommodate a mix of different types developed in accordance with flexible design standards.”

B. Designation of Historic Districts - Original Intent

The following is an account, using the Historic District designation documents, that compare and contrasts the intent behind the creation of the Ocean Drive/ Collins Avenue Historic District versus the Ocean Beach Historic District (South of Sixth Area).

a. Ocean Drive/Collins Avenue Historic District (MXE Area)

According to the Ocean Drive / Collins Avenue Historic Preservation District Designation Report, the Ocean Drive/Collins Avenue Historic District was established in 1986 as an effort to revive the neighborhood using historic preservation as a guiding principle. The plan incorporated a number of public improvements for Ocean Drive. In addition, the zoning and other land use regulations were revised “in order to allow the smaller historic hotels to compete in the current tourist market with placement of outdoor recreation and entertainment uses, cafes and restaurants. The district was established as “a popular historic resort and recreation area (to) attract tourists, day visitors and new residents.

The primary intent in the creation of this District was to enhance the

opportunities for entertainment uses.

b. Ocean Beach Historic District (South of Sixth Area)

In 1995, the Ocean Beach Historic Designation Report established the Ocean Beach Historic District to protect against “the potential loss of significant structures and sites in the South Pointe Redevelopment Area”. Early on, the report refers to the inclusion of buildings which “maintain(ing) the special character of the neighborhood”.

In describing this District, under Present Use the Historic Designation Report states “The predominant current use is residential, followed by commercial, hotel, parks and recreational and institutional use.” Under Present Zoning, the report states, “The majority of the nominated district is zoned residential...”

The Architectural Background section of the Report states:

“As the first recorded subdivision in Miami Beach, the neighborhood within the proposed boundaries of the Ocean Beach Historic District deserves overdue recognition as the birthplace of the City of Miami Beach.”

The Performance Standard District regulations dating prior to 1995 were not amended in this Report. Instead, the regulations existing prior to 1995, which prohibited nightclubs other than hotels, were left in place.

The primary intent of the creation of this District was to preserve the character of the neighborhood, which is predominantly residential, and not to create an entertainment destination.

In conclusion, the analysis of the background of the two Historic Districts indicates that they were created with markedly different intents: The primary intent of the creation of the Ocean Beach Historic District was to preserve the character of the neighborhood, which is predominantly residential. The primary intent in the creation of Ocean Drive / Collins Avenue Historic District was to enhance the opportunities for entertainment uses.

C. Entertainment Districts: Impact on Services

a. Impacts

Category	SOFI	Entertainment District	% Increase
Fire Department Incidents ¹	8,999	31,676	252%
Sanitation - Yearly			
Total Costs	\$321,500	\$2,370,500	738%
Dedicated Crews	5	33	660%
Nighttime Crews	0	10	
Traffic Data ¹			
Vehicle Crashes:	1,406	7,256	416%
Injuries	246	990	302%
Fatalities	2	11	450%
Daylight	923	4,109	345%
Nighttime	412	6,881	1570%
Dancehalls ²	4	29	625%
Code Compliance-Noise ³			
Violations	0	2	
Complaints	4	18	350%
Parking ⁴			
Total Inventory	2,755	7,305	
Public Owned Spaces	1,443	4,166	
Garage Spaces	None	2,424	
Tows ⁵	1,517	13,706	803%
Police Data			
Burglary and Larceny ⁵	713	2,078	191%
Calls for Service ⁶	2,413	9,248	283%

Notes:

- 1) 2010 to 2017
- 2) Grandfathered In
- 3) Week of 12/20/2017 to 12/27/2017
- 4) Studies by Walker Parking Consultants, 2014 and 2015
- 5) Data for 2016, provided by City of Miami Beach Police Department
- 6) Data for the week of 12/20/2017 to 12/27/2017 provided by the City of Miami Beach Police Department

b. Population

	Housing Units	Pop.	Area of Parcels (SF)	Area of Parcels (Acres)	Housing Density (Units/Acre)	Population Density (People/Acre)
South of Fifth	5,782	5,323	6,225,115	142.91	40	37
Entertainment Area	3,222	3,093	5,233,113	120.14	27	26

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

c. Map of City of Miami Beach – SOFI and Ocean Drive



(Map prepared by the City of Miami Beach Planning Department)
Areas under discussion are depicted in turquoise outline.

d. Observations

The City of Miami Beach has designated specific areas as Entertainment districts to accommodate and enhance the occurrence of Entertainment uses and has allocated additional resources to respond to the needs of Entertainment districts.

As depicted in the charts above, the Ocean Drive Entertainment District has a pronounced impact on City resources as compared to the SOFI neighborhood (PS District). In an area similar in size, the Entertainment District has over twice as many Fire Incidents, seven times the Sanitation costs, four times the number of Vehicle Crashes, fifteen times the number of Traffic Incidents, twice the number of burglary and larceny incidents, and eight times the number of towing Incidents.

Entertainment districts have been commonly acknowledged to create additional impacts which would negatively affect the quality of life in residential neighborhoods. Concerns over policing requirements, noise, traffic congestion, parking and need for additional resources for sanitation often accompany Entertainment districts. This is a primary consideration when cities define areas where Entertainment uses are concentrated. In order to maintain land use compatibility, cities protect residential areas by buffering them from Entertainment districts.

According to a study titled Policing Entertainment Districts, performed by Berkley and Thayer and published by the Responsible Hospitality Institute (RHI),

“Nightclubs and bars create frequent demands for police resources. The main problems are intoxicated, fighting patrons who are ejected by nightclub security onto the sidewalk ... Nightclubs and bars create further problems where they are concentrated in geographic areas. At closing time, intoxicated patrons exit onto the sidewalk and create a crowd-control problem...

Entertainment districts generate noise that impacts nearby residences and hotels. ... Nightclubs produce noise when they have inadequate soundproofing or conduct musical performances with open doors and windows. Cruisers have loud stereo systems and street performers and religious groups can be loud if they are allowed to use amplification. ... Few cities have enforceable noise ordinances. Decibel limits are too low,

ambient noise levels are too high, and it is difficult to attribute noise to sources. Enforcement requires specialized equipment, training and, sometimes, citizen complaints.

Traffic congestion is frequently a problem in entertainment districts. Few entertainment districts are located in areas with sufficient road and parking capacities to accommodate several thousand people arriving and departing within a narrow time frame.

... If parking capacities or parking -structure ingress are inadequate, traffic backs up as people search for parking and people fight over parking spaces. Parking shortages create a need for valet services which in turn create additional impacts. People are forced to park in remote areas; they impose impacts on neighborhood residents and can become victims of crime. In densely populated areas the mere fact that entertainment-district patrons occupy needed on-street parking is a problem. When nightclub and bar patrons return to cars parked in residential areas, they can be loud and boisterous and leave litter and vandalize property.”

According to parking studies done by Walker Parking Consultants, the Ocean Drive Entertainment District, “Overall (parking) demand is projected to reach deficit levels ... the earliest of any of the Zones”. This indicates that the Entertainment District places the highest demand on parking availability of any other Zone in the City of Miami Beach, including the South Point (SOFI) district. Because the area south of Fifth Avenue is primarily residential, it has no parking inventory consisting of parking garages. The available on street parking is predominantly residential.

Additional Sanitation services have been required by the City of Miami Beach in order to cope with the needs of the Ocean Drive Entertainment District. In addition to dedicated crew personnel, they have employed additional mobile sweepers, litter can services, pressure washing crews, and dedicated night shift employees seven days a week.

Together, the numbers in the charts above and the Walker parking studies, provide a strong indication that the character of the SOFI neighborhood would be

adversely impacted by allowing Land Use changes that would encourage the formation of an Entertainment district in the SOFI neighborhood.

D. Alternative Solutions: Examples of District/Use Regulations in Other Cities

Cities and municipalities have used a variety of methodologies to regulate Entertainment uses. I have reviewed a number of these as alternatives to the currently proposed ordinance. However, for various reasons, I do not recommend them for the City of Miami Beach.

Many Cities have used two common types of separation requirements to regulate uses: 1) distance requirements between a specific use and other uses deemed to be sensitive to the effects of that use such as churches, schools, daycares or residential and 2) distance requirements between specific uses which are deemed to have negative effects on their environs if concentrated in a small area.

Some cities have adopted other use-specific requirements for entertainment uses to mitigate potential negative effects on nearby properties. These include soundproofing requirements, location or design standards for outdoor uses, good neighbor plans, and hours of operation restrictions for amplified music.

Other cities have regulated the use of alcohol in order to control Entertainment uses which, in their definition, combine alcohol, live music, or dancing (nightclubs and lounges).

In contrast to the methodologies described above, the City of Miami Beach treats entertainment establishments separately from alcoholic beverage establishments. Instead, the City regulates the uses based on their actual impact to, and compatibility with, nearby properties. (See Section C. Entertainment Districts: Impact on Services under Analysis, above which illustrates the impact of Entertainment uses as compared to the impact of Residential uses.)

In the SOFI neighborhood, through Performance Standard District regulations, the City of Miami Beach seeks to encourage a range of commercial uses that serve the neighborhood, such as restaurants, which may include alcohol uses but prohibits entertainment uses. This methodology accomplishes the goal of preserving the residential character of the SOFI neighborhood.

The examples below illustrate various distance requirements or separation methods used by different cities to regulate entertainment uses. These alternatives would either 1) not be as effective or 2) result in the same restrictions to entertainment.

Depending on the extent of the distance requirements, these solutions may either accomplish the same thing as the Miami Beach regulations or they may create conflicts between existing land uses and may create gaps in the coverage.

In contrast, the method The City of Miami Beach employs, adds clarity and more effectively ensures the intent of the SOFI neighborhood PSD, preserving the residential character of the area.

a. Jefferson Parish, LA

Jefferson Parish requires a distance of two hundred (200) feet between the establishment and any residential district and a Site Plan showing all uses within two hundred (200) feet of any proposed entertainment use.

Code Language:

Definition: nightclub shall refer to any structure or establishment, or part thereof, that provides live entertainment on a regularly scheduled basis, serves alcoholic beverages and offers food prepared on premise in a fully equipped culinary facility.

- 1. Distance requirements. The establishment shall be located at least two hundred (200) feet from any residential district, as measured along the nearest pedestrian walkway or street right-of-way adjacent to the main entrance of the establishment to the nearest residential district line.*
- 2. Site Plan approval requirements for Land use. Land uses within two hundred (200) feet of the proposed nightclub.*

Sec. 40-421. - Purpose.

This district encompasses an area of high density and intensity development situated on principal thoroughfares and represents an urban mixed-use core. The areas of high intensity development contain office, retail, and service uses and represent a local and regional employment and shopping commercial center. They also contain dense residential development as single uses or mixed with commercial uses to create an urban environment with diverse choices for living and working.

Sec. 40-422. - Permitted uses.

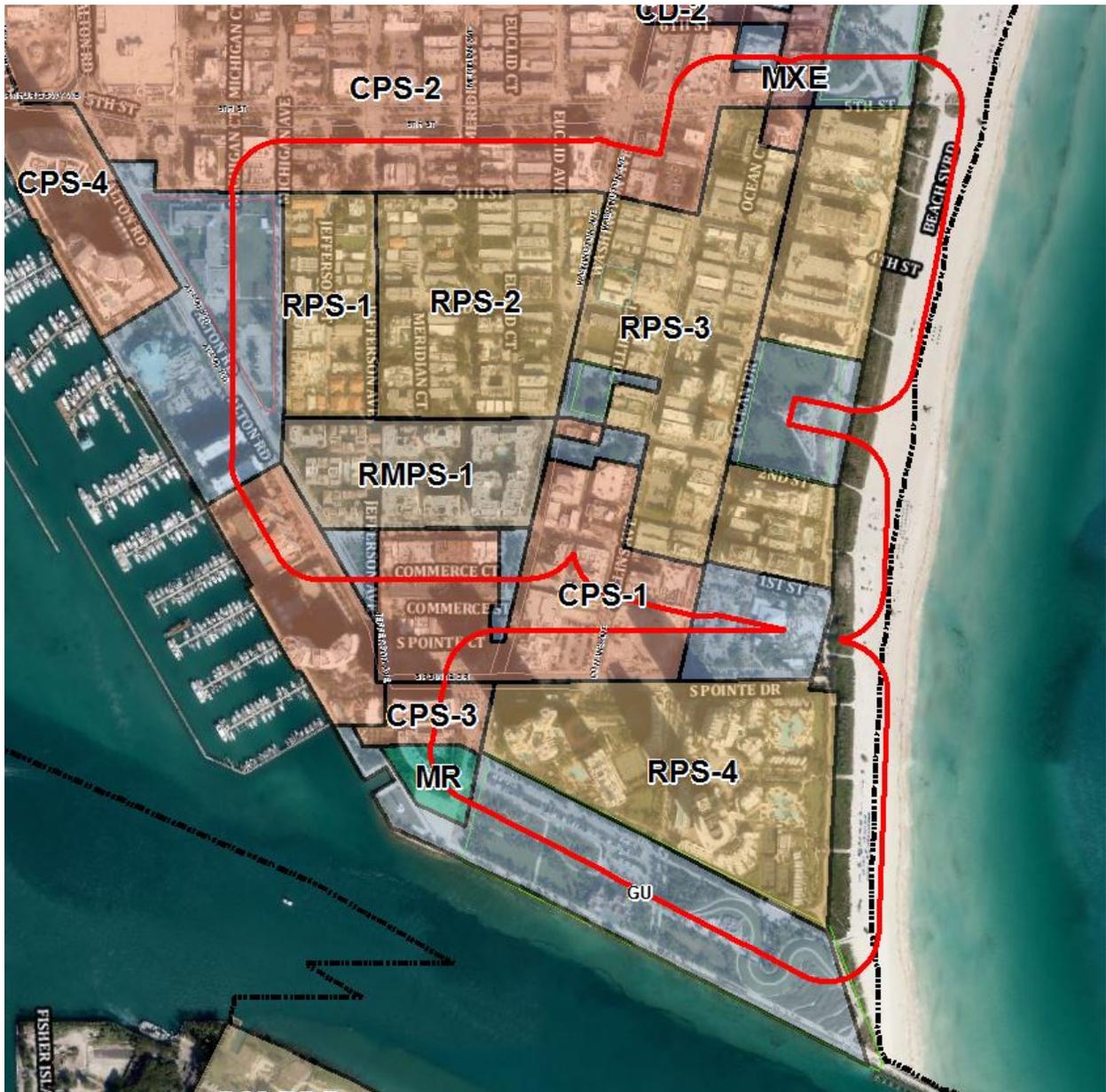
(26) Nightclubs provided the criteria listed below are met.

For purposes of this section a nightclub shall refer to any structure or establishment, or part thereof, that provides live entertainment on a regularly scheduled basis, serves alcoholic beverages and offers food prepared on premise in a fully equipped culinary facility.

- c. *Ingress and egress. Traffic generated by the use shall not be permitted to enter or exit from any portion of the site which is adjacent to or faces a residential district.*
- d. *Distance requirements. The establishment shall be located at least two hundred (200) feet from any residential district, as measured along the nearest pedestrian walkway or street right-of-way adjacent to the main entrance of the establishment to the nearest residential district line.*
- e. *Site plan submittal. The applicant shall provide site plans in accordance with the requirements of section 40-426(c) of this section. In addition, the following information shall also be provided:*
 - 1. *Land use. Land uses within two hundred (200) feet of the proposed nightclub.*
 - 2. *Noise abatement plan. The establishment shall be designed to prevent the intrusion of noise ... In addition, all entrances and exits designed for general use, not to include emergency use only exits, shall not face a residential district. The noise abatement plan shall contain the following minimum information.*
 - i. *The location of all entrance and exit doors;*
 - ii. *The elements of landscaping and building design that will reduce and control noise emissions.*
 - 3. *Litter control plan. The applicant shall provide a litter control plan indicating the method(s) to be used to keep the site and surrounding property free of debris generated by the use.*

I would not recommend this solution for The City of Miami Beach because, although this regulation would restrict entertainment from most of the SOFI Neighborhood, it would still create gaps in the coverage which would result in conflicts between existing land uses. It would in effect allow an entertainment use in areas where new and existing residential uses are present.

Map of SOFI with Jefferson Regulations Applied



(Prepared by City of Miami Beach Planning Department)

b. Orlando, FL

Orlando requires a distance of two hundred (200) feet between an establishment serving alcohol and offering live entertainment and schools and churches in an AC-3At district.

Outside an AC-3At district, eating and drinking establishments, whether or not they have live music, are not allowed in any Residential District, Medium Density/Intensity Mixed Residential Office District, and Low/High Intensity Office Residential District.

They are allowed in other Activity Centers and Mixed Use Corridor Districts only through conditional use for Historic Landmarks within High Density/Intensity Mixed Residential Office District and Medium Intensity Office Residential District.

Code Language:

4B (1). - Alcoholic Beverage Sales Inside the AC-3At District

The sale of alcoholic beverages for on-premise consumption or the package sale of alcoholic beverages shall not be permitted in a place of business within two hundred (200) feet of an established school or church permitted prior to May 20, 1996, except as provided in Section 58.707 of this part. The distance shall be measured by the shortest, most direct bearing and distance from the property line of the church or school grounds in use as part of the church or school facilities to the nearest entrance of the establishment serving alcoholic beverages open to the public during normal business hours.

Sec. 58.707. - Exceptions to Distance Requirements.

The sale of alcoholic beverages for on-premise consumption or the package sale of alcoholic beverages shall be exempt from the provisions of Section 58.705 for the following, as described below:

Full-service restaurants

Bars/nightclubs in hotels or motels where there is no direct access from or to the outside.

(a) Full-Service Restaurants. The provisions of Section 58.705 (above) shall not apply to the sale of alcoholic beverages for on-premise consumption at a full service restaurant. A full-service restaurant is defined as an establishment serving full-course meals and engaged primarily in the service of food and non-alcoholic beverages, with alcoholic beverages generally only consumed or sold in connection with the consumption or sale of food during all hours of operation. A full-service restaurant may have a bar area in which alcoholic beverages are served and consumed without the accompanying sales and consumption of food; however, such bar area shall be no more than twelve percent (12%) of the total gross floor area of the full-service restaurant.

An establishment which contains pool tables, video games, a stage, live entertainment, illuminated or non-illuminated signs advertising alcoholic beverages, permits dancing, or which has live music or plays recorded music at a level above 70 decibels (measured six inches from the source), shall not be considered to be a full-service restaurant. An establishment which charges a cover charge at any time shall not be considered a full-service restaurant. An establishment which advertises anything other than the sale of food shall not be considered a full-service restaurant.

Certain Bars/Nightclubs in Hotels or Motels - The provisions of Section 58.705 (above) shall not apply to the sale of alcoholic beverages for on-premise consumption at an establishment located within a hotel or motel containing 100 or more guest rooms where such establishment in the hotel or motel has no direct entrance or exit on a public street.

B (2). - ALCOHOLIC BEVERAGE SALES OUTSIDE THE AC-3At DISTRICT

Sec. 58.710. - Distance From Churches and Schools.

Except those vendors licensed in accordance with Florida Statutes § 563.02(1)(a) and/or Florida Statutes § 564.02(1)(a) and except as otherwise provided in this Part, no vendor of alcoholic beverages shall maintain a place of business within one thousand (1,000) feet of the real property that comprises a school or church. The distance shall be measured by the shortest, most direct bearing and distance from the property line of the church or school grounds in use as part of the church or school facilities to the nearest entrance of the establishment serving alcoholic beverages open to the public during normal business hours.

Please Note:

Eating and Drinking Establishments allowed:

1. By Conditional Use for Historic Landmarks in the following districts: High Density Mixed Use Corridor and Medium Intensity Office – Residential.
2. By Conditional Use only when abutting a thoroughfare in the General Industrial District. If not, it is not allowed.
3. Permitted in all Activity Center Districts.

I would recommend the regulation that the City of Miami Beach is considering over this solution because the City of Miami Beach treats entertainment establishments separately from alcoholic beverage establishments. The City of Miami Beach regulates the actual impact of the uses, and the compatibility with, nearby properties, thereby encouraging a range of commercial uses that serve the neighborhood such as restaurants which may serve alcohol.

Map of SOFI with Orlando Regulations Applied (Inside the AC-3At District)



(Prepared by the City of Miami Beach Planning Department)

c. Roseville, CA

Roseville has a 500 foot distance requirement between nightclubs and residential uses.

Code Language:

Chapter 19.49 NIGHTCLUBS

Definition

Eating and Drinking Establishments, includes establishments primarily engaged in the sale of prepared food and beverages for on-premise consumption, but excludes those uses classified under the "Bars and Drinking Places" and "Nightclubs." An Eating and Drinking Establishment that provides amplified live or recorded music and that provides space(s) for dancing or hold public dances under Municipal Code Section 9.40.030.H. shall be considered a Nightclub per Chapter 19.080.090.T. of the Zoning Ordinance.

19.49.010 Purpose

This chapter establishes standards for the location of nightclubs where permitted within any zone district. It is the intent of this chapter to minimize the adverse impacts of nightclubs on residences, neighborhoods and surrounding development by regulating the location of such uses. (Ord. 5428 § 1, 2014.)

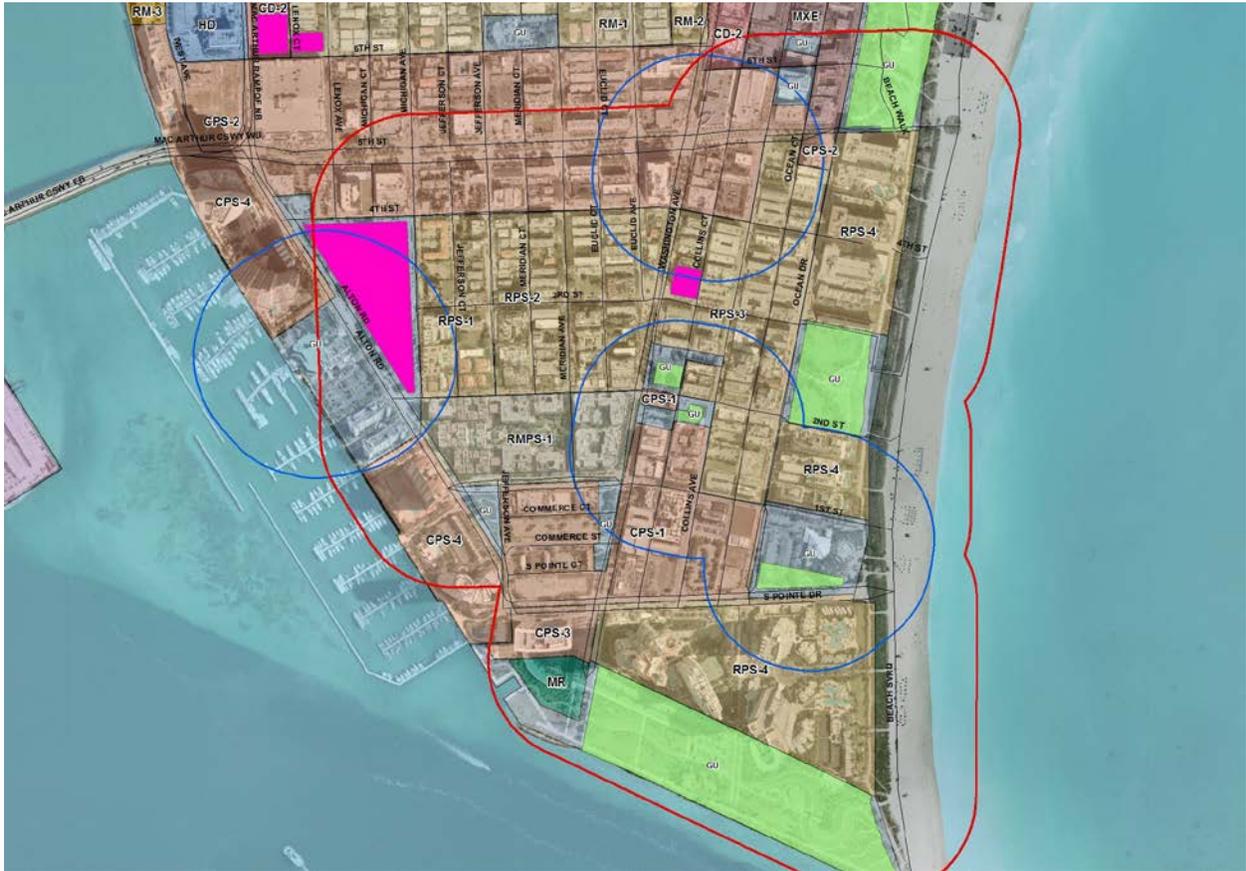
19.49.030 General standards

The following requirement applies to nightclubs where permitted within any zone district (except for nightclubs within the Downtown Specific Plan Area):

Nightclubs are prohibited to be located within 500 feet of a residential zone district as measured from the residential zone district boundary to the structure where the nightclub use is proposed. (Ord. 5428 § 1, 2014.)

I would recommend the regulation proposed by the City of Miami Beach over this one because, although both regulations would have the same effect of restricting entertainment entirely from the SOFI neighborhood, the Miami Beach regulation speaks more clearly to the intent of protecting the neighborhood as a whole.

Map of SOFI with Roseville Regulations Applied



(Prepared by the City of Miami Beach Planning Department)

d. San Francisco, CA

Within the Western SoMa Special Use District, San Francisco does not permit nighttime entertainment within 200 linear feet of any property within Residential or Residential Mixed Use Districts.

Code Language:

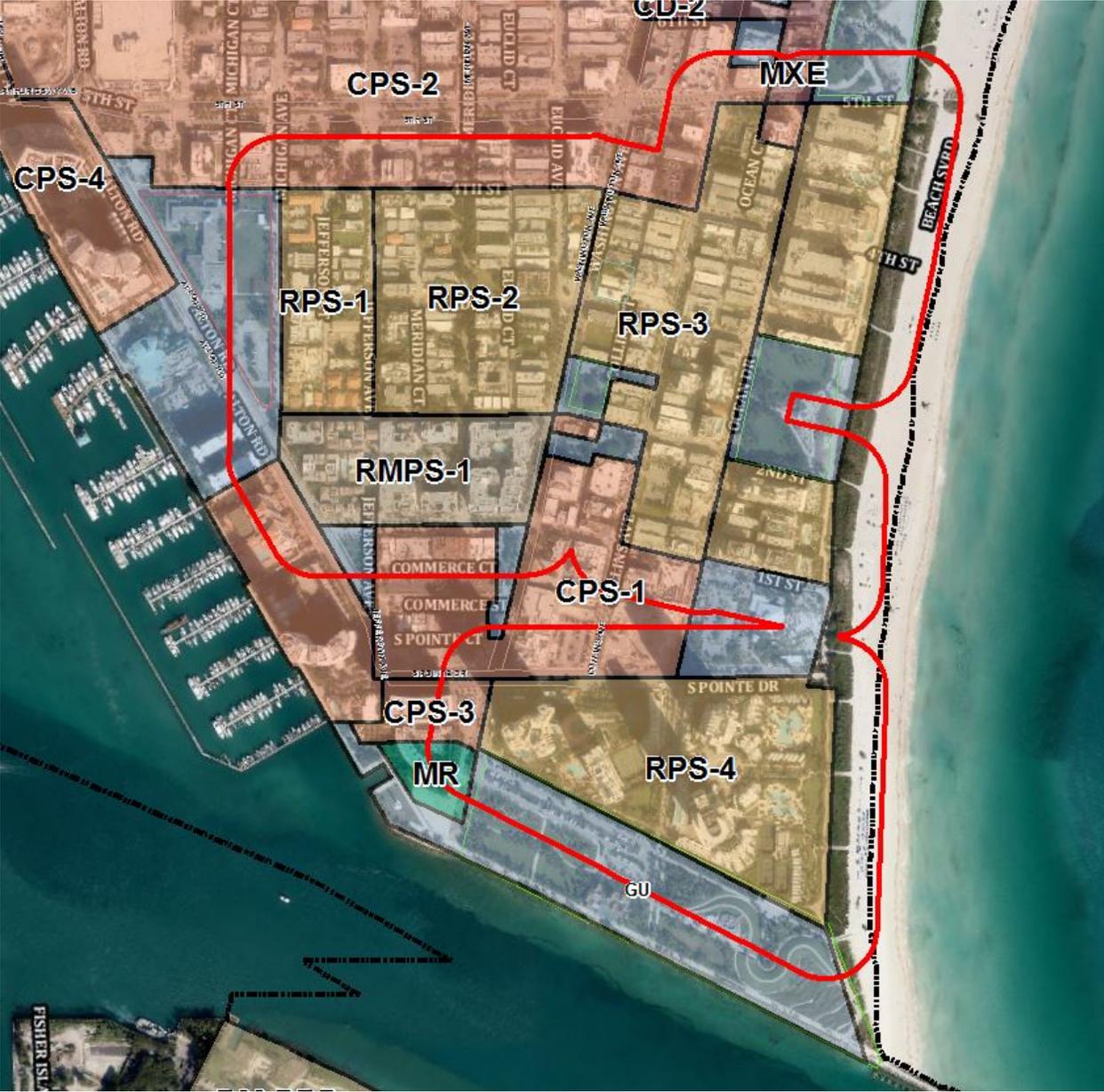
Definition of Nighttime Entertainment: Nighttime entertainment uses shall include dance halls, discotheques, nightclubs, private clubs and other similar evening-oriented entertainment activities, which require Place of Entertainment or Limited Live Performance permits, as defined in Section 1060 of the Police Code, which are not limited to non-amplified live entertainment, including restaurants and bars which present those activities.."

Sec. 823 Western SoMa Special Use District

Western SoMa Special Use District – Nighttime entertainment use are not permitted within 200 linear feet of any property within RED or RED MX District.

I would not recommend this solution for The City of Miami Beach because, although this regulation would restrict entertainment from most of the SOFI Neighborhood, it would still create gaps in the coverage which would result in conflicts between existing land uses. It would in effect allow an entertainment use in areas where new and existing residential uses are present.

Map of SOFI with San Francisco Regulations Applied



(Prepared by the City of Miami Beach Planning Department)

V. Conclusion

This document has reviewed the City of Miami Beach Comprehensive Plan, and the City of Miami Beach Land Development Regulations. It has analyzed potential impacts upon the character of the SOFI neighborhood, and reviewed the strategies used by numerous other cities to regulate Entertainment uses.

The City of Miami Beach has historically implemented regulations that encourage Entertainment uses in specific neighborhoods and limit them in neighborhoods such as SOFI which are primarily residential in character.

The City's actions in supporting and regulating Entertainment Districts and preserving the character of the SOFI neighborhood are directly linked to the City's Vision Statement which encourages:

"Cleaner and Safer; Beautiful and Vibrant; a Unique Urban and Historic Environment; a Mature, Stable, Residential Community with Well – improved Infrastructure; A Cultural Entertainment Tourism Capital; and International Center for Innovation and Resources".

In support of this Vision, and the Goals and Objectives of the Comprehensive Plan the City of Miami Beach implements Land Development regulations *"to achieve uses compatible with the City's twin goals of strong residential neighborhoods and the tourism/visitors economic base."*

Previous attempts to regulate Entertainment have proved to be ineffective as illustrated by City Commission and Planning Board transcripts, in which the concerns and impacts of Entertainment uses in a residential area have not been attenuated and continue to be voiced, demonstrating that the uses are incompatible.

The City's proposed regulation, which clarifies that Entertainment uses are not permitted in the City's Performance Standard (PS) Districts, meets the intent of PS District and the Goals and Objectives of the City's Comprehensive Plan. It ensures land use compatibility between residential and non-residential uses. This ordinance ensures the preservation of the residential character of the SOFI neighborhood while continuing to promote commercial activity in the area.

I have considered the City's past regulations and the ordinances that other cities have adopted to regulate Entertainment uses and I have concluded that the proposed ordinance is the best one for the City of Miami Beach.

Appendices

Appendices are listed below.

CPS-2 ENTERTAINMENT

ORDINANCE NO. 2015-3948

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 142 "ZONING DISTRICTS AND REGULATIONS;" ARTICLE II, "DISTRICT REGULATIONS", DIVISION 18, "PS PERFORMANCE STANDARD DISTRICT" TO MODIFY PERMITTED USES WITHIN THE CPS-2 DISTRICT TO INCLUDE NON-AMPLIFIED PIANO AND STRING INSTRUMENTS WITHIN RESTAURANT INTERIORS; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

WHEREAS, Chapter 142 of the City Code, entitled "Zoning Districts and Regulations," includes specialized use regulations that address alcoholic beverages; and

WHEREAS, Chapter 142 is proposed to be amended to allow the limited use of non-amplified string instruments within the interior of restaurants in the CPS-2 district; and

WHEREAS, the amendment set forth below is necessary to accomplish the objectives identified above.

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

SECTION 1. That Chapter 142, "Zoning Districts and Regulations" is amended, as follows:

DIVISION 18. PS PERFORMANCE STANDARD DISTRICT

* * *

Sec. 142-693. Permitted uses.

* * *

(c) For purposes of this section, pawnshops and dance halls and entertainment establishments are not permitted as a main permitted or accessory use south of Fifth Street; however, in the C-PS3 and C-PS4 districts dance halls and entertainment establishments shall be permitted as an accessory use within a hotel of 250 rooms or more with access to the dance hall or entertainment establishment only from the interior lobby and not from the street. Additionally, for restaurants located in the C-PS2 district, on the south side of Fifth Street between Michigan Avenue and Alton Road, non-amplified piano or string instruments, played at a volume that does not interfere with normal conversation, may be permitted as a conditional use within the interior of the premises, in accordance with the requirements of Chapter 118, Article IV, and only during periods in which full meals are being served, and no later than 2:00 am.

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. EXCEPTIONS.

This Ordinance shall not apply to an application filed for Land Use Board Approval with the Planning Department on or before February 24th, 2015.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

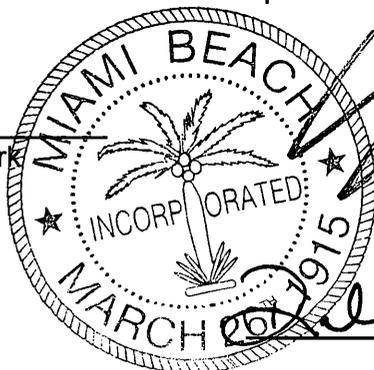
PASSED and ADOPTED this 8 day of July, 2015.

Philip Levine, Mayor

ATTEST:

[Signature] 7/29/15

Rafael E. Granado, City Clerk



APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

[Signature] 5/27/15

City Attorney Date

First Reading: June 10, 2015
Second Reading: July 8, 2015

Verified by: [Signature]

Thomas Mooney, AICP
Planning Director

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

[Sponsored by Commissioner Grieco]

Condensed Title:

An Ordinance to amend the requirements for non-amplified entertainment in the CPS-2 Zoning District.

Key Intended Outcome Supported:

Increase satisfaction with neighborhood character. Increase satisfaction with development and growth management across the City.

Supporting Data (Surveys, Environmental Scan, etc 48% of residential respondents and 55% of businesses rate the effort put forth by the City to regulate development is "about the right amount."

Item Summary/Recommendation:

SECOND READING – PUBLIC HEARING
 The proposed Ordinance would allow for non-amplified piano or string instruments within the inside of restaurants located in the C-PS2 district, on the south side of Fifth Street between Michigan Avenue and Alton Road through the Conditional Use process.

 On February 18, 2015 the Land Use and Development Committee recommended approval of the Ordinance.

 On June 10, 2015, the City Commission: 1) accepted the recommendation of the Land Use and Development Committee via separate motion; and 2) approved the proposed Ordinance at First Reading and scheduled a Second Reading Public Hearing for July 8, 2015.

 The Administration recommends that the City Commission adopt the Ordinance.

Advisory Board Recommendation:

On April 28, 2015, the Planning Board (vote of 6-0), transmitted the attached proposal to the City Commission with a favorable recommendation. (Planning Board File No. 2252).

Financial Information:

Source of Funds:		Amount	Account
<div style="border: 1px solid black; width: 40px; height: 40px; margin: 0 auto;"></div> OBPI	1		
	2		
	3		
	Total		

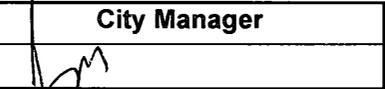
Financial Impact Summary:

In accordance with Charter section 5.02, which requires that the "City of Miami Beach shall consider the long-term economic impact (at least 5 years) of proposed legislative actions," this shall confirm that the City Administration evaluated the long-term economic impact (at least 5 years) of this proposed legislative action, and determined that there will be no measurable impact on the City's budget.

City Clerk's Office Legislative Tracking:

Thomas Mooney

Sign-Offs:

Department Director	Assistant City Manager	City Manager
		

T:\AGENDA\2015\July\PLANNING\CPS2 Entertainment - SUM Second Reading.docx

MIAMI BEACH

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

MEMO #

COMMISSION MEMORANDUM

TO: Mayor Philip Levine and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: July 8, 2015

SUBJECT: **CPS-2 Entertainment - Non-Amplified Instruments**


SECOND READING – PUBLIC HEARING

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 142 “ZONING DISTRICTS AND REGULATIONS;” ARTICLE II, “DISTRICT REGULATIONS”, DIVISION 18, “PS PERFORMANCE STANDARD DISTRICT” TO MODIFY PERMITTED USES WITHIN THE CPS-2 DISTRICT TO INCLUDE NON-AMPLIFIED PIANO AND STRING INSTRUMENTS WITHIN RESTAURANT INTERIORS; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

ADMINISTRATION RECOMMENDATION

The Administration recommends that the City Commission adopt the Ordinance.

BACKGROUND

On February 11, 2015, the City Commission (Item C4K), at the request of Comm. Michael Grieco, referred a discussion item to the Land Use and Development Committee (LUDC) regarding a proposed amendment to the City Code pertaining to allowable musical instruments within enclosed restaurants in the C-PS2 district.

On February 18, 2015, the Land Use and Development Committee (LUDC) discussed the item and proposed the attached amendment to Section 142-693(c) of the City Code pertaining to permitted uses in CPS-2 districts.

On March 11, 2015, the City Commission (Item C4B) referred the item to the Planning Board.

ANALYSIS

Section 142-693 of the Land Development Regulations lists “Permitted Uses” in the Performance Standard Districts. Presently entertainment establishments are prohibited in the areas south of Fifth Street, with the exception of certain accessory uses to large hotels. This prohibition prevents restaurants from having any sort of entertainment for the patrons.

However, there are certain circumstances under which a minimal level of entertainment would be appropriate and create no impacts to surrounding residents. The proposed Ordinance allows

for the playing of non-amplified piano or string instruments within the inside of restaurants located in the C-PS2 district, on the south side of Fifth Street between Michigan Avenue and Alton Road through the Conditional Use process. In addition to the safeguards provided by the Conditional Use process, the proposed Ordinance requires that the instruments only be located within the interior of the premises and must be played at a volume that does not interfere with normal conversation. In addition, it requires that the instruments only be played during periods in which full meals are being served, and no later than 2:00 am.

PLANNING BOARD REVIEW

On April 28, 2015, the Planning Board (by a 6-0 vote) transmitted the proposed Ordinance to the City Commission with a favorable recommendation.

FISCAL IMPACT

In accordance with Charter Section 5.02, which requires that the "City of Miami Beach shall consider the long term economic impact (at least 5 years) of proposed legislative actions," this shall confirm that the City Administration City Administration evaluated the long term economic impact (at least 5 years) of this proposed legislative action. The proposed Ordinance is not expected to have a negative fiscal impact upon the City.

SUMMARY

On June 10, 2015, the subject Ordinance was approved at First Reading.

CONCLUSION

The Administration recommends that the City Commission adopt the Ordinance.



CITY OF MIAMI BEACH NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY given that the following public hearings will be held by the Mayor and City Commissioners of the City of Miami Beach, Florida, in the Commission Chambers, Third Floor, City Hall, 1700 Convention Center Drive, Miami Beach, Florida, on **July 8, 2015**, at the times listed, or as soon thereafter as the matter can be heard:

10:00 a.m.

A Resolution To Consider Approval, Following First Reading/Public Hearing Of A Development And Ground Lease Agreement As Authorized Under Section 82-37 Of The City Code, Section 118-4 Of The City Code, And Sections 163.3220 - 163.3243, Florida Statutes, Between The City And Portman Miami Beach, LLC ("Portman"), For The Development Of An 800-Room Convention Headquarter Hotel And Related Facilities, Including Up To 95,000 Square Feet Of Conference And Ballroom Facilities, And Up To 37,400 Square Feet Of Restaurant Facilities (The "Hotel"), On An Approximately 2.65 Acre Site Bounded Roughly By The Miami Beach Convention Center To The North, 17th Street To The South, The Fillmore Miami Beach at the Jackie Gleason Theater To The East, and Convention Center Drive to the West (The "Leased Property"); Delineating The Conditions For The Design, Construction, Equipping And Operation Of The Hotel On The Leased Property With No City Funding Thereof; Providing For A 99-Year Term Of The Leased Property Once Certain Conditions Are Satisfied; Prohibiting Gambling Establishments On The Leased Property; And Providing For Base Rent To The City Once The Hotel Opens, Including, After The Third Year Following The Hotel's Opening And Each Year Thereafter, Four Percent (4%) Of The Gross Revenues Of The Hotel; And Further Setting The Second And Final Reading Of The Development And Ground Lease Agreement For A Time Certain. *Inquiries may be directed to the Office of the City Attorney at 305.673.7470.*

10:05 a.m.

A Resolution Accepting The Recommendation Of The Finance And Citywide Projects Committee, And Approving And Authorizing The Mayor And City Clerk To Execute A New Lease Agreement Between The City And SB Waxing, Inc. D/B/A Uni-K-Wax (Tenant), For An Initial Term Of Five (5) Years, With One (1) Renewal Option For Four (4) Years And Three Hundred And Sixty Four (364) Days, Involving The Use Of Approximately 1,291 Square Feet Of City-Owned Property Located At 1701 Meridian Avenue, Unit 3 (W/WA 771 17th Street), Miami Beach, Florida (Premises); And Further Waiving By 5/7th Vote, The Competitive Bidding Requirement, Finding Such Waiver To Be In The Best Interest Of The Public. *Inquiries may be directed to the Tourism, Culture and Economic Development Department at 305.673.7577.*

10:10 a.m.

A Resolution Approving, On Second And Final Reading Of This Resolution And Following A Daily Noticed Public Hearing, The Transfer, Via Quit Claim Deed, To The Florida Department Of Transportation (FDOT) The Property Identified In Exhibit A, As The Property Has Been Constructed Upon By FDOT And Utilized As A Turning Lane From Michigan Avenue Onto Alton Road; Containing Approximately 4,014 Square Feet In Total Area; Waiving By 5/7th Vote, The Competitive Bidding Requirements And Independent Appraisal Requirements Of Section 82-39 Of The City Code, Finding That The Public Interest Would Be Served By Waiving Such Conditions. *Inquiries may be directed to the Office of the City Attorney at 305.673.7470.*

10:15 a.m.

A Resolution Pursuant To Section 142-425(D) Of The City Code, Waiving By 5/7th Vote Of The City Commission After Public Hearing, The Development Regulations Under Chapters 130 And 142 Of The Land Development Regulations Of The City Code Pertaining To Required Off-Street Parking Spaces And Minimum Required Setbacks, At The Bass Museum Of Art, 2100 Collins Avenue. *Inquiries may be directed to the Planning Department at 305.673.7550.*

10:20 a.m.

An Ordinance Amending Chapter 142 "Zoning Districts And Regulations," Article II, "District Regulations," Division 18, "PS Performance Standard District" To Modify Permitted Uses Within The CPS-2 District To Include Non-Amplified Piano And String Instruments Within Restaurant Interiors; Providing For Repealer, Severability, Codification; And An Effective Date. *Inquiries may be directed to the Planning Department at 305.673.7550.*

10:25 a.m.

An Ordinance Amending The Land Development Regulations Of The City Code, By Amending Chapter 142, "Zoning Districts And Regulations," Article II, "District Regulations," Division 3, "Residential Multi-Family Districts," Subdivision II, "RM-1 Residential Multifamily Low Intensity," To Prohibit Bed And Breakfast Inns Within The Palm View Local Historic District; By Amending Article V, "Specialized Use Regulations," Division 7, "Bed And Breakfast Inns," To Prohibit Bed And Breakfast Inns Within The Palm View Local Historic District; Providing For Codification, Repealer, Severability And An Effective Date. *Inquiries may be directed to the Planning Department at 305.673.7550.*

10:30 a.m.

An Ordinance Amending Chapter 114 "General Provisions," Section 114-1, "Definitions", By Modifying The Definition Of Commercial Vehicle; By Amending Chapter 142 "Zoning Districts And Regulations," Article IV, "Supplementary District Regulations", Division 1, "Generally" To Modify The Requirements For Required Enclosures To Create An Allowance For The Outdoor Exposure Of Rental Car Vehicles; Providing For Repealer, Severability, Codification; And An Effective Date. *Inquiries may be directed to the Planning Department at 305.673.7550.*

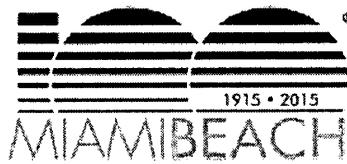
Dr. Stanley Sutnick Citizen's Forum - Pursuant to Resolution No. 2013-28440, the times for the Dr. Stanley Sutnick Citizen's Forum are **8:30 a.m.** and **1:00 p.m.**, or as soon as possible thereafter. Approximately thirty minutes will be allocated to each session, with individuals being limited to no more than three minutes or for a period established by the Mayor. No appointment or advance notification is needed in order to speak to the Commission during this Forum.

INTERESTED PARTIES are invited to appear at this meeting, or be represented by an agent, or to express their views in writing addressed to the City Commission, c/o the City Clerk, 1700 Convention Center Drive, 1st Floor, City Hall, Miami Beach, Florida 33139. Copies of these items are available for public inspection during normal business hours in the Office of the City Clerk, 1700 Convention Center Drive, 1st Floor, City Hall, Miami Beach, Florida 33139. This meeting, or any item herein, may be continued, and under such circumstances, additional legal notice need not be provided.

Pursuant to Section 286.0105, Fla. Stat., the City hereby advises the public that if a person decides to appeal any decision made by the City Commission with respect to any matter considered at its meeting or its hearing, such person must ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

To request this material in alternate format, sign language interpreter (five-day notice required), information on access for persons with disabilities, and/or any accommodation to review any document or participate in any City-sponsored proceedings, call 305.604.2489 and select 1 for English or 2 for Spanish, then option 6; TTY users may call via 711 (Florida Relay Service).

Rafael E. Granado, City Clerk
City of Miami Beach



CITY OF MIAMI BEACH

NOTICE OF AMENDMENT TO THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF MIAMI BEACH CODE OF ORDINANCES

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY given that a public hearing will be held by the Mayor and City Commissioners of the City of Miami Beach, Florida, in the Commission Chambers, Third Floor, City Hall, 1700 Convention Center Drive, Miami Beach, Florida, on **July 8, 2015 at 10:20 a.m.**, or as soon thereafter as the matter can be heard, to consider:

CPS-2 Non-Amplified Instruments.

An Ordinance Amending Chapter 142 "Zoning Districts And Regulations;" Article II, "District Regulations", Division 18, "PS Performance Standard District" To Modify Permitted Uses Within The CPS-2 District To Include Non-Amplified Piano And String Instruments Within Restaurant Interiors; Providing For Repealer; Severability; Codification; And An Effective Date.

Inquiries may be directed to the Planning Department at 305.673.7550.

INTERESTED PARTIES are invited to appear at this meeting, or be represented by an agent, or to express their views in writing addressed to the City Commission, c/o the City Clerk, 1700 Convention Center Drive, First Floor, City Hall, Miami Beach, Florida 33139. This item is available for public inspection during normal business hours in the Office of the City Clerk, 1700 Convention Center Drive, First Floor, City Hall, Miami Beach, Florida 33139. This item may be continued, and under such circumstances, additional legal notice need not be provided.

Pursuant to Section 286.0105, Fla. Stat., the City hereby advises the public that if a person decides to appeal any decision made by the City Commission with respect to any matter considered at its meeting or its hearing, such person must ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

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Rafael E. Granado, City Clerk
City of Miami Beach

Ad 1034

IN RE: CITY OF MIAMI BEACH COMMISSION MEETING
ITEM NO.: ITEM R5A PUBLIC HEARING

CITY OF MIAMI BEACH
COMMISSION MEETING

JULY 8, 2015

ITEM R5A PUBLIC HEARING

CPS-2 ENTERTAINMENT

1 COMMISSION MEMBERS:

2 PHILIP LEVINE, MAYOR
3 MICHAEL GRIECO, COMMISSIONER
4 JOY MALAKOFF, COMMISSIONER
5 EDWARD L. TOBIN, COMMISSIONER
6 DEEDE WEITHORN, COMMISSIONER
7 MICKY STEINBERG, COMMISSIONER

8

9 ALSO PRESENT:

10

11 JIMMY L. MORALES, CITY MANAGER
12 RAUL J. AGUILA, CITY ATTORNEY
13 RAFAEL E. GRANADO, CITY CLERK

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1 (Thereupon:)

2 MAYOR LEVINE: Okay. Ms. Clerk,
3 R5A.

4 THE CLERK: R5A is an ordinance of
5 the Mayor and City Commission of the City
6 of Miami Beach, Florida, amending
7 Chapter 142, zoning districts and
8 regulations Article 2, district regulations
9 Division 18, PS performance standard
10 district, to modify permitted uses within
11 the CPS-2 district.

12 To include nonamplified piano and
13 string instruments within restaurants'
14 interiors providing for repeal or
15 severability, codification and an effective
16 date.

17 This is a second reading public
18 hearing. This item requires a five-seventh
19 vote.

20 MAYOR LEVINE: Okay.

21 UNIDENTIFIED SPEAKER: Okay.

22 Mr. Mayor, this particular ordinance was
23 approved at first reading on June 10th and
24 it would create the allowance on a very
25 limited basis for certain types of

1 entertainment within the C-PS2 district
2 south of 5th Street, specifically
3 nonamplified piano or string instruments
4 within the inside of restaurants on the
5 south side of 5th Street between Michigan
6 Avenue and Alton Road would be allowed
7 through the conditional use process.

8 The music would have to be played at
9 a volume that does not interfere with
10 normal conversation and also the
11 instruments could only be played during
12 periods in which full meals are being
13 served and no later than 2 a.m.

14 MAYOR LEVINE: Okay. Commissioner
15 Malakoff, do you want --

16 COMMISSIONER MALAKOFF: I received
17 some comments from people from south of 5th
18 neighborhood, and I want to emphasize it's
19 nonamplified piano and string instruments.
20 This makes a huge difference, because the
21 amplification of whether it's a piano or a
22 guitar, the decibels go way, way, way up,
23 and the other part is that it still has to
24 go through the conditional use process.

25 UNIDENTIFIED SPEAKER: Yeah, Frank

1 Del Vecchio.

2 MAYOR LEVINE: Do you want to open
3 it up? Someone open it up.

4 COMMISSIONER MALAKOFF: No, I move
5 that the public hearing be open.

6 COMMISSIONER GRIECO: And just so --
7 just so everybody knows, yeah, I'm
8 obviously very sensitive to -- to the
9 concerns out in the 5th. I made sure that,
10 that -- that SOFNA was involved in the
11 conversation, I spoke with several of their
12 members.

13 I know that Frank and I have had
14 several conversations about this over,
15 I don't know, maybe a six-month period,
16 this has gone through the ringer a few
17 times. And mind you, this is on the south
18 side of 5th Street, which is -- it's a
19 commercial corridor, this is a very
20 specific area. It's not some slippery
21 slope issue, and it's for non -- it's
22 pianos and stringed instruments and
23 nonamplified.

24 It's -- it's a micro issue, and
25 I defer to Mr. Del Vecchio if he has any

1 comments as well.

2 MR. DEL VECCHIO: Frank Del Vecchio,
3 301 Ocean Drive. I think this is
4 supportable. What I would like to say to
5 the members of the commission is that for
6 many years south of 5th activists have
7 worked closely with restaurants and coming
8 before boards for land development
9 approvals, and we've had really a very
10 productive working relationship where
11 they've agreed to limit outdoor
12 entertainment and outdoor hours.

13 There's a particular problem on a --
14 on a small corner of south of 5th running
15 west of Michigan to Alton. There are two
16 relatively new commercial buildings that
17 have been attempting to lease its
18 restaurant space, ground floor space.

19 Those are -- there are absolutely no
20 adjacent or nearby residential. Each of
21 these two commercial buildings has interior
22 parking, so in the event a restaurant that
23 takes advantage, now, of this opportunity
24 does open, the -- there will be no
25 penetration of destination traffic coming

1 to these restaurants into the south of 5th
2 community. This is a very isolated
3 segment. There will be no adverse impacts
4 on the community, and I think in the spirit
5 of working with the commercial community,
6 this is benign, and it will not adversely
7 affect other businesses or other residents
8 and I recommend you enact it. Thank you.

9 MAYOR LEVINE: Thank you, Mr. Del
10 Vecchio.

11 MR. DEL VECCHIO: Thank you.

12 MAYOR LEVINE: Thank you. Okay.
13 Someone to move it?

14 COMMISSIONER GRIECO: Do we have
15 any --

16 MAYOR LEVINE: Any discussion?

17 COMMISSIONER GRIECO: (Inaudible.)

18 MAYOR LEVINE: Do you want to close
19 the public hearing?

20 COMMISSIONER MALAKOFF: Yeah, motion
21 to close the public hearing.

22 MAYOR LEVINE: Okay.

23 COMMISSIONER GRIECO: I'll move the
24 item if there's no concerns.

25 MAYOR LEVINE: Okay.

1 COMMISSIONER MALAKOFF: Second.

2 MAYOR LEVINE: There's a second,
3 okay. All those in favor -- oh, you'll do
4 a --

5 THE CLERK: Roll call.

6 MAYOR LEVINE: Okay.

7 THE CLERK: Commissioner Steinberg?

8 COMMISSIONER STEINBERG: Yes.

9 THE CLERK: Vice Mayor Tobin?

10 VICE MAYOR TOBIN: Yes.

11 THE CLERK: Commissioner Malakoff?

12 COMMISSIONER MALAKOFF: Yes.

13 THE CLERK: Commissioner Greco?

14 COMMISSIONER GRIECO: Yes.

15 THE CLERK: Commissioner Wolfson is
16 absent.

17 Commissioner Weithorn?

18 COMMISSIONER WEITHORN: Yes.

19 THE CLERK: Mayor Levine.

20 MAYOR LEVINE: Yes.

21 THE CLERK: Motion carries, the item
22 is approved.

23 (End of recording.)

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CERTIFICATE

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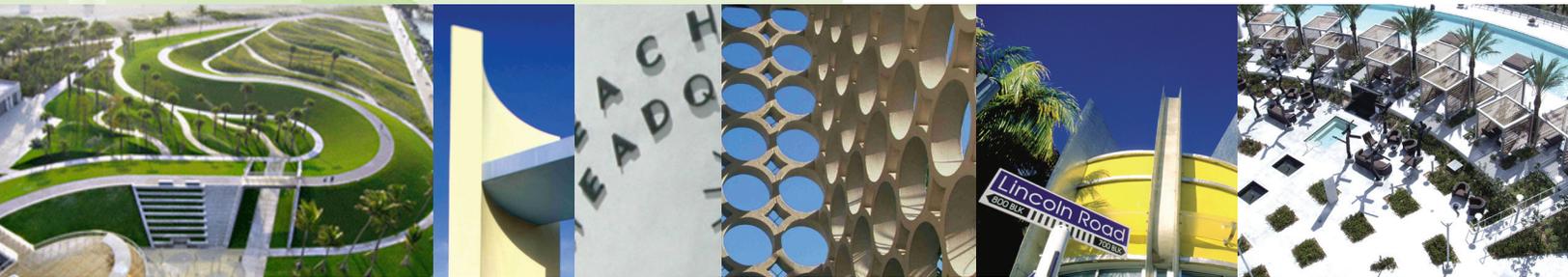
I, Matthew J. Haas, Court Reporter and
Transcriptionist, do hereby certify that I was
authorized to and did listen to and
stenographically transcribe the foregoing
recorded proceedings and that the transcript is a
true record to the best of my professional
ability.

Dated this 22nd day of January,
2017.



MATTHEW J. HAAS
Court reporter

2025 COMPREHENSIVE PLAN



MIAMI BEACH

City of Miami Beach Mission Statement

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

Vision Statement

Cleaner and Safer; Beautiful and Vibrant; A Unique Urban and Historic Environment; A Mature, Stable, Residential Community with Well-Improved Infrastructure; A Cultural, Entertainment Tourism Capital; An International Center for Innovation and Business

Value Statements

- We maintain the City of Miami Beach as a **world-class city**.
- We work as a cooperative team of well-trained **professionals**.
- We serve the public with **dignity and respect**.
- We conduct the business of the city with **honesty, integrity, and dedication**.
- We are **ambassadors of good will** to our residents, visitors, and the business community.



MIAMI BEACH



MIAMI BEACH

CITY OF MIAMI BEACH COMMISSION

Mayor Matti Herrera Bower
Commissioner Jorge Expósito
Commissioner Michael Góngora
Commissioner Jerry Libbin
Commissioner Edward L. Tobin
Commissioner Deede Weithorn
Commissioner Jonah Wolfson

Jorge M. Gonzalez
City Manager

Jose Smith
City Attorney

CITY OF MIAMI BEACH PLANNING BOARD

Jonathan Beloff
Jonathan Fryd
Seth Frohlich
Jorge Kuperman
Henry Stolar
Daniel Veitia
Randy Weisburd

Prepared by
City of Miami Beach Planning Department

Jorge G. Gomez, AICP
Assistant City Manager

Richard G. Lorber, AICP, LEED AP
Acting Planning Director

Mercedes Lamazares, AICP
Principal Planner

Gary M. Held
First Assistant City Attorney

CITY OF MIAMI BEACH
YEAR 2025 COMPREHENSIVE PLAN

Adopted April 13, 2011
Effective July 1, 2011

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, ADOPTING AMENDMENTS TO THE CITY'S COMPREHENSIVE PLAN TO INCLUDE NEW OR REVISED AND/OR UPDATED GOALS, OBJECTIVES AND POLICIES IN THE FOLLOWING ELEMENTS; FUTURE LAND USE, TRANSPORTATION, HOUSING, INFRASTRUCTURE, CONSERVATION/ COASTAL ZONE MANAGEMENT, RECREATION AND OPEN SPACE, CAPITAL IMPROVEMENTS, INTERGOVERNMENTAL AND HISTORIC PRESERVATION; ALL IN RELATION TO CERTAIN ITEMS IDENTIFIED IN THE CITY'S 2005-2007 EVALUATION AND APPRAISAL REPORT (EAR) INCLUDING RESPONSES TO THE OBJECTIONS, RECOMMENDATION AND COMMENTS REPORT (ORC); AND AUTHORIZING AND DIRECTING THE CITY ADMINISTRATION TO SUBMIT THE ADOPTED AMENDMENTS TO THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS AND ANY OTHER REQUIRED STATE AND LOCAL AGENCIES; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 163.3191(1), Florida Statutes, local governments are required to prepare and adopt an Evaluation and Appraisal Report (EAR) as one component of the local planning process; and,

WHEREAS, at its September 26, 2007 meeting the City Commission adopted the EAR which was determined to be sufficient to meet the requirements of Section 163.3191, Florida Statutes; and

WHEREAS, the adopted EAR made certain recommendations for updates and amendments to the City's Comprehensive Plan; and

WHEREAS, the City of Miami Beach has proposed amendments to the policies of the comprehensive plan; and

WHEREAS, the City Commission hereby finds that the adoption of this Ordinance is in the best interest and welfare of the residents of the City; and

WHEREAS, the City Commission, upon first reading of this Ordinance, authorized transmittal of the EAR-based amendments to the Comprehensive Plan to the Department of Community Affairs and review agencies for the purpose of a review in accordance with Sections 163.3184, 163.3187, 163.3189 and 163.3191, Florida Statutes; and

WHEREAS, the Florida Department of Community Affairs completed its review of the proposed EAR-based Comprehensive Plan amendments for consistency with Rule 9J-5, Florida Administrative Code, and Chapter 163, Part II, Florida Statutes and prepared the Objections, Recommendations and Comments Report (ORC) identifying certain objections to the proposed amendments; and

WHEREAS, the Administration reviewed the Objections and made adjustments to the language of the proposed amendments in order to respond and comply with the Objections listed in the ORC Report; and

WHEREAS, the City Commission of the City of Miami Beach, upon second reading public hearing is in agreement with the changes made to the proposed amendments and adopts such amendments to the City's Comprehensive Plan.

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

SECTION 1.

The City Commission hereby adopts the proposed amendments to the City's Comprehensive Plan according to the recommendations of the 2005-2007 EAR, and in response to the Department of Community Affairs ORC Report at the public hearing held on April 13, 2011.

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 Comprehensive Plan of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or relettered 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.

This Ordinance is not severable, and if any provision hereof is declared invalid, the Ordinance shall be returned to the City Commission for reconsideration.

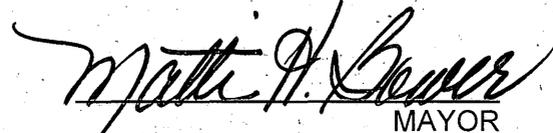
SECTION 5. EFFECTIVE DATE.

This ordinance shall be effective immediately after the adoption hereof.

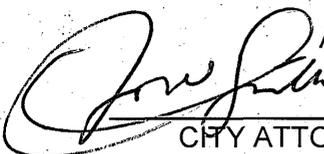
PASSED AND ADOPTED this 13th day of April, 2011.

ATTEST:


CITY CLERK


MAYOR

APPROVED AS TO FORM
AND LANGUAGE
AND FOR EXECUTION


CITY ATTORNEY

4/5/11
DATE



First Reading: September 15, 2010
Second Reading: April 13, 2011
Verified by:



Richard G. Lorber, AICP
Acting Planning Director

~~Strikethrough~~ denotes deleted language
Underscore denotes new language
Double underscore denotes amended language

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FUTURE LAND USE ELEMENT

GOAL

Ensure that the character and location of land uses maximize the potential for economic benefit and the enjoyment of natural and man-made resources by citizens while minimizing the threat to health, safety and welfare posed by hazards, nuisances, incompatible land uses and environmental degradation.

OBJECTIVE 1: LAND DEVELOPMENT REGULATIONS

Future growth and development, redevelopment and rehabilitation will be managed through the preparation, adoption, implementation and enforcement of land development regulations.

Policy 1.1

Continue to administer land development regulations (LDR) consistent with s.163.3202, F.S. that shall contain specific and detailed provisions required to implement the adopted Comprehensive Plan and which as a minimum:

1. Regulate the subdivision of land;
2. Regulate the use of land and water consistent with this Element and ensure the compatibility of adjacent land uses and provide for open space;
3. Protect the Conservation (beach) lands designated on the Future Land Use Map and in the Conservation Element;
4. Regulate areas subject to seasonal and periodic flooding and provide for drainage and stormwater management;
5. Regulate design of architecturally significant and oceanfront buildings;
6. Regulate signage;
7. Ensure safe and convenient traffic flow and vehicle parking needs; and
8. Provide that development orders and permits shall not be issued which result in a reduction of the level of services for the affected public facilities below the level of service standards adopted in this Comprehensive Plan.

Note: The Zoning Ordinance of the City was extensively amended in 1989 to carry out the 1989 Comprehensive Plan resulting in a set of land development regulations (LDR). The Zoning Ordinance was codified and included in the City Code as

Subpart B, Land Development Regulations adopted by ordinance on July 1, 1998.

Policy 1.2

The land development regulations which implement this Comprehensive Plan shall, at a minimum, be based on and be consistent with s.163.3202, F.S., and shall further be based on the following standards for land use category, land use intensity and land use:

Single Family Residential Category (RS)

Purpose: To provide development opportunities for and to enhance the desirability and quality of existing and new single family residential development.

Uses which may be permitted: Single family detached dwellings.

Density Limits: 7 residential units per acre.

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.

Townhome Residential Category (TH)

Purpose: To provide development opportunities for and to enhance the desirability and quality of existing and/or new townhome residential areas.

Uses which may be Permitted: Single family detached dwellings and townhome dwellings. For the purposes of this use limitation, townhome dwellings are dwellings arranged on a site with other townhome dwellings in such a way that none of the townhome dwellings are above or below one another and so that each has its own entrance to the out of doors.

Density Limits: 30 dwellings units per acre.

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 base intensity exceed a floor area ratio of 0.7

Low Density Planned Residential Category (RM-PRD)

Purpose: To provide development opportunities for and to enhance the desirability and quality of existing and/or new low density single family and multiple family residential areas in large scale developments which are carried out in accordance with an overall development master plan and which have a greater variety of height, set back and similar configurations than would be appropriate in lot-by-lot development, and which

may contain a limited accessory commercial component, not to exceed one-percent (1%) of the lot area of the site.

Uses which may be Permitted: Single family detached dwellings, single family attached dwellings, townhouse dwellings, multiple family dwellings, and limited accessory commercial uses not to exceed one-percent (1%) of the lot area of the site.

Density Limits: 25 dwelling units per acre.

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 on 1.6.

Low Density Multi Family Residential Category (RM-1)

Purpose: To provide development opportunities for and to enhance the desirability and quality of existing and/or new low density multi family residential areas.

Uses which may be permitted: Single family detached dwellings; single family attached dwellings, townhouse dwellings and multiple family dwellings, and hotels for properties fronting Harding Avenue or Collins Avenue from the City Line on the north to 73rd Street on the south.

Bed and breakfast inns are permitted in RM-1 only in the Flamingo Park Historic District and the West Avenue Bay Front Overlay District, both of which are described in the Land Development Regulations. Residential office and suite hotel uses are permitted in the West Avenue Bay Front Overlay District only.

Other uses which may be permitted are accessory uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to be subordinate to the main use; and conditional uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to go through a public hearing process as prescribed in the Land Development Regulations of the Code of the City of Miami Beach.

Density Limits: 60 dwellings units per acre.

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 1.25, except for the following:

- the west side of Collins Avenue between 76th and 79th Streets shall not exceed a floor area ratio of 1.4; and
- Public and private institutions on a lot area equal to or less than 15,000 sq. ft shall not exceed a floor area ratio of 1.25, or for a lot area greater than 15,000 sq. ft. the floor area ratio shall not exceed 1.4

Medium Density Multi Family Residential Category (RM-2)

Purpose: To provide development opportunities for and to enhance the desirability and quality of existing and/or new medium density multi family residential areas.

Uses which may be permitted: Single family detached dwellings, single family attached dwellings, townhouse dwellings, multiple family dwellings, apartment hotels and hotels. Residential office uses are permitted in RM-2 only in the West Avenue Bay Front Overlay District, as described in the Land Development Regulations.

Other uses which may be permitted are accessory uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to be subordinate to the main use; and conditional uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to go through a public hearing process as prescribed in the Land Development Regulations of the Code of the City of Miami Beach.

Density Limits: 100 dwelling units per acre.

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.

High Density Multi Family Residential Category (RM-3)

Purpose: To provide development opportunities for and to enhance the desirability and quality of existing and/or new high density multi family residential and hotel areas.

Uses which may be permitted: Single family detached dwellings, single family attached dwellings, townhouse dwellings, multiple family dwellings, apartment hotels and hotels.

Other uses which may be permitted are accessory uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to be subordinate to the main use; and conditional uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to go through a public hearing process as prescribed in the Land Development Regulations of the Code of the City of Miami Beach.

Density Limits: 150 dwelling units per acre.

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 the following:

- a floor area ratio of 4.25 2.25 on lot area equal to or less than 45,000 sq. ft.;
- a floor area ratio of 2.75 on lot area greater than 45,000 sq. ft.;
- a floor area ratio 3.0 on oceanfront lots with lot area greater than 45,000 sq. ft.

- a floor area ratio of 2.0 on oceanfront lots in architectural district
- a floor area ratio of 3.0 for lots which, as of November 14, 1998, are oceanfront lots with a lot area greater than 100,000 sq. ft. with an existing building, however, the lesser of an additional floor area ratio of 0.15 or 20,000 sq. ft. for the purpose of providing hotel amenities.

Low Intensity Commercial Category (CD-1)

Purpose: To provide development opportunities for and to enhance the desirability and quality of existing and/or new low intensity commercial areas which primarily serve surrounding residential neighborhoods.

Uses which may be permitted: Various types of commercial uses including business and professional offices, retail sales and service establishments, eating and drinking establishments and apartment residential uses.

Other uses which may be permitted are accessory uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to be subordinate to the main use; and conditional uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to go through a public hearing process as prescribed in the Land Development Regulations of the Code of the City of Miami Beach.

Density Limits: 60 dwelling units per acre.

Intensity Limits: a floor area ratio of 1.0 for Commercial; 1.25 for residential or mixed use.

Medium Intensity Commercial Category (CD-2)

Purpose: To provide development opportunities for and to enhance the desirability and quality of existing and/or new medium intensity commercial areas which serve the entire City.

Uses which may be Permitted: Various types of commercial uses including business and professional offices, retail sales and service establishments, eating and drinking establishments; apartment residential uses; apartment hotels; and hotels.

Other uses which may be permitted are accessory uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to be subordinate to the main use; and conditional uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to go through a public hearing process as prescribed in the Land Development Regulations of the Code of the City of Miami Beach.

Density Limits: 100 dwelling units per acre.

Intensity Limits: a floor area ratio of 1.5 for commercial; 2.0 for residential or mixed use.

High Intensity Commercial Category (CD-3)

Purpose: To provide development opportunities for and to enhance the desirability and quality of existing and/or new medium intensity commercial areas which primarily serve the entire City.

Uses which may be Permitted: Various types of commercial uses including business and professional offices, retail sales and service establishments, eating and drinking establishments; apartment residential uses; apartment hotels; and hotels.

Other uses which may be permitted are accessory uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to be subordinate to the main use; and conditional uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to go through a public hearing process as prescribed in the Land Development Regulations of the Code of the City of Miami Beach.

Density Limits: 150 dwelling units per acre.

Intensity Limits:

- a floor area ratio of 2.25 on lot area equal to or less than 45,000 sq. ft.;
- a floor area ratio of 2.75 on lot area greater than 45,000 sq. ft.;
- a floor area ratio 3.0 on oceanfront lots with lot area greater than 45,000 sq. ft.
- a floor area ratio of 2.0 on oceanfront lots in architectural district
- a floor area ratio of 3.0 for lots which, as of November 14, 1998, are oceanfront lots with a lot area greater than 100,000 sq. ft. with an existing building, however, the lesser of an additional floor area ratio of 0.15 or 20,000 sq. ft. for the purpose of providing hotel amenities may be available.

Residential / Office Category (RO)

Purpose: To provide development opportunities for and to enhance the desirability and quality of existing and/or new office residential areas which are compatible with single family and other residential development.

Uses which may be permitted: Offices and certain residential uses including single family detached dwellings, single family attached dwellings, townhouse dwellings and multiple family dwellings.

Other uses which may be permitted are accessory uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to be subordinate to the main use; and conditional uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to go through a public hearing process as prescribed in the Land Development Regulations of the Code of the City of Miami Beach.

Density Limits: 56 dwelling units per acre.

Intensity Limits: a floor area ratio of 1.25.

Marine Recreation (MR)

Purpose: To provide development opportunities for existing and new recreational boating activities and services facilities.

Uses which may be permitted: Marinas; boat docks; piers; etc. for noncommercial or commercial vessels and related upland structures; aquarium, restaurants, commercial uses.

Intensity Limits: Intensity may be limited by such setback, 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 complimentary public policy. However, in no case shall the intensity exceed a floor area ratio of 0.25.

Mixed Use Entertainment Category (MXE)

Purpose: To provide development opportunities for and to enhance the desirability and quality of existing and/or new mixed use areas which accommodate residential, hotel and commercial development.

Uses which may be permitted: Apartments, apartment hotels, hotels and various types of commercial uses including, business and professional offices (but not medical or dental offices), retail sales and service establishments, and eating and drinking establishments.

Other uses which may be permitted are accessory uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to be subordinate to the main use; and conditional uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to go through a public hearing process as prescribed in the Land Development Regulations of the Code of the City of Miami Beach.

Density Limits: 100 dwelling units per acre.

Intensity Limits: a floor area ratio of 2.0.

Public Facility: Educational (PFE)

Purpose: To provide development opportunities for existing and new public educational facilities.

Uses which may be permitted: Public educational facilities.

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.

Special Public Facilities Educational Category (SPE)

Purpose: To provide development opportunities for existing and new educational and religious facilities.

Uses which may be Permitted: Public or private schools or educational or classroom facilities from pre-school through graduate and religious facilities including mikvehs.

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 2.5 with the following exceptions: those sites as defined in the City of Miami Beach Zoning Ordinance as the Fana Holtz High School Parcel shall have a maximum floor area ratio of 3.0 and the Mikveh Parcel shall have a maximum floor area ratio of 1.0.

Public Facility Hospital - PF (PF- HD)

Purpose: To provide development opportunities for existing hospital facilities.

Uses which may be permitted: hospital facilities.

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 on 3.0.

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.

Public Facility: Convention Center Facilities (PF-CCC)

Purpose: To provide development opportunities for existing convention center and facilities necessary to support the convention center.

Uses which may be permitted: Convention facilities.

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 2.75

Parking (P)

Purpose: to provide development opportunities for existing and new parking facilities.

Uses which may be permitted; Parking facilities and commercial uses when located on frontage opposite a land use category that permits commercial use.

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 on 3.0.

Recreation and Open Space including Waterways (ROS)

Purpose: To provide development opportunities for existing and new recreation and open space facilities, including waterways.

Uses which may be permitted: Recreation and open space facilities, including waterways.

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 on 0.5

Conservation Protected (C)

Purpose: To designate Atlantic dune locations which are protected from the inappropriate encroachment of development because they are a valuable natural resource that is unsuitable for most types of development in its natural state.

Uses which may be permitted: Open space.

Urban Light Industrial (I-1)

Purpose: To provide development opportunities for existing and new light industrial facilities.

Uses which may be permitted: Light industrial and compatible retail and service facilities.

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 1.0.

Other uses which may be permitted are accessory uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to be subordinate to the main use; and conditional uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to go through a public hearing process as prescribed in the Land Development Regulations of the Code of the City of Miami Beach.

Medium-Low Density Residential “Performance Standard” Category (R-PS-1)

Purpose: To provide development opportunities for and to enhance the desirability and quality of existing and/or new residential areas which accommodate a mix of different residential types developed in accordance with flexible design standards.

Uses which may be Permitted: Single family detached dwellings, single family attached dwellings, townhouse dwellings, apartments, apartment hotels and institutional uses.

Other uses which may be permitted are accessory uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to be subordinate to the main use; and conditional uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to go through a public hearing process as prescribed in the Land Development Regulations of the Code of the City of Miami Beach.

Density Limits: 57 dwelling units per acre.

Intensity Floor Area Ratio Limits: 1.25.

Medium Density Residential “Performance Standard” Category (R-PS-2)

Purpose: To provide development opportunities for and to enhance the desirability and quality of existing and/or new residential areas which accommodate a mix of different residential types developed in accordance with flexible design standards.

Uses which may be Permitted: Single family detached dwellings, single family attached dwellings, townhouse dwellings, apartments, apartment hotels and institutional uses.

Other uses which may be permitted are accessory uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to be subordinate to the main use; and conditional uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to go through a public hearing process as prescribed in the Land Development Regulations of the Code of the City of Miami Beach.

Density Limits: 70 dwelling units per acre.

Intensity Floor Area Ratio Limits: 1.50

Medium-High Density Residential “Performance Standard” Category (R-PS-3)

Purpose: To provide development opportunities for and to enhance the desirability and quality of existing and/or new residential areas which accommodate a mix of different residential types developed in accordance with flexible design standards.

Uses which may be Permitted: Single family detached dwellings, single family attached dwellings, townhouse dwellings, apartments, apartment hotels and institutional uses.

Other uses which may be permitted are accessory uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to be subordinate to the main use; and conditional uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to go through a public hearing process as prescribed in the Land Development Regulations of the Code of the City of Miami Beach.

Density Limits: 85 dwelling units per acre.

Intensity Floor Area Ratio Limits: 1.75

High Density Residential “Performance Standard” Category (R-PS-4)

Purpose: To provide development opportunities for and to enhance the desirability and quality of existing and/or new residential areas which accommodate a mix of different residential types developed in accordance with flexible design standards.

Uses which may be Permitted: Single family detached dwellings, single family attached dwellings, townhouse dwellings, apartments, apartment hotels, hotels and institutional uses.

Other uses which may be permitted are accessory uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to be subordinate to the main use; and conditional uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to go through a public hearing process as prescribed in the Land Development Regulations of the Code of the City of Miami Beach.

Density Limits: 102 dwelling units per acre.

Intensity Floor Area Ratio Limits: 2.0

Limited Mixed Use Commercial “Performance Standard” Category (C-PS1)

Purpose: To provide development opportunities for and to enhance the desirability and quality of existing and/or new residential areas which accommodate a mix of different residential types developed in accordance with flexible design standards.

Uses which may be Permitted: Single family detached dwellings, single family attached dwellings, townhouse dwellings, apartments, apartment hotels, hotels and commercial uses.

Other uses which may be permitted are accessory uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to be subordinate to the main use; and conditional uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to go through a public hearing process as prescribed in the Land Development Regulations of the Code of the City of Miami Beach.

Density Limits: 80 dwelling units per acre.

Intensity Floor Area Ratio Limits: 2.0.

General Mixed Use Commercial “Performance Standard” Category (C-PS2)

Purpose: To provide development opportunities for and to enhance the desirability and quality of existing and/or new residential areas which accommodate a mix of different residential types developed in accordance with flexible design standards.

Uses which may be Permitted: Single family detached dwellings, single family attached dwellings, townhouse dwellings, apartments, apartment hotels, hotels and commercial uses.

Other uses which may be permitted are accessory uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to be subordinate to the main use; and conditional uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to go through a public hearing process as prescribed in the Land Development Regulations of the Code of the City of Miami Beach.

Density Limits: 106 dwelling units per acre.

Intensity Floor Area Ratio Limits: 2.0.

Intensive Mixed Use Commercial “Performance Standard” Category (C-PS3)

Purpose: To provide development opportunities for and to enhance the desirability and quality of existing and/or new residential areas which accommodate a mix of different residential types developed in accordance with flexible design standards.

Uses which may be Permitted: Single family detached dwellings, single family attached dwellings, townhouse dwellings, apartments, apartment hotels, hotels, and commercial uses.

Other uses which may be permitted are accessory uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to be subordinate to the main use; and conditional uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to go through a public hearing process as prescribed in the Land Development Regulations of the Code of the City of Miami Beach.

Density Limits: 125 dwelling units per acre.

Large Lot and Urban Design Bonus Intensity Floor Area Ratio Limits: 2.5.

Phased Bayside Intensive Mixed Use Commercial “Performance Standard” Category (C-PS4)

Purpose: To provide development opportunities for and to enhance the desirability and quality of existing and/or new residential areas which accommodate a mix of different residential types developed in accordance with flexible design standards.

Uses which may be Permitted: Single family detached dwellings, single family attached dwellings, townhouse dwellings, apartments, apartment hotels, hotels and commercial uses.

Other uses which may be permitted are accessory uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to be subordinate to the main use; and conditional uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to go through a public hearing process as prescribed in the Land Development Regulations of the Code of the City of Miami Beach.

Density Limits: 125 dwelling units per acre.

Intensity Floor Area Ratio Limits: 2.5.

Town Center Core Category (TC-1)

Purpose: To encourage and enhance the high-intensity commercial employment center function of the Town Center’s core area, as well as, support the Town Center’s role as the hub of community-wide importance for business, office, retail, governmental services, culture and entertainment.

Uses which may be Permitted: Various types of commercial uses including, business and professional offices, retail sales and service establishments, eating and drinking establishments; and apartment residential uses; apartment hotels; and hotels.

Other uses which may be permitted are accessory uses that are incidental to and customarily associated with the main permitted uses such as accessory outdoor bar counter, sidewalk café, storage of supplies normally used in connection with a permitted use, off-street parking and loading, and other similar accessory uses.

The conditional uses which may be permitted are public and private institutions such as adult congregate living facilities, nursing homes, religious uses, schools, day care, museums, theaters, cultural and similar uses; parking lots and garages; commercial uses of an impact or intensity deemed to require additional review such as outdoor entertainment establishment, neighborhood impact establishment, open air entertainment establishment; and video arcades.

Density Limits: **150** dwelling units per acre;

Intensity Limits: a floor area ratio of **2.25** on lot area equal to or less than 45,000 sq. ft. and a floor area ratio of **2.75** on lot area greater than 45,000 sq. ft.

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 **2.75**.

Town Center Commercial Category (TC-2)

Purpose: To provide support for medium intensity mixed-use (residential/nonresidential) projects with active retail ground floor uses.

Uses which may be Permitted: Various types of commercial uses including, business and professional offices, retail sales and service establishments, eating and drinking establishments, apartment residential uses, hotels, and apartment hotels.

Other uses which may be permitted are accessory uses that are incidental to and customarily associated with the main permitted uses such as accessory outdoor bar counter, sidewalk café, storage of supplies normally used in connection with a permitted use, off-street parking and loading, and other similar accessory uses.

The conditional uses which may be permitted are public and private institutions such as adult congregate living facilities, nursing homes, religious uses, schools, day care, museums, theaters, cultural and similar uses; parking lots and garages; commercial uses of an impact or intensity deemed to require additional review such as outdoor entertainment establishment, neighborhood impact establishment, open air entertainment establishment; and video arcades.

Density Limits: **100** dwelling units per acre

Intensity Limits: a floor area ratio of **1.5** for commercial; **2.0** for residential or mixed use

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**.

Town Center Residential Office (TC-3)

Purpose: To provide a transition between the high intensity Town Center Core and the surrounding low intensity residential multi-family districts, by providing for contextually compatible residential and mixed-use development within an established, pedestrian, bicycle and transit oriented residential environment. Office and tourist lodging facilities are intended to provide a variety of employment opportunities to support the local economy and to reduce the need for long distance home to work vehicle trips. Neighborhood oriented retail and service uses are intended to provide opportunities for small business development and to enliven the pedestrian environment.

Uses which may be permitted: Existing single family detached dwellings; single family attached dwellings, townhouse dwellings, multiple family dwellings, offices, hotels, and neighborhood retail and services.

Other uses which may be permitted are accessory uses that are incidental to and customarily associated with the main permitted uses such as a dining room, health club or other services solely for use of the occupants of an apartment building, accessory restaurants, bars and services in a hotel, sidewalk café, storage of supplies normally used in connection with a permitted use, off-street parking and loading, and other similar accessory uses.

The conditional uses which may be permitted are public and private institutions such as adult congregate living facilities, nursing homes, religious uses, schools, day care and similar institutional uses, hotels, parking lots and garages, and neighborhood-oriented retail and personal service uses.

Density Limits: **60** dwelling units per acre.

Intensity Limits: a floor area ratio of **1.25**

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 **1.25**.

Density and Intensity Implementation Criteria

Implementation of Density and Intensity Limits: density and intensity limits established by this plan shall be implemented by development code zoning districts which may permit, in accordance with the legislative judgment of the city commission, densities and intensities up to and including, but not greater than the density and intensity specified for each land use category. For all residential uses, densities (expressed as the maximum permitted number of dwelling units per acre) and intensities (expressed as the maximum permitted floor area ratio) shall apply as a limit on development and no development which exceeds either the maximum permitted number of dwelling units or the maximum permitted floor area ratio shall be approved.

Interaction of Density and Intensity Limits on Individual Lots: Both density and intensity restrictions shall apply to residential uses. Only intensity restrictions shall apply to non-residential uses. No lot area which is counted toward meeting the lot area required for the residential uses on a lot shall also be counted toward meeting the lot area required for non-residential uses on the same lot. Apartment hotels are hereby defined as residential uses. Hotels are hereby defined as nonresidential uses. For the purpose of this policy, a hotel is a building occupied or intended to be occupied exclusively by transient residents or transient residents plus any live-in staff. An apartment hotel is a building occupied or intended to be occupied by transient residents in one or more hotel units and permanent residents in residential units.

Undesignated Fisher Island Lots: Fisher Island lots that are not otherwise designated are hereby designated Recreation and Open Space.

Policy 1.3

The City shall process amendments to the land development regulations concerning religious institutions to bring such regulations into compliance with state and federal law, which amendments shall be considered consistent with the requirements of this comprehensive plan.

Policy 1.4

The City, through the land development regulations will coordinate the land uses and future land use changes with the availability of water supplies and water supply facilities.

OBJECTIVE 2: LAND USE COMPATIBILITY

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.

Policy 2.1

Land development regulations shall continue to address the location and extent of non-residential 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 this Element.

Policy 2.2

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.

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. 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;
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.

Policy 2.3

Public educational facilities are an allowable use in all Future Land Use Categories.

OBJECTIVE 3: INNOVATIVE DEVELOPMENT

The land development regulations shall continue to be consistent with s.163.3202, *F.S.* and with the Future Land Use map, consistent with sound planning principles, minimal natural limitations, the goals, objectives and policies contained within this plan, and the desired community character, and which shall emphasize innovative land development techniques, such as mixed use development.

Policy 3.1

Innovative land use development patterns, including mixed uses shall continue to be permitted and encouraged through the provision of LDR incentives such as additional floor area when at least 25% of the total area of a building is residential, and/ or shared parking for mixed commercial/office/residential in areas designated as commercial in the Future Land Use Map.

Policy 3.2

Residential multifamily rehabilitation projects shall combine undersized units, if individual units consist of less than 200 square feet, to provide minimum unit size apartment units, as specified in the LDR.

Policy 3.3

Off-street parking requirements may be waived for uses within existing buildings in historic districts. In order to encourage the compatibility of new construction in historic districts, and the adaptive re-use of existing buildings outside of historic districts, off-street parking requirements may be satisfied through the payment of a fee in-lieu of parking.

Policy 3.4

Mixed use developments will continue to be encouraged in all areas designated as commercial/residential and MXE by creating districts in the land development regulations which are consistent with s.163.3202, *F.S.* and which will permit combined hotel, residential and commercial developments in accordance with Objective 1 of this Future Land Use Element.

Policy 3.5

Those geographic areas of the City which are designated on the Future Land Use Map as High Intensity Residential, Residential/Commercial High Intensity, are hereby specifically designated as highly suitable for increased threshold intensity for the purpose of development of regional impact thresholds contained in Chapter 380, Florida Statutes, and Chapter 28-24, Florida Administrative Code.

OBJECTIVE 4: HISTORIC AND NATURAL RESOURCE PROTECTION

The City land development regulations of the City Code shall continue to be consistent with s.163.3202, *F.S.* in order to protect conservation and historic resources.

Policy 4.1

Areas designated as historic shall continue to have development reviewed under Chapter 118, Article X of the Land Development Regulations of the City Code as follows:

- a. Residential rehabilitation shall conform to adopted design standards;
- b. Recreational development must be compatible with the surrounding environment and shall be subject to performance standards adopted in the land development regulations:
- c. The clearing of trees, shall be prohibited, unless specifically permitted by Miami-Dade County;
- d. All applications for development approval shall be subject to site plan and design review;
- e. Demolition of historic buildings shall be limited by requirements to conform to applicable provisions of the City's historic preservation ordinance.

Policy 4.2

Within areas designated on the Future Land Use Map as conservation, no new development, or expansion or replacement of existing development shall be permitted except re-vegetation and construction of a beachfront promenade.

Policy 4.3

Historic resources shall continue to be protected through designation as historic sites by the City or State.

Policy 4.4

A list of designated historic resources shall be submitted to U.S. Department of Interior for inclusion on the National Register of Historic Places.

Policy 4.5

Miami Beach shall continue, with the assistance of preservationists, to update the new database of significant historic resources which are in need of protection.

Policy 4.6

Adaptive reuse of historic structures shall be given priority over activities that would harm or destroy the historic value of such resources in conformance with the Land Development Regulations of the City Code.

OBJECTIVE 5: HURRICANE EVACUATION

Continue to coordinate City (*i.e.*, coastal area) population densities with the Miami-Dade County Emergency Operations Plan, which is the local hurricane evacuation plan for Miami Beach, and the Lower southeast Florida Hurricane Evacuation Plan, the regional hurricane evacuation plan by approving no Future Land Use map or zoning map amendments that increase density.

Policy 5.1

Permitted City population densities achieved by the 1998-1999 down-planning shall be maintained in order to better conform to Coastal High Hazard area requirements

Policy 5.2

Permitted city population densities achieved by the 1999 down-planning shall be maintained in order to better conform to the Miami-Dade County Offices of Emergency Management's Emergency Operations Plan.

Policy 5.3

The City shall continue to coordinate with the Miami-Dade County Emergency Plan with regard to any amendments to the existing population densities.

OBJECTIVE 6: CONCURRENCY MANAGEMENT

Meet the concurrency management requirements of Ch. 9J-5.0055 *FAC* and the LDR, and the land needs for utilities.

Policy 6.1

The City shall continue to participate in the Miami-Dade County impact fee ordinance program.

Policy 6.2

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

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

- a. Recreation and Open Space – The National Recreation and Park Association’s suggested minimum requirement for recreation and open space ten (10) acres of recreation and open space per one thousand (1,000) permanent and seasonal residents is established as the minimum Level of Service Standard for the entire system.
- b. Potable Water Transmission Capacity
 - 140 Average gallons per capita per day;
 - 168 Peak gallons per capita per day
 - non-residential uses:
 - Hotel: 75 gallons per day per room
 - Office: 0.084 gallons per day per square foot
 - Retail: 0.18 gallons per day per square foot
 - Industrial: 0.084 gallons per day per square foot
 - Restaurant: 65 gallons per day per seat
 - School: 12 gallons per day per student
- c. Sanitary Sewer Transmission Capacity – 140 Average gallons per capita per day
- d. Storm Sewer Capacity – One-in-five-year storm event.
- e. Solid Waste Collection Capacity – 1.275 tons per capita per year
- f. Transportation Level of Service:
 - Local roads – LOS Standard D
 - Collector roads – LOS Standard D
 - Arterial roads - LOS Standard D
 - Limited access roads - LOS Standard D

- g. Miami-Dade Public Schools - Beginning January 1, 2008, the adopted level of service (LOS) standard for all Miami-Dade County public school facilities is 100% utilization of Florida Inventory of School Houses (FISH) Capacity (With Relocatable Classrooms). This LOS standard shall be applicable in each public school concurrency service area (CSA), defined as the public school attendance boundary established by the Miami-Dade County Public Schools.

1. Measuring Conformance with the Level-of-Service

Public facility capacity availability shall be determined by the Concurrency Management User's Procedural Guide (a supplement to the land development code), which contains the formulas for calculating compliance.

- ◇ The capacity of new facilities may be counted only if one or more of the following can be demonstrated:

(A) For water, sewer, solid waste and drainage:

- (1) Prior to approval of a building permit or its functional equivalent, the City shall consult with the applicable water supplier to determine whether adequate water supplies to serve the new development will be available no later than the anticipated date of issuance by the local government of a certificate of occupancy or its functional equivalent.
- (2) The necessary facilities are in place and available at the time a certificate of occupancy is issued, or
- (3) The new facilities are guaranteed in an enforceable development agreement to be in place when the impacts of development occur. An enforceable development agreement may include, but is not limited to, development agreements pursuant to Section 163.3220, Florida Statutes, or an agreement or development order pursuant to Chapter 380, Florida Statutes (the Development of Regional Impact authorization).

In the case of water, sewers, solid waste and recreation, the formulas must reflect the latest population vis a vis flows or park acreage.

Design capacity shall be determined as follows:

Sewage: the capacity of the County sewage treatment system.

Water: the capacity of the County water treatment and storage system.

Solid waste: the capacity of the County disposal system.

Drainage: The on-site detention capability and/or storm sewer capacity.

(B) For recreation:

- (1) Parks and recreation facilities to serve new development shall be in place or under actual construction no later than 1 year after issuance of a certificate of occupancy or its functional equivalent.
- (2) The new facilities are the subject of a binding executed contract for the construction of facilities to be completed within one year of the time the certificate of occupancy is issued, or
- (3) A development agreement as outlined in (A) (3) above but requiring construction to begin within one year of certificate of occupancy issuance.

Recreation: Measurement shall be based on recreation data in the Comprehensive Plan plus the latest City population estimate with any necessary interpretation provided by the City manager or designee thereof.

(C) For traffic:

- (1) Transportation facilities needed to serve new development are scheduled to be in place or under actual construction not more than three years after issuance of a certificate of occupancy or its functional equivalent as provided in the adopted local government five-year schedule of capital improvements.
- (2) No modification of public facility level-of-service standards established by this plan shall be made except by a duly enacted amendment to this plan. The City shall ensure that no development approvals are issued that would result in traffic volumes surpassing the cumulative allowable areawide service volume based on the sum of the individual roadways' Level of Service Standard within the Transportation Concurrency Management Areas.

Roadways: The standard for measuring highway capacities shall be the Florida DOT Table of Generalized Two-Way Peak Hour Volumes for Urbanized Areas or other techniques that are compatible to the maximum extent

feasible with FDOT standards and guidelines. The measurement of capacity may also be determined by engineering studies provided that analysis techniques are technically sound and acceptable to the City. The City shall ensure that no development approvals are issued that would result in traffic volumes surpassing the cumulative allowable areawide service volume based on the sum of the individual roadways' Level of Service Standard within the Transportation Concurrency Management Areas.

Transit: the county Transit Agency bus schedules for routes within the City.

2. Concurrency Monitoring System

The manager or designee thereof shall be responsible for monitoring facility capacities and development activity to ensure that the concurrency management system data base is kept current, i.e., includes all existing and committed development. This data base shall be used to systematically update the formulas used to assess projects. An annual report shall be prepared.

3. Capacity Reservation

Any development permit application which includes a specific plan for development, including densities and intensities, shall require a concurrency review. Compliance will be finally calculated and capacity reserved at time of final action of an approved final Design Review approval or building permit if no Design Review is required or enforceable developers agreement. Phasing of development is authorized in accordance with Rule 9J-5.0055. Applications for development permits shall be chronologically logged upon approval to determine rights to available capacity. A capacity reservation shall be valid for a time to be specified in the land development code; if construction is not initiated during this period, the reservation shall be terminated.

4. Administration

The City manager (or designee thereof) shall be responsible for concurrency management. The land development code shall specify administrative procedures, including an appeals mechanism, exemptions, plan modifications, burden of proof, etc.

5. Project Impact or Demand Measurement

The concurrency management user's procedural guide (a supplement to the land development code) will contain the formulas for calculating compliance plus tables which provide generation rates for water use, sewer use, solid waste and traffic, by land use category. Alternative methods acceptable to the Director may also be used by the applicant.

For example, traffic generation may be based upon the Institute of Transportation Engineer's "Trip Generation" manual. Transportation facilities needed to serve new development shall be in place or under actual construction within 3 years after the local government approves a building permit or its functional equivalent.

Policy 6.3

As a part of the capital improvement program process, public facilities and utilities shall be located to:

- a) maximize the efficiency of services provided;
- b) minimize their cost; and
- c) minimize their impacts on the natural environment

OBJECTIVE 6A: LAND FOR UTILITY FACILITIES

The city shall assure the ability to provide land needed for utility facilities to serve the Future Land Use Plan.

Policy 6A.1

The LDRs shall continue to provide for the land needed by utility systems.

OBJECTIVE 7: INCONSISTENT USES

The City land development regulations shall continue to provide for the discontinuation of non-conforming land and building uses which are incompatible or inconsistent with the Future Land Use Plan.

Policy 7.1

Expansion or replacement of land uses, which are incompatible with the Future Land Use Plan, shall be prohibited and enforced through zoning decisions.

Policy 7.2

Regulations for buffering of incompatible land uses shall continue to be enforced as set forth in the City's land development regulations, consistent with s.163.3202, *F.S.*

OBJECTIVE 8: INTERGOVERNMENTAL COORDINATION

The City shall improve coordination with affected and appropriate governments and agencies to maximize their input into the development process and mitigate potential adverse impacts of future development and redevelopment activities, particularly relative to Biscayne Bay.

Policy 8.1

Recommendations and corrective actions described in the Intergovernmental Coordination Element are hereby incorporated by reference and shall continue to be implemented.

Policy 8.2

Requests for development orders or permits shall be coordinated, as appropriate, with Miami-Dade County, Miami-Dade County Public Schools, special districts, the Regional Planning Council, the Water Management District and state and federal agencies. Special emphasis shall be placed on conformance with the Biscayne Bay Aquatic Preserve Management Plan and by achieving Biscayne Bay Shoreline Development Review Committee review of 100 percent of applicable projects.

OBJECTIVE 9: TOPOGRAPHY

The City shall coordinate future land uses with the appropriate topography; ~~see policy for measurability~~. (Note: An objective 9J-5.006(3)(b) as it relates to soil conditions is not applicable as the City's soils consist entirely of man-made soils and beach sand).

Policy 9.1

The City shall continue to require that first floor elevations be constructed at FEMA's required minimum flood elevation at mean low tide to allow maximum protection during flood conditions. This provision shall not apply within Historic Preservation Districts where first floor elevations may be set below the minimum flood elevations, but shall be set at the highest level consistent with the historic character of the area.

OBJECTIVE 10: REDEVELOPMENT

The City shall maintain its existing redevelopment area program.

Policy 10.1

The City shall continue to implement the City Center/Historic Convention Village redevelopment plan, including the 2001 plan amendments.

Policy 10.2

The City shall continue to implement the South Pointe Redevelopment Area projects.

OBJECTIVE 11: COOPERATION WITH MILITARY INSTALLATIONS

The City will cooperate with the U.S. Coast Guard station located within its jurisdiction by exchanging and providing information to prevent encroachment of incompatible land uses in order to facilitate its continued presence in the City.

Policy 11.1

The City will transmit to the commanding officer information relating to proposed changes to comprehensive plans, plan amendments, and proposed changes to land development regulations which, if approved, would affect the intensity, density, or use of the land adjacent to or in close proximity to the U.S. Coast Guard Station.

Policy 11.2

The City will provide the commanding officer or his or her designee an opportunity to review and submit comments on the proposed changes regarding the impact such proposed changes may have on the mission of the U.S. Coast Guard Station.

Policy 11.3

The City will take into consideration any comments provided by the commanding officer or his or her designee when making such decision regarding comprehensive planning or land development regulation and will forward a copy of any such comments to the state land planning agency.

OBJECTIVE 12: ECONOMIC ENERGY ZONE

As a goal of the City to adopt policies and programs that implement in Miami Beach actions that strive to protect the environment, the City designated the entire municipality to participate in the "Energy Economic Zone Pilot Program Communities" Codified in Chapter 2009-89, Laws of Florida, Section 7.

Policy 12.1

The Miami Beach Sustainability Plan shall be the guiding document (Strategic Plan) that provides structure and focus to policies and initiatives in order to successfully enhance community sustainability.

Note: The following are not applicable to Miami Beach:

Objective 9J-5.006(3)(b)7	urban sprawl
Policy 9J-5.006(3)(c) 6	wellfields

- **TRANSPORTATION ELEMENT**
- **Goal:** It shall be the goal of the City of Miami Beach to provide, maintain and improve a sustainable, safe, convenient and energy efficient multi-modal transportation system which:
 - Is focused on the mobility of people, not merely vehicles.
 - Is coordinated with the City's Land Use Element.
 - Is multi-modal as it recognizes and promotes alternative modes of transportation including: automobile, public transportation, bicycle and pedestrian, as well as levels of service and parking needs.
 - Is consistent with sustainable and environmentally friendly growth management principles.
 - Is coordinated with the regional transportation network and other governmental agencies.
 - Balances the needs of all current and future users.
 - Ensures the economic vitality of the businesses within the City.
 - Enhances the quality of life for the City's neighborhoods residents.

OBJECTIVE 1: LEVEL OF SERVICE (please see Glossary of terms)

To provide for a safe, convenient, balanced, efficient and effective multi-modal transportation system with a Level of Service (LOS) for multiple transportation modes.

Policy 1.1 Basic Level of Service

The following minimum Level of Service standards shall apply to all State, County and local roads except for designated Federal Interstate Highway System (FIHS), Strategic Intermodal System (SIS), and Transportation Regional Incentive Program (TRIP) (please see Glossary of terms) funded facilities which shall be subject to the Florida Department of Transportation's (FDOT) Level of Service Standards.

- Local roads – LOS Standard D
- Collector roads – LOS Standard D
- Arterial roads - LOS Standard D
- Limited access roads - LOS Standard D

Policy 1.2: Level of Service for Transportation Concurrency Management Areas

The following level of service standards shall be established for roadways with certain characteristics as per this policy, and for roadways located within the City's Transportation Concurrency Management Areas (TCMA's):

- a. Where no mass transit service exists, roadways shall operate at or above LOS D;
- b. Where mass transit service having headways of 20 minutes or less is provided within ¼ mile distance, parallel roadways shall operate at no greater than 120 percent of LOS D; (please see glossary of terms)
- c. Where extraordinary transit service classified as Local Circulator or express or peak-hour limited stop bus service having headways of 10 minutes exists, parallel roadways within 1/4 mile, shall operate at no greater than 150 percent of LOS D (please see glossary of terms).

Policy 1.3: Adhering to Level of Service

The City shall ensure that no development approvals are issued that would result in traffic volumes surpassing the cumulative allowable areawide service volume based on the sum of the individual roadways' Level of Service Standard within the Transportation Concurrency Management Areas.

Policy 1.4: Modification of Functional Classification

The City shall consider the impacts of any future modification of the functional classification of various roadways on the allowable service volumes on specific roadways.

Policy 1.5: Multi-Modal Level of Service (please see Glossary of terms)

Roadway level of service is insufficient as a measure of multi-modal mobility in a mature city with land use intensities, mixed uses and the economic vitality such as Miami Beach. The City shall undertake an examination of total mobility by 2015 in an attempt to shift from roadway capacity and level of service to an overall mobility system capacity and level of service. This will require quantifying capacities and levels of service for the physical roadway system, the transit network, the pedestrian network and the bicycle network. The results will be used as a guide for the planning and implementation of mobility improvements.

OBJECTIVE 2: COORDINATION WITH LAND USE

The City shall evaluate its transportation system as it relates to the land use element of this comprehensive plan in an effort to encourage commercial development which is mixed use, multi-modal in nature and which ultimately enhances mobility.

Policy 2.1: Official Transportation Planning Map

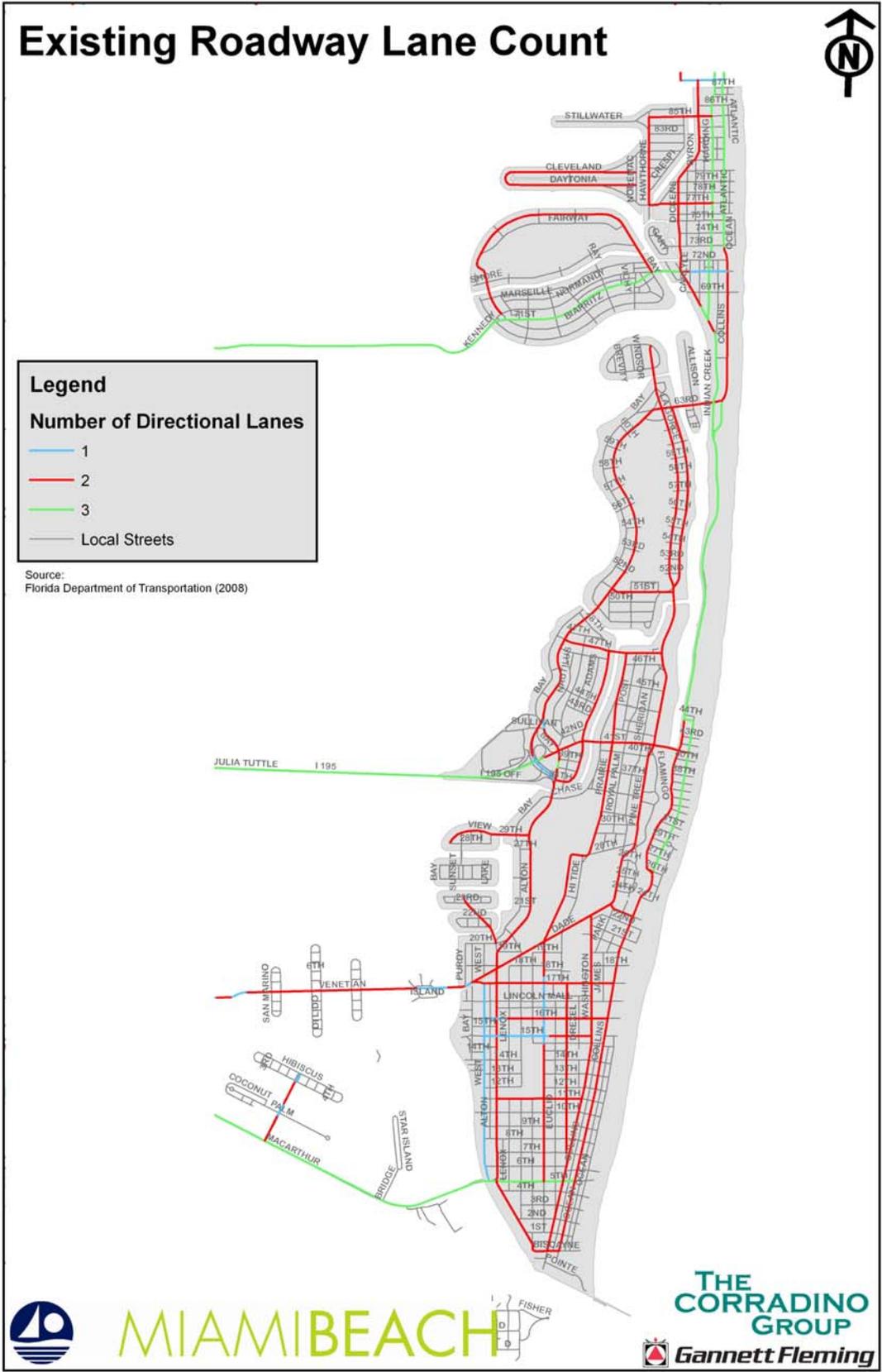
The City shall use the “Existing Lane Count Map” in order to identify future rights-of-way based upon the Future Land Use Element and the Transportation Element of this plan. During the development review process the City shall include right-of-way needed to implement planned improvements. The City shall consider the historic context, the built-out environment and the future level of service requirements when evaluating future improvements.

Policy 2.2: Impact of Land Use Changes on the Multi-Modal System

The City shall assess the impacts of future land use changes on the overall transportation system, including roadway, transit, bicycle and pedestrian levels of service.

Policy 2.3: Transit Oriented Design (TOD) (please see Glossary of terms)

By 2015, the City shall examine the type of incentives and create design guidelines for TODs within the City.



OBJECTIVE 3: ROADWAY PLANNING, DESIGN AND CONSTRUCTION

The City shall continue to provide for a safe, convenient, efficient and effective transportation system, which sustains the city's natural, aesthetic, social and economic resources.

Policy 3.1: Vehicular and Pedestrian Bridges

The City shall continue to monitor the condition of the many vehicular and pedestrian bridges and restore or replace as needed in coordination with FDOT where appropriate.

Policy 3.2: Roadway Projects

The City shall undertake necessary steps to meet the required level of service on the links and intersections included in the City's transportation network. The proposed projects are a result of the needs assessment performed as part of this Transportation Element and included in the Data, Inventory and Analysis section,

Policy 3.3: Context Sensitive Design (CSD) (please see Glossary of terms)

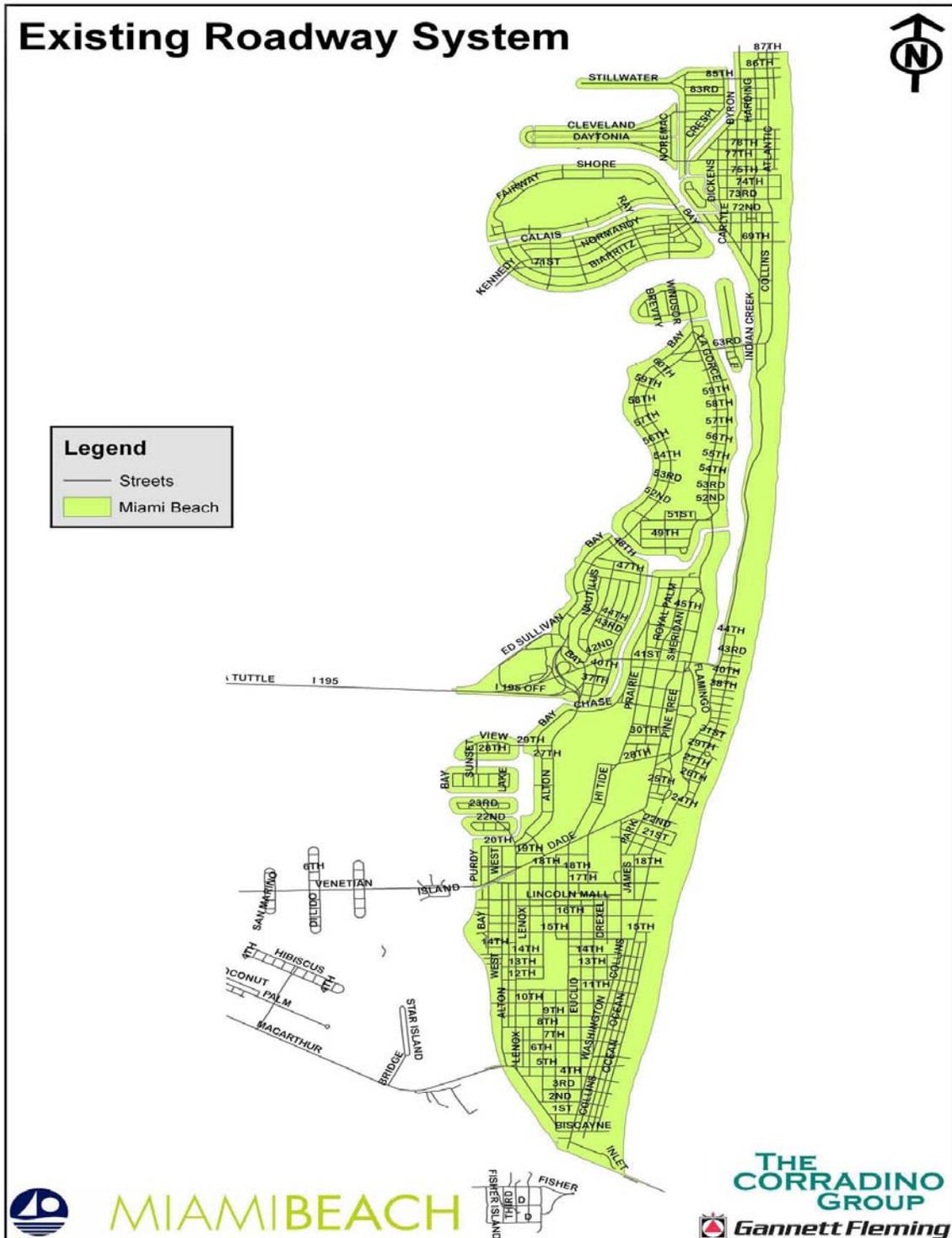
All roadway, planning and design projects shall follow context sensitive design defined as a collaborative, interdisciplinary approach that involves all stakeholders to develop a transportation facility that fits its physical setting and preserves scenic, aesthetic, historic and environmental resources, while maintaining safety and mobility.

Policy 3.4: Sustainable Development (please see Glossary of terms)

The City shall plan, design and construct roadway projects and provide approval for commercial roadway projects that minimize consumption of non-renewable resources, limit consumption of renewable resources to sustainable yield levels, reuse and recycle its components, and minimize the use of land and production of noise. To this end, the City shall integrate multimodal transportation facilities to reduce reliance on automobiles through initiatives such as:

- **Expansion of the South Beach Local Circulator**, including route changes to incorporate Belle Island and the Cultural Campus, which will further integrate multimodal transportation facilities with various neighborhoods and provide linkages to commercial centers, recreational amenities and cultural assets
- **A North Beach Circulator** by continuing to work with Miami-Dade Transit to finalize the implementation of this service
- **Expansion of the Atlantic Greenway Network** by continued negotiation with property owners along the Atlantic Ocean and along Biscayne Bay.
- **Bicycle rack installations** to provide safe and secure bicycle parking for bicyclists in Miami Beach. By the end of 2015 it is estimated that approximately 500 bicycle racks will be installed in safe, convenient location along commercial corridors, residential areas and public facilities. Bicycling as an alternative form of transportation will increase the quality of life for our community by reducing traffic congestion.

- **Bicycle rental program** – The City already started this program with a proposal to install up to 85 kiosks of approximately 16 bikes per kiosks. The benefits of this program include reduced traffic congestion, improved air quality, quieter and more livable streets and the opportunity for citizens to improve their health through exercise.
- **Shared car program** will allow for the short term access to vehicles by residents and visitors reducing the need for vehicle ownership and encouraging the use of alternative modes of transportation.



Source: City of Miami Beach (2008)

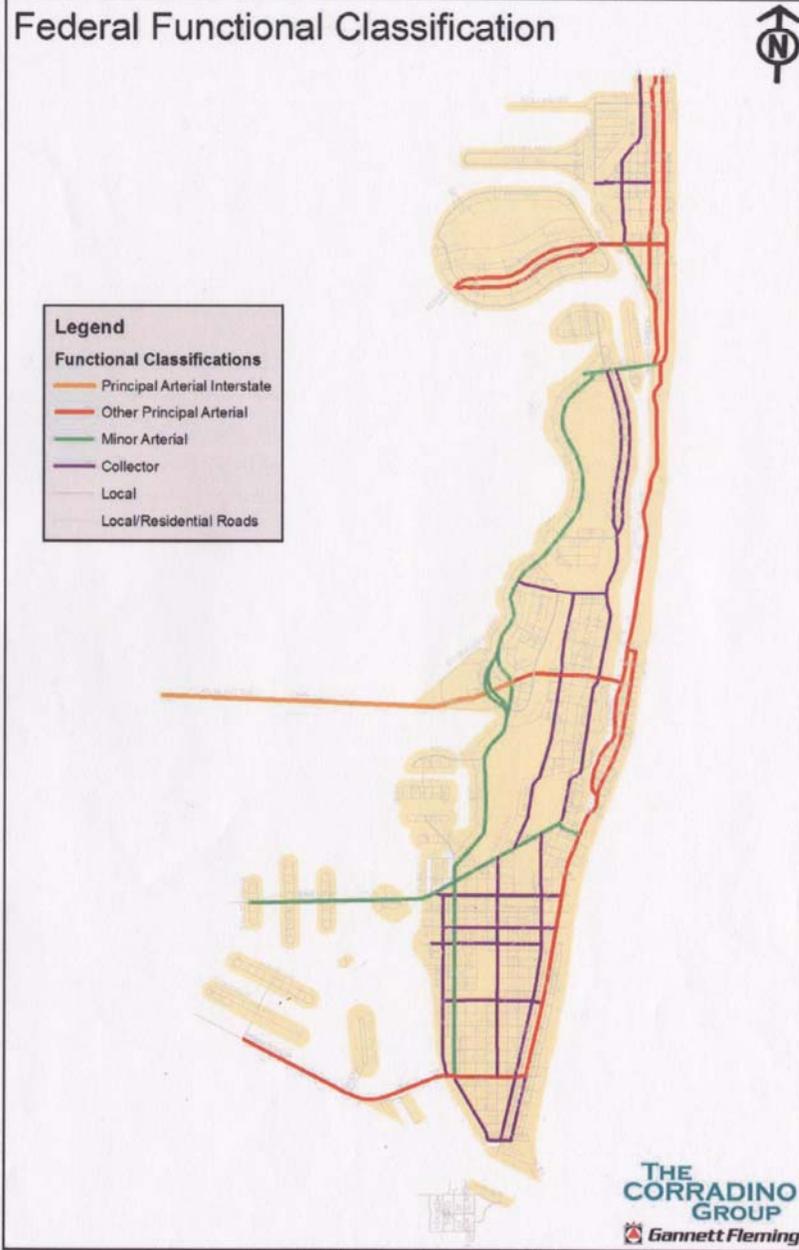
CORRADINO

Map 6 Existing Functional Classification

Federal Functional Classification



- Legend**
- Functional Classifications**
- Principal Arterial Interstate
 - Other Principal Arterial
 - Minor Arterial
 - Collector
 - Local
 - Local/Residential Roads



Source: Florida Department of Transportation (2007)

OBJECTIVE 4: MASS TRANSIT

The City shall work with transportation partners, specifically Miami-Dade Transit, to provide residents and visitors with an efficient public mass transportation system.

Policy 4.1: Meeting Transit Level of Service

The City shall maintain consistency with the transit level of service standard of Miami-Dade County Comprehensive Plan. Within this planning period the City will continue to perform studies which examine the use of Bus Rapid Transit, street cars, preemptive traffic signals and any other technologies appropriate for Miami Beach. The City shall continue to follow the guidelines and standards as outlined in recent planning studies such as the Coastal Communities Transportation Management Plan and the Coastal Communities Transit Study.

Policy 4.2: Minimum Peak Hour Service Standard

The City shall coordinate with Miami-Dade Transit by 2012 so that the minimum peak hour mass transit level of service standards provided within the City shall be done with public transit service having no greater than 30 minute headways and an average route spacing of ¼ mile provided that:

1. The average combined population and employment density along the corridor between the existing transit network and the area of expansion exceeds 4,000 people per square mile, and the service corridor is 1/2 mile on either side of any necessary new routes or route extensions to the area of expansion;
2. It is estimated that there is sufficient demand to warrant the service; and
3. The service is economically feasible.

Policy 4.3: Development Compliance with Transit Level of Service

Issuance of all development orders for new development or significant expansions of existing development shall be contingent upon compliance with the above level of service standards.

Policy 4.4: Enhanced Transit Amenities

The City shall coordinate with Miami-Dade Transit to provide enhanced transit amenities, such as bus shelters, intermodal facilities, buses, implementation of bus rapid transit (BRT) along (please see glossary of terms) selected corridors, real time transit location information at shelters and at intermodal terminals, more comfortable bus seating, and passenger amenities, etc.

Policy 4.5: Intermodal Centers

The City shall continue to coordinate with the MDT to construct intermodal transit facilities to serve transportation uses, which shall include the South Beach Local and Miami-Dade Transit buses, and other means of transportation that may be available in the future; and the intermodal transit centers to be located in North Beach and South Beach.

Policy 4.6: Providing Basic Transit Infrastructure

Development approval for sites located on main thoroughfares within existing transit routes shall be required where appropriate, to construct a concrete pad and dedicate an easement to Miami Beach or Miami-Dade Transit (or its successor agencies) for public transit uses. The dedicated easement shall be of sufficient size to allow for American with Disabilities Act (ADA) access to transit and for future shelter placement. Fair share contributions in lieu of easement dedication may be granted when an existing bus shelter or pad is located within $\frac{1}{4}$ mile from the proposed development on the same side of the roadway. Appropriate bus stop facility locations shall be determined by analyzing the existing need on established routes and assessing the existing built environment such as the width of the sidewalk, the presence of a sidewalk and/or the location of any existing structures. Bus routes with the highest ridership and located on an existing bike route will be the highest priority for facility placement.

Policy 4.7: North Beach and Middle Beach Circulators

The City shall plan, design, seek funding for and implement local circulator systems in North Beach and Middle Beach.

Policy 4.8: Coastal Communities Transit Plan

The City shall work with Miami-Dade Transit to implement relevant recommendations included in the Coastal Communities Transit Plan. This study is a detailed analysis of transit ridership to recommend efforts focused on providing express service along the A1A corridor, while providing local service via circulator systems in North Beach, Middle Beach, and South Beach, all connected by intermodal transfer facilities. More specifically this study made recommendations including but not limited to:

- a. Implementing non capital projects using existing resources
- b. Implementing express routes using existing bus resources along the A1A corridor
- c. Implementing circulators to complement the A1A express routes.
 - i. Both the North Beach and Middle Beach circulators could be reconfigured from existing MDT routes
 - ii. The South Beach Local could be extended from existing MDT routes
- d. Develop transfer stations and intermodal centers to connect the routes

- e. Determine the initial capital requirements for a BRT System on Miami Beach
- f. Enhance MDT east/west routes from existing MDT routes

Policy 4.9: Transit Routes

The City shall continue to coordinate with MDT to ensure that transit service within the South Beach, Middle Beach and North Beach TCMA's maximize mobility and reflects routes which serve to facilitate movement within the City, while preserving the historic character of the community.

Policy 4.10: Special Transit Services

The City shall continue to encourage Miami-Dade Transit to provide a more convenient, accessible, and equitable paratransit services to all eligible users within Miami Beach including the elderly, handicapped, low income and other transit dependent users.

Policy 4.11: Cross-Bay Transit Alternative

The City encourages MDT and the Metropolitan Planning Organization (MPO) to study the feasibility of a connecting Miami Beach by transit to the Airport and Downtown Miami.

Policy 4.12: Support for Northeast Corridor

The City supports the reprioritization of the Northeast Corridor on the Long Range Transportation Plan (LRTP) to number 1, and subsequent implementation of the Northeast Corridor transit line to improve connectivity from Miami and Miami Beach to Northeast Miami-Dade and Broward Counties.

OBJECTIVE 5: PEDESTRIAN AND BICYCLE CIRCULATION

The City shall strive to increase and promote the safe and convenient use of its bicycle and pedestrian networks including the creation, extension, and improvements of bicycle and pedestrian facilities between and among present and potential major generators of bicycle and pedestrian traffic.

Policy 5.1: Bicycle Network

The City shall provide a safe bicycle network as specified in the Recreation and Open Space Element.

Policy 5.2: Pedestrian Safety

The City shall provide curb cuts and barrier free walkways enabling all pedestrians, specifically the elderly and handicapped, to cross intersections safely and easily.

Policy 5.3: Pedestrian, Bicycle and Special Needs Projects

Projects to be included in the Capital Improvement Element shall consider the accommodation of pedestrians, bicyclists, and disabled traveler needs into all projects where non-motorized travel is consistent with adopted current regional and local plans.

Policy 5.4: Bicycle Facilities

The further development of thoroughfares shall consider the creation, extension and improvement of bicycle lanes, paths, boulevards, and other bicycle facilities as an effort to develop "complete streets." The City will continue to follow the guidelines and standards as outlined in recent planning studies such as the Coastal Communities Transportation Management Plan.

Policy 5.5: System Connections

The City shall continue to seek opportunities to complete connections between existing bicycle facilities, sidewalks and/or shared use paths in all future transportation improvements and plans.

Policy 5.6 Bicycle Storage

The City shall establish guidelines for the provision of short term and long term bicycle parking areas, including bicycle racks for multifamily residential areas, commercial areas, and recreational areas.

Policy 5.7: Pedestrian Safety Facilities at Intersections

The City shall undertake specific evaluation of individual intersections in an attempt to determine if vehicular or pedestrian priority is needed, so that the appropriate intersection treatments can be implemented. All intersections should be outfitted with pedestrian-friendly amenities including, but not limited to: countdown pedestrian signals, high visibility pedestrian crosswalks, and/or crosswalk lighting as appropriate and pedestrian-oriented treatments. These treatments maximize pedestrian safety by utilizing design strategies that mitigate the impact of high-volume traffic and enhance roadway safety for pedestrian crossings. In the commercial districts for commercial uses the strategies include locating buildings at all intersection corners close to the street to provide a perception of enclosure and safety for pedestrians, clearly striping cross-walks and using different paving materials, as well as reducing the distance between curb corners to reduce pedestrian crossing distance.

Policy 5.8: Beachwalk and Baywalk Projects

The City shall continue the implementation of the Beachwalk and Baywalk Projects in order to further the City's vision of having a continuous on-grade recreational path running north/south along the coast linking the City's South, Middle and North Beach Neighborhoods. Such Projects would combine to form one interconnected recreational path that is ADA accessible and environmentally compatible with the dune and marine environment.

Policy 5.9: Atlantic Greenway Network (AGN) (please see Glossary of terms)

The City shall continue to implement the AGN as a means of promoting alternative transportation and community enhancements throughout Miami Beach. This will increase safety for pedestrians and bicyclists, and will diminish gaps in the system, while improving network connectivity and establishing future pedestrian paths and bikeways.

Atlantic Greenway Network-Bike Master Plan



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Map 7 – Existing Bicycle Facilities

Existing Bicycle Facilities



Legend

- BICYCLE FACILITIES
- STREETS
- MIAMI BEACH

Sources:
Miami Dade MPO
Miami Beach Atlantic Greenway Network Master Plan 2007



MIAMI BEACH



Source(s): City of Miami Beach, Miami Dade County (2008)

OBJECTIVE 6: MULTI-MODAL TRANSPORTATION

The City shall continue to support and promote multiple modes of transportation by considering Transportation Demand Management (TDM), Transportation Systems Management (TSM) , and other techniques.

Policy 6.1: Transportation Systems Management (please see Glossary of terms)

Through the site plan review process, the City shall educate the development community and encourage appropriate TSM strategies to improve the mobility systems efficiency, effectiveness and safety. These may include but are not limited to:

- Traffic management and traffic monitoring programs
- Incident management
- Congestion management
- Access management
- Parking policies which discourage single-occupancy vehicles
- The encouragement of carpools, vanpools or ridesharing
- Programs or projects that improve traffic flow, including projects to improve signalization
- On road bicycle lanes, bicycle parking, and bicycle amenities at commercial and residential uses
- Improve intersections, and implement Intelligent Transportation Systems (ITS) strategies, including Pedestrian oriented intersection design strategies
- Pedestrian countdown signals

Policy 6.2: Transportation Demand Management (please see Glossary of terms)

Through the site plan review process, the City shall educate the development community and encourage appropriate TDM strategies to improve the mobility systems efficiency, effectiveness and safety. These may include but are not limited to efforts to reduce the dependence on single-occupant vehicle trips, and the encouragement of the use of bicycle, pedestrian and transit modes as a means of commuting and recreational mobility. These may include, but are not limited to:

- carpools,
- van pools,
- demand response service,
- paratransit services (for special needs population),
- public/private provision of transit service,
- bike sharing, or shared car initiatives,
- provision of short term and long term bicycle parking, showers and changing facilities
- provision of parking for carpools
- alternative hours of travel, including flexible work hours, staggered work shifts, compressed work weeks and telecommuting options,
- subsidy of transit fares,

- used of long term parking to be developed at City's entry points,
- shared vehicular and pedestrian access for compatible land uses, where possible,
- shared parking agreements for compatible land uses, where possible,
- provision of transit amenities,
- car share vehicle parking.

Policy 6.3: Intelligent Transportation Systems (please see Glossary of terms)

The City shall coordinate with and support FDOT in the pursuit of Intelligent Transportation Systems (ITS), to help manage congestion on facilities within Miami Beach as well as those facilities connecting the City with the mainland transportation system. This may include using various forms of technology, not limited to cameras, and electronic signage, to inform travelers of the condition of the transportation system, roadway level of service, and availability of parking citywide.

Policy 6.4: Balancing Modal Split

The City shall attempt to better balance the mode split between automobiles and alternative modes of transportation, such as bicycling and transit, particularly in the morning, afternoon and evening peak hour periods. In the meantime, the City will use the MPO's regional model to establish the modal split within the City.

Policy 6.5: Mode Split Analysis

By 2015, the City shall undertake an analysis that determines the baseline mode split, then set a target mode split to be achieved in a certain period of time.

Policy 6.6: Funding Multimodal Improvements

The City shall examine the feasibility of developing a transportation trust fund in which to invest its revenue generated via taxes or development fees, etc. and which will be earmarked towards the implementation of scheduled transportation improvements, in coordination with long term master planning efforts.

Policy 6.7: Prioritizing Multimodal Improvements

As a method of achieving a balance between an efficient and effective level of service and an adequate mode split, by 2015, the City shall examine placing a higher priority on the development and implementation of alternative mode projects, than it would on physical capacity projects. A method of doing so may be to spend an increased percentage of City transportation funds, taken from all sources, on transit or alternative mode projects in lieu of physical capacity projects.

Policy 6.8: Multimodalism as a Condition of Development Approval

As part of the plan review and approval process, the City shall negotiate with applicants for necessary improvements and enhancements on the private property, such as, but not limited to, dedications or easements for transit bus stops as part of the City’s multimodal network.

Policy 6.9: Reducing Modal Conflict

The City will work to reduce conflicts among various modes of transportation. This shall be done through:

- a. Establishment of enhanced intersections with more pedestrian-friendly and safe crosswalks with enhanced signage;
- b. The development of bike paths and lanes with bollards and raised islands to increase safety at intersections by preventing vehicles from entering special lanes.

Policy 6.10: Awareness Mobility Options

To improve citizen and visitor awareness of mobility options within the South Beach, Middle Beach and North Beach TCMA’s, the City shall establish mechanisms to highlight information regarding the availability of mobility options.

Policy 6.11: Multimodal Strategies

Through the site plan review process, the City shall educate the development community and promote TSM and/or TDM strategies and incentives to use alternate modes of transportation (such as parking policies and provision of intermodal transfers), that will accomplish mobility within and through each transportation concurrency management area.

Policy 6.12: Multimodal Options

The City shall promote alternate transportation modes and implement the transit, pedestrian, bicycle and other modes of transportation pursuant to F.A.C. 9J-5 in Transportation Concurrency Management Areas as follows:

- a. Continue implementing the projects in the “Bike Master Plan” in the Capital Improvement Program (CIP) prioritizing those projects where there are gaps on the bicycle and pedestrian network. Current priority CIP funded projects include the Beach Walk Phase II, and Middle Beach Recreation Corridor – Phase I Pedestrian Bike Path.
- b. Continue supplementing the MMP Project Bank with projects from “Coastal Communities Transit Master Plan” These, upon approval, would be added to the CIP.

- c. Continue coordination with Miami-Dade Transit to implement the Middle and North Beach Circulators. Current priority CIP funded projects include the North Beach Intermodal Center.
- d. Continue improving multimodal infrastructure including pedestrian and bicycle pathways, secure bicycle parking, transit shelters, and transit amenities including bike racks on buses. Through the land development code and site plan review process, the City will continue providing amenities and incentives to alternate modes of transportation. Current priority CIP funded projects include the installation of crosswalks, curb ramp installation/maintenance and pedestrian countdown signals in various locations throughout Miami Beach.
- e. Implementing projects that accommodate all users of the transportation system, including pedestrians, bicyclists, users of mass transit, people with disabilities, the elderly, motorists, freight providers, emergency responders, and adjacent land users.

Policy 6.13: Coastal Communities Transportation Master Plan

The City shall coordinate with the Florida Department of Transportation and Miami-Dade County, to implement relevant recommendations of the Coastal Communities Transportation Master Plan. This study is a sub regional multi-modal transportation master plan, which used extensive public involvement combined with a state of the art origin and destination study to recommend efforts in the areas of capacity, corridors, alternative modes and policies, in short term, mid term and long term time frames.

Policy 6.14: Transportation Planning

The City shall treat its Municipal Mobility Plan, its Coastal Communities Transportation Master Plan, and its AGN as living documents, which should be updated on a regular basis. The City is currently using the Municipal Mobility Plan and the Coastal Communities Transportation Master Plan as a basis for capital budgeting and transportation planning efforts. In the next five years the City shall initiate a transportation master plan that will be a living document, updated on a regular basis, and will guide all capital budgeting and transportation planning efforts.

Policy 6.15: Intermodal Feasibility Plan

The City shall undertake an intermodal feasibility study to locate intermodal connectivity, parking and transfer facilities to connect the future transit system as described in the Coastal Communities Transit Plan and Coastal Communities Transportation Master Plan.

Policy 6.16: Causeway Capacity

The City shall evaluate the methods for maximizing mobility on the causeways connecting the City and the mainland. Alternatives may include physical capacity improvements, the addition of lanes, or sharing of lanes for BRT or other mass transit modes connecting with intermodal centers, or other congestion management improvements.

Policy 6.17: Collins / Harding, Two Way Pair

The City shall work with FDOT and the County to reevaluate the feasibility of creating the Collins/Harding corridor between the northern city limit and the 72nd Street area, as a pair of bi-directional roadways.

Policy 6.18: Corridor Safety

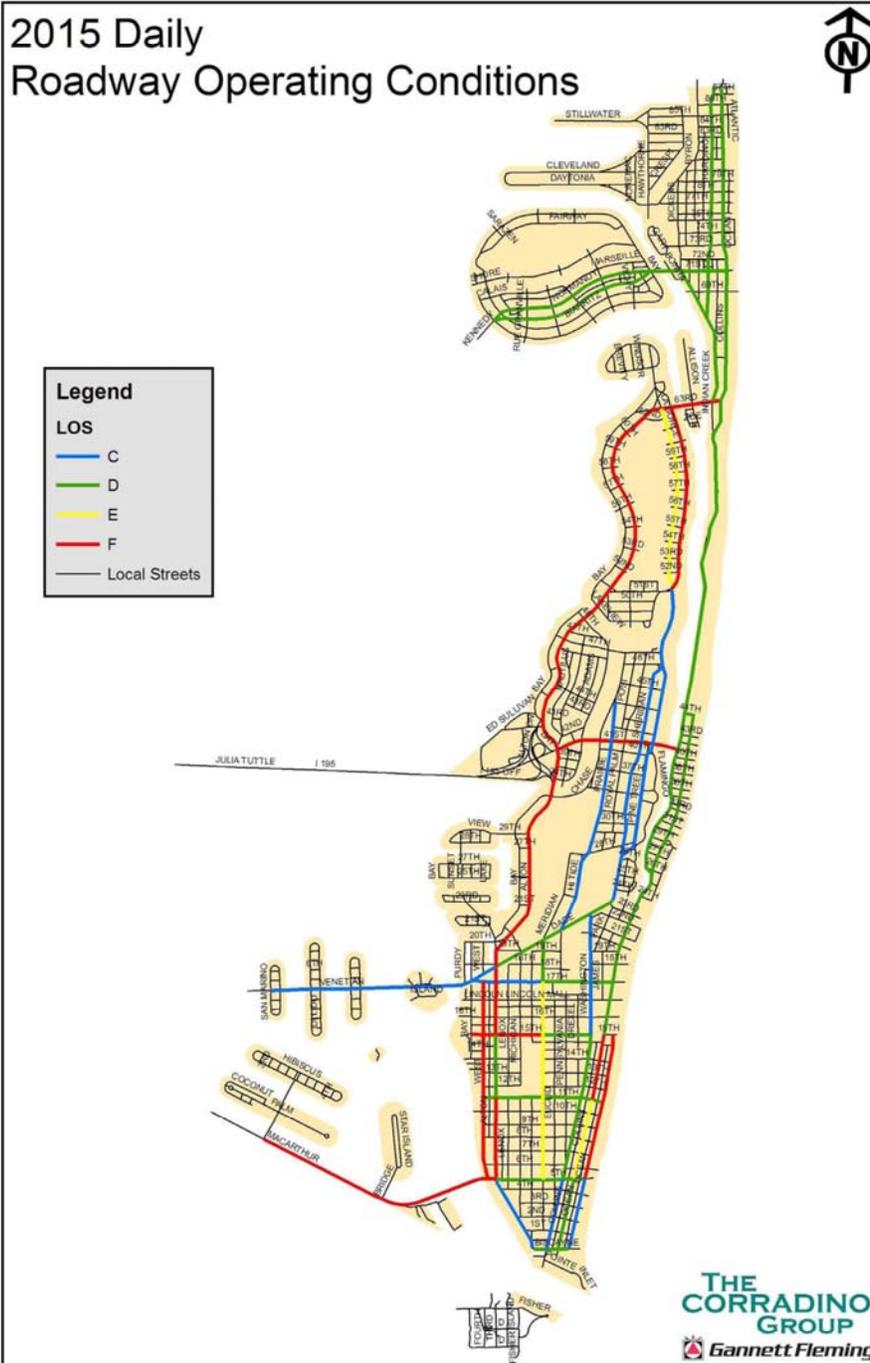
The City shall undertake an evaluation of the existing transportation corridors in an attempt to enhance safety and optimize mobility for all modes of transportation.

Policy 6.19: Mac Arthur Causeway

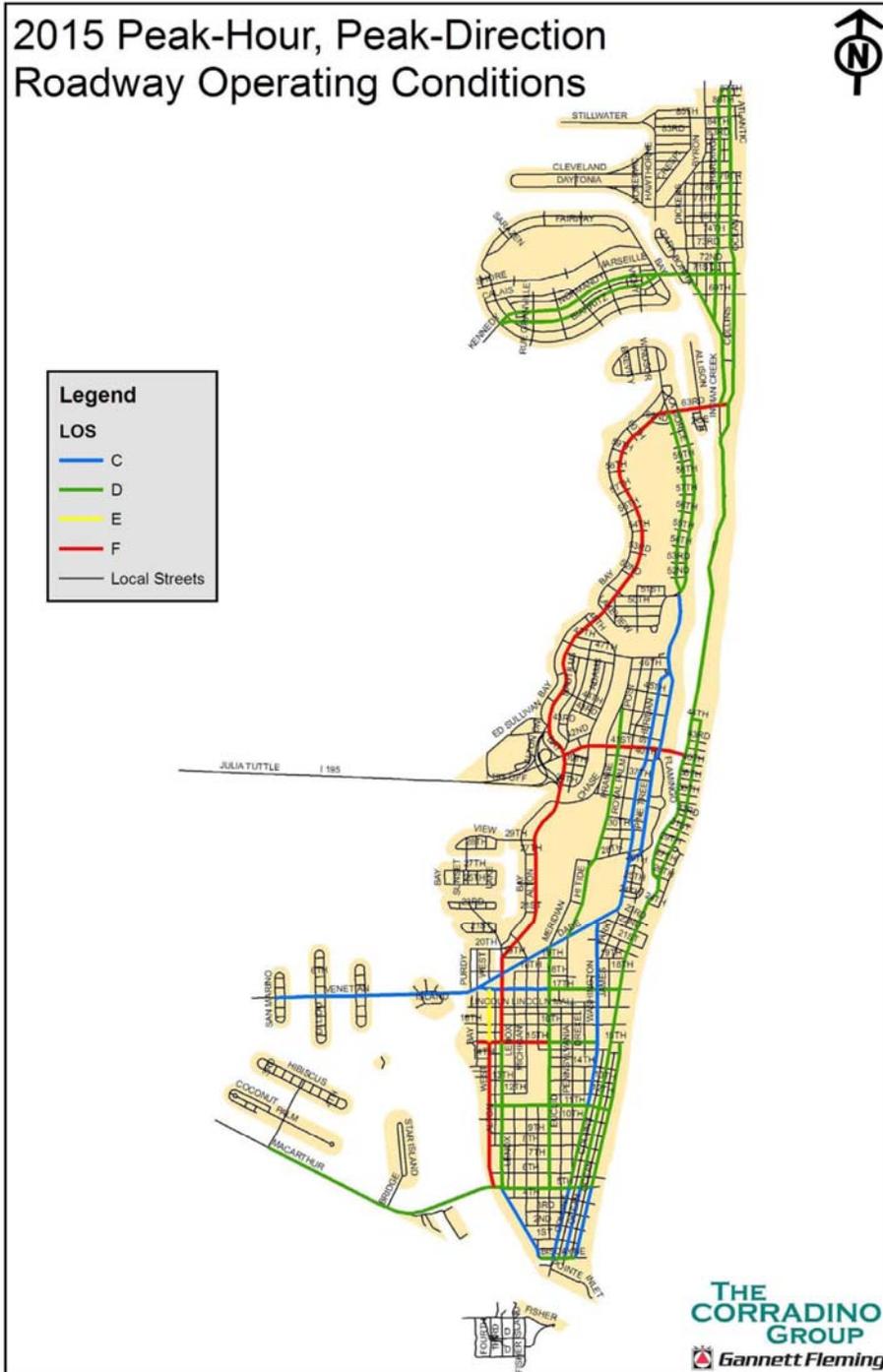
There shall be a full facility impact review of any request for a development permit to be issued by the City for the expansion of the existing cargo port facility in order to preserve the limited traffic capacity of the MacArthur Causeway and the ferry service to Fisher Island and ensure consistency with the Conservation/Coastal Management Element. Conversely, the existing MacArthur Causeway cargo terminal shall continue to be designated Light Industrial on the Future Land Use Map as to protect the facility from the encroachment of incompatible land uses.

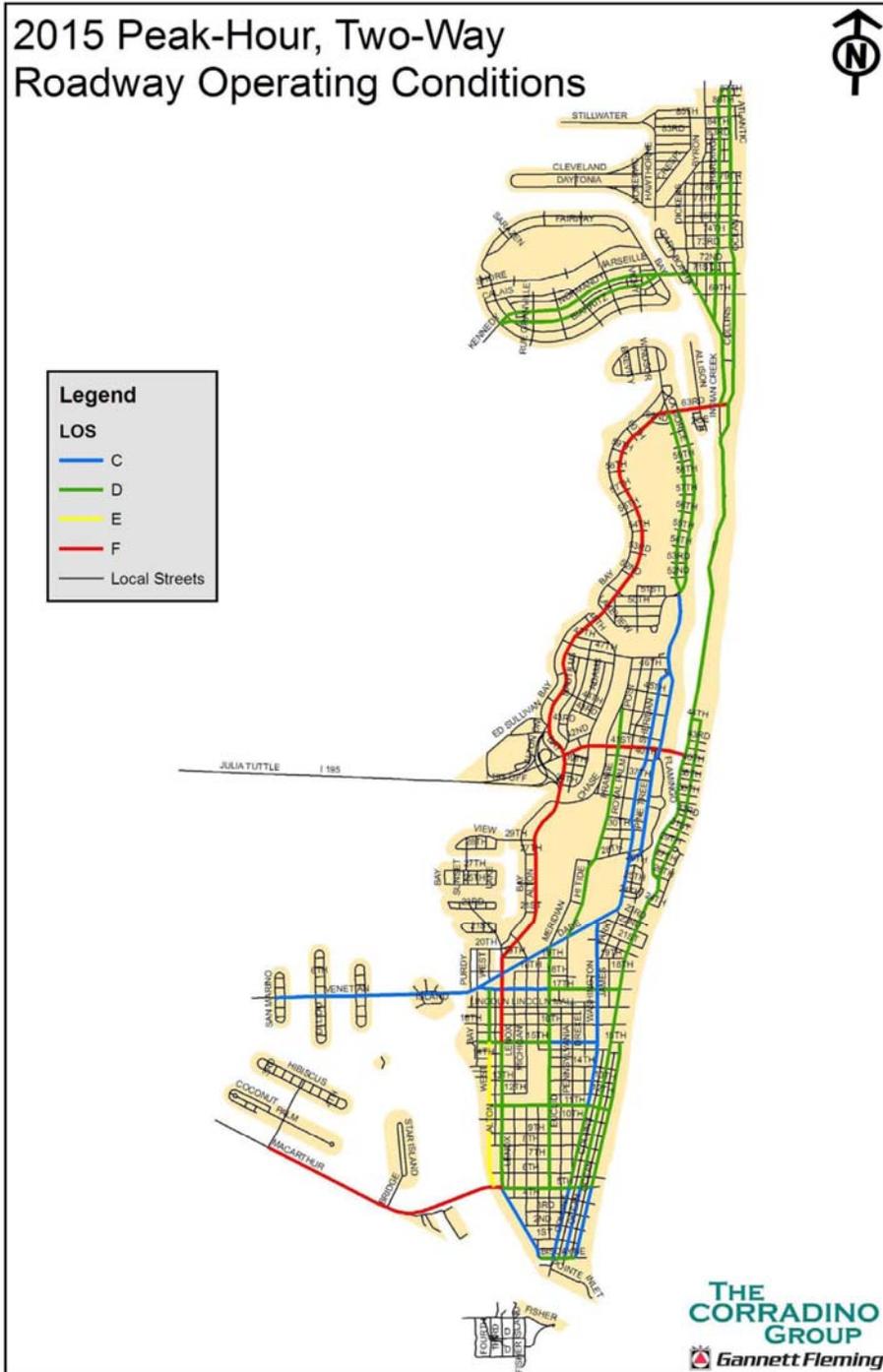
Policy 6.20: Venetian Causeway

The Venetian Causeway shall not be used as an option for connective multimodal capacity improvements above regular needed local bus service.

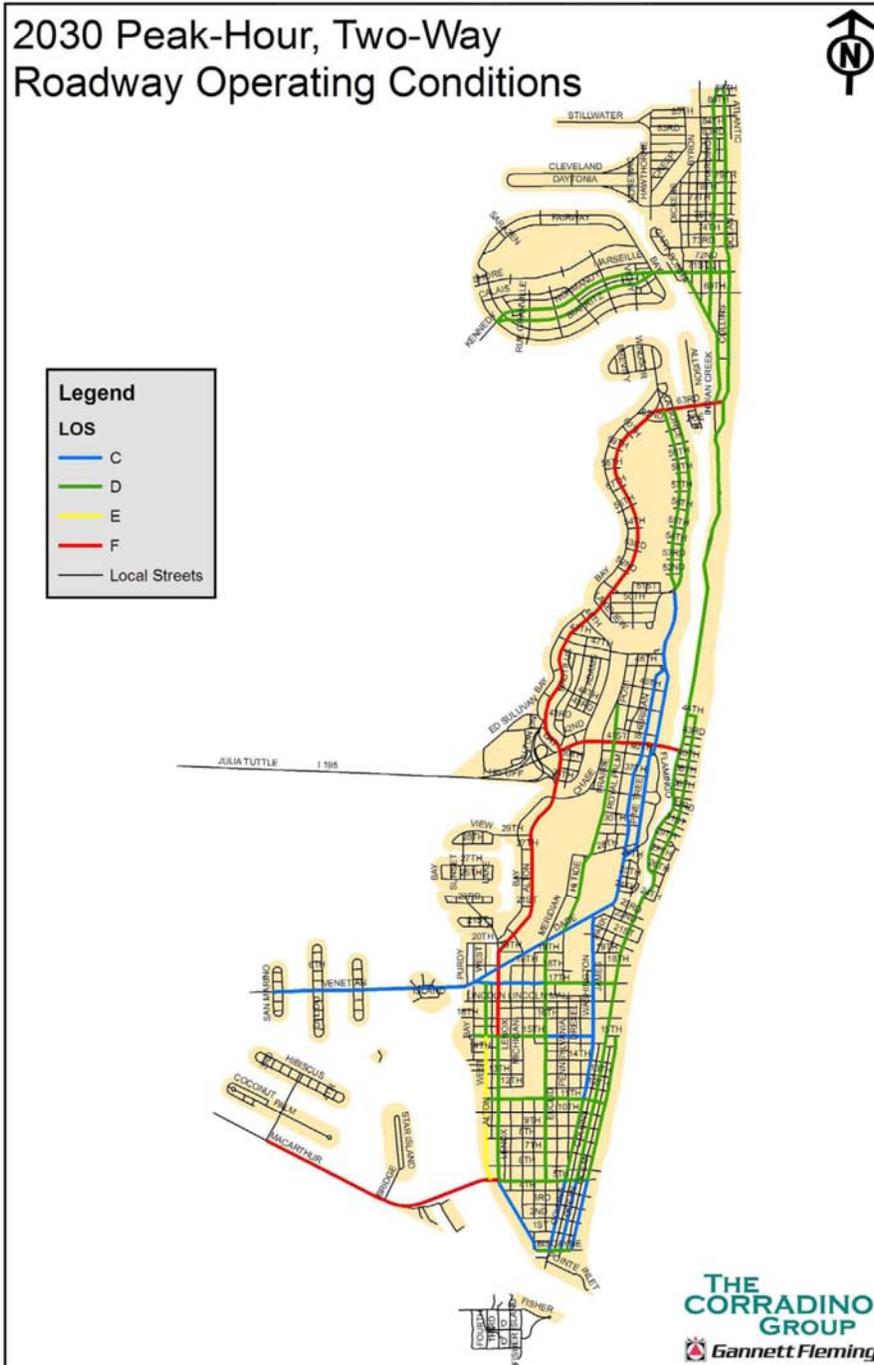


Source: The Corradino Group, Inc. 2008









Source: The Corradino Group, Inc. 2008

OBJECTIVE 7: ENHANCE, PROTECT, AND PRESERVE THE CITY'S NEIGHBORHOODS

To provide a safe and attractive transportation system throughout the City that meets the needs of the users of the right-of-way, the neighborhoods, the neighboring communities, and the environment.

Policy 7.1: Public Involvement in the Transportation Process

All projects shall include key stakeholders at early stages to ensure continuous commitment to public involvement, flexibility in exploring new solutions, and an openness to new ideas. Community members shall play an important role in identifying local and regional identification of issues and solutions that may better meet and balance the needs of all stakeholders.

Policy 7.2: Neighborhood Protection

The City shall strive to protect the residential neighborhoods from unnecessary traffic intrusion through an evaluation of various traffic calming, regulatory or operational alternatives which would provide incentives for non local traffic to remain on the designated arterial network.

Policy 7.3: Discourage Cut-through Traffic

The City Public Works Department will work with Miami-Dade County and FDOT to recommend changes to its engineering design criteria to provide appropriate access management techniques to discourage neighborhood cut-through traffic. These may include but shall not be limited to:

- Access on the highest-classified street where City or FDOT standards can be met;
- Joint access, cross access, and shared access;
- Raised median diverters;
- Angled entrances and exits and other driveway configurations which channel traffic away from the neighborhood;
- Enforceable signs (“do not enter”, “no thru traffic,” etc.);
- Building orientation away from the neighborhood, including drive-through windows;
- Internal traffic circulation to discourage use of adjacent side streets;
- Pedestrian access to encourage walking, rather than driving, short distances;
- Transit orientation, including safe and convenient pedestrian routes to the nearest bus stop;
- Speed tables

Policy 7.4: Traffic Calming

The City will continue to maintain a traffic calming program to provide for safe and viable neighborhoods and discourage speeding and cut-through traffic. It shall put together a menu of preferred traffic calming devices. This will detail their purpose, ideal implementation scenario, effectiveness and cost. This can be used as a menu to guide and streamline the process. To the extent possible the City shall maintain local control over the implementation of traffic calming measures.

Policy 7.5: Roadway Safety

The City will coordinate with Miami-Dade County Public Work Departments (MDPWD) and Miami-Dade Transit to ensure that short-term and maintenance of traffic signals and signage are continuously monitored and updated. A yearly short-term improvement program will be implemented to improve the safety of the road transportation network by:

1. Replacing missing road signs,
2. Repairing malfunctioning signal heads,
3. Removing or trimming roadside shrubbery that blocks visibility,
4. Repairing pedestrian signal heads and pedestrian signage
5. Providing maintenance of pavement markings for pedestrian, vehicular, transit and bicycle modes,
6. Minor drainage system replacements, and
7. Repair guardrail, transit amenities and street furniture.

Policy 7.6: Emergency Vehicle Access

Emergency vehicle access shall be considered during any modification of the transportation system, including access to parcels and the design and construction of roads and traffic calming devices.

Policy 7.7: Access Management

The City shall work with FDOT and MDPWD to impose access location requirements onto City, County and State streets through the implementation of its Public Works Manual, in order to reduce existing or potential congestion and safety problems. The City shall coordinate with other agencies to ensure connectivity impacts to the adjacent transportation system are properly mitigated, adjacent land uses are properly connected, and that mobility needs are met for all modes of transportation. The City, at its own discretion, may require a transportation impact study to aid in the decision on the location and design of the access to serve a land development.

Policy 7.8: Safe Roadway Designs

The City shall use design review procedures in the land development regulations to control roadway access points in conjunction with development. Such procedures shall include provisions requiring that all access points on state roads be approved by the Florida Department of Transportation, that all access points on county roads be approved by the MDCPW and that all other access points be in accordance with the best professional standards consistent with the protection of property rights.–The City shall eliminate or minimize roadway designs which lead to hazardous conditions by:

1. requiring the provision of adequate off-street queuing areas;
2. prohibiting hazardous access from driveways and traffic lanes through safe systems of ingress and egress: (i.e. turn lane policies);
3. requiring the installation of acceleration and deceleration lanes, turning lanes or parallel access lanes, where appropriate;
4. requiring the elimination or the minimization of conflicts between roadway, bicycle and pedestrian traffic by reasonable separation of vehicles, bicycles and pedestrians, particularly near schools, parks and other areas where children are concentrated;
5. Requiring adequate capacity for emergency evacuation or emergency response vehicles;
6. Requiring adequate accessibility for delivery vehicles and service vehicles.

Policy 7.9: Evaluating Crash Data to Improve Intersection Safety

The City of Miami Beach Police Department shall prepare annual accident frequency reports for all collector and arterial roads and coordinate with the FDOT's Traffic Operations Department to mitigate problems at high crash locations.

Policy 7.10: New Connections to the Roadway Network

The City of Miami Beach Public Works Department, the MDPWD or FDOT, depending on jurisdiction, will monitor all new connections and access points to roadways to ensure safe design. All new connections shall comply with the City's, County's and FDOT's access management standards.

Policy 7.11: Construction Impacts on Mobility

The City shall monitor the impact of construction on mobility, and coordinate with developers to minimize the impacts to automobile, pedestrian, bicycle and transit facilities. When appropriate, the City shall require a construction staging plan, and a maintenance of traffic plan which may include mitigation efforts, such as off-site parking, and staging of multiple projects to address these impacts.

Policy 7.12: Complete Streets (please see Glossary of terms)

The City shall consider all aspects of the “Complete Streets” initiative when considering improvements to public rights of way. Complete streets are designed and operated to enable safe access for all users, including pedestrians, bicyclists, motorists and transit riders of all ages and abilities, so that they can safely move along and across the right of way no matter what mode is being used. In doing so all roadway projects shall provide for appropriate widths for sidewalk or bicycle facilities where right of way is available. The City and reviewing agencies shall ensure that the new construction projects are safe for both the user and the community and that the project adds a lasting value to both motorized and nonmotorized users.

Policy 7.13: Context Sensitive Design (please see Glossary of terms)

The City shall provide CSD by integrating projects into the built environment in a sensitive manner through careful planning, consideration of different perspectives, and tailoring designs to particular project circumstances. All CSD in coordination with FDOT and MDPWD within the City shall promote six key principles:

1. Balance safety, mobility, community, and environmental goals in all projects.
2. Involve the public and affected agencies early and continuously.
3. Use an interdisciplinary team tailored to project needs.
4. Address all modes of travel.
5. Apply flexibility inherent in design standards.
6. Incorporate aesthetics as an integral part of good design.

Policy 7.14: The Use of Alleys and Service Vehicles

The City shall encourage access for parking and service vehicles to be from alleys. The City shall encourage new development and redevelopment to provide alleys through dedication of right-of-way or access easements in order to prevent roadway congestion and encourage pedestrian safety. Additionally, the City shall evaluate the feasibility of developing scheduled delivery and trash removal hours to ensure that these services are not accomplished on public streets during the peak hours.

Policy 7.15: Aesthetically Pleasing Roadways

When new facilities are planned, their design shall be aesthetically compatible with the surrounding community, whenever practical. The City of Miami Beach shall continue to landscape and improve entrances to the City. It shall also continue implementing programs to landscape and maintain existing median strips and rights-of-way.

OBJECTIVE 8: PARKING

The City shall provide clean, safe, and affordable parking, by continuing to explore and implement creative and technologically advanced methods of parking provision and management to satisfy the need.

Policy 8.1: Continued Development of Parking

The City shall continue with the acquisition, construction and improvements to municipal parking facilities as may be needed.

Policy 8.2: Public Private Partnerships

The City shall continue to seek public-private partnerships in the development of its parking facilities and intermodal centers.

Policy 8.4: Context Sensitive Parking Development

Off-street parking areas shall be located and designed in a manner that supports and does not conflict with pedestrian and bicycle activity, such as to the side or rear of buildings.

Policy 8.5: Maximum Parking Standards

The City shall examine the economic, transportation and recreational impact of strategically limiting parking in certain areas, as a means to reinforce alternative modes of transportation.

Policy 8.6: Parking Intercept Facilities and Intermodal Centers

The City shall support the creation of park and ride lots and/or intermodal centers either at the ingress and egress points to the City, or at transfer locations.

Policy 8.7: Bicycle Parking

The City shall require all new developments to provide secure short term and long term bicycle parking in the form of bicycle racks, bicycle lockers, locked rooms or other appropriate enclosures as a way of reducing the demand for automobile parking.

Policy 8.8: Incentivizing Transit through Parking

The City shall encourage long-term daily parking and use of the South Beach Local or other circulators as a way of minimizing internal trips within the various neighborhood districts.

Policy 8.9: Monitoring Supply and Demand

The City shall continuously monitor and update the parking requirements in the Land Development Regulations to result in a better ratio of supply to demand which implements innovative parking strategies in commercial areas to promote multimodalism.

Policy 8.9: Public Access to Parking

The City shall continue to maximize public access to parking spaces in all areas.



Map 9.1 City of Miami Beach TCMA 1

OBJECTIVE 9: TRANSPORTATION CONCURRENCY MANAGEMENT AREAS (TCMA)

The City shall maintain the North Beach, Middle Beach and South Beach Transportation Concurrency Management Areas (TCMA's) within its boundaries. The boundaries of these TCMA's shall be depicted on Map 9.1. Within these areas, increased multi-modal mobility options will be pursued and redevelopment efforts will be focused.

Policy 9.1: Calculating Remaining Capacity

Transportation Concurrency Management Areas (TCMA) rely on the measurement of capacity on an Areawide basis. As such the following facilities will have their service volumes averaged at the approved Level of Service, as the calculation of Areawide capacity.

South Beach TCMA – Facilities to be averaged

Roadway	Function	Direction	From	To	TCMA LOS	Service Volume
Alton Road	Arterial	N/S	Dade Blvd.	5th St.	D+20	3150
Washington Avenue	Collector	N/S	Dade Blvd.	5th St.	D+50	3100
<i>SUBTOTAL</i>						<i>6250</i>
Collins Avenue	Arterial	N/S	23rd Street	5th Street	D+50	1450
Meridian Road	Collector	N/S	Dade Blvd.	5th Street	D+20	1150
West Avenue	Collector	N/S	Dade Blvd.	5th Street	D+20	1150
<i>SUBTOTAL</i>						<i>3750</i>
Alton Road	Collector	N/S	5th Street	Biscayne	D+50	3100
Washington Avenue	Collector	N/S	5th Street	Biscayne	D+50	3100
<i>SUBTOTAL</i>						<i>6200</i>
5th Street	Arterial	E/W	Alton Road	Washington	D+50	6350
17th Street	Arterial	E/W	Dade Blvd.	Collins Ave	D+50	3900
Dade Boulevard (share)	Arterial	E/W	Venetian	Pine Tree Dr.	D+50	4200
<i>SUBTOTAL</i>						<i>14450</i>

Middle Beach TCMA – Facilities to be averaged

Roadway	Function	Direction	From	To	TCMA LOS	Service Volume
Alton Road	Arterial	N/S	63rd Street	Dade Blvd	D	3400
Collins\Indian Creek	Arterial	N/S	63rd Street	23rd Street	D+20	3800
<i>SUBTOTAL</i>						<i>7200</i>
41 st Street	Arterial	E/W	Alton Road	Indian Creek	D+20	3300
Dade Boulevard (share)	Arterial	E/W	Venetian	Pine Tree Dr	D+50	4200
63rd Street (share)	Arterial	E/W	Alton Road	Indian Creek	D+20	3150
<i>SUBTOTAL</i>						<i>10650</i>

North Beach TCMA – Facilities to be averaged

Roadway	Function	Direction	From	To	TCMA LOS	Service Volume
Collins Avenue- one way	Arterial	N/S	City Limit	63rd Street	D+20	2800
Harding/AbbottAve.-one way pair	Arterial	N/S	City Limit	Indian Creek Dr	D+20	2800
Indian Creek Drive	Arterial	N/S	71st Street	63rd Street	D+20	3300
<i>SUBTOTAL</i>						<i>8900</i>
71 st Street/Normandy Dr.	Arterial	E/W	City Limit	Indian Creek	D+20	3150
63 rd Street (share)	Arterial	E/W	Alton Road	Indian Creek	D+20	3150
<i>SUBTOTAL</i>						<i>6300</i>

Policy 9.2: Growth Management

The City shall review all proposed developments for their impact upon the adopted LOS standards. Each development will be subject to the City’s Concurrency Management System. The City will continue to monitor the existing Transportation Concurrency Management Areas and continue to implement multimodal opportunities pursuant to the Florida Administrative Code, (F.A.C. sec, 9J-5).

Policy 9.3: Proportionate Fair Share Mitigation for Non Deficient Areas

The City shall have the ability to mitigate the impact of a proposed development on individual roadways, segments of roadways, or areas as a whole within a Transportation Concurrency Management Areas, even if Areawide service volumes are not surpassed, by collecting a proportionate fair share contribution from a developer in accordance with applicable sections of Florida Statutes.

Policy 9.4: Proportionate Fair-Share Mitigation for Deficient Areas

When areas are deficient in capacity, the City may issue development orders when transportation concurrency requirements are satisfied by a proportionate fair share contribution from a developer in accordance with applicable sections of Florida Statutes. Regardless of concurrency or mitigation, the City maintains the right to reject development for non compliance with any other aspect of the Comprehensive Plan or Land Development Regulations.

Policy 9.5: Multimodal Transportation

Within each Transportation Concurrency Management Area, infill and redevelopment shall be encouraged which is supportive of mobility alternatives including walking, bicycling and use of transit, particularly those associated with the completion of the Beachwalk and Baywalk projects.

Policy 9.6: Parking Within the TCMA's

The City, shall implement the recommendations included in the City's parking management study within the City's TCMA's. The process shall evaluate:

- a. Placement of future public and private parking facilities related to the support of alternative modes of transportation;
- b. Reduction of on-site parking requirements within the City's land development regulations in order to encourage multi-modal use;
- c. Commercial delivery issues including the provision of loading zones within alleys to improve street flow and emergency vehicle access.

Policy 9.7: Concurrency Mitigation Fees

Concurrency mitigation fees within the City's TCMA's shall be used where appropriate to support multi-modal options. This process shall address:

- a. Contribution towards the construction of park and ride facilities to be served by transit;
- b. The construction of enhanced pedestrian amenities that create a pedestrian friendly environment, such as:
 - narrower traffic lanes,
 - median refuges, curb extensions ("bulb-outs"),
 - count-down pedestrian signals,
 - use of geometric designs that minimize crossing distances and increase visibility between pedestrians and motorists,
 - timing signals to minimize pedestrian delay & conflicts;
- c. The construction of bicycle facilities and/or the evaluation of reclaiming street space for other uses through the use of complete streets concepts.

Policy 9.8: Provision of Multimodal Amenities

Within the City's TCMA's, the City shall require all new major developments, (those projects over 50,000 gross square feet, and/or projects that increase the number of trips over 100 peak hour trips), to submit a Transportation Mitigation Plan which will include strategies to mitigate the traffic generated by the site, and will encourage the use of alternative modes of transportation. The safety and convenience of all users of the transportation system including pedestrians, bicyclists, transit users, and motor vehicle drivers shall be accommodated and balanced in all types of transportation and development projects and through all phases of all new major developments so that the most vulnerable – children, elderly, and persons with disabilities – can travel safely within the public right of way. Applicable treatments may include, but not be limited to TDM strategies included in Policy 6.2 and TSM policies included in Policy 6.1.

Policy 9.9: Projects within the TCMA's

The City will continue to utilize funding mechanisms the MPO planning process, and continual updating of a concurrency mitigation bank to support the projects contained within the City's long term planning documents which address mobility options. Those projects located within the City's TCMA's and which are alternative modes should receive funding priority.

Policy 9.10: Concurrency Management

Transportation concurrency within the South Beach, Middle Beach and North Beach TCMA's will be maintained and tracked by the Transportation and Concurrency Management Section located within the Public Works Department.

Policy 9.11: Updating the Concurrency Management System

The City shall update the traffic counts in the Concurrency Management System every two years. This data shall be used as part of the update of the long range transportation master planning process.

OBJECTIVE 10: TRANSPORTATION COORDINATION WITH OTHER JURISDICTIONS

Transportation efforts in the City will be coordinated with the plans and programs of other state and local jurisdictions including; the Miami-Dade Metropolitan Planning Organization (MPO), the Florida Department of Transportation (FDOT), Miami-Dade County Public Works (MDCPW), and Miami Dade Transit (MDT), and other local jurisdictions.

Policy 10.1: Coordinate with the MPO and FDOT

The City shall review the annual versions of the LRTP and the Transportation Improvement Program (TIP) to coordinate this element with the plans of the MPO and FDOT.

Policy 10.2: Coordinate with Miami-Dade Transit

The City shall review the annual versions of the Miami-Dade Transit Service Development Plan to coordinate this element with the plans of the MDT.

Policy 10.3: Coordination with Other Cities

The City shall review for compatibility with this element the transportation plans and programs of Miami-Dade County and neighboring municipalities as they are amended in the future.

Policy 10.4: Coordination of Bicycle and Pedestrian Facilities

The City shall work with adjacent jurisdictions to coordinate regional interconnection of bicycle, transit and pedestrian facilities.

Policy 10.5: Coordination with Transportation Management Organization

The City shall assign a liaison with South Florida Commuter Services to the citizens and employees traveling to and from Miami Beach on a regular basis.

Policy 10.6: Multimodal Components of Roadway Projects

During the design stages of roadway improvements, the location of transit facilities such as turn-out bays, transit amenities and transit shelter locations, shall be included in the roadway design proposal. These improvements shall be coordinated with the agency (ies) that have jurisdiction over the facilities being designed.

OBJECTIVE 11: HURRICANE EVACUATION

To address hurricane evacuation within the City of Miami Beach, the City shall coordinate with responsible agencies including the Florida Department of Community Affairs, Miami- Dade Office of Emergency Management, South Florida Regional Planning Council and Miami-Dade Transit.

Policy 11.1: Awareness of Evacuation Routes

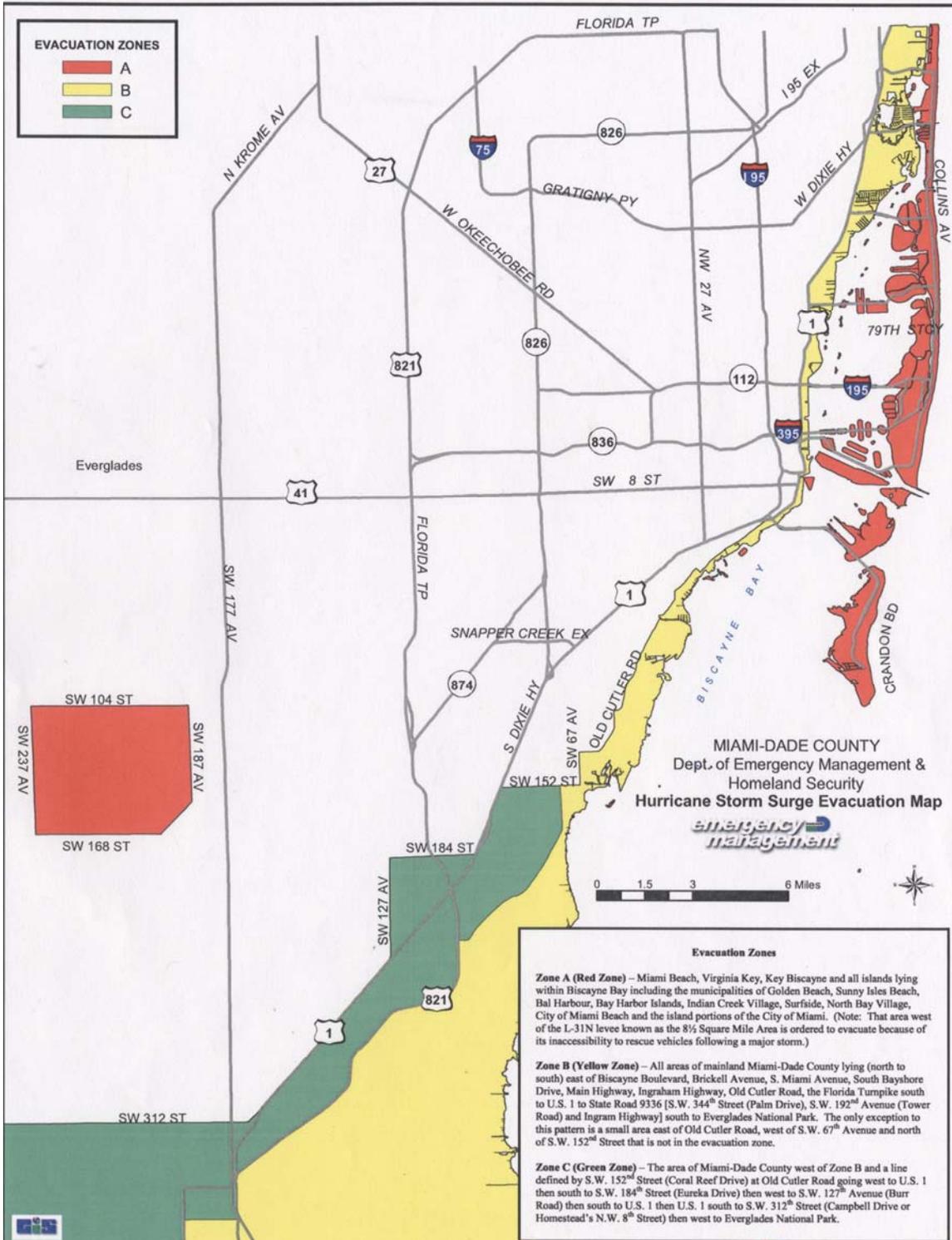
The City shall continue to coordinate with Miami-Dade Transit to evaluate the need for establishment of increased evacuation pick up sites within the City and promote community awareness of the location of these site and evacuation routes.

Policy 11.2: Improving Evacuation Clearance Times

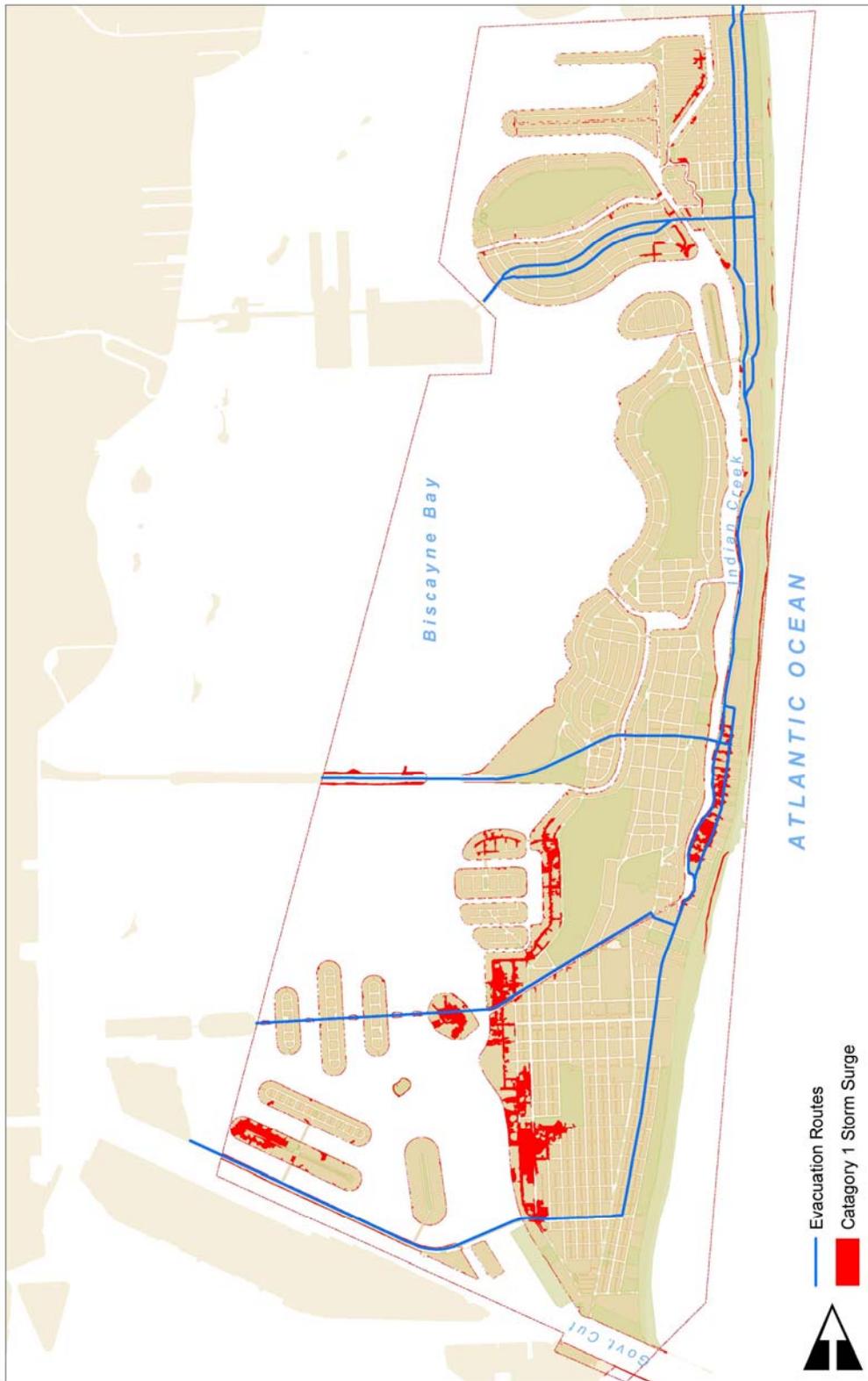
The City shall coordinate with the Miami-Dade Office of Emergency Management to improve evacuation clearance times of its routes including 5th Street/Alton Road through a change to the hurricane evacuation route zones to take advantage of available capacity on alternative evacuation routes.

Policy 11.3: Assistance with Evacuation

The City shall evaluate entering into an agreement with a private contractor to assist with evacuation during hurricane events.



Source: Miami Dade County Dept. of Emergency Management & Homeland Security



Prepared by the Planning Department, 2011 Storm Surge Data Source: Statewide Regional Evacuation Study Project and the South Florida Regional Planning Council, February 2011



MIAMI BEACH

Coastal High Hazard Area

Category 1 Storm Surge and Evacuation Routes

GLOSSARY OF TERMS

- **Atlantic Greenway Network:** Is a multi-modal network that will knit together elements of the Miami Beach bicycle/pedestrian transportation system: the north-south Beach Corridors running parallel to the dunes, and the Neighborhood Trails that provide access to the beach, parks, schools, and the commercial, cultural and civic destinations.
- **Bay Walk Network:** Is a series of multi-use paths along the bayfront in South Beach. This network is implemented as redevelopment occurs in the area.
- **Bus Rapid Transit (BRT):** is an enhanced bus system that operates on bus lanes or other transit ways in order to combine the flexibility of buses with the efficiency of rail. By doing so, BRT operates at faster speeds, provides greater service reliability and increased customer convenience. It also utilizes a combination of advanced technologies, infrastructure and operational investments that provide significantly better service than traditional bus service.¹
- **Complete Streets:** The Complete Streets concept is an initiative to design and build roads that adequately accommodate all users of a corridor, including pedestrians, bicyclists, users of mass transit, people with disabilities, the elderly, motorists, freight providers, emergency responders, and adjacent land users.
- **Context Sensitive Design (CSD) or Context Sensitive Solutions (CSS):** is a collaborative, interdisciplinary approach that involves all stakeholders to develop a transportation facility that fits its physical setting and preserves scenic, aesthetic, historic and environmental resources, while maintaining safety and mobility. CSS is an approach that considers the total context within which a transportation improvement project will exist. CSS principles include the employment of early, continuous and meaningful involvement of the public and all stakeholders throughout the project development process.
- **Development Order:** Granting, denying or granting with conditions an application for zoning approval, division of lots, rezoning, conditional use, variance, certificate of use, occupational license, design approval, or any other official action having the effect of permitting the development of land which exceeds the intensity of development which exists on the property at the time of application.
- **Federal Interstate Highway System (FIHS):** It is a statewide transportation network that provides for high-speed and high-volume traffic movements within the state. The system also accommodates High-Occupancy Vehicles (HOVs), express bus transit and, in some corridors, passenger rail service. The primary function of the system is to serve interstate and regional commerce and long-distance trips.
- **Intelligent Transportation Systems (ITS):** apply well-established technologies of communications, control, electronics and computer hardware and software to the surface transportation system.

¹ Federal Transit Administration

- **Level of Service (LOS):** is defined by the Highway Capacity Manual 2000 as: “a quality measure describing operational conditions within a traffic stream, generally in terms of such service measures as speed and travel time, freedom to maneuver, traffic interruptions, and comfort and convenience. Six LOS are defined for each type of facility that has analysis procedures available. Letters designate each level, from A to F, with LOS A representing the best operating conditions and LOS F the worst. Each LOS represents a range of operating conditions and the driver’s perception of those conditions.”□
- **Multimodal Level of Service:** explores a method for assessing how well an urban street serves the needs of all of its users. The method for evaluating the multimodal level of service (MMLoS) estimates the auto, bus, bicycle, and pedestrian level of service on an urban street using a combination of readily available data and data normally gathered by an agency to assess auto, transit, pedestrian and bicycle level of service.
- **Northeast Corridor:** It is planned to provide a high-capacity transit connection along a 13.6-mile corridor extending from downtown Miami, through Little Haiti, to NE 215th Street, generally along the Biscayne Boulevard/U.S. 1 Corridor and FEC Railroad right-of-way. The corridor has been identified as part of the Peoples Transportation Plan for possible funding by the half-cent sales revenues established by referenda 2002.
- **Service volume:** is defined by the Highway Capacity Manual 2000 as: “The maximum hourly rate at which vehicles, bicycles, or persons reasonably can be expected to traverse a point or uniform segment of roadway during an hour under specific assumed conditions while maintaining a designated level of service.”
- **Strategic Intermodal System:** is a statewide network of high-priority transportation facilities, including the state's largest and most significant commercial service airports, spaceport, deepwater seaports, freight rail terminals, passenger rail and intercity bus terminals, rail corridors, waterways and highways. These facilities are the workhorses of Florida's transportation system, carrying more than 99 percent of all commercial air passengers, virtually all waterborne freight tonnage, almost all rail freight, and more than 68 percent of all truck traffic and 54 percent of total traffic on the State Highway System.
- **Sustainable Development:** "Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs.
- **Transportation Concurrency Management Areas:** are designed to promote infill development and redevelopment. According to Section 163.3180(7), Florida Statutes, such an area "must be a compact geographic area with an existing network of roads where multiple, viable alternative travel paths or modes are available for common trips." Within a Transportation Concurrency Management Area, a level of service standard is applied area-wide rather than on individual road segments. The area-wide level of service is determined by averaging the level of service on similar facilities within the designated area serving common origins and destinations. This alternative approach to strict concurrency should be used only where alternative modes are truly viable.

- **Transportation Demand Management: (TDM):** is a general term for strategies that result in more efficient use of our transportation system and that markets alternative forms of transportation for commuters, in order to reduce traffic congestion and air pollution and to increase efficiency of the transportation system.
- **Transportation Mitigation Plan:** Is a transportation plan to be developed by applicants of all new major developments that will include strategies to mitigate the impacts of the traffic generated by these developments. Strategies to be developed will be pursuant to the provisions of the policies contained in the Transportation Element and the City's Land Development Regulations.
- **Transit Oriented Design:** or Transit Oriented Development (TOD) is moderate to higher density development, located within an easy walk of a major transit stop, generally with a mix of residential, employment, and shopping opportunities designed for pedestrians without excluding the auto. TOD can be new construction or redevelopment of one or more buildings whose design and orientation facilitate transit use.
- **Transportation Regional Incentive Program: (TRIP)** is a program that was created to improve regionally significant transportation facilities in "regional transportation areas". State funds are available throughout Florida to provide incentives for local governments and the private sector to help pay for critically needed projects that benefit regional travel and commerce. The Florida Department of Transportation (FDOT) will pay for 50 percent of project costs, or up to 50 percent of the nonfederal share of project costs for public transportation facility projects.
- **Transportation Systems Management: (TSM)** approach to congestion mitigation seeks to identify improvements to enhance the capacity of existing system of an operational nature. Through better management and operation of existing transportation facilities, these techniques are designed to improve traffic flow, air quality, and movement of vehicles and goods, as well as enhance system accessibility and safety.
- **120 percent of LOS D:** Is defined as 120 percent of the service volume (see service volume definition), which is the same as multiplying the LOS D Service Volume times a 1.2 factor. In these specific cases the LOS standard service volume thresholds are increased to account for the fact that the roadways within the enhanced transit service area are benefited by increased levels of public transportation, which will attract person trips instead of using the private automobile on the roadway. Having increased levels of public transit service are very much in line with the City's comprehensive plan goals, objectives and policies, as well as those at the State comprehensive planning level.
- **150 percent of LOS D:** Is defined as 150 percent of the service volume (see service volume definition), which is the same as multiplying the LOS D Service Volume times a 1.5 factor. In these specific cases the LOS standard service volume thresholds are increased to account for the fact that the roadways within the enhanced transit service area are benefited by increased levels of public transportation, which will attract person trips instead of using the private automobile on the roadway. Having increased levels of public transit service are

very much in line with the City's comprehensive plan goals, objectives and policies, as well as those at the State comprehensive planning level.

List of Acronyms

- ADA: American with Disabilities Act
- AGN: Atlantic Greenway Network
- BRT: Bus Rapid Transit
- CIP: Capital Improvement Program
- CSD: Context Sensitive Design
- CSS: Context Sensitive Solutions
- FDOT: Florida Department of Transportation
- FIHS: Florida Interstate Highway System
- ITE: Institute of Transportation Engineers
- ITS: Intelligent Transportation Systems
- LOS: Level of Service
- LRTP: Long Range Transportation Plan
- MDPWD: Miami-Dade Public Works Department
- MDT: Miami-Dade Transit
- MPO: Metropolitan Planning Organization
- SIS: Strategic Intermodal System
- TCMA: Transportation Concurrency Management Area
- TDM: Transportation Demand Management
- TIP: Transportation Improvement Program
- TOD: Transit Oriented Design
- TRIP: Transportation Regional Incentive Program
- TSM: Transportation Systems Management

HOUSING ELEMENT

GOAL:

Have available to accommodate the projected population of the City a sufficient number of housing units in an adequate variety of types, sizes, locations and cost ranges, within sound structures located in safe and appropriate neighborhoods.

OBJECTIVE 1: CREATION AND/OR PRESERVATION OF AFFORDABLE HOUSING

Have available a minimum of 16,000 housing units affordable by low and moderate income households and special need populations during the period through 2020. NOTE: The City of Miami Beach does not contain rural property or farmland, thus does not have a need for rural or farm-worker housing.

Policy 1.1

Due to the built-out conditions within Miami Beach, continue to emphasize policies under Objective 5 designed to preserve and/or rehabilitate existing housing and the re-use of historical structures as housing.

Policy 1.2

Continue to pursue and utilize state and federal sources of funding which can be used to assist in creating and/or preserving housing affordable to very low to moderate-income households and for special need populations, including State Housing Initiatives Partnership (SHIP), CDBG, HOME, and NSP funds.

Policy 1.3

Cooperate with affordable housing developers' efforts to leverage Miami-Dade County Surtax funds and other financial incentives for the provision of housing affordable to very low to moderate- income households, including those with special needs, in Miami Beach.

Policy 1.4

Direct available City and federal sources of funds toward mixed-income housing projects to avoid over-concentration of low-income housing.

Policy 1.5

The City's Land Development Regulations and housing activities shall be administered in accordance with Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended, the Florida Fair Housing Act, Chapter 760 F.S., and Section 62-88 of the City of Miami Beach Code of Ordinances.

Policy 1.6

The Planning Department, which includes zoning review, will continue to streamline the housing approval and permitting process in coordination with the Building Department through the expedited processing of permits for affordable housing projects. This incentive gives priority to designated affordable housing projects when scheduling Pre-Design Conferences with all relevant agencies. Also, when the plans are ready for permitting, first priority is given to them.

Policy 1.7

Maintain the potable water, sanitary sewer, storm sewer, transportation, solid waste, and recreation facilities above the level of service standards established in the City's comprehensive plan in all areas of the City so that there will be no restrictions due to inadequate infrastructure or public facilities on the location of housing for low and moderate income families or any other category of housing.

OBJECTIVE 2: SUBSTANDARD HOUSING AND STRUCTURAL AND AESTHETIC IMPROVEMENTS TO EXISTING HOUSING

The City will continue its efforts to eliminate substandard housing conditions, to improve the structural and aesthetic quality of its existing housing stock, and improve its neighborhood.

Policy 2.1

Continue to address the predominate cause of substandard housing conditions, overcrowding, by using state and federal funding sources such as the City's SHIP, CDBG, HOME and NSP programs for construction and/or rehabilitation of affordable residential structures.

Policy 2.2

Cooperate with housing developers' efforts to leverage Miami-Dade County Surtax funds and other financial incentives for the construction and/or rehabilitation of residential housing affordable to very low to moderate-income households in Miami Beach by providing technical assistance as necessary.

Policy 2.3

Require conformance by all residential structures to the standards of the South Florida Building Code (new structures), National Fire Protection Administration Code, and the City's Minimum Housing and Property Maintenance Standards.

Policy 2.4

Require that all multifamily buildings must obtain a Certificate of Use in order to be lawfully occupied and require regular inspection to determine compliance with all applicable codes.

Policy 2.5

Encourage preventative property maintenance and rehabilitation methodologies rather than demolition in order to promote sustainability and affordable housing through the preservation and adaptive re-use of historic structures.

Policy 2.6

Use all available legal means to compel demolition of dilapidated structures as expeditiously as possible by complying with the Florida Building Code; the City's Minimum Housing Standards; and the Intergovernmental Coordination Element (Dade County Unsafe Structures Board).

Policy 2.7

The City will continue to improve the structural and aesthetic qualities of its housing stock through its Land Development Regulations, Building Code, Minimum Housing and Property Maintenance Standards and its Historic Preservation Board.

OBJECTIVE 3: ADEQUATE SITES AND DISTRIBUTION OF HOUSING FOR VERY LOW TO MODERATE-INCOME HOUSEHOLDS; AND ADEQUATE SITES FOR MOBILE AND MANUFACTURED HOMES.

Maintain a minimum of 40 percent of the City's land area that is designated so as to permit residential uses (excluding rights-of-way) and 25 percent of the City's total land area (excluding rights-of-way) as areas in which land use policies are either designed to encourage, or mitigated to allow for, housing affordable to very low to moderate-income families.

Conserve the City's stock of single-family houses (attached and detached) by maintaining a minimum of 35 percent of the City's total land area (excluding rights-of-way) in zoning districts that permit only single-family houses uses.

Maintain a minimum of 30 percent of the City's total land area (excluding rights-of-way) as areas in which manufactured housing is permitted.

Policy 3.1

The City shall mitigate zoning regulations such as reduced parking requirements or shared parking in the case of a mixed use building that impede housing affordable to very low to moderate-income families in all zoning districts which permit multifamily housing, including multifamily residential, commercial and overlay districts and retain the new multifamily districts, e.g. TH Townhome residential and RO Residential Office.

Policy 3.2

The City's zoning map will provide that a minimum of 35 percent of the City's total land area (excluding rights-of-way) will be zoned to permit only single-family houses (attached and detached) recreational facilities and municipal uses.

Policy 3.3

Manufactured housing will be permitted in areas designated as "Single Family Residential" on the adopted Future Land Use Map, provided they are permanently anchored, meet the minimum floor area requirements, and satisfy all other provisions contained in the City's land development regulations for areas designated as "Single Family Residential" on the Future Land Use Map.

Policy 3.4

Continue to prohibit non-residential main permitted uses in RS, single-family and RM, residential multi-family zoning districts in compliance with the provisions of s.163.3202, F.S. to prevent conversion or redevelopment of residential structures to non-residential uses.

Policy 3.5

Maintain the potable water, sanitary sewer, storm sewer, transportation, solid waste and recreation facilities above the level of service standards established in the Infrastructure Element of the City's Comprehensive Plan in all areas of the City so that there will be no restrictions due to inadequate infrastructure or public facilities on the location of housing for very to moderate-income families, manufactured housing or any other category of housing.

OBJECTIVE 4: ADEQUATE SITES FOR GROUP HOMES AND FOSTER CARE FACILITIES

Maintain a minimum of 20% of the City's total land area (excluding rights-of-way) designated so as to permit "community residential homes" licensed or funded by the Florida Department of Children and Family Services and assisted living facilities for the elderly and other special need populations.

Policy 4.1

The Land Development Regulations of the City Code will permit adult congregate living facilities in excess of 14 beds as a conditional use.

Policy 4.2

The City will ensure that its Land Development Regulations are in compliance with Florida Statutes, Chapter 419, and any other statutory requirements regarding the siting of community residential homes, including group homes and foster care facilities.

Policy 4.3

The City will comply with Florida Statutes, Chapter 419, when considering the integration of community residential homes, care facilities and retirement homes into residential neighborhoods.

Policy 4.4

Maintain the potable water, sanitary sewer, storm sewer, transportation, solid waste, and recreation facilities above the level of service standards, as set forth in the Future land Use and Infrastructure elements of the Comprehensive Plan, established in the City's comprehensive plan in all areas of the City so that there will be no restrictions due to inadequate infrastructure or public facilities on the location of adult congregate living facilities or any other group categories of housing.

OBJECTIVE 5: CONSERVATION, REHABILITATION OR DEMOLITION OF HOUSING, INCLUDING IDENTIFICATION OF HISTORICALLY SIGNIFICANT HOUSING

The City will continue to promote preservation or rehabilitation of housing, including identification of historically significant housing and the re-use of historic structures as housing.

Policy 5.1

Encourage preventative property maintenance and rehabilitation methodologies rather than demolition in order to promote sustainability and affordable housing through the preservation and adaptive re-use of historic structures.

Policy 5.2

Use all available legal means to compel demolition of dilapidated structures as expeditiously as possible by complying with the Florida Building Code; the City's Minimum Housing Standards; and the Intergovernmental Coordination Element (Dade County Unsafe Structures Board).

Policy 5.3

Continue the incentives in the land development regulations that apply with the provisions of s.163.3202, *F.S.* by encouraging the rehabilitation of residential structures to prevent the unintended loss of housing units due to deteriorated conditions.

Policy 5.4

Enforce all minimum housing and structural conditions codes to prevent the unintended loss of housing units due to deteriorated conditions.

Policy 5.5

Continue to use state and federal funding sources such as the City's SHIP, CDBG, HOME and NSP programs for rehabilitation of residential structures.

Policy 5.6

Cooperate with housing developers' efforts to leverage Miami-Dade County Surtax funds and other financial incentives for the rehabilitation of residential housing affordable to very low to moderate-income households in Miami Beach by providing technical assistance as necessary.

Policy 5.7

Maintain the legal status of the City's National Register Historic Districts, local historic districts, and individually designated historic sites and structures so that owners of designated properties can benefit from the applicable federal and local tax incentives.

Policy 5.8

Continue to provide incentives in the land development regulations, in compliance with s.163.3202, *F.S.*, that permit within the Historic Preservation Districts a wide selection of accessory uses in residential buildings when the building being renovated is a designated historic structure or is a structure contributing to the Historic Preservation District.

Policy 5.9

Continue to provide incentives in the land development regulations, in compliance with s.163.3202, *F.S.* that provide greater flexibility in meeting parking requirements in the Historic Preservation Districts when renovating designated structures.

Policy 5.10

The City shall continue to use its guidelines and established policies to guide appropriate restoration, rehabilitation and adaptive re-use of historically designated properties.

Policy 5.11

The City shall continue to encourage the owners of historic single family homes to have their homes historically designated by continuing the City's local Historic Ad Valorem Tax Exemption for single family residences.

Policy 5.12

The City shall continue to encourage the retention of architecturally significant single family homes built prior to 1942 by requiring that substantial alteration or demolition of such homes shall obtain Design Review Board approval for all major new construction of subject projects.

Policy 5.13

The City will provide resources available to ensure that all historically significant residential structures continue to be identified.

OBJECTIVE 6: RELOCATION

Ensure that relocation services are provided to 100 percent of the persons who are displaced as a result of activities funded by federal programs or due to a property being declared inhabitable

Policy 6.1

The City shall comply with all provisions of the Federal Uniform Relocation Assistance and Real Property Acquisition Act of 1970 as amended, whenever required by federal or state law.

Policy 6.2

In the event that an occupied building is declared unfit for human habitation in accordance with the City of Miami Beach's Municipal Code, the City shall enforce Section 58-362, as may be amended, to ensure residents' prompt relocation.

OBJECTIVE 7: HOUSING IMPLEMENTATION PROGRAMS

Implement housing activities or programs (“housing programs”) as set forth in the City’s five-year Consolidated Plan submittals to U.S. Department of Housing and Urban Development and five-year Local Housing Assistance Plan (LHAP) submittals to the State of Florida, as amended from time to time, which are incorporated by reference.

Policy 7.1

The City’s five-year federal and state Housing Plans will form the basis for housing goals and objectives to address housing need for very low to moderate-income housing and special need populations.

Policy 7.2

The City will utilize available federal, and state funds as specified in the Housing Plans and other funds as may become available to implement the City’s housing programs.

Policy 7.3

The City will continue to involve affordable housing developers and/or community development corporations (CDCs) in the preparation of the CHAS; and utilize affordable housing developers and non-profit CDCs to carry out affordable housing programs when appropriate.

Policy 7.4

In furtherance of its housing goals and objectives, the City will support housing developers’ efforts to leverage Miami-Dade County Surtax funds and other financial incentives for the development and rehabilitation of residential housing affordable to low and moderate income households in Miami Beach.

Policy 7.5

The Planning Department, which includes zoning review, should continue to streamline the housing approval and permitting process in coordination with the Building Department as set forth in the City’s LHAP.

OBJECTIVE 8: ENERGY EFFICIENCY AND RENEWABLE RESOURCES

The City shall promote energy efficiency and use of renewable energy resources in the design and construction or the rehabilitation of housing and other measures to promote energy efficiency in existing residential properties.

Policy 8.1

The City shall rely upon, and ensure consistency with, the provisions of Chapter 553, Florida Statutes, when implementing policies to promote energy efficiency and use of renewable energy resources under this objective.

Policy 8.2

The City shall provide financial incentives, to the extent funds allow, as well as other incentives such as expedited permitting and building inspections, to “green” housing development projects under the terms set forth under its Green Building Ordinance, such as, but not limited to:

- a. Building permit applications for a green building project submitted or resubmitted for review shall be given priority review over projects that are not green building projects by the city's departments reviewing such applications;
- b. All building inspections requested for green building projects shall be given priority over projects that are not green building projects; and
- c. Subject to, and within the limits of, funds appropriated annually by resolution of the city commission for the purposes set forth herein, owners or developers of green buildings shall receive a refund of the actual application and review fees for green building program certification and an amount not greater than one percent of the value of the construction, or alternatively 20 percent of the annual allocation, whichever is less, within 180 days of proof of certification by USGBC being submitted in writing to the city. The actual amount of financial incentives to which the applicant might qualify for shall be estimated at the time of issuance of the building permit for the quality project, and held in reserve. The final financial incentives shall be calculated at the time of LEED certification.

Policy 8.3

The City shall collaborate with local builders and community development corporations to determine ways builders may incorporate “Sustainable Building” technologies in the construction of housing, through the following means:

- a. Water (e.g., indoor water conservation, low-flow/low-flush fixtures, pervious materials, xeriscaping, reclaimed water irrigation, harvested rainwater, water budget).

- b. Energy (e.g. Energy Star ratings, traditional, local vernacular techniques of climate sensitive design, passive solar design, landscaping for energy conservation, site development) and unit orientation (e.g. north/south rather than east/west windows) that takes advantage of the natural shade and lighting available, radiant barrier and ridge venting, solar heating and cooling systems, gas heating/cooling systems and appliances, photovoltaic systems, ductwork, fans, energy recovery ventilators programmable thermostats, energy efficient appliances.
- c. Building materials (e.g., dimensional lumber, wood treatment, engineered structural materials, engineered siding and trim, non-toxic termite control, floor coverings, wood flooring, roofing structural wall panels, insulation, windows and doors, cabinets, finishes and adhesives).
- d. Solid Waste Management (e.g., home recycling, construction waste recycling).

Policy 8.4

The City shall promote energy conservation techniques that incorporate Federal Energy Star standards as consistent with the requirements of the state energy code. Periodic reviews of development regulations and building codes ~~will~~ shall be conducted to determine if there are modifications needed to incorporate energy conservation measures in addition to the requirements of the state energy code.

Policy 8.5

The City shall provide developers/ builders with information on how to incorporate Federal Energy Star Standards, state energy code and other energy efficiency measures into construction.

Policy 8.6

The City shall encourage the construction of energy efficient and water conserving housing through public education programs and regulations that promote innovative and environmentally sensitive building technologies.

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

GOAL:

Provide For Potable Water, Sanitary Sewer, Drainage And Solid Waste Facilities Which Meet The City's Needs In A Manner Which Promotes The Public Health, Sanitation, Environmental Protection, Operational Efficiency, And Beneficial Land Uses And Redevelopment Patterns.

OBJECTIVE 1: PRIORITIES

The City will continue to provide potable water supply, sanitary sewage disposal, solid waste disposal and drainage services to meet both existing and projected needs as identified in this plan through coordination and implementation of those projects listed in the Capital Improvements Element. All improvements for replacement, expansion or increase in capacity of facilities shall conform with the adopted policies of this Plan including level of service standards for the facilities.

Policy 1.1

Continue to participate with Miami-Dade County WASD through program cooperation with the Virginia Key Wastewater plant, the Hialeah/Preston Water Treatment Plant and the Resource Recovery Plant.

Policy 1.2

Continue to monitor established guidelines for private collectors of solid waste; continue to provide for policing, servicing and collecting of oversize wastes.

Policy 1.3

The potable water network is an interconnected, countywide system, therefore, the City will cooperate with MDWASD to jointly develop methodologies and procedures for biannually updating estimates of system demand and capacity, and ensure that sufficient capacity to serve development exists. The City will prepare and submit a Water Conservation Plan to the County at the same time as the City submits the updated 5-Year Water Supply Facilities Work Plan.

OBJECTIVE 2: INFRASTRUCTURE REPLACEMENT

Potable water supply, sanitary sewage disposal, and solid waste disposal services shall continue to be planned and provided (1) in conformance with the Future Land Use Element of the comprehensive plan, (2) to serve redevelopment activities in the South Pointe Redevelopment Area and the City Center areas and (3) to serve infill projects throughout the City on existing vacant land.

Policy 2.1

Continue the on-going program to repair and replace existing water, sewer and storm sewer lines through the utilization of bond funds Community Development Block Grant funds and other available funding sources, particularly obsolete and undersized water lines.

Policy 2.2

Complete second phase bond-funded improvements for South Pointe infrastructure by 1994 and begin street improvements for the interior parcels.

Policy 2.3

Use the land development regulations to limit residential density increases so that no significant capacity increases are required when replacing water and sewer lines.

OBJECTIVE 3: DRAINAGE

Implement the new program to identify and correct any environmentally detrimental storm sewer discharges that may exist in Miami Beach. The measurable standards for implementing this program are set forth in the inter-local agreement between co-permittees named in National Pollutant Discharge Elimination System Permit No. FLS000003 and Miami-Dade County approved by City Resolution 2005-25925, hereby incorporated by reference. Stormwater point source discharges will be handled so as to not have an adverse impact on area surface or groundwater and to not violate water quality standards set by the Florida Department of Environmental Protection.

Policy 3.1

The City shall complete a new Citywide Comprehensive Stormwater Management Master Plan to supersede the existing Comprehensive Stormwater Management Program Master Plan (in place since March 1997) no later than January 2011. Complete the plan in accordance with interlocal agreement between co-permittees named in National Pollutant Discharge Elimination System Permit No. FLS000003 and Miami-Dade County that was approved by City Resolution 2005-25925, which is hereby incorporated by reference.

Policy 3.2

In coordination with and in addition to the above policies, the City shall improve and maintain catch basins in a way to minimize storm water contamination of surface waters. Techniques shall include, but not necessarily be limited to:

Rebuild catch basins in problem areas with deep sumps to entrap sediment.

Construct new catch basins with open bottoms to provide for percolation when deep sumps to entrap sediment is not possible.

Maintain a catch basin cleaning program to help prevent roadway pollutants (run-off) from entering Biscayne Bay via the storm sewer system.

Policy 3.3

The City will continue compliance with all Federal, State and County regulations concerning land use and development to protect Biscayne Bay – the only natural drainage features.

OBJECTIVE 4: FLOODPLAIN MANAGEMENT

Enforce minimum floor level building elevations in accordance with FEMA requirements and flood zone maps as updated from time to time.

Policy 4.1

Continue site plan review for new construction with the requirement that the minimum first floor elevation for living quarters be at least at the minimum FEMA requirement to allow for maximum protection during flood conditions.

OBJECTIVE 5: LEVEL OF SERVICE STANDARDS

The City shall continue to maintain and provide potable water, sanitary sewer, solid waste disposal and drainage facilities at adopted level of service standards to ensure that adequate facility capacity is available for proposed and existing commercial and residential developments within its jurisdiction.

Policy 5.1

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

<i>Facility/Service Area</i>	<i>Level of Service Standard</i>
Sanitary Sewer Facilities	Sewage Generation Standard 140 Average gallons per capita per day
Solid Waste Facilities	Solid Waste Generation Standard 1.275 tons per capita per year
Drainage Facilities	Design Storm Standard 25-year frequency, 24-hour duration; see rainfall intensity curve-zone 10, DOT Drainage Manual as updated from time to time.
Potable Water Facilities	Water Consumption Standard 140 Average gallons per capita per day 168 Peak gallons per capita per day

The average gallons per capita rate applies to the year-round standard, while the peak gallons per capita rate applies to the City during peak tourist period due to the significant seasonal influx of temporary residents. The City uses a multiplier of 1.2, which gives a 20% increase in population to estimate required services and facilities.

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

Hotel:	75 gallons per day per room
Office:	0.084 gallons per day per square foot
Retail:	0.18 gallons per day per square foot
Industrial:	0.084 gallons per day per square foot
Restaurant:	65 gallons per day per seat
School:	12 gallons per day per student

OBJECTIVE 6: WATER CONSERVATION

Cooperate with WASD to develop and implement, by ~~1994~~ 2015, a comprehensive water conservation program to insure that a sufficient, economical supply of fresh water is available to meet current and future demand for potable water.

Policy 6.1

All potable water distribution systems shall maintain the unaccounted for water loss to less than 10 percent of the water entering the system.

Policy 6.2

Continue to promote the education program for residential, commercial and industrial consumers which will discourage waste and conserve potable water.

Policy 6.3

The Parks Department shall continue to install underground irrigation systems thereby, conserving potable water while watering public spaces.

Policy 6.4

Consistent with the policies of Miami-Dade County, water shall be delivered for general use at a pressure not to exceed 100 psi.

Policy 6.5

Within one year of the effective date of this policy, the City shall review existing water conservation regulations and revise the land development code as necessary and effective to ensure implementation of water conserving techniques, including: 1) subsurface and other water conserving irrigation techniques, 2) xeriscaping techniques, 3) lawn watering restrictions, 4) the use of low water use plumbing fixtures in all construction, and 5) any other effective methods commonly in practice or required by law. In addition, the City Manager shall immediately, upon the effective date of this policy, direct appropriate City departments to implement all such techniques as may be implemented by the City in its normal operations and require private property owners to implement all such techniques.

Policy 6.6

The City, through the Building Department, will continue to enforce the requirement to use high efficiency volume water saving devices for substantial rehabilitation and new construction projects as specified in the standard plumbing code. All future development within the City will be required to comply with water use efficiency techniques for indoor

water use in accordance with Section 8-31, , 32-83.1, 32-84 and 8A-381 of the Code of Miami-Dade County. In addition, all future development will be required to comply with the landscape standards in Section 18-A and 18-B of the Miami-Dade County Code.

OBJECTIVE 7: INFRASTRUCTURE DEFICIENCIES

The City will implement procedures to ensure that existing facility deficiencies are corrected thereby maximizing the use of existing public facilities to maintain the level of service standards as adopted for future needs in accord with the time frames established under Section 163.302, Florida Statutes.

Policy 7.1

The City shall continue to inspect and correct any potable water, sanitary sewer and drainage facilities deficiencies to maintain level of service standards; i.e., continue the daily inspection program.

Policy 7.2

Cooperate with WASD to continue programs which address recycling of solid wastes to include such items as paper, aluminum, glass, plastic and potentially metals, tires and waste oils.

Policy 7.3

Cooperate with WASD to promote the reduction of volume of yard and tree waste going into landfills through the program to compost vegetation materials.

Policy 7.4

Cooperate with WASD and other County agencies to design standards for improvements of water distribution, sewer collection, garbage removal and drainage systems within the City that provide maximum efficient operations.

Policy 7.5

If in the future there are issues associated with water supply, conservation or reuse the City will immediately contact WASD to address the corresponding issue(s). In addition, the City will follow adopted communication protocols with WASD to communicate and/or prepare an appropriate action plan to address any relevant issue associated with water supply, conservation or reuse.

OBJECTIVE 8: WATER SUPPLY PLANNING

The City of Miami Beach shall comply with its 10-year Water Supply Facilities Work Plan, as required by section 163.3177(6)(c), F.S.. The Work Plan will be updated, at a minimum, every 5 years. The City of Miami Beach Water Supply Facilities Work Plan is designed to: assess current and projected potable water demands; evaluate the sources and capacities of available water supplies; and, identify those water supply projects, using all available technologies, necessary to meet the City's water demands for a 10-year period.

Policy 8.1:

The City will comply with the 10-year Water Supply Facilities Work Plan and incorporate such work plan into the Miami Beach Comprehensive Plan.

Policy 8.2:

Coordinate appropriate aspects of its comprehensive plan with the South Florida Water Management District's regional water supply plan adopted February 15, 2007 and with the Miami-Dade County 20-Year Water Supply Facilities Work Plan adopted April 24, 2008, and as updated. The City shall amend its Comprehensive Plan and Work Plan as required to provide consistency with the District and County plans.

Policy 8.3:

The City shall coordinate the planning of potable water and sanitary sewer facilities and services and level-of-service standards within the Miami-Dade County Water and Sewer Department, DERM, the South Florida Water Management District, and will update the City's Work Plan within 18 months after the South Florida Water Management District updates the Lower East Coast Water Supply Plan Update.

Policy 8.4:

The City shall coordinate with Miami-Dade County WASD by requiring applications to be reviewed by WASD during the site plan review process prior to approving a Building Permit, in order to determine whether adequate water supplies will be available to serve the development by the anticipated issuance date of the certificate of occupancy for properties located within the City of Miami Beach.

Additional coordination efforts will occur between WASD and the City through the water allocation system. Monthly Building Permit data will be provided to WASD to track development activity within the City. The City will monitor proposed amendments to the Miami-Dade County Comprehensive Development Master Plan as they relate to water supply planning in the adjacent beach communities and provide input as necessary.

Policy 8.5:

The City Planning Director or a representative will attend the Miami-Dade Planners Technical Committee meeting to share information regarding water supply needs and coordinate water use issues as needed. The Planners Technical Committee is a council of professional planners representing local governments and public regulatory/review agencies in Miami-Dade County that addresses common concerns and shares resources toward solving planning problems.

CONSERVATION/COASTAL ZONE MANAGEMENT

GOAL:

Provide public improvements and restrict development activities that would damage or destroy coastal resources, protect human life and limit public expenditures in areas subject to destruction by natural disasters in a manner maintaining or improving the marine and terrestrial animal habitats, vegetation, land, air, water, and the visual, aesthetic quality of Miami Beach for present and projected, future populations.

OBJECTIVE 1: BEACH AND DUNES

Use established standards so that there are zero new man-made structures which adversely impact beach or dune system; also restore altered beaches or dunes by implementing the following policies.

Policy 1.1

Continue cooperative program with U.S. Army Corps of Engineers for beach re-nourishment when it becomes necessary. Where beach restoration or re-nourishment is necessary, the project should be designed and managed to minimize damage to the offshore grass flats, terrestrial and marine animal habitats and dune vegetation.

Policy 1.2

Beaches shall be stabilized when necessary by the County program of planting appropriate dune vegetation; pedestrian impacts shall be minimized by providing on-grade footpaths where feasible. All subsequent activities on or bordering the restored beach shall be compatible with beach maintenance; the City will continue to cooperate with the County.

Policy 1.3

The City shall not issue permits (when it has jurisdiction) for borrow areas for beach restoration or re-nourishment projects to be located in areas that directly affect offshore reefs or grass flats.

Policy 1.4

Discourage non-water oriented activities and developments from encroaching on beach front parks, new beach areas and dunes by continuing to designate the beach as a Conservation-Protected Area on the Future Land Use Map.

Policy 1.5

The City shall apply for State and Federal grants to include shoreline features such as pedestrian walkways which are designed to minimally impact beach or dune systems on public property; ensure the public access requirements of the Coastal Zone Management Act, as amended, and continue to provide development regulations and incentives for such features on private property in the Land Development Regulations of the City Code.

Policy 1.6

The use of causeways, road rights-of-way and canal easements at shorelines shall continue to be expanded to provide public access for water-dependent and water-related activities and to protect public access to beaches re-nourished with public funds.

Policy 1.7

Coordinate with local, state, and federal agencies regarding mandates for no further dredging or filling that may result in the destruction of grass/algal flats, hard bottom or other benthic communities shall be permitted in any waters within the City limits of Miami Beach.

Policy 1.8

Water conserving irrigation and other landscape practices such as xeriscape shall be incorporated into the Design Review Board guidelines where public water is used to water lawns, golf courses and landscaped green spaces.

OBJECTIVE 2: NATURAL RESOURCE PROTECTION

In coordination with local, state, and federal agencies, post and maintain signs relative to manatee protection and otherwise protect the conservation of, and provide for the appropriate use of the natural functions of existing soils, fisheries, wildlife and their habitats, bays and waterways which flow into estuarine waters, floodplains, beaches and shores, marine habitats, air quality, water resources, and scenic beauty by adopting the following measurable policies.

Policy 2.1

Continue to enforce the City Code which prohibits the deposit of solid waste or industrial waste including spent oils, gasoline by-products or greases accumulated at garages, filling stations and similar establishments that create a health or environmental hazard upon any vacant, occupied or unoccupied premises, parkway or park, and in any canal, waterway, bay or the ocean within the City.

Policy 2.2

All development activities that adversely affect habitat that may be critical to endangered, threatened or rare species, or species of special concern, including native vegetative communities, shall be prohibited by the City through the development review process as may be prescribed in the Land Development Regulations of the City Code.

Policy 2.3

In conformance with the City Charter establishing the City as a bird sanctuary, it is prohibited for any person to injure, kill, hunt, destroy, capture or molest any endangered, threatened, rare, or species of special concern or any bird in the City of Miami Beach; except those persons holding a valid permit to destroy birds for scientific purposes issued by the U.S. Fish and Wildlife Service, Department of the Interior and issued a special permit by the Chief of Police.

Policy 2.4

Maintain the area known as "Pelican Island" as a special bird sanctuary.

Policy 2.5

In coordination with local, state, and federal agencies, continue to post and maintain Manatee Protection Area signage throughout the waterways of the City and increase enforcement of safe boating requirements through the City Marine Patrol.

Policy 2.6

Continue to designate the beach front along the Atlantic Ocean as a Conservation-Protection Area on the Future Land Use Map.

Policy 2.7

The City's Public Works Department will encourage the use of living seawalls in areas where such specifications are applicable and will further enhance the natural shoreline processes to prevent erosion, increase habitat, and improve water quality through sediment trapping and nutrient reductions.

Policy 2.8

Preserve and improve the environmental quality of Biscayne Bay by continuing to (1) have a City of Miami Beach representative on the Biscayne Bay Shoreline Development Review Committee, (2) provide staff to the Committee through an interlocal agreement and (3) have all appropriate bayfront projects reviewed by the Committee.

Policy 2.9

Continue to require all new shoreline development involving marine habitats to be reviewed by the City and the Miami-Dade County Environmental Resources Management Department.

Policy 2.10

Continue to improve the region's ambient air quality through increased cooperation with Miami-Dade County to provide improved mass transportation.

Policy 2.11

The City Building Inspector shall continue to have the authority to require removal of asbestos to prevent threat to human health.

Policy 2.12

Salt tolerant landscaping shall continue to be given preference over traditional planting materials in the plant materials list used in the administration of the landscape section of the Land Development Regulations and the design review process.

Policy 2.13

Administration of the City's landscape section of the Land Development Regulations shall prohibit the propagation and planting of the following plants; it shall also require that eradication of these species be carried out on all sites of new and redevelopment projects:

Malaleuca	Brazilian Pepper	Australian Pine
Ear Leaf Arcadia	Woman's Tongue	Bishop Wood
Shoebotton Ardisia	Day Blooming Jasmine	Colubrina
Aerial Potato	Eucalyptus	Lead Treet
Castor Bean	<u>Scaevola (<i>Scaevola taccada</i>)</u>	

Policy 2.14

Complete a new Citywide Comprehensive Stormwater Management Master Plan to supersede the existing Comprehensive Stormwater Management Program Master Plan no later than January 2011. Complete the plan in accordance with interlocal agreement between co-permittees named in National Pollutant Discharge Elimination System Permit No. FLS000003 and Miami-Dade County that was approved by city Resolution 2005-25925, which is hereby incorporated by reference.

Policy 2.15

Continue to implement the City's Comprehensive Storm Water Management Program Master Plan through appropriate capital investments and management techniques as recommended therein at least to the extent required by law. Initiate appropriate steps to ensure continued adequate financing for necessary improvements. Such steps may include establishing special assessments, bonding and/or other measures

Policy 2.16

The City will coordinate with the Miami-Dade County and the Florida Department of Environmental Protection in the monitoring of coastal waters.

Policy 2.17

All new wet and dry slip marina facilities, and existing facilities with more than 50 wet or dry slips that provide fueling facilities, shall be equipped with dockside pumpout facilities. The City shall coordinate with Miami-Dade County to ensure that that these facilities are inspected by the appropriate agency and monitored annually to comply with Best Management Practices for marine facilities and other pertinent provisions of Chapter 24 of the Miami-Dade County Code.

Policy 2.18

Stormwater management techniques to meet the drainage level-of-service standards of this plan shall be required for all new development and shall be incorporated in the City's concurrency requirements of the Land Development Regulations.

Policy 2.19

Continue the City's program for beautification with an annual clean-up drive for the beaches and shorelines in conjunction with normal trash pick-up activities.

Policy 2.20

The City shall continue to monitor the emergency water conservation plan, consistent with the policies of the South Florida Water Management District.

Policy 2.21

The City shall continue the policy of ensuring the protection of natural areas and open space through acquisition of land for public use as funding is available.

OBJECTIVE 3: WATER-DEPENDENT AND RELATED USES

The amount of shoreline devoted to water-dependent and water-related uses shall be maintained or increased but with assurance that any such proposed new development will not create a negative environmental impact.

Policy 3.1

Those public access areas including street ends, municipal parking facilities and municipal parks along coastal waters will be or redesigned to provide greater public access to Biscayne Bay and the Atlantic Ocean beach area regardless of the land use designation of those areas.

Policy 3.2

To minimize impacts of man-made structures and activities on shoreline resources, no filling, spoiling or placement of structures in or over coastal waters shall be permitted in the City without proper local, state and federal agency approvals, and as specified in the Land Development Regulations *i.e.* action which will diminish water surface areas traditionally used by the general public for activities such as fishing, swimming and boating.

Policy 3.3

The City shall continue to construct and install signage along major thoroughfares to direct the public's attention to public shoreline parks and water-related facilities.

Policy 3.4

Proposed marina/water dependent facility siting shall be compatible with both county plans and surrounding land uses, and shall preserve or improve traditional public shoreline uses and public access to coastal waters. This shall be accomplished through the Conditional Use process as prescribed in the Land Development Regulations of the City Code.

Policy 3.5

Any proposed marina/water dependent facility shall be required to preserve or improve the quality of the coastal waters, water circulation, tidal flushing, light penetration, and provide a hurricane or contingency plan to the appropriate agency all in conformance with Miami-Dade County, State and Federal rules and regulations.

Policy 3.6

All proposed marinas shall be reviewed as Conditional Uses pursuant to the process prescribed in the Land Development Regulations of the City Code. In coordination with

the County, State, and Federal agencies, the Planning Board shall not issue conditional use approvals unless the applicant demonstrates the following: 1) land use compatibility; 2) availability of upland support services; 3) existing protective status/ownership; 4) hurricane contingency planning; 5) protection of water quality; 6) water depth; 7) environmental disruptions and mitigation actions; 8) availability for public use; and 9) economic need and feasibility.

Policy 3.7

Complete a new Citywide Comprehensive Stormwater Management Master Plan to supersede the existing Comprehensive Stormwater Management Program Master Plan no later than January 2011. Complete the plan in accordance with interlocal agreement between co-permittees named in National Pollutant Discharge Elimination System Permit No. FLS000003 and Miami-Dade County that was approved by city Resolution 2005-25925, which is hereby incorporated by reference.

Policy 3.8

Continue to implement the City's ongoing Comprehensive Storm Water Management Program_Master Plan through appropriate capital investments and management techniques as recommended therein at least to the extent required by law.

OBJECTIVE 4: HURRICANE EVACUATION

The existing time period required to complete the evacuation of people from Miami Beach prior to the arrival of sustained gale force winds shall be maintained or lowered by 1995.

Policy 4.1

All future improvements to evacuation routes shall include remedies for flooding problems and the anticipated increase in the level of the water of Biscayne Bay, local waterways, and the Atlantic Ocean programming transportation improvements to increase the capacity of evacuation routes, eliminating congestion at critical links and intersections, implementation of a traffic plan on the MacArthur Causeway and other critical intersections, adjusting traffic signalization or use directional signage, and public information programs to expedite safe evacuation.

Policy 4.2

The Miami Beach Hurricane Handbook will be distributed to the general public with detailed emergency operation instructions and hurricane evacuation pick-up sites.

Policy 4.3

The City will continue to work with the Miami-Dade Public Works Department to rate all local bridges for structural and operational sufficiency. Local bridges with unsatisfactory sufficiency ratings shall continue to be programmed for improvements or replacement.

Policy 4.4

All trees susceptible to damage by gale force winds shall be removed from the right-of-way of evacuation routes and replaced with suitable, preferably native, species.

Policy 4.5

The City will coordinate with Miami-Dade Transit Agency and the Office of Emergency Management to ensure that adequate buses are available to safely evacuate neighborhoods with large concentrations of households without private transportation.

Policy 4.6

The City of Miami Beach Fire Department in coordination with Miami-Dade County Office of Emergency Management shall maintain and annually update the list of people with special needs, who may need assistance due to physical or medical limitations in the event of an evacuation order to ensure their safe mobilization.

Policy 4.7

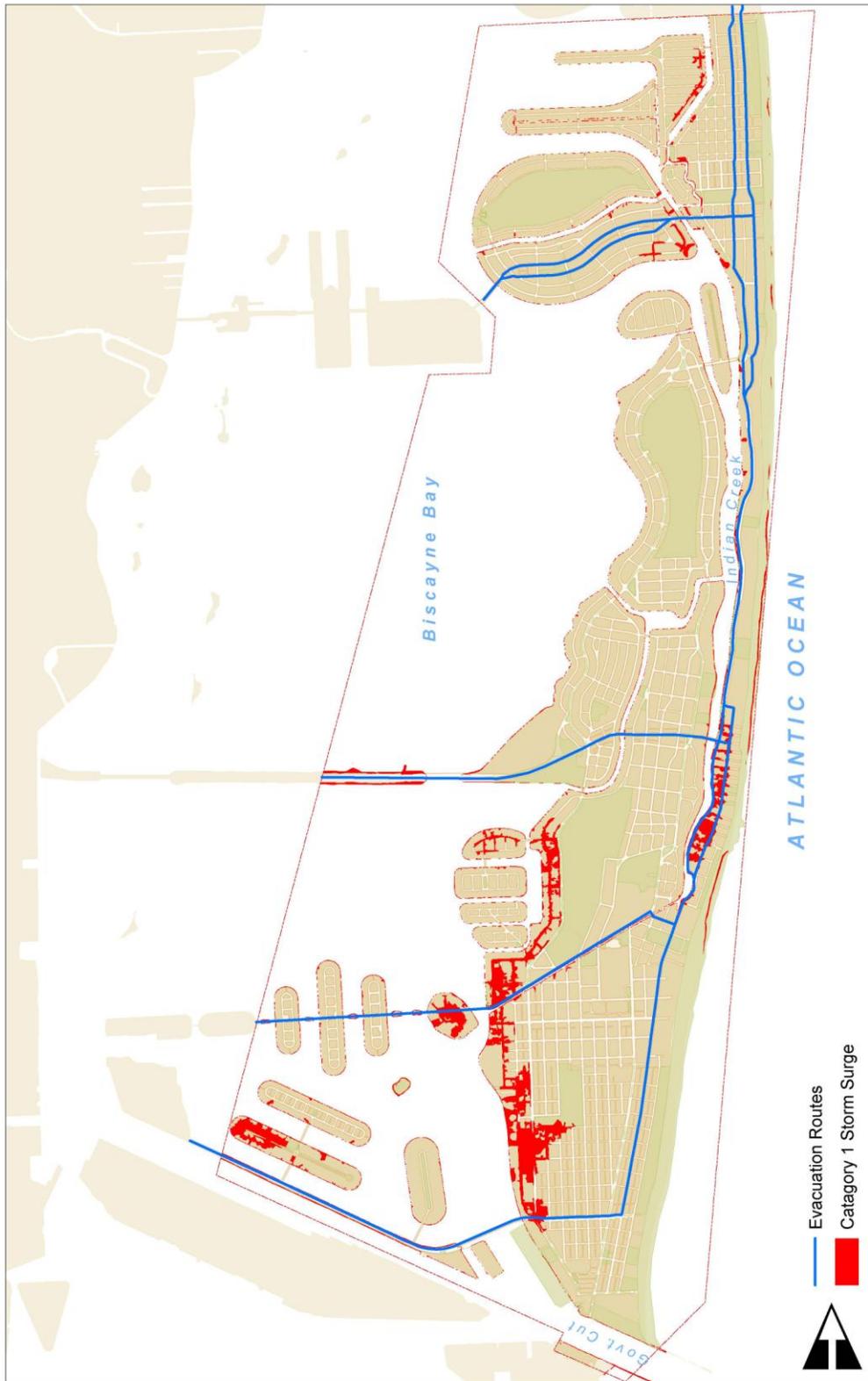
The City of Miami Beach Fire Department shall review and update the Miami Beach Hurricane Evacuation Plan on an ongoing basis and maintain or enhance the resources and capabilities of the plan to provide effective implementation of evacuation procedures to ensure that evacuation times are maintained or reduced.

Policy 4.8

Procedures for boat owners during hurricane operations shall continue to be updated in the Miami Beach Hurricane Handbook with instructions for safe harbor operations.

Policy 4.9

The LOS standards established in the Transportation Element shall be maintained in order to facilitate hurricane evacuation for those areas of the City that are classified as a Coastal High Hazard Area (CHHA). According to Section 163.3178(2) (h), F.S., the coastal high-hazard area is the area below the elevation of the category 1 storm surge line as established by a Sea, Lake, and Overland Surges from Hurricanes (SLOSH) computerized storm surge model.



Prepared by the Planning Department, 2011 Storm Surge Data Source: Statewide Regional Evacuation Study Project and the South Florida Regional Planning Council, February 2011



MIAMIBEACH

Coastal High Hazard Area

Category 1 Storm Surge and Evacuation Routes

OBJECTIVE 5: POST-DISASTER REDEVELOPMENT PLAN

During post-disaster recovery and redevelopment, the City of Miami Beach and Miami-Dade County shall implement their Comprehensive Emergency Management Plans (CEMP) and applicable Comprehensive Plan policies and assist hurricane damaged areas with recovery and hazard mitigation measures that reduce the potential for future loss of life and property.

Policy 5.1

Except as provided in Policy 5.2 below, the City shall not fund any public infrastructure capacity expansion if such funding and such expansion would have the effect of directly subsidizing a private development.

Policy 5.2

Notwithstanding Policy 5.1 above, the City may fund infrastructure capacity expansion to achieve: 1) adopted level-of-service standards for facilities ~~which~~ that serve the current and projected population; 2) recreational and natural resource enhancement; 3) any development directly supporting the Convention Center; 4) amelioration of parking or mass transit deficiencies; 5) the provision of desirable parking or mass transit facilities and services; and/or 6) redevelopment in redevelopment areas established in accordance with state statute. Expenditures pursuant to 3), 4), 5) and 6) preceding shall be limited to the Convention Center Village Redevelopment area as shown on the Future Land Use Map.

Policy 5.3

New private use facilities along the beach shall conform to the strict setback, open space and accessory use requirements of the Land Development Regulations of the City Code, as well as the requirements of the floodplain ordinance.

Policy 5.4

The City shall not issue any building permits for projects proposed east of the coastal construction control line until jurisdictional state and county agencies have issued a permit and/or approval as may be deemed appropriate by such agencies.

Policy 5.5

The adopted plan shall specify that during post-disaster redevelopment, the Building Department will distinguish between those actions needed to protect public health and safety with immediate repair/cleanup and long term repair activities and redevelopment areas. Removal or relocation of damaged infrastructure and unsafe structures shall be by the Miami Beach Public Works Department in accordance with local procedures and those agencies and practices specified in the Miami Beach and Miami-Dade County Comprehensive_Emergency Management Operations Plans (CEMP).

Policy 5.6

During post-disaster recovery periods, after damaged areas and infrastructure requiring rehabilitation or redevelopment have been identified, appropriate City departments shall use the post-disaster redevelopment plan to reduce or eliminate the future exposure of life and property to hurricanes; incorporate recommendations of interagency hazard mitigation reports; analyze and recommend to the City Commission hazard mitigation options for damaged public facilities; and recommend amendments, if required, to the City's Comprehensive Plan.

Policy 5.7

Unsafe conditions and inappropriate uses identified in the post-disaster recovery phase will be eliminated as opportunities arise, in accordance to the requirements of the Land Development Regulations of the City Code. If rebuilt, structures with damage exceeding 50 percent of pre-storm market value shall be reconstructed to ensure compliance with the High Velocity Hurricane Zone portion of the Florida Building Code for structures located in the "V" Zone and the 100-year floodplain.

OBJECTIVE 6: BAY WATER QUALITY

Maintain or improve the environmental quality of the estuarine system (Biscayne Bay) in coordination with Miami-Dade County Department of Environmental Resource Management which monitors the water quality program.

Policy 6.1

The City shall not permit dredging and filling of Biscayne Bay, without approval from local, state, and federal authorities.

Policy 6.2

Minimize storm water runoff by implementing the storm sewer improvement projects as identified in the Comprehensive Stormwater Management Program Master Plan.

OBJECTIVE 7: SHORELINE USES

The City shall use the adopted Land Development Regulations criteria for prioritizing 100 percent of the shoreline uses for both public and private property.

Policy 7.1

The City shall not decrease the amount of municipally-owned shoreline available for public use except: 1) in cases where another governmental agency assumes ownership for recreational and water-dependent uses, 2) where municipal or other public acquisition is incomplete and there is no possibility for complete public acquisition of a usable portion of shoreline, or 3) in order to upgrade other public shoreline sites and facilities.

Policy 7.2

The City shall not permit future development or expansion of existing industrial uses on its shoreline, except on Terminal Island. Any expansion of this port facility will be carefully analyzed to determine any traffic, land use and environmental impacts

OBJECTIVE 8: INFRASTRUCTURE CAPACITY EXPANSION

Limit public infrastructure expenditures that subsidize development in the City-wide Coastal High Hazard Area except for restoration and enhancement of natural resources; the measure shall be no projects inconsistent with Policies 6.1 through 6.5 and 8.1 in the Capital Improvement Schedule and 8.2 below.

Policy 8.1

Except as provided in Policy 8.2 below and in Policies 6.1 through 6.5 and 8.1 of the Capital Improvements Element, the City shall not fund any public infrastructure capacity expansion if such funding and such expansion would have the effect of directly subsidizing a private development.

Policy 8.2

Notwithstanding Policy 8.1 above, the City may fund infrastructure capacity expansion to achieve: 1) adopted level-of-service standards for facilities which serve the current and projected population; 2) recreational and natural resource enhancement; 3) any development directly supporting the Convention Center; 4) amelioration of parking or mass transit deficiencies; 5) the provision of desirable parking or mass transit facilities and services; and/or 6) in support of redevelopment areas established in accordance with state statute. Expenditures pursuant to 3), 4), 5) and 6) preceding shall be limited to the Convention Center Village Redevelopment Area as shown on the Future Land Use Map.

OBJECTIVE 9: DENSITY LIMITS

Direct population concentrations away from city-wide coastal high hazard area by prohibiting residential density increases.

Policy 9.1

Continue to designate the V storm surge zone of the beach front as a Conservation-Protected area on the future Land Use Map.

Policy 9.2

The City shall approve no future land use plan map amendments that cumulatively increase residential densities. Furthermore, the City shall continue to evaluate ways to further modify the Future Land Use Map to reduce densities and intensities.

Policy 9.3

The City shall use the zoning administration process to (1) achieve uses compatible with the City's twin goals of strong residential neighborhoods and the tourism/visitors economic base, and (2) hold the line on residential density.

OBJECTIVE 10: PUBLIC SHORELINE ACCESS

Increase the amount of public access to the beach or shoreline consistent with the estimated public need.

Policy 10.1

Continue to discourage non-water oriented activities and developments from encroaching on beach front parks, new beach areas and dunes by designating the beach as a Conservation-Protected Area on the Future Land Use Map.

Policy 10.2

The City shall (1) apply for State and Federal grants to include shoreline features such as pedestrian walkways which are designed to minimally impact beach or dune systems on public property, and (2) ensure the public access requirements of the Beach and Shore Preservation Act and the Coastal Zone Protection Act of 1985.

Policy 10.3

To minimize impacts of man-made structures and activities on shoreline resources, through the permitting process, continue coordinate with DERM to prohibit filling, spoiling or placement of structures in or over coastal waters which will diminish water surface areas traditionally used by the general public for activities such as fishing, swimming and boating.

Policy 10.4

The City shall facilitate the construction of at least one additional public parking facility to enhance beach and beach front uses thereby easing the pressure on residential on-street parking. However, no parking garage shall be constructed directly on either the east or west side of any public right-of-way that lies adjacent to public beachfront.

OBJECTIVE 11: HISTORIC USES

The City shall use its adopted land development code to protect historic resources. Historic resources shall be protected to the maximum extent consistent with constitutional property rights and any specific goals, objectives and policies of this comprehensive Plan which may be inconsistent therewith.

Policy 11.1

Areas designated as historic shall limit development as follows:

- a. Residential rehabilitation shall conform to adopted design standards;
- b. Recreational development must be compatible with the surrounding environment and shall be subject to performance standards adopted in the land development regulations;
- c. the clearing of trees, shall be prohibited, unless specifically permitted by Miami-Dade County;
- d. All applications for development approval shall be subject to site plan and Certificate of Appropriateness Criteria (including but not limited to the Secretary of Interior standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, as may be amended from time to time), Certificate of Appropriateness for Demolition Criteria, as prescribed in the Land Development Regulations of the City Code;
- e. Demolition of historic buildings shall be limited by the requirements ~~to~~ of the City's historic preservation ordinance.

Policy 11.2

Within areas designated on the Future Land Use Map as conservation, no new development, or expansion or replacement of existing development shall be permitted except re-vegetation and construction of a beachfront promenade.

Policy 11.3

Historic resources shall be protected through designation as historic sites or districts by the City with technical assistance from the State.

Policy 11.4

The City shall continue to compile a list of designated historic resources which shall be submitted to U.S. Department of Interior for inclusion on the National Register of Historic Places.

Policy 11.5

Miami Beach shall continue, with the assistance of preservationists, to identify significant historic resources which are in need of protection through local historic districts.

Policy 11.6

The City shall continue to use the Land Development Regulations of the City Code so that adaptive reuse of historic structures shall be given priority over activities that would harm or destroy the historic value of such resources.

OBJECTIVE 12: CONCURRENCY

The City shall use its established levels of service, areas of service, and phasing of infrastructure in the coastal area (entire City) as identified in the Future Land Use, Capital Improvements, Recreation and Open Space, Transportation, Public School Facilities and Infrastructure Elements of the Comprehensive Plan.

Policy 12.1

Land Use Element Policy 6.2 is incorporated as Conservation/Coastal Zone Management Policy 12.1.

Policy 12.2

The City's adopted Schedule of Improvements in the Capital Improvements Element shall ensure that infrastructure will be phased to coincide with the demands generated by development or redevelopment.

OBJECTIVE 13: WATER SUPPLY FACILITIES WORK PLAN

Implementation of the 10-year Water Supply Facilities Work Plan will ensure that adequate water supplies and public facilities are available to serve the water supply demands of the City's population.

Policy 13.1

If in the future there are issues associated with water supply, conservation or reuse the City will immediately contact WASD to address the corresponding issue(s). In addition, the City will follow adopted communication protocols with WASD to communicate and/or prepare an appropriate action plan to address any relevant issue associated with water supply, conservation or reuse.

Policy 13.2

The City will require the use of High Efficiency Toilets; High Efficiency Showerheads; High Efficiency Faucets; High Efficiency Clothes Washers; and Dishwashers that are Energy Star rated and Water Sense certified in all new and redeveloped residential projects.

Policy 13.3:

The City should educate the development community on the benefits of sub-metering for multi-family residential retrofit projects which will include: separate water meters and monthly records kept of all major water-using functions such as cooling towers and individual units. The City will explore starting a pilot incentive program as a means of encouraging developers that retrofit units to install separate meters and high efficiency appliances. The City will require new multi-family residential developments to install separate water meters for each unit.

Policy 13.4:

The City will educate the development community on the water saving benefits of the use of Florida Friendly Landscapes guidelines and principles; gutter downspouts, roof runoff, and rain harvesting through the use of rain barrels and directing runoff to landscaped areas; drip irrigation or micro-sprinklers; and the use of porous surface materials (bricks, gravel, turf block, mulch, pervious concrete, etc) on walkways, driveways and patios.

Policy 13.5

The City will participate, when warranted, in the SFWMD's Water Savings Incentive Program (WaterSIP) for large-scale retrofits as recommended by the Lower East Coast Water Supply Plan.

Policy 13.6:

The City will continue to enforce the landscape watering restrictions mandated by the South Florida Water Management District. The City will continue to use code enforcement measures such as issuing warning and fines to enforce the water restrictions.

Policy 13.7:

The City will continue to coordinate with Miami-Dade Water and Sewer Department related to leak detection and repair of water lines throughout the City.

Special Notes

1. There are no fresh water bodies of water (rivers, lakes, springs) within the barrier islands of the City. No freshwater naturally dilutes the saltwater of Biscayne Bay within the City's limits.
2. There are no historic structures within the V storm surge zone.
3. There are no airports or harbors within the city; see the Transportation element for policies relative to the port.
4. There are no native vegetative cover communities (forests, mangroves, hammocks) remaining within the city.
5. There are no wetlands or marshes within the City.
6. There are no mineral extraction sites within the City.
7. There are no water recharge areas, cones of influence, or waterwells within the City.
8. There are no agricultural areas within the City.
9. As defined by 9J-5.003 there are no remaining vegetative communities in Miami Beach. (See Soils Map.)
10. No spoil creation or disposal is contemplated.

RECREATION AND OPEN SPACE ELEMENT

GOAL:

Develop and Maintain a Comprehensive System of Parks and Recreational Open spaces to Meet the Needs of the Existing and Future Population by Maximizing the Potential Benefits of Existing Facilities and Open Space While Encouraging the Preservation and Enhancement of the Natural Environment.

OBJECTIVE 1: WATERFRONT PARKS

Preserve beach parks and complete a program of improved park access to water-related recreation activities and facilities.

Policy 1.1

Complete the beachfront park walkway promenade system along the Atlantic Ocean.

Policy 1.2

Improve the Collins Canal as a pedestrian linear park and boating waterway through the proposed City Center/Historic Village Redevelopment Area program.

Policy 1.3

Preserve and enhance the new beachfront access and parking facility at Pier Park.

Policy 1.4

The City shall continue to replant and maintain Brittany Bay Park as necessary with native or other appropriate vegetation in order to maintain a clear view of Indian Creek Waterway from the Park.

Policy 1.5

Waterfront access in residential development: Public pedestrian access to Biscayne Bay, all shorelines, and the oceanfront shall be required, in compliance with applicable law, in the review of proposed residential developments.

Policy 1.6

Pedestrian Access to Shoreline: Public pedestrian access shall be required in compliance with applicable law incident to the development of properties for non-residential uses unless waived at the time of plan review whether at any of the land use boards or staff approval.

OBJECTIVE 2: LEVEL OF SERVICE STANDARDS

Ensure that parks and recreational facilities are adequately and efficiently provided by enforcing the following level of service standards and related guidelines through the concurrency management system.

Policy 2.1

The National Recreation and Park Association's suggested minimum requirement for recreation and open space ten (10) acres of recreation and open space per one thousand (1,000) permanent and seasonal¹ residents is established as the minimum Level of Service Standard for the entire system to ensure adequate provisions are maintained for the projected population.

Policy 2.2

For recreational facilities only, the minimum Level of Service Standard shall be 6.0 acres per one thousand (1,000) permanent and seasonal² residents; this requirement excludes public landscape open space and the Atlantic beachfront area.

Policy 2.3

The minimum level-of service standard for each facility type shall be based on a minimum number of units per population, permanent and seasonal,³ by specific facility types as follows:

Facility Type	Minimum Number Required
Swimming Pool	1 per 50,000 persons
Golf Course (min. 9 holes)	1 per 50,000 persons
Basketball Court	1 per 7,000 persons
Tennis court	1 per 3,000 persons
Multiple-Use Court's (shuffle, bocce, etc.)	1 per 4,000 persons
Designated Field Area (baseball, Softball, soccer, etc.)	1 per 10,000 persons
Tot Lots	1 per 10,000 persons
Vitacourse	1 per 40,000 persons
Boat Ramp	1 per 100,000 persons
Outdoor Amphitheater	1 per 50,000 persons
Activity Building for Multiple Uses	1 per 10,000 persons

Policy 2.4

The city should continue to update the parks' master plan to address capacity improvement deficiencies.

¹ As the seasonal population primarily utilizes private recreation and open space facilities, 20 per cent of the actual total seasonal population is used to determine demand for public recreation and open space facilities.

² See footnote 1 above.

³ See footnote 1 above.

OBJECTIVE 3: COORDINATION OF PUBLIC AND PRIVATE RESOURCES

The City of Miami Beach shall continue to work with public agencies, such as Metro-Dade County Department of Environmental Resources Management, the Army Corps of Engineers, the Florida Department of Environmental Protection and private sector organizations and corporations, through the zoning process, to enhance and improve existing recreation/open space facilities in Miami Beach.

Policy 3.1

The City should continue to improve landscaping along 17th Street and other streets entering into convention center district as a part of the new redevelopment project in this area.

Policy 3.2

A landscaping program shall be included as part of the repaving and other improvements to the Alton Road corridor south of Dade Boulevard.

Policy 3.3

Continue to provide specific private open space definitions and requirements in the Land Development Regulations of the City Code.

Policy 3.4

The City of Miami Beach shall inform Miami-Dade County and the Army Corps of Engineers when maintenance re-nourishment of the beach is necessary.

Policy 3.5

The City of Miami Beach shall continue to use the Land Development Regulations of the City Code as standards and incentives which encourage private sector development projects to landscape required open space, develop private recreation facilities on site, and through the impact fee requirement, contribute to the enhancement of adjacent public recreation and open space.

Policy 3.6

The City of Miami Beach shall continue to apply for grant funds from various sources, including Federal, State and County agencies and private providers, for the improvement of public recreation and open space, including, but not limited to nature trails or boardwalks, greenways, waterway trails, interpretive displays, educational programs, wildlife observation areas, or picnic areas.

Policy 3.7

The City of Miami Beach shall support State landscape and recreational improvements on the causeways connecting Miami Beach to the mainland, including I-195 (the Julia Tuttle Causeway) and I-395 (the MacArthur Causeway).

OBJECTIVE 4: OPEN SPACE

To require open space in conjunction with every new public and private sector development project (measurability dependent upon development applications).

Policy 4.1

The City Land Development Regulations shall continue to provide side, front and rear minimum setback requirements to insure that all non-commercial development projects have property available for recreation and open space.

Policy 4.2

The Land Development Regulations of the City Code shall continue to provide some open space in conjunction with all new commercial development projects through setback or other requirements.

Policy 4.3

The City of Miami Beach public property shall continue to be subject to the open space and setback requirements of adjacent private properties pursuant to the Land Development Regulations of the City Code.

Policy 4.4

The Recreation and Open space Future Land Use category shall continue to be used to preserve the ocean beach and adjacent parks, the City's principal open space/passive park resource system.

Policy 4.5

To ensure environmental sustainability, protection of natural areas and quality of urban life the city shall continue to protect publicly accessible urban greenspace and scenic open space vistas.

OBJECTIVE 5: PUBLIC ACCESS CORRIDORS

To develop a network of greenways, scenic open space vistas, beachfront promenades, bicycle and pedestrian trails, and multi-purpose public access corridors to waterways, the beach and outdoor recreational opportunities in order to preserve natural ecosystems and to enhance the quality of urban life.

Policy 5.1

The City shall continue to implement the Atlantic Greenway Corridor Initiative which includes, but is not limited to, implementing the following projects: the Indian Creek Greenway Corridor; North Beach Recreational Corridor, Bath Club Historic Site Corridor and Scenic Vista; Beach Walk Corridor; Dade Boulevard Corridor; Collins Canal Reconstruction; Venetian Way Corridor; Lummus Park Corridor; South Beach Corridor; South Pointe Corridor and Bay Walk Corridor.

Policy 5.2

The City shall acquire and display interpretive signage throughout the City's greenways to provide historical, cultural and environmental information about the area to the general public.

INTERGOVERNMENTAL COORDINATION ELEMENT

GOAL:

Establish processes among the various governmental, public and private entities to: 1) achieve coordination of all development including tourism and convention activities and historic preservation, and (2) foster the purpose of Rule 9J-5.015, which is to identify and resolve incompatible goals, objectives, policies and development proposed in the City's Comprehensive Plan and to determine and respond to the needs of adjacent local governments, Miami-Dade County, the South Florida Regional Planning Council and state and federal agencies.

OBJECTIVE 1: COORDINATION MECHANISMS

Provide a formal process for intergovernmental coordination among the city and local, regional, State and Federal governmental entities and agencies to establish specific coordination activities to occur on a regular basis.

Policy 1.1

The City Manager shall be responsible for ensuring an effective intergovernmental coordination program for Miami Beach including dissemination of public information about County programs operating within the City.

Policy 1.2

The City shall continue to invite appropriate public and private entities with which it shares coordination responsibilities to appoint *ad hoc* representatives to its various Boards and Committees.

Policy 1.3

The City shall continue to make elected commissioners and staff available to participate in intergovernmental coordination activities with other public and private entities.

Policy 1.4

The City shall offer to participate in the local government review proceedings of comprehensive plans and relevant plan amendments for Miami-Dade County, City of Miami, North Bay Village and Surfside and shall provide copies of the City's comprehensive plan, executive summary, and related information to these and other applicable agencies.

Policy 1.5

Ensure continued countywide support for the operation, renovation and expansion of the Miami Beach Convention Center Complex by working with and supporting local and regional partners.

Policy 1.6

The City shall continue to use (and expand where necessary) memoranda of agreement or similar user's agreement with Miami-Dade County relative to water supply, sewage disposal, solid waste disposal and the ocean beach, among others and with the Miami-Dade County School Board on the planning of school facilities; collaborative planning and decision making is the intent.

Policy 1.7

In terms of City-State coordination, particularly concentrate on liaison with Department of Natural Resources relative to achieving and maintaining the quality of the City's beaches and dunes.

Policy 1.8

The City will coordinate with Miami-Dade County WASD in the review of site plans prior to the issuance of a building permit to determine whether adequate water supplies will be available to serve new development no later than the date of the certificate of occupancy.

Policy 1.9

The City shall coordinate the planning of potable water and sanitary sewer facilities and services and level of service standards within the Miami-Dade County WASD, DERM, the South Florida Water Management District, and the Lower East Coast Water Supply Plan Update.

OBJECTIVE 2: COMPREHENSIVE PLAN COORDINATION

Coordinate the City's Comprehensive Plan with the plans of the Miami-Dade County Public Schools, Miami-Dade County Planning Department and adjacent municipalities.

Policy 2.1

Provide copies of the City's Comprehensive Plan, proposed amendments, executive summary, informational updates, public meeting notices to the Miami-Dade County Public Schools, Miami-Dade County Planning Department and adjacent municipalities.

Policy 2.2

During pre-development program planning and site selection activities, the City shall coordinate with the Miami-Dade Public Schools, and continue to seek, where feasible and mutually acceptable, to collocate schools with other public facilities such as parks, libraries and community centers to the extent possible.

Policy 2.3

The City and the Miami-Dade County Public Schools shall follow the procedures established in the adopted Amended and Restated "Interlocal Agreement for Public School Facilities Planning in Miami-Dade County" for coordination and collaborative planning and decision making of land uses, public school facilities siting, decision making on population projections, location and extension of public facilities subject to concurrency.

Policy 2.4

The City shall coordinate with the Miami-Dade County Public Schools and other parties to the adopted Amended and Restated Interlocal Agreement for Public School Facility Planning to establish Level of Service Standards (including Interim LOS standards) for public school facilities and any amendments affecting public school concurrency.

Policy 2.5

The City shall coordinate with the following entities with respect to refining and adjusting local Levels of Service:

- State and Federal Highways - Florida Department of Transportation
- County roads - Miami Dade County Department of Public Works
- Drainage - Water Management District
- Potable water supply - South Florida Water Management District
- Regional Policies - South Florida Regional Planning Council
- Public educational facilities - Miami Dade County Public Schools

Policy 2.6

The Miami Dade County Public Schools shall coordinate with the City at the planning stage to determine whether the new construction or renovation of existing educational facilities meet the adopted Level of Service Standard adopted in the Infrastructure Element of the City's Comprehensive Plan and distribute a fair share cost of infrastructure improvements necessary to meet the adopted Level of Service.ⁱ

OBJECTIVE 3: CITY PLAN IMPACTS ON OTHER ENTITIES

Continue to utilize the intergovernmental coordination mechanisms built into the intergovernmental review and comment provisions of the Local Government Comprehensive Planning and Land Development Regulation Act to ensure that full consideration is given to the impacts of developments proposed in the City Comprehensive Plan on other governmental entities and adjacent municipalities.

Policy 3.1

Continue formal liaison with state agencies that have permitting responsibility in Miami Beach.

Policy 3.2

Use the South Florida Regional Planning Council (SFRPC) for mediation when development issues cross jurisdictional boundaries (or impact state or regional resources) and cannot be resolved by the City alone; the City shall work with the SFRPC to determine the process.

Policy 3.3

The City Commission shall continue to work with the South Florida Regional Planning Council to identify regional issues and to assist in the periodic updating of the Comprehensive Regional Policy Plan.

Policy 3.4

Attend and participate on the Miami-Dade County Planners' Technical Committee for the purpose of better interpreting and coordinating local government planning issues and processes with other local jurisdiction and agencies in Miami-Dade County, the South Florida Regional Planning Council and the Florida Department of Community Affairs.

Policy 3.5

Continue to participate in the review process of the Biscayne Bay (Aquatic Preserve) Shoreline Development Review Committee as it pertains to development/construction on the Miami Beach bayfront.

Policy 3.6

The City of Miami Beach shall provide copies of this revised Comprehensive Plan to the adjacent municipalities of Surfside, North Bay Village and Miami and a cover letter to each municipality stating that proposed development in adjacent portions of Miami Beach has been reviewed for its relationship to the comprehensive plans of each municipality and that no negative impacts of said proposed developments are anticipated.

OBJECTIVE 4: LEVEL OF SERVICE STANDARD COORDINATION

Continue to coordinate with local (adjacent municipalities), county, regional and state entities in the establishment of Level of Service Standards for public facilities.

Policy 4.1

Utilize the FDOT “Level of Service Standards and Guidelines Manual,” as updated from time to time, in concurrency reviews of projects on State roads and otherwise continue to ensure that the level of service standards for public facilities are coordinated with those governmental entities having operational maintenance responsibility for such facilities.

OBJECTIVE 5: COUNTY SUBSTANDARD HOUSING BOARD

Further increase the responsiveness of the Miami-Dade County Unsafe Structures Board to the City's especially Policy 2.7 of the Housing Element.

Policy 5.1

Continue the relationship between the City's Building Department and the Unsafe Structures Board to ensure coordination in addition to use of the special master process.

OBJECTIVE 6: HOUSING AUTHORITY

Continue the coordination with the Housing Authority of the City of Miami Beach in order to achieve the goals of the Housing Element and the City's Consolidated Plan.

Policy 6.1

Continue the regular meetings between the City Administration, especially the Housing and Community Development Department and Housing Authority staff to ensure mutual assistance and consistency of objectives.

Policy 9J-5.015 (3)(c) 4 is not applicable because annexation is not a realistic possibility.

CAPITAL IMPROVEMENT PROGRAM ELEMENT

GOAL:

Ensure that all development and locations in the City are served by public facilities at established levels of service, currently and at all times in the future.

OBJECTIVE 1: CAPITAL FACILITIES

Maintain all existing potable water, sanitary sewer, storm water, transportation, solid waste, and recreational facilities at permitted levels as of Date of Adoption of this Comprehensive Plan Amendment.

Policy 1.1

The city will maintain a current inventory of all City-owned capital facilities, to include information on type, capacity, location and condition.

Policy 1.2

The City will continue its program of regularly scheduled inspections of all capital facilities to monitor and record the condition of each.

Policy 1.3

The City will continue to prepare and adopt each year a five year capital improvements program and a one-year capital budget, to include all projects which entail expenditures of at least \$10,000 and a life of at least three years.

Policy 1.4

The City will implement the projects listed in the capital improvement program and in the Implementation Schedule of this capital improvements element according to the schedule listed in this Element.

Policy 1.5

When budgeting capital expenditures, the City will evaluate and assign priority to projects according to the following criteria, listed in order of importance:

1. Elimination of existing or impending public hazards;
2. Repair or replacement of damaged capital facilities which do not fit the definition in Number 1 above;

3. Prevent service from any existing part of a system from falling below the level of service standards established in this Comprehensive Plan, due to failure of any component of the system;
4. Accommodate existing, expanding or new capital facilities within Miami Beach which are provided by other governmental agencies so as to avoid needless repetition of expenditures;
5. Accommodate new construction or rehabilitation projects which are approved by the City pursuant to all applicable development regulations and which are consistent with the elements of this comprehensive Plan and its amendments, specifically to include projected growth patterns, level of service standards, and requirements for financial participation by the party seeking development approval in meeting the costs of the capital facility;
6. Elimination of existing capacity deficits;
7. The project's impact on the local budget;
8. The project's financial feasibility within the City's budget; and
9. The project, if applicable, shall be coordinated with DOT plans.

Policy 1.6

The City will cooperate with all other governmental agencies, including the school board and public health care providers, to treat their existing capital facilities located in the City in a manner similar to that outlined in Policy 1.1 through 1.5 above.

Policy 1.7

The city shall limit the use of revenue bonds as a percent of total debt.

OBJECTIVE 2: CAPITAL IMPROVEMENT PROGRAM

The City shall not issue any building permits or development orders for new developments or redevelopment unless the existing infrastructure (i.e. water, sanitary and storm sewer, transportation, recreation and solid waste) meets or is upgraded to meet the permitted level of service to support the increase in demand by the proposed development.

Policy 2.1

The City will continue to prepare and adopt a five-year capital improvements program. It will include all capital improvements identified in the comprehensive plan elements, specifically including those to upgrade facilities in the South Pointe Redevelopment area, Architectural District, The North Beach Area and the Convention Center Village.

Policy 2.2

During the annual preparation of the five-year capital improvements program, the need for additional or revised upgrading of projects will be analyzed by the city staff and those determined to be necessary to fulfill Objective No. 2 above, and which are found to have an identified funding source, will be added to the capital improvements program.

Policy 2.3

The City will pursue the creation and operation of special assessment districts to provide funding for the proposed improvements in the Alton Road, Washington Avenue, Lincoln Road, and Espanola Way areas of the Architectural District, and in the North Beach Area in accordance with the adopted Neighborhood Special Area Studies for each of the specified areas.

Policy 2.4

Appropriate mechanisms will be developed and adopted consistent with the South Florida Water Management District and Miami-Dade County in order to assure that adequate water supplies are available to all water users prior to approval of a building permit. Furthermore, City of Miami Beach will be responsible for providing monthly building permit data to WASD to be used for monitoring the availability of water supplies for all water users of the Miami-Dade County Water and Sewer Department, and for implementing a system that links water supplies to the permitting of new development.

Policy 2.5

The City shall incorporate capital improvements affecting City levels of service for water supply by including City funded projects and by referencing the Capital Improvements Schedules of Miami-Dade County, state agencies, regional water supply authorities and other units of government providing services but not having regulatory authority over the use of land into its Capital Improvements Element via reference during periodic updates of the Comprehensive Plan.

OBJECTIVE 3: IMPACT FEE PROGRAM

Continue to participate in the Miami-Dade County Development Impact Fee Program to secure a financial contribution from any development that necessitates new or expanded potable water, sanitary and storm sewer, transportation, and solid waste based on a proportional share of the cost of the improvements.

Policy 3.1

The City will not give development approval to any new construction, redevelopment or renovation project which creates a need for new or expanded public capital improvements unless the project pays a proportional share of the costs of these improvements in accordance with the Development Impact Fee Program.

OBJECTIVE 4: BOND RATING AND DEBT SERVICE

Return the City's overall bond rating as established by Moody's Investor's Service at A or higher.

Policy 4.2

The City shall maintain a function responsible for soliciting Federal and state programs, private contributions and joint venture approaches to be used to reduce costs the City must bear for capital improvements.

Policy 4.4

The City will limit the total amount of outstanding debt in general obligation bonds to no greater than 15 percent of the assessed taxable real property value in the City.

Policy 4.5

The ratio of the City's total debt service on general obligation bonds shall not be greater than 35 percent of the City's total ad valorem, real property tax revenue.

Policy 4.6

The City will continue to prepare and adopt each year a 5 year capital improvements program and one year capital budget to, among other things, help assess future needs for debt financing of capital improvements.

OBJECTIVE 5: LEVEL OF SERVICE STANDARDS

Continue the established level of service standards for capital facilities for which the City has financial responsibility.

Policy 5.1

Level of service standards established in the elements of this comprehensive plan and which are also contained here in the capital improvements element shall be, upon adoption of the comprehensive plan by the City Commission, the level of service standards for the designated capital improvements.

Policy 5.2

The peak hour level of service standards for roads shall be:

Local Roads	LOS Standard D
Collector Roads	LOS Standard D
Minor Arterial	LOS Standard D
Minor Arterial	LOS Standard D
Principal Arterial	LOS Standard D

Policy 5.2A

The following level of service standards shall be established for the roadways identified below and located within the City’s Transportation Concurrency Management Areas (TCMAs):

- (a) Where no mass transit service exists, roadways shall operate at or above LOS D;
- (b) Where mass transit service having headways of 20 minutes or less is provided within ¼ distance, parallel roadways shall operate at no greater than 120 percent of LOS D;
- (c) Where extraordinary transit service classified as the Electrowave shuttle or express or peak-hour limited stop bus service exists, parallel roadways within ¼ mile shall operate at no greater than 150 percent of LOS D.

South Beach TCMA – Facilities to be averaged

Roadway	Function	Directio	From	To	TCMA LOS	Service Volume
Alton Road	Arterial	N/S	Dade Blvd.	5th St.	D+20	3150
Washington Avenue	Collector	N/S	Dade Blvd.	5th St.	D+50	3100
<i>SUBTOT</i>						<i>6250</i>
Collins Avenue	Arterial	N/S	23rd Street	5th Street	D+50	1450
Meridian Road	Collector	N/S	Dade Blvd.	5th Street	D+20	1150
West Avenue	Collector	N/S	Dade Blvd.	5th Street	D+20	1150
<i>SUBTOT</i>						<i>3750</i>

Alton Road	Collector	N/S	5th Street	Biscayne	D+50	3100
Washington Avenue	Collector	N/S	5th Street	Biscayne	D+50	3100
<i>SUBTOT</i>						<i>6200</i>
5th Street	Arterial	E/W	Alton Road	Washington	D+50	6350
17th Street	Arterial	E/W	Dade Blvd.	Collins Ave	D+50	3900
Dade Boulevard (share)	Arterial	E/W	Venetian	Pine Tree Dr.	D+50	4200
<i>SUBTOT</i>						<i>14450</i>

Middle Beach TCMA – Facilities to be averaged

Roadway	Function	Direction	From	To	TCM A	Service Volume
Alton Road	Arterial	N/S	63rd Street	Dade Blvd	D	3400
Collins\Indian Creek Drive	Arterial	N/S	63rd Street	23rd Street	D+20	3800
<i>SUBTOTA</i>						<i>7200</i>
41 st Street	Arterial	E/W	Alton Road	Indian Creek	D+20	3300
Dade Boulevard (share)	Arterial	E/W	Veneti an	Pine Tree Dr.	D+50	4200
63rd Street (share)	Arterial	E/W	Alton Road	Indian Creek	D+20	3150
<i>SUBTOTA</i>						<i>10650</i>

North Beach TCMA – Facilities to be averaged

Roadway	Function	Direction	From	To	TCM A	Service Volume
Collins Avenue- one way	Arterial	N/S	City Limit	63rd Street	D+20	2800
Harding/Abbott Ave.- one	Arterial	N/S	City Limit	Indian Creek	D+20	2800
Indian Creek Drive	Arterial	N/S	71st Street	63rd Street	D+20	3300
<i>SUBTOTA</i>						<i>8900</i>
71 st Street/Normandy Dr.	Arterial	E/W	City Limit	Indian Creek	D+20	3150
63 rd Street (share)	Arterial	E/W	Alton Road	Indian Creek	D+20	3150
<i>SUBTOTA</i>						<i>6300</i>

Policy 5.3

The following level of service standards for sanitary sewer collection shall be maintained in all areas of the City

Average gallons per capita per day	140
Peak gallons per capita per day	144

Policy 5.4

Capacity of solid waste facilities shall have the following level of service standard:

1.275 tons per capita per year

Policy 5.5

Level of service standard for storm water drainage in all areas of the City shall be:

25 year frequency, 24 hour duration

Policy 5.6

Level of service standard for distributing potable water in all areas of the City shall be:

Average gallons per capita per day	140
Peak gallon per capita per day	168

Policy 5.7

As a general guideline, each facility type as defined by the data and analysis in the Recreation and Open space element shall be based on a minimum number of units per permanent and seasonal¹ population, by specific facility type.

<i>Facility Type</i>	<i>Minimum Number Required</i>
Swimming Pool	1 per 50,000 persons
Golf Course (min. 9 holes)	1 per 50,000 persons
Basketball Court	1 per 7,000 persons
Tennis court	1 per 3,000 persons
Multiple-Use Court's (shuffle, bocce, etc.)	1 per 4,000 persons
Designated Field Area (baseball, soccer, etc.)	1 per 10,000 persons
Tot Lots	1 per 10,000 persons
Vitacourse	1 per 40,000 persons
Boat Ramp	1 per 100,000 persons
Outdoor Amphitheater	1 per 50,000 persons
Activity Building for Multiple Uses	1 per 10,000 persons

Policy 5.8

The National Park Association's suggested minimum requirement for recreation and open space is established as the minimum Level of Service Standard for the entire system to ensure adequate provisions are maintained for the future projected population: Ten (10) acres of recreation and open space per one-thousand (1,000) permanent and seasonal residents. (This requirement excludes public landscape open space and the Atlantic beachfront area.)

¹ As the seasonal population primarily utilizes private recreation and open space facilities, 20 percent of the actual total seasonal population is used to determine demand for public recreation and open space facilities.

OBJECTIVE 6: INFRASTRUCTURE EXPENDITURES

Limit public infrastructure expenditures that subsidize development in the City-wide Coastal High Hazard Area except for restoration and enhancement of natural resources; the measure shall be 0 projects inconsistent with Policies 6.1 through 6.5 and 8.1 in the Capital Improvement Schedule.

Policy 6.1

Except as provided in Policy 6.2 through 6.5 below, the City shall not fund any public infrastructure capacity expansion if such funding and such expansion would have the effect of directly subsidizing a private development.

Policy 6.2

Notwithstanding Policy 6.1 above, the City may fund infrastructure capacity expansion to achieve: 1) adopted level-of-service standards for facilities which serve the current and projected population; 2) recreational and natural resource enhancement; 3) any development directly supporting the Convention Center; 4) amelioration of parking or mass transit deficiencies; 5) the provision of desirable parking or mass transit facilities and services; and/or 6) redevelopment in redevelopment areas established in accordance with state statute. Expenditures pursuant to 3), 4), 5) and 6) preceding shall be limited to south Pointe Redevelopment Area and the convention Center Village Redevelopment Area as shown on the Redevelopment Areas Map included with these goals, objectives and policies.

Policy 6.3

The City will continue to expend funds as needed to maintain, repair, renew, replace or expand storm water drainage facilities in the high hazard coastal areas.

Policy 6.4

The City will continue to expend funds as needed to maintain, repair, renew, replace or expand recreational, beach access and water access facilities in the high hazard coastal area.

Policy 6.5

The City will continue to expend funds as needed to maintain, repair, renew, replace or expand facilities that protect the dune system or other environmental assets.

OBJECTIVE 7: CONCURRENCY COMPLIANCE

No new development, except those for which a building permit was issued by the City prior to the effective date of the ordinance adopting the Miami Beach Comprehensive Plan, shall begin construction unless the public facilities needed to support the development are at the permitted level of service standards adopted in the Plan and land use decisions will be coordinated with available or projected fiscal resources with a C.I.P. schedule.

Policy 7.1

After adoption of the City's comprehensive plan, the City shall not issue a certificate of occupancy or use for any new development unless the Planning Department determines that the needed public facilities are available at the time of issuance, or a legally binding commitment to construct the facilities exists at the time of issuance and it can be demonstrated that construction of the public facilities is both technically and fiscally feasible for the committed party or parties.

Policy 7.2

Phasing of a development or phasing the implementation of the needed public facilities shall be permitted to satisfy the requirement that the needed public facilities be available concurrent with the effects of the development.

Policy 7.3

Developments for which building permits were issued prior to adoption of this comprehensive plan shall be allowed to begin construction without regard to level of service standards established in this capital improvements element, except that if a public hazard would be created, construction of the development shall be prohibited until measures to prevent the public hazard are implemented. Provided, however, that should any permit expire and not be renewable, issuance of a new permit for the development shall be subject to the requirements of a new application.

OBJECTIVE 8: FUTURE DEVELOPMENTS

Capital improvements will be provided to accommodate future developments and to replace worn out or obsolete facilities, as indicated in the City's annually updated five-year Capital Improvement Program.

Policy 8.1

The City shall as a matter of priority, schedule and fund all capital improvement projects in the Five Year Schedule of Improvements which are designed to correct anticipated deficiencies.

OBJECTIVE 9: PROVISION FOR NEEDED IMPROVEMENTS

The City shall require and provide the provision of needed improvements identified in other elements of the Comprehensive Plan and shall manage the land development process (see Future Land Use and Infrastructure elements) such that the previous and future developments do not exceed the City's ability to fund and provide the corresponding public facilities necessary to accommodate the development.

Policy 9.1

Development and redevelopment projects shall be consistent with public facilities necessary to meet service standards and remain within the proposed municipal budget.

Policy 9.2

Recommendations described in the Future Land Use Element are incorporated by reference and shall be implemented as part of the Capital Improvement Element.

OBJECTIVE 10¹ - COORDINATION WITH PUBLIC SCHOOLS

The City shall coordinate new residential development with the future availability of public school facilities² consistent with the adopted level of service standards for public school concurrency, by reviewing residential development orders for their impact on level of service standards, and to ensure the inclusion of those projects necessary to address existing deficiencies in the 5-year schedule of capital improvements in the Miami-Dade County Public School Facilities Work Program.

Those capital improvements for educational facilities, as listed in the Miami-Dade County Public Schools Facilities Work Program dated September 2007 and adopted by the Miami-Dade School Board are incorporated by reference into the CIE.

- 10.1 The Miami-Dade County Public Schools and the City have the responsibility for providing school concurrency related capital improvements and should continually seek to expand the funding sources available to meet those requirements.
- 10.2 Capital improvements associated with the construction of educational facilities are the responsibility of the Miami-Dade County Public Schools. To address financial feasibility associated with school concurrency, those necessary capital improvements for educational facilities, as listed in the Miami-Dade County Public School Facilities Work Program, dated September 6, 2007 and adopted by the Miami-Dade School Board, are incorporated by reference into the CIE.
- 10.3 The Miami Dade County Public Schools shall coordinate with the City at the planning stage to determine whether the new construction or renovation of existing educational facilities meet the adopted Level of Service Standard adopted in the Infrastructure Element of the City's Comprehensive Plan and distribute a fair share cost of infrastructure improvements necessary to meet the adopted Level of Service.
- 10.4 The Miami-Dade County Public Schools Facilities Work Program will be evaluated on an annual basis to ensure that the level of service standards will continue to be achieved and maintained throughout the planning period.
- 10.5 Beginning January 1, 2008, the adopted level of service (LOS) standard for all Miami-Dade County public school facilities is 100% utilization of Florida Inventory of School Houses (FISH) Capacity (With Relocatable Classrooms). This LOS standard shall be applicable in each public school concurrency service area (CSA), defined as the public school attendance boundary established by the Miami-Dade County Public Schools.

² Level of Service standards for public school facilities apply to those traditional educational facilities, owned and operated by the Miami-Dade County Public Schools, that are required to serve the residential development within their established Concurrency Service Area. Levels of Service standards do not apply to charter schools. However, the capacity of both charter and magnet schools will be credited against the impact of development. No credit against the impact of development shall be given for either magnet or charter schools if their enrollment is at, or above, 100% FISH capacity.

The adopted LOS standard for Magnet Schools is 100% of FISH (with Relocatable Classrooms), which shall be calculated on a districtwide basis.

- 10.6 The City in coordination with the Miami-Dade County Public Schools shall by ordinance, include proportionate share mitigation methodologies and options for public school facilities in its concurrency management program and Interlocal Agreement for Public Facility Planning between Miami-Dade County Public Schools, Miami-Dade County and the Cities in Miami-Dade County, consistent with the requirements of Chapter 163, Florida Statutes. The intent of these options is to provide for the mitigation of residential development impacts on public school facilities through mechanisms that might include, but are not limited to, one or more of the following: contribution of land; the construction, expansion, or payment for land acquisition or construction of a permanent public school facility; or, the creation of a mitigation bank based on the construction of a permanent public school facility in exchange for the right to sell capacity credits.
- 10.7 Miami-Dade County Public Schools shall coordinate with the City to annually update its Facilities Work Program to include existing and anticipated facilities for both the 5-year and long-term planning periods, and to ensure that the adopted level of service standard, including interim standards, will continue to be achieved and maintained. The City, through its annual update to the Capital Improvements Schedule, will incorporate by reference the latest adopted Miami-Dade County Public Schools Facilities Work Program and concurrency maps.

ⁱ Objective 10 included in CIP as part of the Public Schools Facilities Element by Ordinance #2008-3596 on February 13, 2008.

HISTORIC PRESERVATION ELEMENT

GOAL:

Secure for future generations the opportunity to share in the unique heritage of Miami Beach and promote sound economic development through the purposeful retention, protection and continued use of buildings, structures and districts which are associated with important events in the City's history or exhibit significant architectural qualities.

OBJECTIVE 1: HISTORIC PRESERVATION

Continue to increase the total number of structures designated as historically significant either individually or as contributing structures within locally designated historic districts or districts listed on the National Register of Historic Places.

Policy 1.1

Continue to locate, identify and evaluate those sites, buildings, structures, monuments and districts that are associated with the historical development of the City.

Policy 1.2

Continue to fund full-time Historic Preservation Staff in order to ensure proper preservation efforts for the City's architectural and historic resources.

Policy 1.3

Continue to identify city-owned historic sites and structures and determine the potential of all sites for heritage tourism, as a progressive economic development tool.

Policy 1.4

Encourage private individuals and neighborhood groups to participate in identifying districts, sites, landmarks, and structures, which are suitable for local historic recognition and/or nomination to the National Register of Historic Places.

Policy 1.5

Continue to encourage and assist owners of historic properties, including single family homes, to apply for individual local designation or listing on the National Register of Historic Places and to take advantage of, where available, local and/or federal preservation tax benefits for the restoration and preservation of historic properties.

Policy 1.6

Continue to provide incentives to qualifying historically designated single family homes to use the City's Historic Ad Valorem Tax Exemption Program for Single Family Homes.

OBJECTIVE 2: COMMUNITY PARTICIPATION AND EDUCATION

Increase community awareness of, interest in, and support for the continued success of the City's historic preservation efforts in building a sustainable, vibrant and economically vital urban environment.

Policy 2.1

By 2015, develop a user friendly program to implement and maintain a comprehensive inventory of historic sites on a Geographic Information Systems Database available to the public, including local property owners, scholars and students.

Policy 2.2

Create and maintain a database of local, state and federal financial tools and incentives available for qualifying historic preservation rehabilitation projects.

Policy 2.3

Continue to provide staff assisted access to Planning Department's historical documentation files and resources to property owners, scholars and the general public.

Policy 2.4

Promote new ways to inform and educate the community about the City's preservation efforts by creating an interactive City of Miami Beach Historic Preservation .com website readily accessible to the public through popular search engines.

Policy 2.5

Promote the City's National Register Historic Districts as a destination for heritage tourism.

Policy 2.6

Promote an appreciation and understanding of the City's historical resources by seeking public and private funding for the strategic placement of historic markers and historic district maps throughout the city.

Policy 2.7

Continue to work with local historic preservation organizations in the assembly and dissemination of historical educational materials and participation in workshops, seminars and lectures.

OBJECTIVE 3: ENHANCE HISTORIC PUBLIC ENVIRONMENT

Advance the City's development of quality new design and rehabilitation in historic districts and continue to enhance the historic public urban environment.

Policy 3.1

Promote cutting-edge contemporary urban infill which is sustainable and compatible with the City's historic architecture, through the Development Review Process at administrative and board levels.

Policy 3.2

Continue funding physical streetscape improvements, as identified in the Capital Improvement Element, to complement and enhance the quality of life in the City's historic neighborhoods.

Policy 3.3

Expand the City's Design Guidelines, as necessary, to address the needs of specific architectural styles throughout the City.

Policy 3.4

Continue to maintain the City's historic preservation regulatory authority as provided for in the Historic Preservation Section of the City Code.

Policy 3.5

Develop "Green Guidelines" for the rehabilitation of historic buildings, as well as for new construction in historic districts.

PUBLIC SCHOOL FACILITIES ELEMENT

GOAL

COOPERATE WITH THE MIAMI-DADE COUNTY PUBLIC SCHOOLS TO DEVELOP, OPERATE, AND MAINTAIN A SYSTEM OF PUBLIC EDUCATION, IN COOPERATION WITH OTHER APPROPRIATE GOVERNMENTAL AGENCIES, WHICH WILL STRIVE TO IMPROVE THE QUALITY AND QUANTITY OF PUBLIC EDUCATIONAL FACILITIES AVAILABLE TO THE CITIZENRY OF THE CITY OF MIAMI BEACH, FLORIDA.

OBJECTIVE 1 - REDUCTION OVERCROWDING

Work towards the reduction of the overcrowding which currently exists in the Miami-Dade County Public Schools, while striving to attain an optimum level of service pursuant to Objective 2. This Objective shall be monitored through a comparison by the Miami Dade County Public Schools of the official enrollment of the school system with the number of student stations available to determine the current operating LOS.

Policies

- 1.1 Cooperate with the Miami-Dade County Public Schools in their efforts to continue to provide new student stations through their Capital Outlay program, in so far as funding is available.
- 1.2 Cooperate with the Miami-Dade County Public Schools in their efforts to develop and implement alternative educational facilities, such as primary learning centers, which can be constructed on small parcels of land and relieve overcrowding at elementary schools, in so far as funding and rules permit.
- 1.3 Cooperate with the Miami-Dade County Public Schools in their efforts to provide public school facilities to the students of Miami-Dade County, which operate at optimum capacity, in so far as funding is available. Operational alternatives may be developed and implemented, where appropriate, which mitigate the impacts of overcrowding while maintaining the instructional integrity of the educational program.
- 1.4 The Miami-Dade County School Board (School Board) comments shall be sought and considered on comprehensive plan amendments and other land use and zoning decisions which could impact the school district, in order to be consistent with the terms of the state mandated Interlocal Agreement pursuant to Sections 1013.33 and 163.31777, Florida Statutes.
- 1.5 Capital improvement programming by the Miami-Dade Public Schools should be based on future enrollment projections and demographic shifts and targeted to enhance the effectiveness of the learning environment. The future enrollment projections should utilize student population projections based on information produced by the demographic, revenue, and education estimating conferences pursuant to Section 216.136, Florida Statutes, where available, as modified by the School Board based on development data and agreement with the local governments, the State Office of Educational Facilities and the State SMART Schools Clearinghouse. The School Board may request adjustment to the estimating conferences' projections to reflect actual

enrollment and development trends. In formulating such a request, the School Board will coordinate with the City regarding development trends and future population projections.

- 1.6 The City, through the Staff Working Group of the Interlocal Agreement for Public School Facility Planning, will coordinate with Miami-Dade County Public Schools, and applicable Cities to review annually the Educational Element and school enrollment projections.

OBJECTIVE 2 – COORDINATION OF DEVELOPMENT AND AVAILABILITY

The City shall coordinate new residential development with the future availability of public school facilities¹ consistent with the adopted level of service standards for public school concurrency, to ensure the inclusion of those projects necessary to address existing deficiencies in the 5-year schedule of capital improvements, and meet future needs based upon achieving and maintaining the adopted level of service standards throughout the planning period.

This Objective will be measured through an annual review of the latest adopted Miami-Dade County Public Schools Facility Work Program to determine if the adopted concurrency level of service standard is being achieved.

Policies

- 2.1 Beginning January 1, 2008, the adopted level of service (LOS) standard for all Miami-Dade County public school facilities is 100% utilization of Florida Inventory of School Houses (FISH) Capacity (With Relocatable Classrooms). This LOS standard shall be applicable in each public school concurrency service area (CSA), defined as the public school attendance boundary established by the Miami-Dade County Public Schools.

The adopted LOS standard for Magnet Schools is 100% of FISH (With Relocatable Classrooms), which shall be calculated on a districtwide basis.

- 2.2 It is the goal of Miami-Dade County Public Schools and the City of Miami Beach for all public school facilities to achieve 100% utilization of Permanent FISH (No Relocatable Classrooms) capacity by January 1, 2018. To help achieve the desired 100% utilization of Permanent FISH by 2018, Miami-Dade County Public Schools should continue to decrease the number of relocatable classrooms over time. Public schools facilities that achieve 100% utilization of Permanent FISH_capacity should, to the extent possible, no longer utilize relocatable classrooms, except as an operational solution.²

By December 2010, the Miami-Dade County Public Schools in cooperation with the county and other affected agencies will assess the viability of modifying the adopted LOS standard to 100% utilization of Permanent FISH for all CSAs.

- 2.3 In the event the adopted LOS standard of a CSA cannot be met as a result of a proposed development's impact, the development may proceed provided at least one of the following conditions is met:

¹ Level of Service standards for public school facilities apply to those traditional educational facilities, owned and operated by the Miami-Dade County Public Schools, that are required to serve the residential development within their established Concurrency Service Area. Level of Service standards do not apply to charter schools. However, the capacity of both charter and magnet schools will be credited against the impact of development. No credit against the impact of development shall be given for either magnet or charter schools if their enrollment is at, or above, 100% FISH capacity.

² Relocatable classrooms may be used by the Miami-Dade County Public Schools as an operational solution to achieve the level of service standard during replacement, remodeling, renovation or expansion of a public school facility.

- a) The development's impact can be shifted to one or more contiguous CSAs that have available capacity and is located, either in whole or in part, within the same Geographic Areas (Northwest, Northeast, Southwest, or Southeast, see Figure 1A through 1D) as the proposed development; or
- b) The development's impact is mitigated, proportionate to the demand for public schools it created, through a combination of one or more appropriate proportionate share mitigation options, as defined in Section 163.3180 (13)(e)1, Florida Statutes. The intent of these options is to provide for the mitigation of residential development impacts on public school facilities, guaranteed by a legal binding agreement, through mechanisms that include, one or more of the following: contribution of land; the construction, expansion, or payment for land acquisition or construction of a permanent public school facility; or, the creation of a mitigation bank based on the construction of a permanent public school facility in exchange for the right to sell capacity credits. The proportionate share mitigation agreement is subject to approval by Miami-Dade County School Board and the City of Miami Beach and must be identified in the Miami-Dade County Public Schools Facilities Work Program.
- c) The development's impacts are phased to occur when sufficient capacity will be available.

If none of the above conditions is met, the development shall not be approved.

- 2.4 Concurrency Service Areas (CSA) shall be delineated to: 1) maximize capacity utilization of the facility, 2) limit maximum travel times and reduce transportation costs, 3) acknowledge the effect of court-approved desegregation plans, 4) achieve socio-economic, racial, cultural and diversity objectives, and 5) achieve other relevant objectives as determined by the School Board's policy on maximization of capacity. Periodic adjustments to the boundary or area of a CSA may be made by the School Board to achieve the above stated factors. Other potential amendments to the CSAs shall be considered annually at the Staff Working Group meeting to take place each year no later than April 30 or October 31, consistent with Section 9 of the Interlocal Agreement for Public School Facility Planning.
- 2.5 The City, through the implementation of the concurrency management system and Miami-Dade County Public School Facilities Work Program for educational facilities, shall ensure that existing deficiencies are addressed and the capacity of schools is sufficient to support residential development at the adopted level of service (LOS) standards throughout the planning period in the 5-year schedule of capital improvements.
- 2.6 The Miami-Dade County Public Schools Facilities Work Program will be evaluated on an annual basis to ensure that the level of service standards will continue to be achieved and maintained throughout the planning period.
- 2.7 Miami-Dade County Public Schools shall coordinate with the City to annually update its Facilities Work Program to include existing and anticipated facilities for both the 5-year and long-term planning periods, and to ensure that the adopted level of service standard, including interim standards, will continue to be achieved and maintained. The City, through its annual update to the Capital Improvements Schedule, will incorporate

by reference the latest adopted Miami-Dade County Public Schools Facilities Work Program and concurrency maps.

OBJECTIVE 3 – SUITABLE SITES

Assist and cooperate with the Miami-Dade County Public Schools to obtain suitable sites for the development and expansion of public education facilities.

This Objective will be monitored through the annual inventory and assessment by the Miami Dade County Public Schools of School Board owned property.

Policies

- 3.1 In the selection of sites for future educational facility development, the City encourages the Miami-Dade County Public Schools to consider whether a school is in close proximity to residential areas and is in a location that would provide a logical focal point for community activities.
- 3.2 Where possible, the Miami-Dade County Public Schools should seek sites which are adjacent to existing or planned public recreation areas, community centers, libraries, or other compatible civic uses for the purpose of encouraging joint use facilities or the creation of logical focal points for community activity.
- 3.3 The City concurs that, when selecting a site, the Miami-Dade County Public Schools district should consider if the site meets the minimum size criteria as recommended by the State Department of Education or as determined to be necessary for an effective educational environment.
- 3.4 When considering a site for possible use as an educational facility, the Miami-Dade County Public Schools should review the adequacy and proximity of other public facilities and services necessary to the site such as roadway access, transportation, fire flow and potable water, sanitary sewers, drainage, solid waste, police and fire services, and means by which to assure safe access to schools, including sidewalks, bicycle paths, turn lanes, and signalization.
- 3.5 When considering a site for possible use as an educational facility the Miami Dade County Public Schools should consider whether the present and projected surrounding land uses are compatible with the operation of an educational facility.
- 3.6 The City shall encourage and cooperate with the Miami-Dade County Public Schools in their effort for public school siting reviews to help accomplish the objectives and policies of this element and other elements of the City's Comprehensive Plan. The City shall cooperate with the Public Schools to establish provisions for a scoping or pre-application meeting as part of the educational facilities review process, if determined to be warranted.
- 3.7 Public educational facilities are an allowable use in all Future Land Use Categories.

OBJECTIVE 4 – IMPROVE SECURITY AND SAFETY

Miami-Dade County Public Schools, in conjunction with the City and other appropriate agencies, will strive to improve security and safety for students and staff.

This Objective will be monitored through the review and analysis of the statistics relating to school safety, as compiled annually, by the Miami-Dade County Public Schools' Division of Police.

Policies

- 4.1 Continue to cooperate with the Miami-Dade County Public Schools to develop and/or implement programs and policies designed to reduce the incidence of violence, weapons and vandalism on school campuses. Encourage the design of facilities, which do not promote criminal behavior and provide clear sight lines from the street.
- 4.2 Continue to cooperate with the Miami-Dade County Public Schools to develop and/or implement programs and policies designed to reduce the number of incidents related to hazardous conditions as reported by the Environmental Protection Agency (EPA), the fire marshal, the State Department of Education (DOE), and other appropriate sources.
- 4.3 Coordinate with the Miami-Dade County Public Schools to provide for pedestrian and traffic safety in the area of schools, and signalization for educational facilities.
- 4.4 Coordinate with the Miami-Dade County Public Schools' Division of School Police and other law enforcement agencies, where appropriate, to improve and provide for a secure learning environment in the public schools and their vicinity.

OBJECTIVE 5 – COOPERATION WITH PROGRAMS AND OPPORTUNITIES

Cooperate with the Miami-Dade County Public Schools to develop programs and opportunities to bring the schools and community closer together.

This Objective will be monitored by the Miami-Dade County Public Schools System by reporting and reviewing the progress and number of new and existing community oriented programs, including an enrollment analysis, by age and ethnicity, of adult, community and vocational programs.

Policies

- 5.1 Cooperate with the Miami-Dade County Public Schools in their efforts to provide "full service" schools, parent resource centers, adult and community schools and programs as appropriate.
- 5.2 Cooperate with the Miami-Dade County Public Schools in their efforts to continue to provide opportunities for community and business leaders to serve on committees and task forces, which relate to the development of improved provision of public educational facilities.
- 5.3 Cooperate with the Miami-Dade County Public Schools to continue to work with the development industry to encourage partnerships in the provision of sites and educational facilities including early childhood centers.
- 5.4 Cooperate with the Miami-Dade County Public Schools through agreement with appropriate agencies to increase medical, psychological, and social services for children and their families as appropriate.
- 5.5 The City will continue to cooperate with Miami-Dade County Public Schools and adjacent local governments in utilizing Miami-Dade County Public Schools as emergency shelters during emergencies.

OBJECTIVE 6 – LEARNING ENVIRONMENT

Miami-Dade County Public Schools will continue to enhance effectiveness of the learning environment.

This Objective will be monitored by the Miami-Dade County Public Schools by reporting the number of educational facility enhancements.

Policies

- 6.1 Miami-Dade County Public Schools is encouraged to continue the design and construction of educational facilities which create the perception of feeling welcome, secure and positive about the students' school environment and experiences.
- 6.2 The Miami-Dade County Public Schools is encouraged to continue to design and construct facilities which better provide student access to technology designed to improve learning, such as updated media centers and science laboratories.
- 6.3 The Miami-Dade County Public Schools is encouraged to continue to improve existing educational facilities, in so far as funding is available, through renovation and expansion to better accommodate increasing enrollment, new educational programs and other activities, both curricular and extra-curricular.
- 6.4 The School Board shall be encouraged to preserve, maintain and continue the use of historic schools.

OBJECTIVE 7 – INTERGOVERNMENTAL COORDINATION

The School Board, the City, and other appropriate jurisdictions shall establish and implement mechanism(s) for on-going coordination and communication to ensure the adequate provision of public educational facilities.

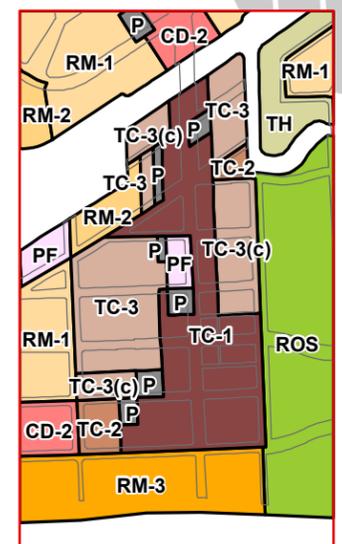
This Objective will be addressed by tracking the development of appropriate mechanisms, including interlocal agreements and coordination efforts.

Policies

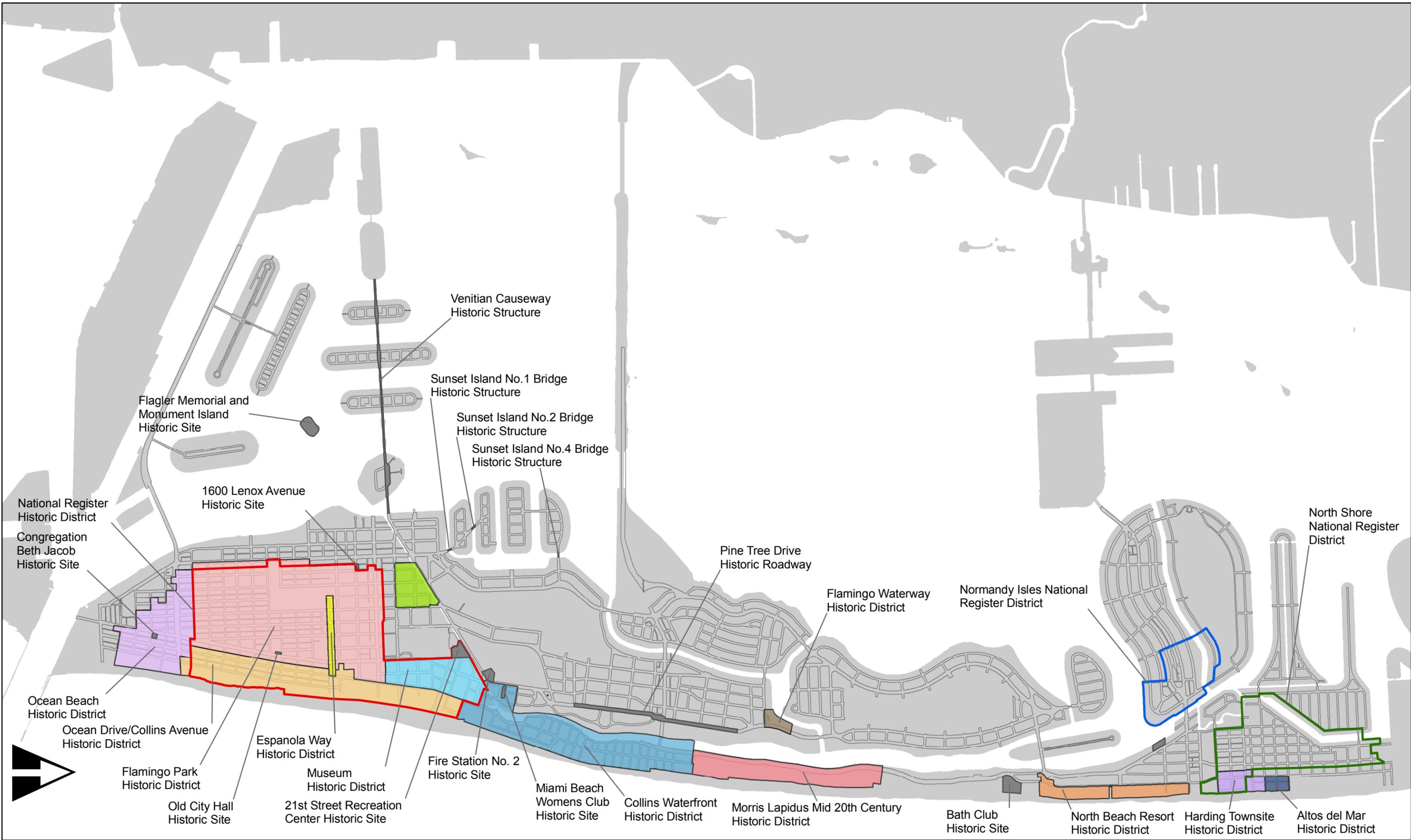
- 7.1 Pursuant to the terms of the state mandated Interlocal Agreement, the City will coordinate and cooperate with the Miami-Dade County Public Schools, the State, the County and other appropriate agencies, to develop processes to expedite proposed new educational facility developments and renovations.
- 7.2 The location of future educational facilities should occur where capacity of other public facilities and services is available to accommodate the infrastructure needs of the educational facility.
- 7.3 The Miami-Dade County Public Schools should coordinate school capital improvement plans with the planned capital improvement projects of other County and municipal agencies.
- 7.4 The City shall coordinate and cooperate with the Miami-Dade County Public Schools to ensure that they are obligated to pay for their fair share of the costs of necessary off-site infrastructure improvements.
- 7.5 Miami-Dade County Public Schools, the City, the County, and any other jurisdictional agency shall coordinate to eliminate infrastructure deficiencies surrounding existing school sites.
- 7.6 The City and the Miami-Dade County Public Schools shall coordinate efforts to ensure the availability of adequate sites for the required educational facilities.
- 7.7 The City shall afford representatives of the Miami-Dade County Public Schools the opportunity to review and comment on proposed developments adjacent to schools.
- 7.8 The City and the Miami-Dade County Public Schools will annually review the Educational Element and the City will make amendments if necessary.

Future Land Use Categories

- | | | | |
|---|--|---|---|
|  RS Single family residential |  MXE Mixed use entertainment |  RPS-4 Residential performance standard, high density |  PF(E) Public facility, educational |
|  RM-1 Residential multifamily, low intensity |  ROS Recreation and open space |  CPS-1 Commercial performance standard, limited mixed use |  PF(HD) Public facility, hospital |
|  RM-2 Residential multifamily, medium intensity |  I-1 Urban light industrial |  CPS-2 Commercial performance standard, general mixed use |  P Parking |
|  RM-3 Residential multifamily, high intensity |  MR Marine recreational |  CPS-3 Commercial performance standard, intensive mixed use |  TC-1 North Beach Town Center core |
|  TH Townhome residential |  RM-PRD Multifamily, planned residential development district |  CPS-4 Commercial performance standard, intensive phased bayside |  TC-2 North Beach Town Center mixed use |
|  RO Residential office |  RM-PRD-2 Multifamily, planned residential development district |  RMPS-1 Residential mixed use performance standard |  TC-3 North Beach Town Center residential/office |
|  CD-1 Commercial, low intensity |  RPS-1 Residential performance standard, medium-low density |  SPE Special public facilities educational district |  TC-3(c) North Beach Town Center residential/office with conditional neighborhood commercial |
|  CD-2 Commercial, medium intensity |  RPS-2 Residential performance standard, medium density |  PF Public facility, governmental | |
|  CD-3 Commercial, high intensity |  RPS-3 Residential performance standard, medium-high density |  PF(CCC) Public facility, convention center | |



The City is an Energy Economic Zone.





MIAMIBEACH

Coastal High Hazard Area Category 1 Storm Surge and Evacuation Routes

Page 953 of 1000
Prepared by the Planning Department, 2011 Storm Surge Data Source: Statewide Regional Evacuation Study Project and the South Florida Regional Planning Council, February 2011



THIS DOCUMENT WAS PRODUCED BY THE **PLANNING DEPARTMENT**

GRAPHICS BY
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MIAMIBEACH



DIVISION 18. - PS PERFORMANCE STANDARD DISTRICT

Sec. 142-691. - Purpose.

(a) *Establishment of district and divisions.* The PS performance standard district is hereby established as shown on the map designated as the city zoning district map. The PS district consists of all land in the redevelopment area and consists of five districts including: a residential performance standard (R-PS) district, a commercial performance standard (C-PS) district, a residential limited mixed use performance standard (M-PS) district (each of which is further subdivided based upon the type and density or intensity of permitted uses), a GU government use district and MR marine recreation district.

(b) *Residential performance standards.*

(1) The residential-performance standards districts are designed to accommodate a broad spectrum of medium-low to high density residential development including townhome development and multiple-family development pursuant to performance standards which control the permissible type and density of residential development. Performance standards development will allow for modification of requirements affecting certain individual lots, greater flexibility, particularly for large-scale development, and incentives for provision of certain amenities and for conformance with specified objectives, thereby encouraging more flexible and innovative design and development, in accordance with the goals and objectives of the comprehensive plan and the redevelopment plan.

(2) In order to adequately and properly distinguish among the permissible types and densities of residential development, the redevelopment area is divided into the following residential districts:

R-PS1	Medium-Low Density
R-PS2	Medium Density
R-PS3	Medium-High Density
R-PS4	High Density

(c) *Commercial performance standards.*

EXHIBIT B

- (1) The commercial performance standards districts are designed to accommodate a range of business, commercial, office and hotel uses, as well as medium to high density residential development pursuant to performance standards which control the permissible type, density or intensity, and mix of development. Performance standards development will allow for modification of requirements affecting certain individual lots; greater flexibility, particularly for large-scale development; large commercial, medium to high density residential and mixed use developments in phases over time where the overall development at a single point in time or in a single instance by private owners would not be practical; providing incentives for provision of certain amenities and for conformance with specified objectives, thereby encouraging more flexible and innovative design and development in accordance with the goals and objectives of the comprehensive plan and the redevelopment plan.
- (2) In order to adequately and properly distinguish between types, densities and intensities of uses and mix of permitted commercial development in the redevelopment area, districts are divided as follows:

C-PS1	Limited mixed-use commercial
C-PS2	General mixed-use commercial
C-PS3	Intensive mixed-use commercial
C-PS4	Intensive mixed-use phased bayside commercial

(d) *Residential limited mixed use performance standards.*

- (1) The residential limited mixed use performance standards district is designed to accommodate the new construction of light commercial, office and public uses, as well as low density residential development pursuant to performance standards which control the permissible type, density or intensity, and mix of development. Performance standards development will allow for modification of requirements affecting certain individual sites; greater flexibility, particularly for large-scale development; light commercial, low density residential and mixed use developments in phases over time where the overall development at a single point in time or in a single instance by private

owners would not be practical; providing incentives for provision of certain amenities and for conformance with specified objectives, thereby encouraging more flexible and innovative design and development in accordance with the goals and objectives of the comprehensive plan and the redevelopment plan.

- (2) In order to adequately and properly distinguish between types, densities and intensities of uses and mix of permitted mixed development in the redevelopment area the RM-PS1 residential limited mixed use development is established.

(Ord. No. 89-2665, §§ 20-1, 20-2, eff. 10-1-89)

Sec. 142-692. - Uses permitted by right, uses permitted by conditional use permit and uses not permitted.

No building, structure or land shall be used or occupied except as a main permitted use, a conditional use, or an accessory use to a main permitted use, in accordance with the table and text of permitted uses. A use in any district denoted by the letter "P" is a use permitted by right in such district or subdistrict, provided that all requirements and performance standards applicable to such uses have been met. A use in any district denoted by the letter "C" is permissible as a conditional use in such district or subdistrict, provided that all requirements and performance standards applicable to such use have been met and provided that all requirements of chapter 118, article IV, have been met. A use in any district denoted by the letter "N," or specifically listed as a use not permitted in the text of section 142-693, is not permitted in such district or subdistrict. Uses permitted by right, as a conditional use, or as an accessory use shall be subject to all use regulations and performance standards contained herein and to such other regulations as may be applicable, including site plan review and design review. Uses not listed in the table of permitted uses are not permitted in the district or subdistrict. Notwithstanding any provision of this section, no use is permitted on a parcel, whether listed by right, as a conditional use or as an accessory use in such district, unless it can be located on such parcel in full compliance with all of the performance standards and other requirements of these land development regulations applicable to the specific use and parcel in question.

(Ord. No. 89-2665, § 20-3(A), eff. 10-1-89; Ord. No. 94-2908, eff. 2-26-94)

Sec. 142-693. - Permitted uses.

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

General Use Category	R-PS 1, 2	R-PS 3, 4	C-PS 1, 2, 3, 4	RM-PS1
Single-family; townhome; apartment; apartment/hotel	P	P	P	P Apartment/hotel not permitted
Hotel	N	P	P	N
Commercial	N	N	P	P 8% of floor area
Institutional	C	C	C	C 1.25% of floor area

<p>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.</p>	<p>N</p>	<p>N</p>	<p>P* North of 5th Street only.</p>	<p>N</p>
<p>Outdoor entertainment establishments and open air entertainment establishments</p>	<p>N</p>	<p>N</p>	<p>N</p>	<p>N</p>

Neighborhood impact establishments	N	N However, in the R-PS4 district, this use is permitted, as an accessory use in oceanfront hotels with 250 or more hotel units, as a conditional use. Access to the establishment shall be only from the interior lobby of the hotel and not from the street.	C	N
Accessory	P*	P*	P*	P*

P—Main permitted use C—Conditional use N—Not permitted

* — Accessory use only

Floor area in the RM-PS1 district refers to total floor area in project. Commercial uses in RM-PS1 limited to stores and restaurants.

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(b) For purposes of this section, a car wash, filling station and any use that sells gasoline, automobiles or automotive or related repair uses are considered as industrial uses and are not permitted in the redevelopment area.

(c)

For purposes of this section, pawnshops and dance halls and entertainment establishments are not permitted as a main permitted or accessory use south of Fifth Street; however, in the C-PS3 and C-PS4 districts dance halls and entertainment establishments shall be permitted as an accessory use within a hotel of 250 rooms or more with access to the dance hall or entertainment establishment only from the interior lobby and not from the street.

Additionally, for restaurants located in the C-PS2 district, on the south side of Fifth Street between Michigan Avenue and Alton Road, non-amplified piano or string instruments, played at a volume that does not interfere with normal conversation, may be permitted as a conditional use within the interior of the premises, in accordance with the requirements of chapter 118, article IV, and only during periods in which full meals are being served, and no later than 2:00 a.m.

- (d) In the R-PS1, 2, 3 and 4 districts, the number of seats for accessory restaurants or bars that serve alcohol shall be limited to a maximum of 1.25 seats per hotel or apartment unit for the entire site. The patron occupant load, as determined by the planning director or designee, for all accessory restaurants and bars that serve alcohol on the entire site shall not exceed 1.5 persons per hotel and/or apartment unit. For a hotel or apartment property of 20 units or more, but less than 32 units, the restaurant or bar may have a maximum of 40 seats in the aggregate on the site. The number of units shall be those that result after any renovation.
- (e) Commercial and noncommercial parking lots and garages shall be considered as a conditional use in the R-PS1, 2, 3 and 4 districts.
- (f) Video game arcades shall be considered as a conditional use in the C-PS1, C-PS2, C-PS3, and C-PS4 districts.
- (g) New construction of structures 50,000 square feet and over in the C-PS1, 2, 3, and 4 districts (even when divided by a district boundary line) shall be considered as a conditional use, which review shall be the first step in the process before the review by any of the other land development boards.
- (h) Religious institutions in R-PS1-4 and C-PS1-4 districts shall be permitted as a matter of right up to 199 occupancy, and over that occupancy shall be a conditional use.
- (i) Additional regulations for alcoholic beverage establishments located south of 5th Street.
 - (1) The following additional regulations shall apply to alcoholic beverage establishments, whether as a main use, conditional use, or accessory use, that are located south of 5th Street:
 - (i) Operations shall cease no later than 2:00 a.m., except as otherwise provided herein.
 - (ii) Operations in outdoor or open air areas of an alcoholic beverage establishment shall

cease no later than 12:00 a.m., except as otherwise provided herein.

- (iii) Alcoholic beverage establishments with sidewalk cafe permits shall only serve alcoholic beverages at sidewalk cafes during hours when food is served, shall cease sidewalk cafe operations no later than 12:00 a.m. (except as otherwise provided herein), and shall not be permitted to have outdoor speakers.
 - (iv) Outdoor bar counters shall be prohibited.
 - (v) No special events permits shall be issued.
 - (vi) The provisions of this subsection (i)(1) shall not apply, to the extent the requirements of this subsection are more restrictive, to an alcoholic beverage establishment with a valid business tax receipt that is in application status or issued prior to June 28, 2016; or an establishment that has obtained approval for an alcoholic beverage establishment from a land use board, and which land use board order is active and has not expired prior to June 28, 2016.
 - A. Existing sidewalk cafes issued a sidewalk cafe permit as of June 28, 2016, for alcoholic beverage sales after 12:00 a.m., with food service, may continue to be renewed, but shall not serve alcoholic beverages later than 1:30 a.m., and alcoholic beverages may not be consumed at sidewalk cafes after 2:00 a.m.
 - B. Should an alcoholic beverage establishment with a sidewalk cafe permit under (A), above, be delinquent in a payment obligation to the city, and/or receive two final adjudications of violations of section 12-5 (special event permit), section 46-152 (noise ordinance), or chapter 82, article IV, division 5 (sidewalk cafe ordinance), that alcoholic beverage establishment shall only be allowed to serve alcoholic beverages at its sidewalk cafe until 12:00 a.m. for a 12-month period.
- (2) Notwithstanding the uses permitted in (a) and (d) above, in all districts except GU, government use district, no alcoholic beverage establishment, or restaurant, may be licensed or operated as a main permitted, conditional, or accessory use in any open area above the ground floor (any area that is not included in the FAR calculations) located south of 5th Street, Except that:
- (i) Outdoor restaurant seating above the ground floor, not exceeding 40 seats, associated with indoor venues (except as provided under (iii) below) may be permitted until 8:00 p.m. with no background music (amplified or nonamplified).
 - (ii) Outdoor music, whether amplified or nonamplified, and television sets shall be prohibited.
 - (iii)

Oceanfront hotels in the R-PS4 district. For purposes of this subsection (iii), eastward-facing oceanfront portions of an open-air seating area shall be limited to the open area 50 feet west of the eastern boundary of the above-ground structure.

- A. Oceanfront hotels in the R-PS4 district with at least 200 hotel units may have no more than 100 outdoor restaurant seats in open-air seating areas on one level that are located above the ground floor, of which at least half shall be located on eastward-facing oceanfront portions of an open-air seating area, at which patrons shall be seated no later than 12:00 a.m., and the seating area shall be closed to the public no later than 1:30 a.m. Patrons shall not be seated in the remainder of any open-air seating areas in a particular hotel later than 11:00 p.m., and such seating areas shall be closed to the public no later than 12:00 a.m. Seating on the main roof shall not be permitted under any circumstances.
- B. Oceanfront hotels in the R-PS4 district with at least 100 hotel units, but less than 200 hotel units, may have no more than 50 outdoor restaurant seats in eastward-facing oceanfront portions of open-air seating areas that are located on one level above the ground floor, at which patrons shall be seated no later than 12:00 a.m., and the seating area shall be closed to the public no later than 1:30 a.m. Seating on the main roof shall not be permitted under any circumstances.

(iv) Other than as permitted in subsection (i)(2)(iii), no commercial activity may be permitted on areas as described in this subsection (i)(2) between the hours of 8:00 p.m. and 10:00 a.m.

(v) Nothing herein shall prohibit residents of a multifamily (apartment or condominium) building, or hotel guests and their invitees to use these areas as described in this subsection (i)(2), which may include a pool or other recreational amenities, for their individual, personal use.

(3) Any increase to an alcoholic beverage establishment's approved hours of operation shall meet the requirements of this section.

(4) Variances from this subsection (i) shall not be permitted. Special events shall not be permitted.

(Ord. No. 89-2665, § 20-3(B), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 91-2767, eff. 11-2-91; Ord. No. 94-2908, eff. 2-26-94; Ord. No. 94-2925, eff. 6-15-94; Ord. No. 96-3050, § 3, 7-17-96; Ord. No. 99-3179, § 5, 3-17-99; Ord. No. 99-3222, § 4, 12-15-99; Ord. No. 2003-3417, § 1, 6-11-03; Ord. No. 2004-3445, § 3, 5-5-04; Ord. No. 2007-3546, 1-17-07; Ord. No. 2008-3602, § 1, 3-12-08;

Ord. No. 2009-3631, § 1, 3-18-09; Ord. No. 2009-3649, § 1, 9-9-09; Ord. No. 2011-3715, § 1, 1-19-11; Ord. No. 2013-3791, § 7, 2-6-13; Ord. No. 2014-3869, § 1, 5-21-14; Ord. No. 2015-3948, § 1, 7-8-15; Ord. No. 2016-4054, § 1, 11-9-16)

Sec. 142-694. - Nonconforming uses, lots and structures.

Nonconforming uses, lots and structures shall be subject to the regulations contained in chapter 118, article IX.

(Ord. No. 89-2665, § 20-3(C), eff. 10-1-89; Ord. No. 96-3050, § 3, 7-17-96)

Sec. 142-695. - Performance standard regulations generally.

- (a) No building, structure or land shall be used or occupied except in conformance with the performance standards applicable to the use and subdistrict as set forth in the applicable table of performance standards. The purpose of the performance standards are:
- (1) To provide detailed regulations by means of minimum criteria which must be met by all uses in order to ensure development consistent with the goals and objectives of the comprehensive plan and the redevelopment plan;
 - (2) To protect the integrity of the comprehensive plan and the redevelopment plan and the relationships between uses and densities that are essential to the viability of these plans and the redevelopment area; and
 - (3) To promote and protect the public health, safety, and general welfare by requiring all development to be consistent with the land use, circulation and amenities components of the redevelopment element of the comprehensive plan and the capital improvements program for the area, as specified in the comprehensive plan.
- (b) In the R-PS and RM-PS districts, all floors of a building containing parking spaces shall incorporate the following:
- (1) Residential or commercial uses, as applicable, at the first level along every facade facing a street, sidewalk or waterway. For properties not having access to an alley, the required residential space shall accommodate entrance and exit drives.
 - (2) Residential uses above the first level along every facade facing a waterway.
 - (3) For properties less than 60 feet in width, the total amount of residential space at the first level along a street side shall be determined by the design review or historic preservation board, as applicable. All facades above the first level, facing a street or sidewalk, shall

include a substantial portion of residential uses; the total amount of residential or commercial space shall be determined by the design review or historic preservation board, as applicable, based upon their respective criteria.

(c) In the C-PS districts, all floors of a building containing parking spaces shall incorporate the following:

- (1) Residential or commercial uses, as applicable, at the first level along every facade facing a street, sidewalk or waterway. For properties not having access to an alley, the required residential space shall accommodate entrance and exit drives.
- (2) Residential or commercial uses above the first level along every facade facing a waterway.
- (3) For properties less than 60 feet in width, the total amount of commercial space at the first level along a street side shall be determined by the design review or historic preservation board, as applicable. All facades above the first level, facing a street or sidewalk, shall include a substantial portion of residential or commercial uses; the total amount of residential or commercial space shall be determined by the design review or historic preservation board, as applicable, based upon their respective criteria.

(Ord. No. 89-2665, § 20-4(A), eff. 10-1-89; Ord. No. 2006-3510, § 9, 3-8-06)

Sec. 142-696. - Residential performance standard area requirements.

The residential performance standard area requirements are as follows:

	Residential Subdistricts			
<i>Performance Standard</i>	<i>R-PS1</i>	<i>R-PS2</i>	<i>R-PS3</i>	<i>R-F</i>
Minimum lot area	5,750 square feet	5,750 square feet	5,750 square feet	5,750 square feet
Minimum lot width	50 feet	50 feet	50 feet	50 feet

Required open space ratio	0.60, See <u>section 142-704</u>	0.65, See <u>section 142-704</u>	0.70, See <u>section 142-704</u>	0.70, See <u>s 142-704</u>
Maximum building height*	45 feet Lots 50 feet wide or less—40 feet	45 feet Lots 50 feet wide or less—40 feet	50 feet Lots 50 feet wide or less—40 feet	Nonocean feet; Oceanfront feet; Lots 50 feet less—40 feet
Maximum number of stories	5 Lots 50 feet wide or less—4	5 Lots 50 feet wide or less—4	5 Lots 50 feet wide or less—4	Nonocean Oceanfront Lots 50 feet less—4 In the Ocean Historic District
Maximum floor area ratio	1.25	1.50	1.75	2.0

<p>Minimum floor area per apartment unit (square feet); except as provided in <u>section 142-1183</u> for elderly and low and moderate income non-elderly housing</p>	<p>New construction—700 Rehabilitated buildings—400</p>	<p>New construction—650 Rehabilitated buildings—400</p>	<p>New construction—600 Rehabilitated buildings—400</p>	<p>New constructio Rehabilitat buildings—</p>
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<p>Minimum average floor area per apartment unit (square feet); except as provided in <u>section 142-1183</u> for elderly and low and moderate income non-elderly housing</p>	<p>New construction—900 Rehabilitated buildings—550</p>	<p>New construction—900 Rehabilitated buildings—550</p>	<p>New construction—850 Rehabilitated buildings—550</p>	<p>New construction—850 Rehabilitated buildings—550</p>
<p>Minimum floor area per hotel unit (square feet)</p>	<p>N/A</p>	<p>N/A</p>	<p>15% = 300—335 square feet 85% = 335+ square feet</p>	<p>15% = 300 square feet 85% = 335 feet</p>
<p>Minimum parking</p>	<p>Pursuant to <u>chapter 130</u> and <u>section 142-705</u> requirement.</p>			
<p>Minimum off-street loading</p>	<p>Pursuant to <u>chapter 130</u>, article III.</p>			
<p>Signs</p>	<p>Pursuant to <u>chapter 138</u>.</p>			

Suites hotel	Pursuant to article IV, division 3 of this chapter.
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* Notwithstanding the foregoing provisions regarding maximum building height, in the Ocean Beach historic district, as defined in subsection 118-593(e)(2)f., the maximum building height for a lot located in the R-PS1, R-PS2, or R-PS3 zoning districts:

- (i) With a lot exceeding 50 feet, and
 - (ii) Upon which there exists a contributing structure which has not received a certificate of appropriateness for demolition (or any such approval has expired), shall be 40 feet.
1. Notwithstanding the above height restrictions, existing structures within a local historic district are subject to section 142-1161.
 2. In the R-PS4 zoning district, within the Ocean Beach historic district, when an existing contributing structure is nonconforming with respect to the height regulations in section 142-696, such structure may be repaired, renovated or rehabilitated regardless of the cost of such repair, renovation or rehabilitation, notwithstanding the provisions of chapter 118, article IX, "Nonconformances."
 3. Reserved.
 4. Notwithstanding the above height restrictions, in the R-PS4 zoning district, within the Ocean Beach historic district, for lots 100 feet or more in width, the maximum height shall be 35 feet for the first 60 feet of lot depth, 75 feet thereafter, subject to the line-of-sight analysis of section 142-697(d). However, for residential apartment buildings, on lots 100 feet or more in width, the historic preservation board, in accordance with certificate of appropriateness criteria, may allow an increase in the overall height not to exceed six stories, 60 feet for the first 60 feet of lot depth and 11 stories, 100 feet thereafter, and on lots 50 feet wide or less may allow an increase in overall height not to exceed 35 feet for the first 60 feet of lot depth and six stories, 60 feet thereafter, provided all of the following conditions are satisfied:
 - a. The property shall be an oceanfront lot;
 - b. The property shall not contain a contributing building;
 - c.

- The sixth level of the front portion of the new construction on lots 100 feet or more in width shall meet a line-of-sight, which for the purpose of this section, is defined as not being visible when viewed at eye-level (five feet six inches from grade) from the opposite side of the Ocean Drive right-of-way, and on lots 50 feet or less wide shall be subject to the line-of-sight analysis of section 142-697(d);
- d. The proposed building shall be sited and massed in a manner that promotes and protects view corridors. At a minimum, a substantial separation of the tower portion of any structure shall be required;
 - e. For lots greater than 50 feet in width, the front portion of the structure shall incorporate a separation in the center of the structure, which is open to sky, and is at least ten feet in width and 25 feet in depth; the exact location of such separation shall be subject to the historic preservation board, in accordance with certificate of appropriateness criteria. Alternatively, the massing and architectural design of the front portion of the structure shall acknowledge the historic pattern of residential structures along Ocean Drive;
 - [g. Reserved;]
 - h. The maximum residential density is 60 units per acre;
 - i. All required off-street parking for the building shall be provided on site; required parking may not be satisfied through parking impact fees;
 - j. The owner restricts the property to permit only rentals that are no less than six months and one day per calendar year, through language in its condominium or cooperative documents, and by proffering a restrictive covenant, running with the land, or other similar instrument enforceable against the owner(s), acceptable to and approved as to form by the city attorney, which shall be executed and recorded prior to the issuance of a building permit, to ensure that the building remains solely as a residential apartment building for a minimum of 30 years, and that no uses under section 142-902(2)e. are permitted on the premises during that time period;
 - k. Accepting that the value in the increased height, and the incremental traffic burden and effect on aesthetics in the district are offset by the conveyance of an easement for an extension of the beachwalk east of their structures, the owner provides an easement, acceptable to and approved as to form by the city attorney, for a public beachwalk on the easterly portion of its property, as more specifically provided in the plans on file with the city's public works department.

(Ord. No. 89-2665, § 20-4(B), eff. 10-1-89; Ord. No. 94-2908, eff. 2-26-94; Ord. No. 97-3097, § 3, 10-8-97; Ord. No. 98-3107, § 7, 1-21-98; Ord. No. 98-3150, § 2, 11-4-98; Ord. No. 99-3169, § 1, 2-3-99; Ord. No. 2002-3386, § 1, 11-13-02; Ord. No. 2005-3483, § 8, 5-18-05; Ord. No. 2006-3522, § 1, 7-12-06; Ord. No. 2011-3744, § 10, 10-19-11; Ord. No. 2012-3753, § 1, 2-8-12; Ord. No. 2014-3906, § 1, 11-19-14)

Sec. 142-697. - Setback requirements in the R-PS1, 2, 3, 4 districts.

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

	Front	Side, Interior	Side, Facing a Street	Rear
At-grade parking lot (below building)	5 feet	5 feet	5 feet	Nonoceanfront lots—5 feet Oceanfront lots—50 feet from bulkhead line
Subterranean	5 feet	5 feet	5 feet	Nonoceanfront lots—0 feet Oceanfront lots—50 feet from bulkhead line.

<p>Pedestal</p>	<p>5 feet</p>	<p>7.5 feet, except when section (e) below applies. Lots 50 feet wide or less—5 feet, however, for residential apartment structures seeking approval under section 142-696.4 above, on lots greater than 50 feet in width, 15 feet for any portion of the pedestal above 35 feet in height.</p>	<p>5 feet</p>	<p>Nonoceanfront lots—10% of lot depth Oceanfront lots—20% of lot depth, 50 feet minimum from bulkhead line.</p>
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<p>Tower</p>	<p>50 feet, except that in the R-PS4 within the Ocean Beach historic district, the minimum shall be 60 feet; however, for residential apartment structures seeking approval under section 142-696.4 above, the tower setback shall be determined by the historic preservation board.</p>	<p>The required pedestal setback plus 0.10 the height of the building; however, for residential apartment structures seeking approval under section 142-696.4 above, 15 feet.</p>	<p>The required pedestal setback plus 0.10 the height of the building.</p>	<p>Nonoceanfront lots—15% of lot depth Oceanfront lots—25% of lot depth, 75 feet minimum from bulkhead line; however, for residential apartment structures seeking approval under section 142-696.4 above, the tower setback shall be the same as the pedestal setback.</p>
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- (b) All required setbacks shall be considered as minimum requirements except for the pedestal front yard setback and pedestal side yard facing a street setback which shall be considered as both minimum and maximum requirements.
- (c) For lots greater than 100 feet in width the front setback shall be extended to include at least one open court with a minimum area of three square feet for every linear foot of lot frontage.

- (d) In the R-PS4 zoning district, within the Ocean Beach historic district, the tower portion of ground-floor additions to contributing buildings shall meet a line-of-sight, which for the purpose of this section is defined as not visible when viewed at eye-level (five feet six inches from grade) from the opposite side of the adjacent right-of-way.
- (e) In the R-PS4 zoning district within the Ocean Beach historic district, when an existing contributing structure has a minimum five-foot side yard setback, the setback of new construction in connection with the existing building may be allowed to follow the existing building line. The maintenance of the existing setback shall apply to the linear extension of the existing building.

(Ord. No. 89-2665, § 20-4(C), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 94-2908, eff. 2-26-94; Ord. No. 2002-3386, § 2, 11-13-02; Ord. No. 2006-3522, § 2, 7-12-06; Ord. No. 2012-3753, § 1, 2-8-12)

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

- (a) Definitions. For purposes of this district, the following parcels are defined as set forth below:
 - (1) The "Block 51 Properties" shall mean Lots 5-9, 11, 12, 18-30 (and adjacent 10-foot strip of land), Block 51, Ocean Beach Addition No. 3, PB2, Pg81, Public Records of Miami-Dade County.
 - (2) The "Block 51 Swap Property" shall mean Lot 4, Block 51, Ocean Beach Addition No. 3, PB2, Pg81, Public Records of Miami-Dade County.
 - (3) The "Block 52 Properties" shall mean Lots 4-11, Block 52, Ocean Beach Addition No. 3, PB2, Pg81, Public Records of Miami-Dade County.
 - (4) The "Block 1 Properties" shall mean Lots 1-3, 5-13 (and alley adjacent thereto), 17, Block 1, Ocean Beach Florida, PB2, Pg38, Public Records of Miami-Dade County.
 - (5) The "Goodman Terrace and Hinson Parcels" shall mean those properties commonly known as the Goodman Terrace and Hinson Parcels, located south of South Pointe Drive and West of Washington Avenue, whose legal description is on file in the City Clerk's Office.
 - (6) The "Retail Parcel" shall mean the commercial building located south of South Pointe Drive, between Washington Avenue and the theoretical extension of Collins Avenue.

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

	Commercial Subdistricts
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Performance Standard	C-PS1	C-PS2	C-PS3	C-PS4
Minimum lot area	6,000 square feet	6,000 square feet	6,000 square feet	6,000 square feet
Minimum lot width	50 feet	50 feet	50 feet	50 feet
Maximum building height	40 feet; 75 feet for the Block 51 Properties, the Block 51 Swap Property, Block 52 Properties, and Block 1 Properties	50 feet—East of Lenox Avenue 75 feet—West of Lenox Avenue	Non-oceanfront—80 feet Oceanfront—100 feet	150
Maximum number of stories	4; 8 for the Block 51 Properties, the Block 51 Swap Property, Block 52 Properties; Block 1 Properties	5—East of Lenox Avenue 7—West of Lenox Avenue	Non-oceanfront—8 Oceanfront—11	16
Maximum floor area ratio	1.0; 1.5 for the Block 51 Properties and Block 52 Properties, and 2.0 for the Block 1 Properties	2.0	2.5	2.5

<p>Residential and/or hotel development</p>	<p>Pursuant to all R-PS2 district regulations, except maximum building height for residential and mixed use buildings shall be 75 feet</p>	<p>Pursuant to all R-PS3 district regulations, except maximum building height for residential and mixed use buildings shall be 75 feet</p>	<p>Pursuant to all R-PS4 district regulations except maximum floor area ratio shall be 2.5; on the Goodman Terrace and Hinson Parcels, the FAR shall be that necessary to achieve 305,500 sq. ft. (estimated at 3.2 FAR), 30 stories and 300 ft. height maximum for the Goodman Terrace and Hinson Parcels, and open space ratio 0.60 measured at or above grade</p>	<p>Pursuant to R-PS4 district regulation except maximum floor area shall be 2. open space 0.60 measured at or above grade</p>
<p>Minimum apartment unit size (square feet)</p>	<p>New construction—650 Rehabilitated buildings—400</p>	<p>New construction—600 Rehabilitated buildings—400</p>	<p>New construction—550 Rehabilitated buildings—400</p>	<p>New construction— Rehabilitated buildings—</p>

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

- (c) Notwithstanding the above height restrictions, existing structures within a local historic district are subject to section 142-1161.
- (d) Notwithstanding the above floor area ratio limits, 75 spaces of required parking located on Block 51 for the Retail Parcel pursuant to a covenant under section 130-36, shall not be counted as permitted floor area. Further, the floor area on the Block 51 Properties and the Block 51 Swap Property may be distributed among such properties by covenant in lieu of unity of title; and the floor area on the Block 1 Properties may be distributed among such properties within the block by covenant in lieu of unity of title.
 (Ord. No. 89-2665, § 20-4(D), eff. 10-1-89; Ord. No. 94-2908, eff. 2-26-94; Ord. No. 97-3097, § 3, 10-8-97; Ord. No. 98-3107, § 7, 1-21-98; Ord. No. 98-3150, § 2, 11-4-98; Ord. No. 2004-3452, § 3, 7-28-04; Ord. No. 2004-3452, § 3, 7-28-04; Ord. No. 2006-3539, § 2, 10-11-06)

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

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

	Front	Side, Interior	Side, Facing a Street	Rear
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Subterranean	0 feet	0 feet	0 feet	0 feet
Pedestal and tower (non-oceanfront)	0 feet; for residential, 5 feet; 20 feet from adjacent streets above the first 40 feet in height for the Block 1 Properties, Block 51 Properties (except lots 11 and 12), Block 51 Swap Property and Block 52 Properties	7.5 feet when abutting a residential district, otherwise none. Residential uses shall follow the R-PS1, 2, 3, 4 setbacks (See <u>section 142-697</u>)	0 feet Residential uses shall follow the R-PS1, 2, 3, 4 setbacks (See <u>section 142-697</u>)	10 feet when abutting a residential district, otherwise—5 feet; 3.5 feet for the Block 1 Properties, Block 51 Properties (except lots 11 and 12), Block 51 Swap Property and Block 52 Properties; unless separated by a waterway—None

Pedestal and tower (oceanfront)	Pedestal—15 feet Tower—20 feet plus one foot for every one foot increase in height above 50 feet, to a maximum of 50 feet, then shall remain constant	Commercial uses—10 feet Residential uses shall follow the R-PS1, 2, 3, 4 setbacks (See <u>section 142-697</u>)	Commercial uses—10 feet Residential uses shall follow the R-PS1, 2, 3, 4 setbacks (See <u>section 142-697</u>)	25% of lot depth, 75 feet minimum
Parking lots and garages	If located on the same lot as the main structure the above setbacks shall apply, if primary use the setbacks are listed in <u>section 142-1132(n)</u> .			

- (b) All required setbacks shall be considered as minimum requirements except for the pedestal front yard setback and the pedestal side yard facing a street setback, which shall be considered as both a minimum and maximum requirements, except for the Goodman Terrace and Hinson Parcels.
- (c) For lots greater than 100 feet in width the front setback shall be extended to include at least one open court with a minimum area of three square feet for every linear foot of lot frontage, except for those properties located in the C-PS1 district described in section 142-698(a).
 (Ord. No. 89-2665, § 20-4(E), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 94-2908, eff. 2-26-94; Ord. No. 2004-3452, § 4, 7-28-04)

Sec. 142-700. - Mixed use buildings.

The calculation of setbacks and floor area ratio for mixed use buildings shall be as follows:

- (1) *Setbacks.* When more than 25 percent of the total area of a building in a C-PS district is used for residential or hotel units, any floor containing such units shall follow the R-PS1, 2, 3, 4 setback regulations.
- (2) *Floor area ratio.* When at least 75 percent of the linear frontage of the building at the ground floor level is used for commercial uses, the floor area ratio shall follow the range of the commercial district in which the building is located. In all other instances the floor area ratio range shall follow the floor area ratios as follows: In the C-PS1 district, the floor area ratio as set forth in the R-PS1 district; in the C-PS2 district, the floor area ratio as set forth in the R-PS2 district; in the C-PS3 district, the floor area ratio as set forth in the R-PS3 district; in the C-PS4 district, the floor area ratio as set forth in the R-PS4 district.
- (3) Notwithstanding the above, the properties defined in section 142-698(a), except the retail parcel, shall be governed by the development regulations in sections 142-698 and 142-699.

(Ord. No. 89-2665, § 20-4(F), eff. 10-1-89; Ord. No. 94-2908, eff. 2-26-94; Ord. No. 2004-3452, § 5, 7-28-04)

Sec. 142-701. - Residential limited mixed use performance standards.

Residential limited mixed use performance standards shall be as follows:

Mixed Subdistricts	
Performance Standard	RM-PS1
Minimum site area	120,000
Minimum site width	350 feet
Required open space ratio	0.60
Maximum building height	60 feet above ground or above enclosed parking

Maximum number of stories	6 stories above ground or above enclosed parking
Maximum floor area ratio	1.5
Minimum floor area per apartment unit (square feet)	600
Minimum average floor area per apartment unit (square feet)	1,000
Minimum floor area per hotel unit (square feet)	N/A
Minimum parking	Pursuant to <u>chapter 130</u> and subsection <u>142-706(c)</u> requirement herein
Minimum off-street loading	Pursuant to <u>chapter 130</u> , article IV
Signs	Pursuant to <u>chapter 138</u>
Suites hotel	N/A

(Ord. No. 89-2665, § 20-4(G), eff. 10-1-89; Ord. No. 92-2775, eff. 3-1-92; Ord. No. 94-2908, eff. 2-26-94; Ord. No. 97-3097, § 3, 10-8-97; Ord. No. 98-3107, § 7, 1-21-98)

Sec. 142-702. - Setback requirements in the RM-PS1 district.

The setback requirements in the RM-PS1 district shall be as follows:

- (1) Front, rear, side yard facing street: 2 feet when approved by the design review board; otherwise section 142-697 applies.
- (2) Side interior: See section 142-697.

(Ord. No. 89-2665, § 20-4(H), eff. 10-1-89)

Sec. 142-703. - Reserved.

Editor's note— Ord. No. 98-3107, § 7, adopted Jan. 21, 1998, repealed § 142-703, which pertained to performance standard bonuses and derived from Ord. No. 89-2665, § 20-4(l), effective Oct. 1, 1989.

Sec. 142-704. - Minimum required yards in relation to minimum open space ratio.

(a) *Open space.*

- (1) Open space ratio in the PS performance standard district refers to a percentage calculated as the area of open space, including required yards, at grade to the gross lot area of a parcel.
- (2) Open space is that part of a lot in the performance standard district, including courts and yards which:
 - a. Is open and unobstructed from its lowest level upward;
 - b. Is accessible to all residents on the lot without restrictions except as may be required for safety; and
 - c. Is not occupied by off-street parking, streets, drives, or other surfaces for vehicles. Open space is, in general, that part of a lot available for entry and use by the occupants of the building or buildings on the premises, but may include space located and treated to enhance the amenity of the development by providing landscaping, screening for the benefit of the occupants or neighboring areas, or a general appearance of openness. Open space may include water surfaces that comprise not more than ten percent of total open space, and may include landscaped roofs and decks pursuant to conditions contained in the district regulations.

(b) *Calculation.* In all cases, except as otherwise provided herein, an applicant shall comply with both minimum required yard and minimum open space requirements.

- (1) The open space ratio may include open space on roof top decks which are 50 feet or less above grade. At least 25 percent of the roof top deck shall constitute living landscape material.

(2)

Required yards and open space, whether at or above grade in the C-PS4 and RM-PS1 districts may also be utilized for drives and off-street parking spaces, except that if drives are ramped, they shall be at least 7½ feet from the front property line and not more than ten feet or one level above grade at their highest point; the total length of an elevated drive shall not exceed 40 percent of that portion of the lot facing the adjacent street.

- (3) Required yards adjacent to Biscayne Bay in the C-PS4 district may be utilized for open and unenclosed decks, platforms, planters, canopies, canvas type awnings, baywalks or removable furniture such as tables and chairs. Required side yards in the C-PS4 district may have public walkways that are partially covered.
- (4) Up to 50 percent of the open space required by these land development regulations may be fulfilled by payment of an in-lieu-of fee into the South Pointe Streetscape Fund. Notwithstanding the above, in no case shall the open space provided at grade be less than the total area resulting from the required setbacks. The in-lieu-of payment as described above shall be made at the rate as provided in appendix A per square foot of open space not provided. Such fee shall be paid in full at the time of application for the building permit. The fee shall be refunded if construction does not commence prior to the expiration of the building permit.
- (5) No variances shall be granted from the requirements of this section, except that variances may be sought as to subsection (b)(4) above, only for major cultural institutions within local historic districts, which only achieve no more than 80 percent of the total allowable FAR and can demonstrate that the open space cannot be provided on the roof top.

(Ord. No. 89-2665, §§ 3-2, 20-4(J), eff. 10-1-89; Ord. No. 94-2908, eff. 2-26-94; Ord. No. 2007-3549, 3-14-07)

Sec. 142-705. - Alternative parking requirement for multifamily residential development in R-PS districts pursuant to the parking impact fee.

Alternative parking requirements for multifamily residential development in R-PS districts shall be as required in the parking impact fee program as set forth in chapter 130, article V.

(Ord. No. 89-2665, § 20-4(K), eff. 10-1-89)

Sec. 142-706. - Supplemental parking regulations.

(a)

All districts. All non-oceanfront and non-bayfront residential development shall be encouraged to have parking with access to and from the alley only and such parking shall be rendered not visible from the street by the building's front facade. However, on corner buildings, the side view may be obscured by a wall.

(b) *C-PS3 and C-PS4 districts.* In C-PS3 and C-PS4 districts:

(1) One and one-quarter parking spaces per apartment unit, one parking space per hotel unit, and 2½ parking spaces per 1,000 square feet of commercial space except as otherwise specifically provided in subsection 142-706(b)(2). Required parking for hotel, hotel accessory uses and club uses may be satisfied through the provision of valet parking spaces. Twenty percent of required apartment unit parking spaces may be satisfied through the provision of valet parking spaces.

(2) Four parking spaces per 1,000 square feet of commercial space for all of the C-PS3 or C-PS4 properties of which any portion is located south of Second Street and west of Washington Avenue or west of the southern theoretical extension of Washington Avenue.

(c) *RM-PS1 district.* In the RM-PS1 district 1.65 parking spaces per apartment unit, and one parking space per 1,000 square feet of any nonresidential use. Up to 12 percent of the total parking spaces created on the premises may be for valet parking spaces.

(Ord. No. 89-2665, § 20-4(L), eff. 10-1-89; Ord. No. 94-2908, eff. 2-26-94; Ord. No. 96-3048, § 2, 7-17-96)

Sec. 142-707. - Development regulations for specified properties subject to a F.S. ch. 163, development agreement.

The following development regulations shall be applicable to all properties subject to a F.S. ch. 163, development agreement and to all properties of which any portion is located south of Second Street and west of Washington Avenue or west of the southern theoretical extension of Washington Avenue:

(1) The provisions of these land development regulations and the Code of the city shall control with respect to all terms, provisions, matters and issues affected by the F.S. ch. 163, development agreement, or any property affected thereby, except to the extent a term, provision, matter or issue is specifically addressed in the F.S. ch. 163, development agreement (including any design guidelines incorporated therein), in which case the provisions of the F.S. ch. 163, development agreement shall control.

(2)

Calculations, determinations and/or measurements of the floor area, floor area ratio, lot area, setbacks or any other land use and/or zoning criteria of these land development regulations shall include and consider any and all lands adjacent or contiguous to the property as specifically provided in the F.S. ch. 163, development agreement.

- (3) Calculations, determinations and/or measurements of the floor area, floor area ratio, lot area, setbacks or any other land use and/or zoning criteria of these land development regulations shall be based upon and not exceed that provided for in the F.S. ch. 163, development agreement and shall be based upon the total open space, floor area and/or other land use and/or zoning criteria, even if portions of such parcels are not under common ownership, provided that the total permissible open space, floor area and/or other land use and zoning criteria for such parcels (in the aggregate) are not exceeded, and such parcels, as a whole, shall be treated as a single building site for zoning and land use purposes, as described in the F.S. ch. 163, development agreement, despite such separate ownership.

(Ord. No. 89-2665, § 20-4(M), eff. 10-1-89; Ord. No. 96-3048, § 2, 7-17-96)

Secs. 142-708—142-730. - Reserved.

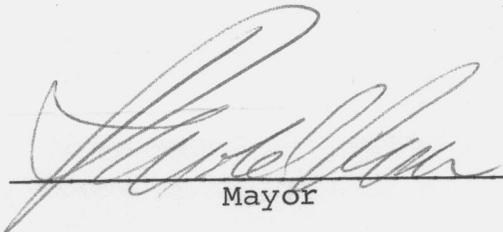
RESOLUTION NO. 75-14624

A RESOLUTION DECLARING THE SOUTH BEACH AREA TO BE A "BLIGHTED AREA" PURSUANT TO FLORIDA STATUTES, CHAPTER 163, PART III, AND DECLARING THE NECESSITY OF THE REHABILITATION, CONSERVATION AND REDEVELOPMENT OF THE SOUTH BEACH AREA.

BE IT DULY RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIAMI BEACH, FLORIDA, that that area of the City of Miami Beach which is bounded by Sixth Street on the north, Biscayne Bay on the west, the Atlantic Ocean on the east and Government Cut on the south is hereby found and declared to be a "blighted area," as defined by and within the purposes and intent of Florida Statutes, Chapter 163, Part III.

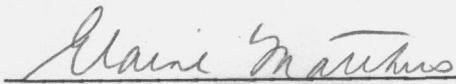
BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIAMI BEACH, FLORIDA, that the rehabilitation, conservation, or redevelopment, or a combination thereof, of the above-described area is necessary in the interest of the public health, safety, morals, or welfare of the residents of the City of Miami Beach.

PASSED and ADOPTED this 19th day of February , 1975.



Mayor

Attest:



City Clerk

EXHIBIT C

RESOLUTION NO. 77-15413

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CITY OF MIAMI BEACH REDEVELOPMENT PLAN, ADOPTED AND CREATED BY RESOLUTION NO. 77-15283, AS AMENDED BY RESOLUTION NO. 77-15291.

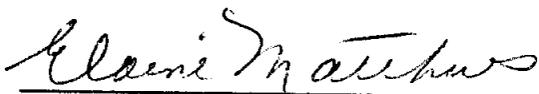
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIAMI BEACH, FLORIDA, that Resolution No. 77-15283 dated the 2nd day of March, 1977, as amended by Resolution No. 77-15291 dated the 30th day of March, 1977, be and the same is hereby further amended in accordance with and as set forth in a Resolution of the Miami Beach Redevelopment Agency which provides that the Agency shall provide within the project 750 units of permanent subsidized low and moderate income housing for the elderly at sites selected and in the manner determined by the Agency; such housing to be financed out of tax increment revenues or such other method which the Agency shall determine most feasible; providing a schedule of implementation of low and moderate income housing; and providing that the Agency shall be responsible to pay for or reimburse the City for the reasonable cost of moving the police station and public works facilities, all as more specifically set forth and provided in said Agency Resolution, a copy of which is attached hereto and expressly incorporated herein by reference.

PASSED and ADOPTED this 17th day of August, 1977.



Mayor

Attest:



City Clerk

EXHIBIT D

RESOLUTION OF
MIAMI BEACH REDEVELOPMENT AGENCY 8-17-77 Jm. Winer

WHEREAS, the Miami Beach City Council adopted Resolution #77-15283 on March 2, 1977 which said Resolution was amended by Resolution #77-15291, said Resolution and amendment thereto effectively approving a plan for the redevelopment of the Southern portion of Miami Beach as more fully described therein, and

WHEREAS, since the date of adoption of said Resolution #77-15283, as amended by Resolution #77-15291, circumstances have changed in that the Florida Legislature enacted House Bill 36A effective July 1, 1977 which amended the Community Redevelopment Act of 1969, in many respects, including the adoption of tax increment financing as a method of financing redevelopment projects, and

WHEREAS, based upon the efficacy of such additional financing method it appears that additional funds, over and above sale and leasehold revenues, will be available to the Agency for financing of additional amenities, and

WHEREAS, in order to make such funds available and to otherwise comply with the provisions of Section 163.387 of Florida Statutes it is necessary that the City Council of Miami Beach establish a redevelopment trust fund, and

WHEREAS, it appears that it is necessary to amend and modify the redevelopment plan as adopted by the aforesaid Resolution, and

WHEREAS, Section 163.361, of Florida Statutes provides that the governing body may amend a plan once adopted upon the recommendation of the Agency.

NOW THEREFORE, BE IT RESOLVED, that the Miami Beach Redevelopment Agency recommends that the redevelopment plan hereinbefore approved by the City Council of Miami Beach by and through its adoption of Resolution #77-15283, as amended by Resolution #77-15291, be modified and amended in the following respects:

1. By adding the following provisions in regard to Low and Moderate Income Subsidized Housing:

- (a) The Agency will provide within the project 750 units of permanent subsidized low and moderate income housing for the elderly

COUNCIL MEETING

AUG 17 1977

CITY OF MIAMI BEACH

t sites selected and in the manner determined by the Agency. Such housing will be financed out of tax increment revenues or any method the Agency determines to be most feasible.

(b) The total overall residential units permitted in the project area by the redevelopment plan heretofore approved shall be increased by up to 750 units, and the Agency shall be authorized to establish and locate within the project area said additional units without further amendment or modification to the redevelopment plan.

(c) Definitions: The term "low income" and "moderate income" shall be defined by the Agency based upon and for example and as a guideline only, the definitions used in the regulations defining the terms used in the Housing and Urban Development Section 8 rental assistance housing program.

(d) The apportionment of such housing between low and moderate income persons shall be determined and set by the Agency itself based upon the results of the survey in process of being conducted as of this date, and which will continue to be conducted in the future by Agency consultants, which survey will reflect the economic and demographic make-up of persons located in the area.

2. By adding the following Schedule of Implementation of Low and Moderate Income Housing:

The construction of the low and moderate income subsidized housing for the elderly shall be:

(a) Planned and executed so that the housing facilities will be available at such times as are necessary to meet the housing needs of the persons to be relocated with the following additional guidelines:

(b) Completion of all units shall take place prior to the completion of the project as a whole.

(c) Construction of said units shall commence no later than the commencement of construction in Phase II of the project.

3. By adding the following language concerning the Police Station and Public Works Facilities:

The Agency shall be responsible to pay for or reimburse the

ORDINANCE

ESTABLISHING REDEVELOPMENT TRUST FUND

BE IT ORDAINED by the City Council of Miami Beach:

SECTION 1: ESTABLISHMENT OF REDEVELOPMENT TRUST FUND

1.1 There is hereby established and created in accordance with the provisions of Florida Statute, Section 163.387 a redevelopment trust fund hereafter referred to as the "Fund."

1.2 The funds allocated to, and deposited into the Fund are hereby appropriated to the Miami Beach Redevelopment Agency hereafter referred to as "Agency," to finance the Miami Beach Community Redevelopment Project (hereafter referred to as "Project") as authorized by the Resolution of the Miami Beach City Council #77-15283 (amended by Resolution #77-15291), said Resolution, as amended, being adopted and made a part of this Ordinance by reference. The Agency shall utilize the funds and revenues paid into and earned by the Fund for all and every community redevelopment purpose delegated to it in the aforementioned Resolution, as amended, and as contained in the plan for redevelopment and as provided by law, said fund shall exist for the duration of the project.

1.3 There shall be paid into the Fund, and the City hereby appropriates, commits and sets over for payment into the Fund, a sum equal to that increment from the income proceeds, revenues and funds of the City derived from, or held in connection with the community redevelopment project area, and the City's undertaking and carrying out of the community redevelopment project therein. Said increment shall be determined and appropriated annually, and shall be an amount equal to the difference between:

(a) That amount of ad valorem taxes levied each year by the City on taxable real property contained within the geographic boundaries of the Project; and

(b) That amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for the City upon the total of the assessed value of the taxable property in the Project as shown upon the assessment roll used in connection with the taxation of such property by the City, last equalized

*As amended
1/3/77
Selfman*

City for the reasonable cost of moving the police station and public works facilities, said cost to be from tax increment revenues or any source the Agency determines to be most feasible.

4. That the provisions of Florida Statute 163.387 as set forth in House Bill 36A which requires the establishment of a redevelopment trust fund shall be implemented by the adoption of such ordinance, the same to be in form and substance of the draft attached to this Resolution and made a part hereof and referred to as Attachment A.

5. That the proposed ordinance amending Ordinance #1891, presently pending before the City Council, be adopted as written and with no amendment or modification except only those amendments attached hereto and referred to as Attachments B & C.

6. That the modifications herein recommended by the Agency be submitted to the Board of County Commissioners of Metropolitan Dade County in order to confirm the delegation, to the City and the Agency, of any powers referred to herein not previously so delegated, in accordance with the provisions of Florida Statute Section 163.410. Additionally that the County be requested to adopt an ordinance similar in form and substance to Attachment A, appropriating annually a sum equal to its share of tax increment to the redevelopment trust fund and to adopt such other ordinances and perform such other acts necessary to fully fund the trust fund.

7. The recommendations of the Agency for modification and amendment to the redevelopment plan herein contained and other recommendations contained in items 1-6 above is submitted for adoption in their entirety. (Adoption of less than a total of the foregoing shall not be deemed the recommendation of the Agency.)

PASSED AND ADOPTED this _____ day of _____, 1977.

MIAMI BEACH REDEVELOPMENT AGENCY

By _____
Chairman

By _____
Secretary

prior to the effective date of the Resolution approving the community redevelopment plan.

1.4 The City will annually appropriate to the Fund the aforesaid sum and pay the same into the Fund at the beginning of the City's fiscal year. The City's obligation to annually appropriate to the Fund shall commence immediately upon the effective date of this Ordinance and continue until all loans, advances and indebtedness, if any, and interest thereon incurred by the Agency as a result of the project have been paid and only to the extent that the tax increment recited above accrues.

SECTION 2: IMPLEMENTATION

2.1 The Agency is directed to establish and set-up the Fund and to develop and promulgate rules, regulations and criteria whereby the Fund may be promptly and effectively administered, including the establishment and the maintenance of books and records and adoption of procedures whereby the Agency may, expeditiously and without undue delay, utilize said funds for their allocated statutory purpose.

DECLARATION OF ALBERTO ZAMORA

ALBERTO ZAMORA, pursuant to 28 U.S.C. § 1746, declares the following:

1. My name is Alberto Zamora. I am over the age of twenty-one (21) years, and otherwise sui juris. I am currently employed by the City of Miami Beach ("City") as the Director of the Sanitation Division. I have been in the Sanitation Division since 1999.
2. The Sanitation Division is responsible for the collection and disposal of residential garbage, trash, the residential recycling program, sanitation inspections, street sweeping on the public right-of-ways, and collection and disposal of litter from public litterbins.
3. The sanitation needs are very different in residential areas and areas that permit entertainment.
4. I specifically compared the South of Fifth Neighborhood to the Entertainment District, and the data revealed that the City spends exponentially more resources in the Entertainment District than in the South of Fifth Neighborhood.
5. The South of Fifth Neighborhood requires a dedicated five (5)-person crew, seven (7) days a week. In 2016, the City spent \$321,500.00 on sanitation services in the South of Fifth Neighborhood. Services include, but are not limited to, cleanup of the streets, emptying garbage cans, and emptying the recycling cans.
6. The need for sanitation services is exponential greater in the Entertainment District than in the South of Fifth Neighborhood due to the amount of tourists in the Entertainment District as well as the nature of the activities in the district.
7. The Entertainment District requires a designated thirty-three (33)-person crew, seven (7) days a week. In addition to the dedicated day crew, the Entertainment District requires a night crew, of ten (10) persons.

8. Notably, in the past years, the Entertainment District has required additional sanitation services due to the increase of tourists and visitors to the City.

Under penalty of perjury, I hereby attest to the veracity and accuracy of the facts as stated herein.

Executed on May 10, 2017.



Alberto Zamora

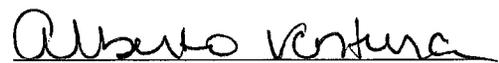
DECLARATION OF ALBERTO VENTURA

ALBERTO VENTURA, pursuant to 28 U.S.C.A. § 1746, declares the following:

1. My name is Alberto Ventura. I am over the age of twenty-one (21) years, and otherwise sui juris. I am currently employed by the City of Miami Beach ("City") as the parking Enforcement Manager.
2. The Parking Department is the largest provider of parking in the city, serving resident, commercial, and tourist/visitor parking needs. The parking needs are different in residential areas and areas that allow entertainment establishes. The areas that permit entertainment have a higher demand for parking, thus, place a heavier burden on the department and the City.
3. For example, there are 2,755 parking spaces in the South of Fifth Neighborhood. These parking spaces are mainly for residential purpose. Further, there are no public garages available in the South of Fifth Neighborhood.
4. There are also less violations that require the towing of illegally parked vehicles in the South of Fifth Neighborhood. In 2016, there were only 1,517 tows in the area.
5. The parking demand in the Entertainment District is much greater. In the Entertainment District there are 7,305 available parking spaces that serve tourists and visitors to the beach. There are 2,424 garage spaces available.
6. There are many more parking violations in the Entertainment District, amounting to 13,706 tows in 2016.

I verify under penalty of perjury that the foregoing is true and correct.

Executed on May 10, 2017.


ALBERTO VENTURA

DECLARATION OF MANNY MARQUEZ

Before me the undersigned personally appeared MANNY MARQUEZ, who being duly sworn, states under penalty of perjury that:

1. My name is Manny Marquez. I am over the age of twenty-one (21) years, and otherwise sui juris. I am currently employed by the City of Miami Beach ("City") as the Assistant Director of Finance Department.
2. The Finance Department provides financial management and policy support, analytical services, and financial information to the City manager, and other departments. The business make-up of registered entities throughout the City differ in types and densities between residential neighborhoods and those areas that permit entertainment establishments.
3. For example, in the South of Fifth Neighborhood, there are four (4) grandfathered dancehalls with active business tax receipts. There are no other dancehalls in this neighborhood because the City frowns upon this type of use so close to a residential area. Conversely, in the Entertainment District there are nineteen (19) dancehalls with active business tax receipts/
4. In the South of Fifth Neighborhood, there are twenty-two (22) restaurants that have liquor licenses that permit them to sell alcohol until five in the morning. This is of particular significance because it is likely that if restaurants were permitted to have entertainment and sell alcohol until five in the morning, the restaurants would essentially convert to nightclubs.

I verify under penalty of perjury, I hereby attest to the veracity and accuracy of the facts as stated herein.

Executed May 10, 2017.



MANNY MARQUEZ

Areas Where Entertainment is Allowed

Legend

 Areas Where Entertainment is Allowed

Zoning

-  RS-1 Single family residential
-  RS-2 Single family residential
-  RS-3 Single family residential
-  RS-4 Single family residential
-  TH Townhome residential
-  RM-1 Residential multifamily, low intensity
-  RM-2 Residential multifamily, medium intensity
-  RM-3 Residential multifamily, high intensity
-  CD-1 Commercial, low intensity
-  CD-2 Commercial, medium intensity
-  CD-3 Commercial, high intensity
-  I-1 Urban light industrial
-  MXE Mixed use entertainment
-  HD Hospital district
-  MR Marine recreational
-  GU Government use
-  CCC Convention center district
-  RM-PRD Multifamily, planned residential development district
-  RM-PRD-2 Multifamily, planned residential development district
-  WD-1 Waterway district
-  WD-2 Waterway district
-  RO Residential office
-  GC Golf course
-  RPS-1 Residential performance standard, medium-low density
-  RPS-2 Residential performance standard, medium density
-  RPS-3 Residential performance standard, medium-high density
-  RPS-4 Residential performance standard, high density
-  CPS-1 Commercial performance standard, limited mixed use
-  CPS-2 Commercial performance standard, general mixed use
-  CPS-3 Commercial performance standard, intensive mixed use
-  CPS-4 Commercial performance standard, intensive phased bayside
-  RMPS-1 Residential mixed use performance standard
-  SPE Special public facilities educational district
-  TC-1 North Beach Town Center core
-  TC-2 North Beach Town Center mixed use
-  TC-3 North Beach Town Center residential/office
-  TC-3(c) North Beach Town Center residential/office with conditional
-  Miami Beach Boundary



0 0.25 0.5 1 Miles

C-PS2 ENTERTAINMENT

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 142 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED “ZONING DISTRICTS AND REGULATIONS,” ARTICLE II, “DISTRICT REGULATIONS,” DIVISION 18, “PS PERFORMANCE STANDARD DISTRICT,” SECTION 142-693, “PERMITTED USES,” TO CLARIFY THAT ENTERTAINMENT IS NOT PERMITTED IN THE CITY’S PERFORMANCE STANDARD DISTRICTS; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, most of the South of Fifth Street neighborhood in Miami Beach is located within the City’s “Performance Standard” zoning districts; and

WHEREAS, pursuant to Policy 1.2 of the Future Land Use Element of the City’s 2025 Comprehensive Plan, the purpose of the City’s “Performance Standard” future land use categories is “[t]o provide development opportunities for and to enhance the desirability and quality of existing and/or new residential areas which accommodate a mix of different residential types developed in accordance with flexible design standards”; and

WHEREAS, Objective 2 of the Land Use Element of the City’s Comprehensive Plan provides that “[l]and 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, over the course of the last two decades, and pursuant to Ordinance Nos. 96-3050, 99-3222, 2003-3417, and 2004-3445, the Mayor and City Commission have adopted a series of land development regulations to restrict, and ultimately prohibit, entertainment uses located South of Fifth Street; and

WHEREAS, currently, the district regulations for the PS “Performance Standard District” allow for limited entertainment uses in the C-PS2 (on the south side of Fifth Street between Michigan Avenue and Alton Road), C-PS3, and C-PS4 zoning districts; and

WHEREAS, the Mayor and City Commission desire to repeal these limited exceptions in order to clarify that entertainment is not permitted in the City’s performance standard districts, and to protect the residential character of the area; and

WHEREAS, this Ordinance is consistent with Policy 1.2 of the City’s Comprehensive Plan, to the extent that it “enhance[s] the desirability and quality of existing and/or new residential areas which accommodate a mix of different residential types”; and

WHEREAS, the amendment set forth below is necessary to accomplish the objectives identified above.

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

SECTION 1. That Chapter 142, "Zoning Districts and Regulations," is hereby amended as follows:

**CHAPTER 142
ZONING DISTRICTS AND REGULATIONS**

* * *

Article II. – DISTRICT REGULATIONS

* * *

DIVISION 18. - PS PERFORMANCE STANDARD DISTRICT

* * *

Sec. 142-693. Permitted uses.

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

General Use Category	R-PS 1, 2	R-PS 3, 4	C-PS 1, 2, 3, 4	RM-PS1
* * *				
<u>Entertainment establishments, Outdoor outdoor entertainment establishments, and open air entertainment establishments</u>	N	N	N	N
* * *				

P—Main permitted use C—Conditional use N—Not permitted

* * *

(c) For purposes of this section, pawnshops and dance halls and entertainment establishments are not permitted as a main permitted or accessory use south of Fifth Street; however, in the C-PS3 and C-PS4 districts dance halls and entertainment establishments shall be permitted as an accessory use within a hotel of 250 rooms or more with access to the dance hall or entertainment establishment only from the interior lobby and not from the street. Additionally, for restaurants located in the C-PS2 district, on the south side of Fifth Street between Michigan Avenue and Alton Road, non-amplified piano or string instruments, played at a volume that does not interfere with normal conversation, may be permitted as a conditional use within the interior of the premises, in accordance with the requirements of Chapter 118, Article IV, and only during periods in which full meals are being served, and no later than 2:00 am.

* * *

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 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 _____, 2015.

Philip Levine
Mayor

Rafael E. Granado
City Clerk

Verified by: _____
Thomas Mooney, AICP
Planning Director

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

(Sponsored by Commissioner Michael Grieco)

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