

Miami River Commission Public Meeting Minutes October 2, 2023

The Miami River Commission's (MRC) public meeting convened at noon, October 2, 2023, in the Downtown Library Auditorium, 101 W Flagler. Sign in sheets are attached.

Miami River Commission (MRC) Policy Committee Members and/or Designees attending:

Horacio Stuart Aguirre, Chairman, Appointed by the Governor

Jim Murley, Vice Chairman, designee for Miami-Dade County Mayor Cava

Megan Kelly, designee for City of Miami Mayor Francis Suarez

Theodora Long, Neighborhood Representative appointed by Board of County Commissioners

Eileen Broton, Neighborhood Representative Appointed by City of Miami Commission

Neal Schafers, designee for Downtown Development Authority

David Harden, designee for State Attorney Katherine Fernandez-Rundle

Alvaro Coradin, designee for Sara Babun appointed by Miami-Dade County

Bruce Brown, Miami River Marine Group

Patty Harris, designee for Governor

Luis Garcia, Appointed by the Governor

Spencer Crowley, Member at Large Appointed by City of Miami Commission

MRC Staff:

Brett Bibeau, Managing Director

I) Chair's Report

The MRC unanimously adopted their September 11, 2023 public meeting minutes.

MRC Chairman Horacio Stuart Aguirre provided the following report:

On behalf of the Miami River Commission (MRC), we extend a sincere thank you to Honorable Miami-Dade County Commissioner Eileen Higgins and the entire County Commission for unanimously renewing and increasing the contract with the Miami River Fund Inc for services from the Scavenger Water Decontamination Vessel which collects floating debris while decontaminating 600,000 gallons of water per hour and injecting 150,000 liter of oxygen into the water every hour, which significantly improves water quality.

In addition, the Miami River Commission, extends a sincere thank you to sponsoring Honorable Commission Joe Carollo and the entire City Commission for unanimously adopting a contract and funding for the Miami River Fund Inc to provide weekly garbage removal, biweekly landscaping, and bi-annual pressure washing along the City owned portions of the public on-road Miami River Greenway.

Ms. Mercedes Rodriguez submitted a letter of resignation from the MRC to the City Clerk. On behalf of the MRC, we thank Ms. Rodriguez for her over a year of active volunteer service and energy, including the creation of the "City of Miami's 1st Annual Miami River Holiday Boat Parade and Seafood Dish Competition".

MRC Vice Chairman Jim Murley, provided the following Voluntary Improvement Plan (VIP) update:

Recently residents next to the Brickell Bridge called the MRC to complain that the steel grating on the Bridge was rattling creating a loud sound with every passing car that negatively impacted their quality of life 24 / 7. Thankfully our Managing Director knew exactly who to call at FDI Services, whom quickly inspected the Bridge, identified the problem causing the unnecessary and disturbing loud sound, which they thankfully quickly repaired

The Miami River Commission has been actively assisting the efforts of the City, County, State, and private sector to clean up the Miami River District. In addition to the maintenance professionals the MRC pays daily to remove litter, invasive plant species, graffiti and provide landscaping, pressure washing, vac truck, street sweeper and Scavenger Water Decontamination Vessel services along the Miami River, the MRC thanks the volunteers from the Coastal Cleanup Day for picking up garbage along the Miami River in Sewell Park on September 16.

II) Review Plans for 600 NW 7 Ave:

Franco Ramo and Patricio Hernandez Pons, Expanza LLC, and Christobal Pizas-Gay, representing the landowner, distributed and presented the revised Temporary Use Permit (TUP) plans and a letter of intent for a Paddle Tennis Club featuring 9 courts and a small food and beverage clubhouse with “healthy” food, smoothies, beer and wine. The TUP is for 3 years, and 1-year extensions would have to be approved by the City of Miami Commission. The applicants stated they met with the City of Miami Zoning Department, and the City indicated because the subject Recreational facility is zoned D1, Miami 21 Section 3.11 does not apply, therefore no public Riverwalk is required. The applicants offered to improve the existing public on-road Greenway in the City owned public right of way along NW 7 Ave. The applicants stated they removed the roof top dining and DJ booth. The applicants agreed to close the courts closer to the homes earlier, at 9:30 PM. In addition, they distributed copies of the signature page of the agreement, signed by the 4 homes on the Seybold Canal directly across from the site. The applicants stated they will comply with the sound restrictions in the City of Miami’s noise ordinance.

Spencer Crowley stated the Florida Inland Navigation District provided grant funding to the City of Miami to restore navigation in the Seybold Canal, and noted the MRC’s distributed document (estimated 2013) points to this specific subject property and states, “This recreational marina and boatyard should be preserved. Mr. Pizas-Gay and Mr. Ramo stated they want to including boats (2 docked vessels are included in the presented plans) and they recently became aware of the distributed Miami Dade County issued Marine Facilities Annual Operating Permit issued for the subject site in 2014 which states in part, “Total Recreation Vessels: 10”. Mr. Pizas-Gay stated in addition he recently became aware of the potential ability to sell unused slips to another location, which he is interested in pursuing for any unused / leftover slips if not used on the subject site.

The MRC motion to recommend approval subject to keeping the boat slips failed 9-2.

III. Miami-Dade County's Proposed Zoning Amendment Along NW South River Drive from the Tamiami Canal to Salinity Dam

Chairman Murley stated he is employed by the applicant, Miami-Dade County, therefore is recusing himself from this item and left the meeting.

Spencer Crowley stated Akerman is retained by Jones Boatyard, therefore recused himself from this item and left the meeting.

Mr. Jess Linn, Miami-Dade County Department of Regulatory and Economic Resources, distributed and presented copies of the subject draft County Ordinance: "ORDINANCE RELATING TO ZONING IN THE UNINCORPORATED AREA; AMENDING SECTION 33-284.99.59 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REVISING PALMER LAKE METROPOLITAN URBAN CENTER ZONING DISTRICT REGULATIONS PERTAINING TO RESIDENTIAL USES ON LOTS ADJOINING THE MIAMI RIVER IN THE RIVERSIDE SUB-DISTRICT"

In addition, printed copies of the MRC's Urban infill and Greenways subcommittee's September 8, 2023 public meeting minutes were distributed stating:

"MRC Urban Infill and Greenways subcommittee Chairman Murley stated he is employed by the applicant, Miami-Dade County, therefore will not be issuing his standard non-binding recommendation for the full MRC board's consideration. Jess Linn, Miami-Dade County Planning Department, presented and provided copies of the following draft ordinance being sponsored by County Commissioner Cabrera.

To: Honorable Chairman Oliver G. Gilbert, III and Members, Board of County Commissioners
From: Daniella Levine Cava

Subject: Social Equity Statement for Ordinance Amending Palmer Lake Metropolitan Urban Center Zoning District Regulations

The proposed ordinance amends Section 33-284.99.59 of the Code of Miami-Dade County pertaining to the Palmer Lake Metropolitan Urban Center (PLMUC) Zoning District Regulations. More specifically, the proposed ordinance revises provisions relating to development that is in the "Riverside" Sub-District and adjoins the Miami River. The PLMUC district regulates development through the use of specific sub-districts and street types; the various combination of these establish the urban character of the district with each allowing or requiring different uses and streetscape elements. Currently, properties in the "Riverside" Sub-District adjoining the Miami River do not permit non-transient residential uses. The proposed ordinance would permit non-transient residential uses to be developed within these properties that maintain a minimum of 12.5% of their units as Workforce Housing Units (WHU) on site. As defined by the PLMUC District Regulations, WHUs are dwelling units limited to households whose income is up to 140 percent of the median family income in Miami-Dade County. Furthermore, to maintain consistency with Comprehensive Development Master Plan policy PMR-1B, the proposed ordinance would require that the ground story for such development shall be devoted solely to water-dependent uses already permitted by

the PLMUC district, except for entryways and elevator lobbies necessary to access the permitted residential uses above. The proposed ordinance furthers the County's efforts to provide for the development of workforce housing by eliminating barriers to constructing additional workforce units within the PLMUC "Riverside" Sub-District while maintaining access to the Miami River for water dependent uses as is typical of the Palmer Lake area. In addition, pursuant to Resolution No. R-448-99, official input from the Miami River Commission (MRC) regarding environmental, economic, social, recreational, and aesthetic issues related to the Miami River and surrounding areas is required prior to the consideration of any resolution or ordinance related to the same. As such, this proposed ordinance is scheduled to be presented to the MRC Urban Infill Committee on September 8, 2023 and the full MRC on October 2, 2023. _____ Jimmy Morales Chief Operations Office

ORDINANCE RELATING TO ZONING IN THE UNINCORPORATED AREA; AMENDING SECTION 33- 284.99.59 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REVISING PALMER LAKE METROPOLITAN URBAN CENTER ZONING DISTRICT REGULATIONS PERTAINING TO RESIDENTIAL USES ON LOTS ADJOINING THE MIAMI RIVER IN THE RIVERSIDE SUB-DISTRICT; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS on May 7, 2013, the Board adopted Ordinance No. 13-43, establishing the Palmer Lake Metropolitan Urban Center ("PLMUC") zoning district to implement Comprehensive Development Master Plan ("CDMP") policies to coordinate development intensity with proximity to transit while also maintaining and coordinating marine activity on the Miami River in this area;

and WHEREAS on November 11, 2022, the Board adopted Ordinance No. 22-145, expanding the ability to develop affordable or workforce housing units within certain portions of the PLMUC while also ensuring consistency with CDMP policies encouraging marine activities in the relevant area;

and WHEREAS as set forth in section 33-193.4 of the County Code, the County has long experienced a "shortage of housing affordable to individuals and families of moderate incomes, particularly those whose earnings range from 60 percent up to 140 percent of the County's median income, the 'workforce target income group[.]" which "includes many public employees and others employed in key occupations that support the local community," and "the high cost and short supply of housing affordable to persons and families of moderate income mean that many employees in the workforce target income group cannot afford to live in Miami-Dade County";

and WHEREAS, Miami-Dade County continues to experience a significant shortage of safe and stable affordable and workforce rental and homeownership units;

and WHEREAS accordingly, this Board wishes to expand the ability to develop affordable or workforce housing units within the PLMUC to include lots adjoining the Miami River under certain circumstances;

and WHEREAS, the Miami River Commission was established by the Florida Legislature as the official coordinating clearinghouse for all public policy and projects related to the Miami River to

unite all governmental agencies, businesses, and residents in the area to speak with one voice on river issues;

and WHEREAS, pursuant to Resolution No. R-448-99, the Board shall request official input from the Miami River Commission before considering any resolution or ordinance concerning environmental, economic, social, recreational, and aesthetic issues related to the Miami River and surrounding areas;

and WHEREAS, this Board has requested such input from the Miami River Commission regarding the provisions of this ordinance prior to final adoption,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA: Section 1. The foregoing recitals are incorporated herein and are approved. Section 2. Section 33-284.99.59 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows: 1 1 Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

Sec. 33-284.99.59. Uses. No land, body of water and/or structure shall be used or permitted to be used, and no structure shall be hereafter erected, constructed, reconstructed, moved, occupied, or maintained for any purpose in Palmer Lake Metropolitan Urban Center District except for one (1) or more of the following uses. All uses are subject to the airport safety uses and height restrictions provided in Section 33-336 of this chapter. The uses delineated herein shall be permitted only in compliance with the development parameters provided in Section 33-284.99.60 of this article. Water-dependent uses delineated herein shall be subject to the permit requirements of Chapter 24 of this Code and be consistent with the Coastal Management Element of the Comprehensive Development Master Plan. * * * (B) Permitted uses in the Riverside Sub-District shall be as follows: * * * (4) The additional uses listed below shall be permitted only in conjunction with one or more of the following water-dependent uses occurring on the same lot: marinas; marine terminals, passenger, freight; boat slips for the purpose of repair; boat and yacht repair, overhaul, manufacturing; shipyards. An annual certificate of use shall be required for the water dependent use when built as part of a mixed-use development that includes one of the uses listed in paragraphs (i) through ([iii]) On lots adjoining the Miami River, residential uses shall be permitted only above the ground story, up to a maximum of 250 dwelling units per acre, provided that such developments maintain a minimum of 12.5 percent of their units as workforce housing units on site. The ground story on such lots shall be devoted solely to water dependent uses, except that entryways and elevator lobbies necessary to access the residential uses above shall also be permitted.

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, 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 5. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED: Approved by County Attorney as to form and legal sufficiency:
_____ Prepared by: _____ James Eddie Kirtley Dennis A. Kerbel
Prime Sponsor: Commissioner Kevin Marino Cabrera”

Mark Bailey provided the following statements:

“Statement submitted to: Miami River Commission/Urban Infill-Greenway Committee.

From: Miami River Marine Group, 3033 NW North River Drive, Miami, FL – Mark Bailey, Ex. Director

Re: Miami-Dade County Legislation: File Number 231424. Rezoning Riverside Sub-District – South River Drive waterfront properties – allowing for residential housing development.

Date: Friday, September 8, 2023

A proposed local Miami-Dade County Ordinance - File Number 231424 - re-zones all Miami Riverfront properties ("Riverside Sub-District" Palmer Lake Metropolitan Urban Center District) on the Upper River along South River Drive to allow for residential housing.

The Miami River Marine Group (MRMG) is opposed to this single, sweeping re-zoning ordinance - encompassing all waterfront properties on this Upper River section of South River Drive.

If passed, this proposed ordinance will allow for residential housing development on the Miami River waterfront on this short, yet important, section of the waterway-dependent Miami River industrial working waterfront. This proposed ordinance reverses Miami-Dade County's long-standing support of Miami's Industrial working waterfront.

This South River Drive segment of the Miami River area must be retained and protected as water-dependent an Industrial/Working waterfront. The proposed zoning ordinance "revising" the Palmer Lake Metropolitan Urban District properties adjoining the Miami River - "Riverside Sub-district" - is an incompatible encroachment on the water-dependent Miami River Industrial/Working waterfront that will have an unrepairable negative impact on key elements of the marine industry and the neighboring riverfront properties. This proposed ordinance renounces the Miami-Dade County Comprehensive Development Master Plan. Simply put, the proposed ordinance is inconsistent and incompatible with the current and future working waterfront uses at this location – an incursion of the diverse Miami River Industrial/Working riverfront.

Key elements, concerns and implications of this proposed ordinance: Miami-Dade County - Legislative Item: File Number 231424

The entire Miami Riverfront on South River Drive section of the Palmer Lake Metropolitan Urban Center District "Riverside Sub-District" will be rezoned with one sweeping ordinance, at one time. All Miami Riverfront properties in this "Riverside Sub-district" on South River Drive will be directly affected.

The Palmer Lake Metropolitan Urban Center District -- including the "Riverside Sub-District" -- was established and agreed upon in 2013, as a result of heavily-attended community workshops and careful consideration of all property owners and stakeholders. The currently proposed ordinance included no public community/stakeholder workshops, no public input and no public research/justification for rezoning. This proposed ordinance disregards each individual property owner representing over 20 separate properties and its overall impact to the diverse Miami River marine industrial riverfront.

The proposed ordinance may likely impact local property taxes for these riverfront properties in this area. While Florida's Constitution protects the working waterfront from adverse tax implications, rezoning the "Riverside Sub-District" along this section of South River Drive would remove those protections.

While the proposed ordinance includes a reference to require that water-dependent businesses must be retained on the ground floor of any housing development. It's unclear the practicality of this requirement for marine industrial operations.

The proposed ordinance does consider the neighboring industrial businesses in the immediate area and other Miami Riverfront properties.

The well-established, longstanding, and broadly supported/adopted Miami River Corridor Urban Infill Plan established a vision for the Miami River -- identifying this Upper River riverfront as an Industrial/Working waterfront. Miami-Dade County has been a longtime supporter of the Miami River Corridor Urban Infill Plan. This proposed ordinance rejects the diverse marine industry and its Miami River cargo shipping industry -- its impact on international trade and the lifeline it provides for Haiti and Western Hemisphere nations.

The proposed ordinance is entirely inconsistent and totally rejects the adopted Miami-Dade County Comprehensive Development Master Plan (CDMP) PORT OF MIAMI RIVER SUBELEMENT."

Brett Bibeau, Managing Director of the Miami River Commission, distributed copies of the Miami River Commission's 2022 Annual Report. The report shows the Miami River Commission's recommended following three geographic sections of the Miami River as adopted in the Miami River Corridor Urban Infill Plan in 2003:

"Upper River, 22 Ave to the Salinity Dam, Shipping and Marine Industrial Zone: Center of Port Miami River's trade and industry. The Miami Intermodal Center links rail, air, freight, transit, pedestrian and vehicular traffic.

Middle River, 5 ST Bridge to the 22 Ave Bridge, Residential / Mixed Use Zone: Includes River Landing, historic neighborhoods, marine-industrial businesses, parks, etc.

Lower River, Biscayne Bay to the 5 ST Bridge, Downtown Zone: High-density residential, offices and restaurants. Riverwalks link historic landmarks and parks along the river”.

Director Bibeau stated the cover picture of the MRC’s 2022 Annual Report is one of the best pictures he has ever taken because it shows the Miami River’s mixed uses including international shipping, residential, public Riverwalks, and Miami Circle Park, which is a designated National Historic Landmark.”

Attendees noted the proposal states, “(4) The additional uses listed below shall be permitted only in conjunction with one or more of the following water-dependent uses occurring on the same lot: marinas; marine terminals, passenger, freight; boat slips for the purpose of repair; boat and yacht repair, overhaul, manufacturing; shipyards. An annual certificate of use shall be required for the water dependent use when built as part of a mixed-use development”

Mark Bailey, Executive Director of the Miami River Marine Group, distributed and read a revised statement which was very similar to the previously quoted statement, only with a few clerical corrections.

Public comments were made in favor of the subject ordinance by Tracy Slavens, LSN Law, (retained by Jones Boatyard) and Jose Bared, Owner of Jones Boatyard (located in the subject area) both of whom noted the current zoning allows for “transient” residential which has allowed several hotels to recently be constructed in the area, and the proposal deletes the “transient” requirement which would now allow for normal residential units. Mr. Bared added that he Chaired the long public planning process to create the current Plamer Lake Metropolitan Urban Center District Zoning. MRC Chairman Aguirre asked if the proposal in any way diminishes or impacts levels of currently permitted commercial activity on the Miami River, and Ms. Slavens replied no, rather it actually adds an additional commercial activity.

The MRC adopted a resolution by a vote of 6-4, respectfully recommending approval of the ordinance subject to including the following two required revisions:

- 1) Allow the height of the 1st floor to be flexible in order to accommodate the marine industrial business on the 1st floor**
- 2) When specific properties within the subject area are presented for approval draft plans will be presented to the MRC for an advisory recommendation for County consideration**

IV. Informational Presentation Regarding 1080 Spring Garden

Road Carlos Diaz, Greenberg Traurig, distributed and presented plans and a letter of intent for a new residential development on Wagener Creek, north of Spring Garden neighborhood, featuring the public Riverwalk as required in Section 3.11 and the Baywalk / Riverwalk Design Standards and Guidelines. The subject vacant site is located north of the very low fixed NW 11 ST Bridge, in a non-navigable portion of Wagner Creek, therefore the City Code defines the site as a “waterbody” not a riverfront

“waterway”. **The MRC adopted a resolution (11-1) recommending approval of the presented development because it features a publicly accessible riverwalk as required by City Code, connecting with the adjacent County owned public waterfront greenspace.**

V. Subcommittee Reports

a. Miami River Commission’s Urban Infill and Greenways Subcommittee

The Miami River Commission’s Urban infill and Greenways Subcommittee’s September 8 public meeting minutes were distributed.

b. Miami River Commission’s Urban Infill and Greenways Subcommittee

The Miami River Commission’s Urban infill and Greenways Subcommittee’s September 6 public meeting minutes were distributed.

c. City of Miami’s 1st Annual Miami River Holiday Boat Parade

The City of Miami’s 1st Annual Miami River Holiday Boat Parade Committee’s September 7 public meeting minutes were distributed. On June 8, 2023, the City of Miami Commission adopted a resolution creating the “City of Miami’s 1st Annual Miami River Holiday Boat Parade”. After 6 months of communications with the City, for the 1st time in mid-September the City mentioned the potential of providing \$250,000 for the City of Miami’s 1st Annual Miami River Holiday Boat Parade on Dec. 2, 2023, and on September 28, 2023 the City Commission approved the funding for the City of Miami’s 1st Annual Miami River Holiday Boat Parade in the City’s FY 23-24 budget (10/1/23 – 9/30/24). In order for the City to use their recently budgeted funding for the “City of Miami’s 1st Annual Miami River Holiday Boat Parade”, the City Commission still needs to draft and approve at a future City Commission meeting a contract with a fiscal agent to do so, followed by the transfer of the funding, which even if expedited would not be transferred until November at the earliest, only one month before the Parade (while losing Thanksgiving week). The MRC members had a lengthy discussion.

The MRC adopted a unanimous motion that the MRC will only continue to consider the details of potentially assisting to work on the logistics of the “City of Miami’s 1st Annual Miami River Holiday Boat Parade” with the following two required conditions:

- 1) “The City of Miami’s 1st Annual Miami River Holiday Boat Parade” be held in December 2024**
- 2) The City of Miami hire a professional special event planner for the “City of Miami’s 1st Annual Miami River Holiday Boat Parade”**

VI. New Business

The public meeting adjourned.

Miami River Commission Public Meeting

October 2, 2023 - Noon

Miami-Dade County Library, 101 W Flagler ST

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Organization

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Email

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Miami River Commission Public Meeting

October 2, 2023 - Noon

Miami-Dade County Library, 101 W Flagler ST

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Spencer Crowley

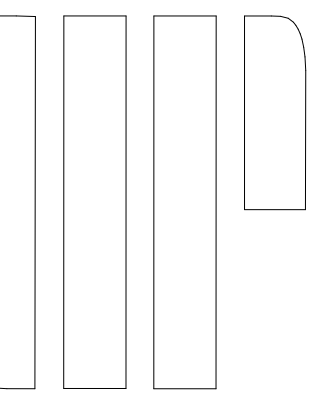
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305-982-5549

fcrowley@aicw.org

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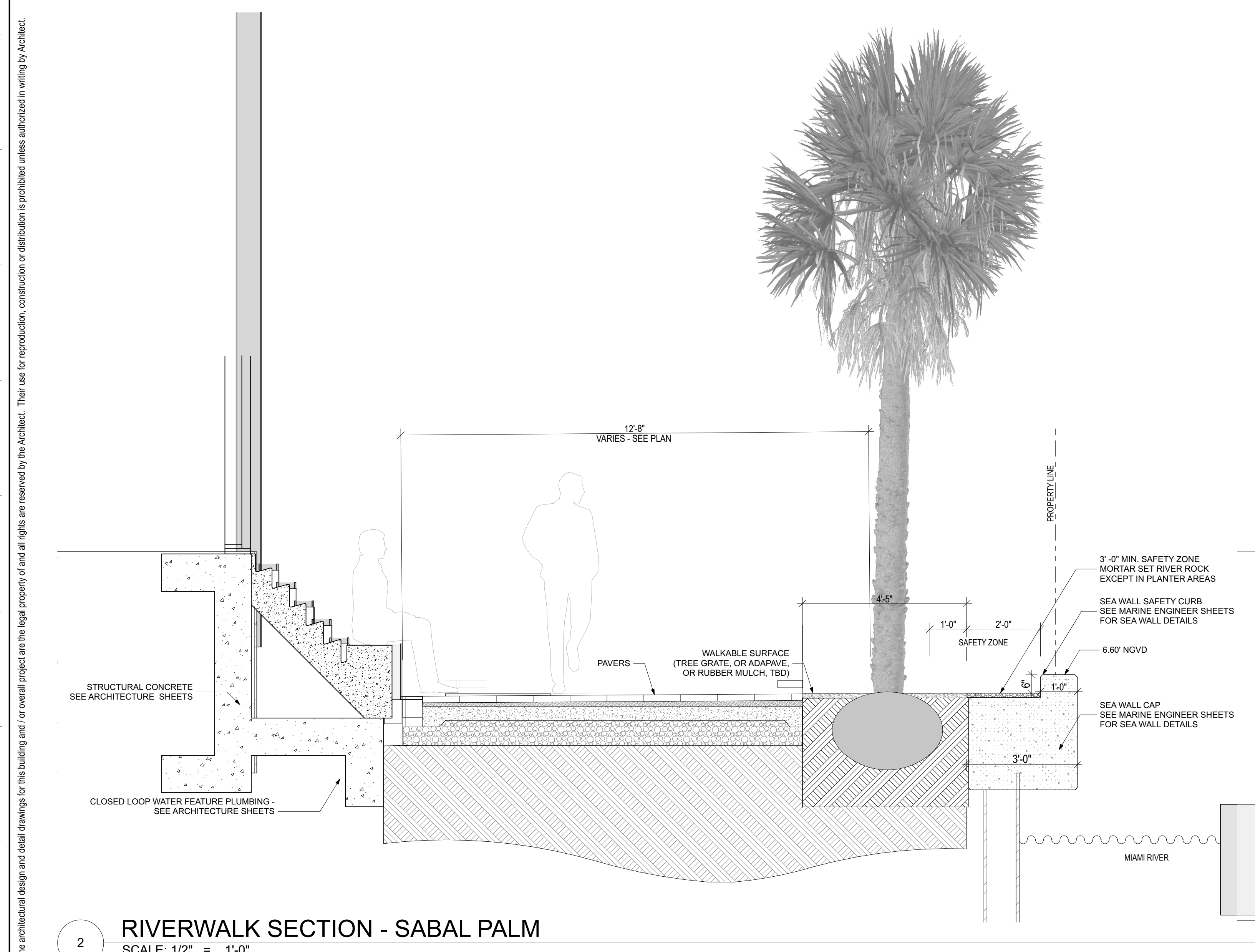
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URBAN ROBOT LLC
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MIAMI BEACH, FL 33139
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ONE BRICKELL RIVERFRONT

99 S.W. 79TH STREET
Miami Beach, FL



REVISIONS

ID	Date	Description

SEAL

JUSTINE VELEZ | LA8667391

2234
PROJECT NO.
10/13/2023
DATE
AL / SV / JJ / FM
DRAWN / CHECKED

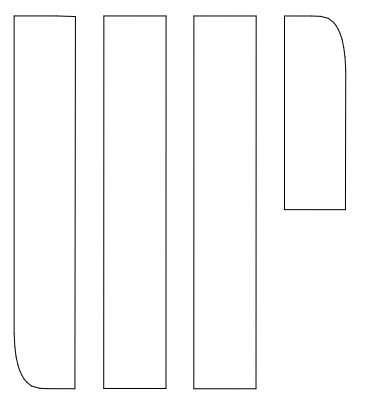
RIVERWALK SECTION

SK-3

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○ ONE MIAMI CONDOMINIUM - PRECEDENT



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ONE BRICKELL RIVERFRONT
99 S.W. 79TH STREET
Miami Beach, FL

REVISIONS		
ID	Date	Description

SEAL

JUSTINE VELEZ | LA8667391

2234
PROJECT NO.
10/13/2023
DATE
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**ONE MIAMI -
PRECEDENT
PHOTOS**

September 30, 2023

Via EmailBrett Bibeau
Managing Director
Miami River Commission
1407 NW 7th Street # 1
Miami, Florida 33125**Re: Two Riverside / 99 SW 7 Street (the “Property”)**

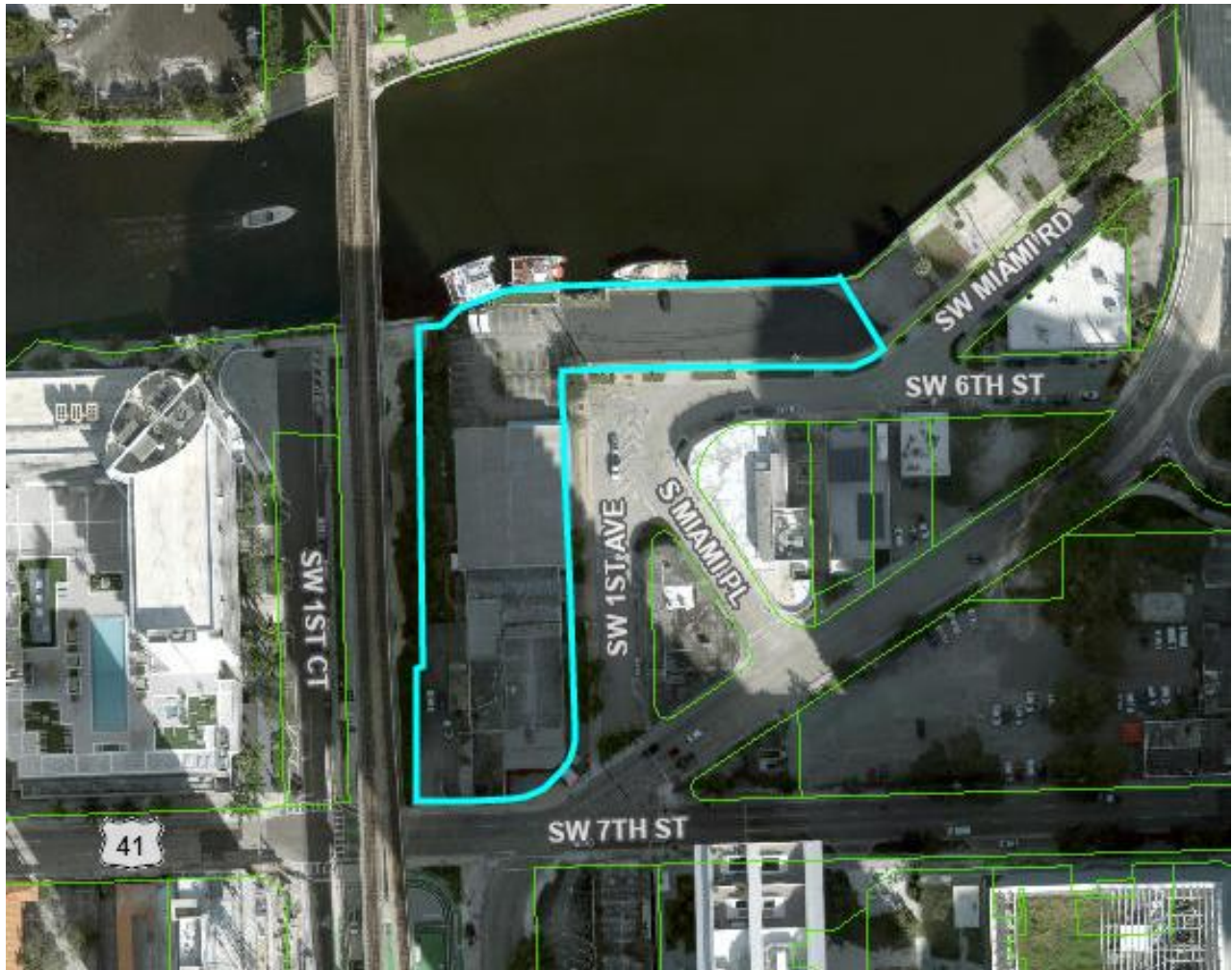
Dear Mr. Bibeau:

Our firm represents 99SW7 Holdings, LLC (the “**Applicant**”), in connection with the redevelopment of the above-referenced Property, as depicted in the enclosed site plan prepared by Urban Robot (the “**Site Plan**” or “**Project**”). On behalf of the Applicant, please accept this correspondence and the enclosed materials as the Applicant’s request for a recommendation from the Miami River Commission in support of the proposed Project.

I. Property Information

The Property is an irregularly shaped lot located on the South bank of the Miami River located to the West of the South Miami Avenue Bridge. The Property is located in the Lower River section, within the downtown area of the City which continues to experience rapid population growth and business expansion. The Property is surrounded by multi-family residential, office, and commercial developments. Under Miami 21, the Property is zoned T6-48B-O. The City’s Future Land Use Map designates the Property as Restricted Commercial.

The Property is currently improved with commercial structures which are to be demolished. The Property currently provides no public accessibility to the Miami River and no Riverwalk. The Property is located within a Transit Oriented Development (TOD) as it is within half mile of multiple Metrorail/Metromover Stations.



II. The Project

The Applicant is proposing to improve the Property with a fifty-nine (59) Story mixed-use Project consisting of residential and commercial uses. The Project contains 169 residential units and 1,090 sq. ft. of Commercial Use. There is no parking within the Project as all parking is provided at Lofty Brickell which was previously approved.

The Project's design reflects the openness and connectivity of the Miami River allowing for natural light and breezes.

The Project's design also responds primarily to human scale and pedestrian interests. The Project uses its waterfront location to provide enhanced public access to the Miami River. The Project will provide an inviting public riverwalk with landscaping and other improvements in accordance with the City's waterfront design standards contained in Section 3.11 and Appendix B of Miami 21. The proposed riverwalk creates a unique space which promotes pedestrian interaction. The Project has been designed to make views of the Miami River the focal point. The

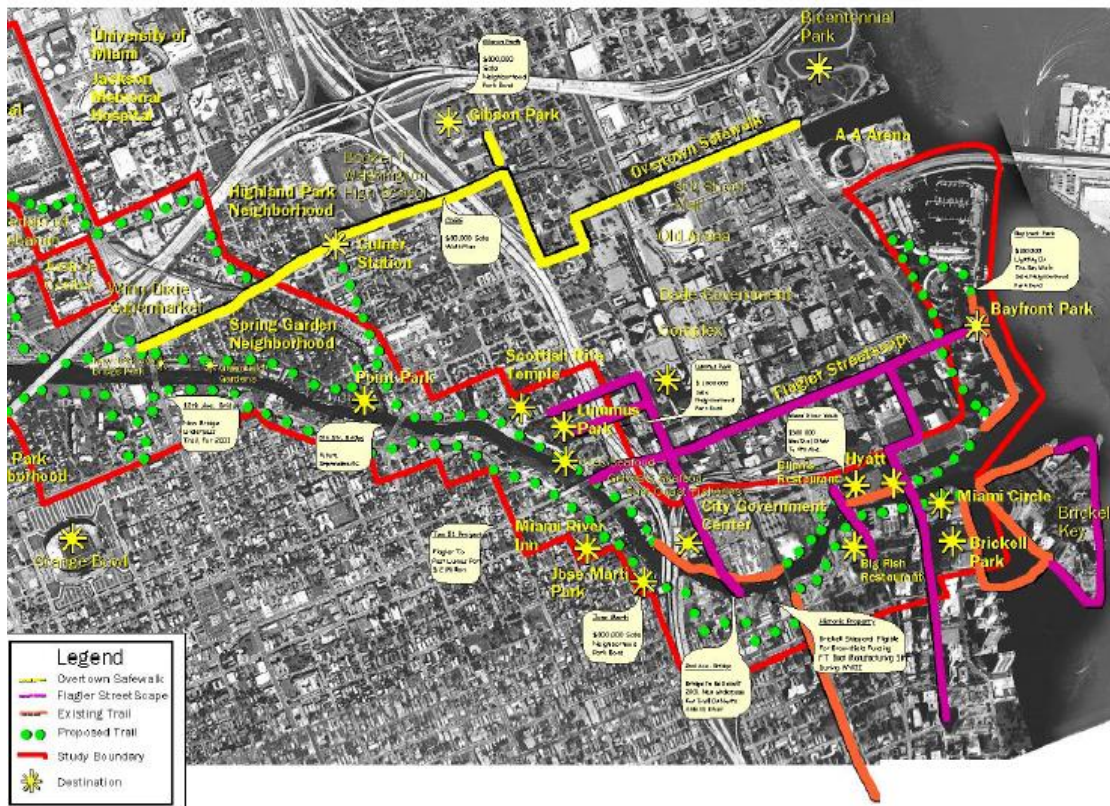
Project will be a signature development that will introduce new Commercial Uses in addition to the multifamily residential uses at the Property in order to provide activation along the River.

The proposed uses and redevelopment of the Property are guided by the Lower River design development regulations of both the Miami River Greenway Action Plan and the Miami River Greenway Regulatory Design Standards. The Project will be a major improvement to the Property, the Miami River, and the City at large. The Project will activate this segment of the waterfront and enhance the Miami River's status as a regional economic hub. The proposed uses will transform this underutilized Property into a vibrant waterfront mixed-use complex that will create numerous employment opportunities and bring unparalleled attention to the area.

III. Miami River Greenway Action Plan

The proposed improvements are in compliance with the stated recommendations and goals of the Miami River Greenway Action Plan (the "MRGAP"). Pursuant to the MGRAP, the Property is located in the Lower River section of the Miami River. The Project includes activation of the riverfront.

As depicted in the image below from the MRGAP's Illustrative Concept Plan, the proposed public access waterfront walkway and riverwalk at the Property comply with the MGRAP's goal of creating a fluid and accessible riverwalk as envisioned by community stakeholders.



The MRGAP seeks to create a viable Miami River. The Project meets the stated goals and objectives of the MRGAP. The following describes just a few of the MRGAP goals complied by the proposed improvements at the Property:

- **Goal 1: Improves Access to the River**
 - The proposed public access waterfront walkway and riverwalk at the Property will remove the existing barriers at the site which limit public access to, and enjoyment of, the Miami River. The Project has been designed to provide unparalleled views of, and access to, the Miami River. The Project will also add a publicly accessible Riverwalk where there is no Riverwalk today.
 - The proposed public access waterfront walkway and riverwalk will provide landscaping and seating areas creating an inviting access point for the public to engage with the Miami River.

- **Goal 4: Serve as a Destination Landscape for Metro Miami**
 - The proposed waterfront walkway and riverwalk provide various access points that will attract visitors and residents to the Miami River.
 - The proposed riverwalk at the Property creates an attractive destination for both residents and visitors to the City of Miami.
 - The Project will include a Riverwalk for the first time, opening to the public a section of the Miami River which has been inaccessible for many years.

- **Goal 5: Encourage a Compatible Land Use Vision for the River**
 - The proposed commercial and residential uses at the Project will further promote diversity of land uses along the Miami River and complement the existing neighboring uses.
 - The proposed restaurant at the Property provides an appropriate use as this area has become a destination for dining and entertainment. The recent development of nearby restaurants, each with boat access has brought a resurgence to the area, which the proposed development of the Property will further.

This Project encourages the development and expansion of the Port of Miami River Working Waterfront consistent with the FLUM as well as the Coastal Management Element of the City of Miami Comprehensive Plan, as the Project does not require rezoning, a comprehensive plan change or a FLUM amendment.

The proposed Project will revitalize the Property and provide a unique economic development opportunity to the Miami River and the greater Miami area. We look forward to

Two Riverside
MRC Letter of Intent

continuing to work and cooperate with the Miami River Commission on this exciting project. Should you have any questions, please feel free to contact me. Thank you for your attention and favorable consideration of this matter.

Sincerely,

Brian Dombrowski

Brian A. Dombrowski

**Miami River Commission's
Urban Infill and Greenways Subcommittee
October 16, 2023**

Miami River Commission's (MRC) Urban Infill and Greenways Subcommittee Chairman Jim Murley convened a public meeting on October 16, 2023, 1407 NW 7 ST, at noon. The sign in sheet is attached.

I. Presentation Regarding Development at 99 SW 7 ST

Brian Dombrowski, Greenberg Traurig, and Harvey Hernandez, Newgard Group presented and distributed a letter of intent and plans for "2 Riverside" which is Phase II of the previously presented "1 Brickell Riverside" which the MRC recommended approval and is currently under construction. The distributed letter of intent states:

"September 30, 2023

Via Email

Brett Bibeau

Managing Director Miami River Commission

1407 NW 7th Street # 1 Miami, Florida 33125

Re: Two Riverside / 99 SW 7 Street (the "Property")

Dear Mr. Bibeau:

Our firm represents 99SW7 Holdings, LLC (the "Applicant"), in connection with the redevelopment of the above-referenced Property, as depicted in the enclosed site plan prepared by Urban Robot (the "Site Plan" or "Project"). On behalf of the Applicant, please accept this correspondence and the enclosed materials as the Applicant's request for a recommendation from the Miami River Commission in support of the proposed Project.

I. Property Information

The Property is an irregularly shaped lot located on the South bank of the Miami River located to the West of the South Miami Avenue Bridge. The Property is located in the Lower River section, within the downtown area of the City which continues to experience rapid population growth and business expansion. The Property is surrounded by multi-family residential, office, and commercial developments. Under Miami 21, the Property is zoned T6-48B-O. The City's Future Land Use Map designates the Property as Restricted Commercial.

The Property is currently improved with commercial structures which are to be demolished. The Property currently provides no public accessibility to the Miami River and no Riverwalk. The

Property is located within a Transit Oriented Development (TOD) as it is within half mile of multiple Metrorail/Metromover Stations.

II. The Project

The Applicant is proposing to improve the Property with a fifty-nine (59) Story mixed-use Project consisting of residential and commercial uses. The Project contains 169 residential units and 1,090 sq. ft. of Commercial Use. There is no parking within the Project as all parking is provided at Lofty Brickell which was previously approved.

The Project's design reflects the openness and connectivity of the Miami River allowing for natural light and breezes.

The Project's design also responds primarily to human scale and pedestrian interests. The Project uses its waterfront location to provide enhanced public access to the Miami River. The Project will provide an inviting public riverwalk with landscaping and other improvements in accordance with the City's waterfront design standards contained in Section 3.11 and Appendix B of Miami 21. The proposed riverwalk creates a unique space which promotes pedestrian interaction. The Project has been designed to make views of the Miami River the focal point. The project will be a signature development that will introduce new Commercial Uses in addition to the multifamily residential uses at the Property in order to provide activation along the River.

The proposed uses and redevelopment of the Property are guided by the Lower River design development regulations of both the Miami River Greenway Action Plan and the Miami River Greenway Regulatory Design Standards. The Project will be a major improvement to the Property, the Miami River, and the City at large. The Project will activate this segment of the waterfront and enhance the Miami River's status as a regional economic hub. The proposed uses will transform this underutilized Property into a vibrant waterfront mixed-use complex that will create numerous employment opportunities and bring unparalleled attention to the area.

III. Miami River Greenway Action Plan

The proposed improvements are in compliance with the stated recommendations and goals of the Miami River Greenway Action Plan (the "MRGAP"). Pursuant to the MGRAP, the Property is located in the Lower River section of the Miami River. The Project includes activation of the riverfront.

As depicted in the image below from the MRGAP's Illustrative Concept Plan, the proposed public access waterfront walkway and riverwalk at the Property comply with the MGRAP's goal of creating a fluid and accessible riverwalk as envisioned by community stakeholders.

The MRGAP seeks to create a viable Miami River. The Project meets the stated goals and objectives of the MRGAP. The following describes just a few of the MRGAP goals complied by the proposed improvements at the Property:

- Goal 1: Improves Access to the River

- o The proposed public access waterfront walkway and riverwalk at the Property will remove the existing barriers at the site which limit public access to, and enjoyment of, the Miami River. The Project has been designed to provide unparalleled views of, and access to, the Miami River. The Project will also add a publicly accessible Riverwalk where there is no Riverwalk today.

- o The proposed public access waterfront walkway and riverwalk will provide landscaping and seating areas creating an inviting access point for the public to engage with the Miami River. •

Goal 4: Serve as a Destination Landscape for Metro Miami

- o The proposed waterfront walkway and riverwalk provide various access points that will attract visitors and residents to the Miami River.

- o The proposed riverwalk at the Property creates an attractive destination for both residents and visitors to the City of Miami.

- o The Project will include a Riverwalk for the first time, opening to the public a section of the Miami River which has been inaccessible for many years.

Goal 5: Encourage a Compatible Land Use Vision for the River

- o The proposed commercial and residential uses at the Project will further promote diversity of land uses along the Miami River and complement the existing neighboring uses.

- o The proposed restaurant at the Property provides an appropriate use as this area has become a destination for dining and entertainment. The recent development of nearby restaurants, each with boat access has brought a resurgence to the area, which the proposed development of the Property will further.

This Project encourages the development and expansion of the Port of Miami River Working Waterfront consistent with the FLUM as well as the Coastal Management Element of the City of Miami Comprehensive Plan, as the Project does not require rezoning, a comprehensive plan change or a FLUM amendment.

The proposed Project will revitalize the Property and provide a unique economic development opportunity to the Miami River and the greater Miami area. We look forward to continuing to work and cooperate with the Miami River Commission on this exciting project. Should you have any questions, please feel free to contact me. Thank you for your attention and favorable consideration of this matter.

Sincerely,

Brian Dombrowski Brian A. Dombrowski”

The applicants noted the original plans for the public Riverwalk include landscaping down the middle like a median between 2 separate narrow “circulation” zones. Subcommittee Chairman Murley expressed concern about the narrow width of the circulation zone. The applicants submitted a revised set of drawings, shifting the landscaping towards the River, which creates a wider 10’4” – 12’1” circulation zone. The applicants stated as required by code their sections of the public Riverwalk will have “seamless” connections with adjacent public Riverwalks to the east and west.

MRC Chairman Murley suggested the full MRC recommend approval of “2 Riverside”, subject to using the revised plans featuring Sabal Palms and a 10’4’ – 12’1’ circulation zone along the public Riverwalk with seamless connections to the east and west as required by code.

II. Presentation of the Miami Dade County Department of Parks Recreation and Open Spaces’ Waterfront Recreation Access Plan

Miami-Dade County Parks Director Maria Nardi asked for her item to be deferred to the subcommittee’s November public meeting.

III. Discussion Regarding Waterborne Transportation

MRC Managing Director Bibeau distributed copies of the pages from the following MRC adopted strategic plans recommending waterborne transportation along the Miami River:

- Miami River Corridor Urban Infill Plan
- Miami River Corridor Multi-Modal Transportation Plan

Copies of a City Commission adopted resolution were distributed in support of waterborne transportation, which attached what would be a supportive County Resolution which is yet to be considered by the County Commission.

Attendees reviewed the Lummus Park Marine Facilities Annual Operating Permit issued by DERM which states in part, “Pursuant to the Sovereign Submerged Lands Lease, the permittee shall ensure that 1 slip is used exclusively for water taxi access i.e., the loading and off loading of water taxi passengers”, yet to date it is not being used.

Attendees discussed a recently adopted County Resolution which states in part, “Resolution directing the County Mayor to create a working group to study the feasibility of implementing multimodal transit along the coast of Miami-Dade County”.

IV. New Business – Sonia Brubaker, City of Miami Chief Resilience Officer, and Timothy Kirby, City of Miami, presented an update regarding the City of Miami’s upcoming sea level rise “vulnerability assessment”.

The public meeting adjourned.

Miami River Commission Urban Infill and Greenways Subcommittee

Public Meeting

October 16, 2023 - Noon

1407 NW 7 ST, Arts and Crafts Boardroom (facing Miami River)

Name	Organization	Telephone	Email
BRYAN McNEIL	URBAN ROBOT ASSOC		bryan@urbanrobot.net
Justine Velez	Urban Robot Assoc.	786.246.4857	justine@urbanrobot.net
IRENE HEREDUS	MIAMI DADE COUNTY DTPW	305.798.6253	ireneh@miamidade.gov
Brian Domitrasi	GT	3/5750630	Domitrasi@GTLAN.com
Mike Simpson	Public	786-402-7964	msimpson@15hrgreen.com
MAXIM VLESSING	WATER TAXI MIAMI	305 510 1116	WATER TAXI MIAMI@gmail.com
Brett Bibeau	MRC	305 644 0544	brettbibeau@miamirivercommission.org
Timothy Kirby	City of Miami		tkirby@miamigov.com
Harvey Hernandez	NEWGARD Group		HHernandez@newgardgroup.com
Spencer Crowley	FIND		tcrowley@aicw.org
Jim Murley	MRC/MDC		James.Murley@miamidade.gov

Miami River Commission Urban Infill and Greenways Subcommittee

Public Meeting

October 16, 2023 – Noon

1407 NW 7 ST, Arts and Crafts Boardroom (facing Miami River)

Name	Organization	Telephone	Email
Sonia Brubaker	City of Miami	(305) 418-1214	sbrubaker@miami.gov
Andrew Helliger	River healing SWPS	3/442-3108	

Sec. 33-284.99.61. Industrial uses disclosure.

(A) *Definitions.*

- (1) *Affected land* for the purpose of this section means: any parcel of land that is zoned Palmer Lake Metropolitan Urban Center (PLMUC).
- (2) *Interest in real property* means a nonleasehold, legal or equitable estate in land or any severable part thereof created by deed, contract, mortgage, easement, covenant, or other instrument.
- (3) *Purchaser* means a buyer, transferee, grantee, donee, or other party acquiring an interest in real property.
- (4) *Real property transaction* means the sale, grant, conveyance, mortgage, or transfer of an interest in real property.
- (5) *Seller* means a transferor, grantor, donor, or other party conveying an interest in real property.

(B) *Disclosure statement for real property transactions involving Affected land.* The seller shall provide the purchaser with the following statement, which shall be set forth on a separate sheet of paper and shall be signed by the prospective purchaser prior to the execution of any other instrument committing the purchaser to acquire title to such real property or any other interest in any Affected land, as follows:

- (1) **For all Affected land, the statement shall include the following language:**

LAND INVOLVED IN THIS TRANSACTION IS ZONED PALMER LAKE METROPOLITAN URBAN CENTER (PLMUC).

INDUSTRIAL ACTIVITIES WHICH MAY BE LAWFULLY CONDUCTED WITHIN THIS AREA INCLUDE BUT MAY NOT BE LIMITED TO: OPERATION OF MACHINERY; ENGINE BUILDING AND REPAIR; MARINE VESSEL BUILDING AND REBUILDING; FOOD PROCESSING; PROCESSING OF FREIGHT INCLUDING PACKING, CRATING, WAREHOUSING, AND DISTRIBUTION/RECEIVING; TRACTOR AND TRUCK TRAFFIC; THE GENERATION OF NOISE, ODORS, DUST AND FUMES ASSOCIATED WITH THE CONDUCT OF THE FOREGOING ACTIVITIES. THESE ACTIVITIES MAY OCCUR AT ANY TIME THROUGH THE DAY OR NIGHT.

I HEREBY CERTIFY THAT I HAVE READ AND UNDERSTAND THE FOREGOING STATEMENT.

Date Signature of Purchaser

(C) *Acknowledgment of industrial uses disclosure statement on instrument of conveyance.* It shall be the seller's responsibility that the following statement shall appear in a prominent location on the face of any instrument conveying title to or any other interest in Affected land. The seller shall record the notarized statement with the Clerk of the Court:

I HEREBY CERTIFY THAT I HAVE READ, UNDERSTAND AND HAVE SIGNED THE INDUSTRIAL USES DISCLOSURE STATEMENT FOR THE SALE OF OR OTHER TRANSACTION INVOLVING THIS PARCEL OF AFFECTED LAND AS REQUIRED BY SECTION 33-284.99.61, CODE OF MIAMI-DADE COUNTY, FLORIDA.

Date Signature of Purchaser

(D) *Penalties.* Any seller who violates any provision of this section, or fails to comply therewith, or with any lawful rule, regulation or written order promulgated under this section, shall be subject to the penalties, civil liability, attorney's fees and enforcement proceedings set forth in Sections 33-39 through 33-39.3, Code of Miami-Dade County, Florida, and to such other penalties, sanctions and proceedings as may be provided by law. Miami-Dade County shall not be held liable for any damages or claims resulting from the seller's failure to comply with provisions of this section.

(Ord. No. 13-43, § 7, 5-7-13)

Created: 2023-10-17 12:26:59 [EST]

(Supp. No. 124)

MEMORANDUM

Supplement
Agenda Item No. 7(C)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: November 7, 2023

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Supplemental information to Ordinance relating to zoning in the unincorporated area; amending section 33-284.99.59 of the Code; revising Palmer Lake Metropolitan Urban Center zoning district regulations pertaining to residential uses on lots adjoining the Miami River in the Riverside Sub-District

This supplement is being submitted to show changes to the ordinance that the Prime Sponsor, Commissioner Cabrera, intends to propose as a floor amendment.

Commissioner Cabrera intends to propose that: (1) the provision requiring Miami River Commission review of certain projects on lots adjoining the Miami River be amended to specify that the Miami River Commission shall have an opportunity to provide a recommendation as to a project's impact upon, and compatibility with, existing industrial water-dependent uses in the area and the compatibility of the water-dependent use proposed for the first floor of the project with such existing uses; (2) a new provision be added to require the project applicant, and any subsequent purchaser, to provide the industrial uses disclosure required for certain real property transactions pursuant to section 33-284.99.61 to any prospective purchasers, tenants, or leaseholders relating to property adjoining the Miami River that is or may be developed for residential use; and (3) other technical and conforming amendments be made.

The attached document shows the proposed final form of the ordinance, incorporating the above-mentioned floor amendment.

This proposed amendment is also indicated in double-underlining, as follows:

Sec. 33-284.99.59. Uses.

* * *

(B) Permitted uses in the Riverside Sub-District shall be as follows:

* * *

- (4) The additional uses listed below shall be permitted only in conjunction with one or more of the following water-dependent uses occurring on the same lot: marinas >>without rafting<<; marine terminals, passenger, freight >>without rafting<<; boat slips for the purpose of repair; boat and yacht repair, overhaul, manufacturing; shipyards. An annual certificate of use shall be required for the water dependent use when built as part of a mixed-use development that includes one of the uses listed in paragraphs (i) through (~~iii~~)>>iv<<) below. Development shall comply with the waterfront setback and access requirements set forth in Section 33-284.99.60(B)(4)(b). The following additional uses shall be permitted only when the Director determines that such use: will not have an adverse impact on operation of the Port of the Miami River; will not substantially reduce or inhibit existing public access to marine or tidal waters; and will not interfere with the activities or operation of adjacent water-dependent uses or significantly impede access to vessel berthing or other access to the water by water-dependent uses.

* * *

- iii. On lots adjoining the Tamiami Canal, residential uses shall be permitted only above the ground story and where limited to less than 50 percent of the building gross floor area on the same lot, except that the following uses shall not be subject to the foregoing limitations on story and gross floor area:
- a. hotels, motels, and apartment hotels; and
 - b. residential developments, up to a maximum of 250 dwelling units per acre, that maintain a minimum of 12.5 percent of their units as workforce housing units on site.

- >>iv. On lots adjoining the Miami River, residential uses shall be permitted only above the ground story, up to a maximum of 250 dwelling units per acre, provided that such developments maintain a minimum of 12.5 percent of their units as workforce housing units on site. The ground story on such lots shall be devoted solely to water-dependent uses, except that entryways and elevator lobbies necessary to access the residential uses above shall also be permitted.<< >>Uses authorized by this subparagraph shall be subject to compliance with the following:
- a.<<>>Prior to any final administrative site plan review (ASPR) approval pursuant to this subsection, the applicant shall present the proposed development to the Miami River Commission for review<< >>and recommendation as to the project's impact upon, and compatibility with, existing industrial water-dependent uses in the Port of Miami River area and the compatibility of the water-dependent use proposed for the first floor of the project with such existing uses,<< >>and furnish proof of such review to the Director.<<
- >>b.<<>>Notwithstanding the foregoing, the County may issue final ASPR approval without proof of Miami River Commission review, if the applicant furnishes proof that a request for such review has been pending without action by the Miami River Commission for more than 60 days.<<
- >>c. The applicant, and any subsequent purchaser, shall provide the industrial uses disclosure required for certain real property transactions pursuant to section 33-284.99.61 to any prospective purchasers, tenants or leaseholders relating to property adjoining the Miami River that is or

may be developed for residential use. Such disclosure shall be provided in, or attached to, the tenant or lease agreement, and shall be acknowledged and signed by all prospective tenants or leaseholders at the time the tenant or lease agreement is executed. In the case of a purchase of property, the disclosure shall be restated in a deed to the property. <<

* * *

The accompanying supplement was prepared and placed on the agenda at the request of the Prime Sponsor Commissioner Kevin Marino Cabrera.


Geri Bonzon-Keenan
County Attorney

GBK/jp

Approved _____ Mayor

Agenda Item No.

Veto _____

Override _____

ORDINANCE NO. _____

ORDINANCE RELATING TO ZONING IN THE UNINCORPORATED AREA; AMENDING SECTION 33-284.99.59 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REVISING PALMER LAKE METROPOLITAN URBAN CENTER ZONING DISTRICT REGULATIONS PERTAINING TO RESIDENTIAL USES ON LOTS ADJOINING THE MIAMI RIVER IN THE RIVERSIDE SUB-DISTRICT; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, on May 7, 2013, the Board adopted Ordinance No. 13-43, establishing the Palmer Lake Metropolitan Urban Center (“PLMUC”) zoning district to implement Comprehensive Development Master Plan (“CDMP”) policies to coordinate development intensity with proximity to transit while also maintaining and coordinating marine activity on the Miami River in this area; and

WHEREAS, on November 11, 2022, the Board adopted Ordinance No. 22-145, expanding the ability to develop affordable or workforce housing units within certain portions of the PLMUC while also ensuring consistency with CDMP policies encouraging marine activities in the relevant area; and

WHEREAS, as set forth in section 33-193.4 of the County Code, the County has long experienced a “shortage of housing affordable to individuals and families of moderate incomes, particularly those whose earnings range from 60 percent up to 140 percent of the County’s median income, the ‘workforce target income group[,]’” which “includes many public employees and others employed in key occupations that support the local community,” and “the high cost and short supply of housing affordable to persons and families of moderate income mean that many employees in the workforce target income group cannot afford to live in Miami-Dade County”; and

WHEREAS, Miami-Dade County continues to experience a significant shortage of safe and stable affordable and workforce rental and homeownership units; and

WHEREAS, accordingly, this Board wishes to expand the ability to develop affordable or workforce housing units within the PLMUC to include lots adjoining the Miami River under certain circumstances; and

WHEREAS, the Miami River Commission was established by the Florida Legislature as the official coordinating clearinghouse for all public policy and projects related to the Miami River to unite all governmental agencies, businesses, and residents in the area to speak with one voice on river issues; and

WHEREAS, pursuant to Resolution No. R-448-99, the Board shall request official input from the Miami River Commission before considering any resolution or ordinance concerning environmental, economic, social, recreational, and aesthetic issues related to the Miami River and surrounding areas; and

WHEREAS, this Board has requested and received such input from the Miami River Commission regarding the provisions of this ordinance prior to final adoption,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. The foregoing recitals are incorporated herein and are approved.

Section 2. Section 33-284.99.59 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

Sec. 33-284.99.59. Uses.

No land, body of water and/or structure shall be used or permitted to be used, and no structure shall be hereafter erected, constructed, reconstructed, moved, occupied, or maintained for any purpose in Palmer Lake Metropolitan Urban Center District except for one (1) or more of the following uses. All uses are subject to the airport safety uses and height restrictions provided in Section 33-336 of this chapter. The uses delineated herein shall be permitted only in compliance with the development parameters provided in Section 33-284.99.60 of this article. Water-dependent uses delineated herein shall be subject to the permit requirements of Chapter 24 of this Code and be consistent with the Coastal Management Element of the Comprehensive Development Master Plan.

* * *

(B) Permitted uses in the Riverside Sub-District shall be as follows:

* * *

(4) The additional uses listed below shall be permitted only in conjunction with one or more of the following water-dependent uses occurring on the same lot: marinas >>without rafting<<; marine terminals, passenger, freight >>without rafting<<; boat slips for the purpose of repair; boat and yacht repair, overhaul, manufacturing; shipyards. An annual certificate of use shall be required for the water dependent use when built as part of a mixed-use development that includes one of the uses listed in paragraphs (i) through (~~iii~~)>>iv<<) below. Development shall comply with the waterfront setback and access requirements set forth in Section 33-284.99.60(B)(4)(b). The following additional uses shall be permitted only when the Director determines that such use: will not have an adverse impact on operation of the Port of the Miami River; will not substantially reduce or inhibit existing public access to marine or tidal waters; and will not interfere with the activities or operation of adjacent water-dependent uses or significantly impede access to vessel berthing or other access to the water by water-dependent uses.

* * *

- iii. On lots adjoining the Tamiami Canal, residential uses shall be permitted only above the ground story and where limited to less than 50 percent of the building gross floor area on the same lot, except that the following uses shall not be subject to the foregoing limitations on story and gross floor area:
 - a. hotels, motels, and apartment hotels; and
 - b. residential developments, up to a maximum of 250 dwelling units per acre, that maintain a minimum of 12.5 percent of their units as workforce housing units on site.

>>iv. On lots adjoining the Miami River, residential uses shall be permitted only above the ground story, up to a maximum of 250 dwelling units per acre, provided that such developments maintain a minimum of 12.5 percent of their units as workforce housing units on site. The ground story on such lots shall be devoted solely to water-dependent uses, except that entryways and elevator lobbies necessary to access the residential uses above shall also be permitted. Uses authorized by this subparagraph shall be subject to compliance with the following:

- a. Prior to any final administrative site plan review (ASPR) approval pursuant to this subsection, the applicant shall present the proposed development to the Miami River Commission for review and recommendation as to the project's impact upon, and compatibility with, existing industrial water-dependent uses in the Port of Miami River area and the compatibility of the water-dependent use proposed for the first floor of the project with such existing uses, and furnish proof of such review to the Director.
- b. Notwithstanding the foregoing, the County may issue final ASPR

approval without proof of Miami River Commission review, if the applicant furnishes proof that a request for such review has been pending without action by the Miami River Commission for more than 60 days.

- c. The applicant, and any subsequent purchaser, shall provide the industrial uses disclosure required for certain real property transactions pursuant to section 33-284.99.61 to any prospective purchasers, tenants or leaseholders relating to property adjoining the Miami River that is or may be developed for residential use. Such disclosure shall be provided in, or attached to, the tenant or lease agreement, and shall be acknowledged and signed by all prospective tenants or leaseholders at the time the tenant or lease agreement is executed. In the case of a purchase of property, the disclosure shall be restated in a deed to the property.<<

* * *

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, 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 5. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency: _____

Prepared by: _____

James Eddie Kirtley
Dennis A. Kerbel

Prime Sponsor: Commissioner Kevin Marino Cabrera

MEMORANDUM

Agenda Item No. 7(C)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: November 7, 2023

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to zoning in the unincorporated area; amending section 33-284.99.59 of the Code; revising Palmer Lake Metropolitan Urban Center zoning district regulations pertaining to residential uses on lots adjoining the Miami River in the Riverside Sub-District

A substitute was presented and forwarded to the BCC with a favorable recommendation at the October 11, 2023 County Infrastructure, Operations and Innovations Committee.

This substitute differs from the original item in that it adds a requirement that the applicant shall present the proposed development to the Miami River Commission for review and furnish proof of such review to the Zoning Director prior to any final administrative site plan review (ASPR) approval. However, in the event that the applicant's request for Miami River Commission review has been pending without action for more than 60 days, then the County may issue final ASPR approval without Miami River Commission review having occurred. The substitute also includes a change to the final recital clause indicating that the Board has received input from the Miami River Commission regarding the provisions of this ordinance prior to final adoption.

Rule 5.06(i) of the Board's Rules of Procedure provides that where double underlining and double strike-through would not clearly show the differences between an original item and the substitute, comments may instead be provided. Pursuant to this rule, the preceding comprehensive description of the differences between the original item and the substitute is provided in lieu of double underlining and double strike-through for this item.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Kevin Marino Cabrera.


Geri Bonzon-Keenan
County Attorney

GBK/ks

MDC001

Memorandum



Date: November 7, 2023

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava". The signature is written in a cursive style and is positioned to the right of the printed name.

Subject: Fiscal Impact Statement for Ordinance Relating to Palmer Lake Metropolitan Urban Center
Zoning District


The implementation of this Ordinance will not have a fiscal impact to Miami-Dade County.

A handwritten signature in blue ink, appearing to read "Jimmy Morales". The signature is written in a cursive style and is positioned above a horizontal line.

Jimmy Morales
Chief Operations Officer

Date: November 7, 2023

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Daniella Levine Cava 
Mayor

Subject: Substitute- Social Equity Statement for Ordinance Amending Palmer Lake
Metropolitan Urban Center Zoning District Regulations

The proposed ordinance amends Section 33-284.99.59 of the Code of Miami-Dade County pertaining to the Palmer Lake Metropolitan Urban Center (PLMUC) Zoning District Regulations. More specifically, the proposed ordinance revises provisions relating to development that is in the “Riverside” Sub-District and adjoins the Miami River. The PLMUC district regulates development through the use of specific sub-districts and street types; the various combination of these establish the urban character of the district with each allowing or requiring different uses and streetscape elements.

Currently, properties in the “Riverside” Sub-District adjoining the Miami River do not permit non-transient residential uses. The proposed ordinance would permit non-transient residential uses to be developed within these properties that maintain a minimum of 12.5% of their units as Workforce Housing Units (WHU) on site. As defined by the PLMUC District Regulations, WHUs are dwelling units limited to households whose income is up to 140 percent of the median family income in Miami-Dade County.

Furthermore, to maintain consistency with Comprehensive Development Master Plan (CDMP) policy PMR-1B, the proposed ordinance would require that the ground story for such development shall be devoted solely to water-dependent uses already permitted by the PLMUC district, except for entryways and elevator lobbies necessary to access the permitted residential uses above.

The proposed ordinance furthers the County’s efforts to provide for the development of workforce housing by eliminating barriers to constructing additional workforce units within the PLMUC “Riverside” Sub-District while maintaining access to the Miami River for water-dependent uses as is typical of the Palmer Lake area.

In addition, pursuant to Resolution No. R-448-99, official input from the Miami River Commission (MRC) regarding environmental, economic, social, recreational, and aesthetic issues related to the Miami River and surrounding areas is required prior to the consideration of any resolution or ordinance related to the same. As such, this proposed ordinance was presented to the MRC Urban Infill Committee on September 8, 2023 and the full MRC on October 2, 2023. The MRC recommended that the Board of County Commissioners adopt the proposed ordinance with the following changes: to allow developments adjoining the Miami River that include non-transient residential uses to have the height of the first floor be flexible in order to accommodate required water-dependent uses at the first floor; and that such

developments present draft plans to the MRC for their review and an advisory recommendation for county consideration prior to zoning approval. The substitute item includes the requirement for MRC review, however the reference to first floor height was omitted as the PLMUC district has no limit for ceiling or building height except as may be restricted by airport zoning.



Jimmy Morales
Chief Operations Officer



MEMORANDUM
(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: November 7, 2023

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 7(C)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(C)
11-7-23

ORDINANCE NO. _____

ORDINANCE RELATING TO ZONING IN THE UNINCORPORATED AREA; AMENDING SECTION 33-284.99.59 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REVISING PALMER LAKE METROPOLITAN URBAN CENTER ZONING DISTRICT REGULATIONS PERTAINING TO RESIDENTIAL USES ON LOTS ADJOINING THE MIAMI RIVER IN THE RIVERSIDE SUB-DISTRICT; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, on May 7, 2013, the Board adopted Ordinance No. 13-43, establishing the Palmer Lake Metropolitan Urban Center (“PLMUC”) zoning district to implement Comprehensive Development Master Plan (“CDMP”) policies to coordinate development intensity with proximity to transit while also maintaining and coordinating marine activity on the Miami River in this area; and

WHEREAS, on November 11, 2022, the Board adopted Ordinance No. 22-145, expanding the ability to develop affordable or workforce housing units within certain portions of the PLMUC while also ensuring consistency with CDMP policies encouraging marine activities in the relevant area; and

WHEREAS, as set forth in section 33-193.4 of the County Code, the County has long experienced a “shortage of housing affordable to individuals and families of moderate incomes, particularly those whose earnings range from 60 percent up to 140 percent of the County’s median income, the ‘workforce target income group[,]’ which “includes many public employees and others employed in key occupations that support the local community,” and “the high cost and short supply of housing affordable to persons and families of moderate income mean that many employees in the workforce target income group cannot afford to live in Miami-Dade County”; and

WHEREAS, Miami-Dade County continues to experience a significant shortage of safe and stable affordable and workforce rental and homeownership units; and

WHEREAS, accordingly, this Board wishes to expand the ability to develop affordable or workforce housing units within the PLMUC to include lots adjoining the Miami River under certain circumstances; and

WHEREAS, the Miami River Commission was established by the Florida Legislature as the official coordinating clearinghouse for all public policy and projects related to the Miami River to unite all governmental agencies, businesses, and residents in the area to speak with one voice on river issues; and

WHEREAS, pursuant to Resolution No. R-448-99, the Board shall request official input from the Miami River Commission before considering any resolution or ordinance concerning environmental, economic, social, recreational, and aesthetic issues related to the Miami River and surrounding areas; and

WHEREAS, this Board has requested and received such input from the Miami River Commission regarding the provisions of this ordinance prior to final adoption,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. The foregoing recitals are incorporated herein and are approved.

Section 2. Section 33-284.99.59 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

Sec. 33-284.99.59. Uses.

No land, body of water and/or structure shall be used or permitted to be used, and no structure shall be hereafter erected, constructed, reconstructed, moved, occupied, or maintained for any purpose in Palmer Lake Metropolitan Urban Center District except for one (1) or more of the following uses. All uses are subject to the airport safety uses and height restrictions provided in Section 33-336 of this chapter. The uses delineated herein shall be permitted only in compliance with the development parameters provided in Section 33-284.99.60 of this article. Water-dependent uses delineated herein shall be subject to the permit requirements of Chapter 24 of this Code and be consistent with the Coastal Management Element of the Comprehensive Development Master Plan.

* * *

(B) Permitted uses in the Riverside Sub-District shall be as follows:

* * *

(4) The additional uses listed below shall be permitted only in conjunction with one or more of the following water-dependent uses occurring on the same lot: marinas; marine terminals, passenger, freight; boat slips for the purpose of repair; boat and yacht repair, overhaul, manufacturing; shipyards. An annual certificate of use shall be required for the water dependent use when built as part of a mixed-use development that includes one of the uses listed in paragraphs (i) through ~~(iii)~~ iv below. Development shall comply with the waterfront setback and access requirements set forth in Section 33-284.99.60(B)(4)(b). The following additional uses shall be permitted only when the Director determines that such use: will not have an adverse impact on operation of the Port of the Miami River; will not substantially reduce or inhibit existing public access to marine or tidal waters; and will not interfere with the activities or operation of adjacent water-dependent uses or significantly impede access to vessel berthing or other access to the water by water-dependent uses.

* * *

- iii. On lots adjoining the Tamiami Canal, residential uses shall be permitted only above the ground story and where limited to less than 50 percent of the building gross floor area on the same lot, except that the following uses shall not be subject to the foregoing limitations on story and gross floor area:
 - a. hotels, motels, and apartment hotels; and
 - b. residential developments, up to a maximum of 250 dwelling units per acre, that maintain a minimum of 12.5 percent of their units as workforce housing units on site.

>>iv. On lots adjoining the Miami River, residential uses shall be permitted only above the ground story, up to a maximum of 250 dwelling units per acre, provided that such developments maintain a minimum of 12.5 percent of their units as workforce housing units on site. The ground story on such lots shall be devoted solely to water-dependent uses, except that entryways and elevator lobbies necessary to access the residential uses above shall also be permitted. Prior to any final administrative site plan review (“ASPR”) approval pursuant to this subsection, the applicant shall present the proposed development to the Miami River Commission for review and furnish proof of such review to the Director. Notwithstanding the foregoing, the County may issue final ASPR approval, without proof of Miami River Commission review if the applicant furnishes proof that a request for such review has been pending without action by the Miami River Commission for more than 60 days.<<

* * *

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, 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 5. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:

GKS for GBK

James Eddie Kirtley
Dennis A. Kerbel

Prime Sponsor: Commissioner Kevin Marino Cabrera

The City of Miami's adopted Comprehensive Plan states:

"Policy PA-3.1.9

The City shall require from new residential development and redevelopment located along the Miami River a recorded covenant acknowledging and accepting the presence of the existing Working Waterfront 24-hour operations as permitted.

This instrument is prepared by:
Jorge Navarro
Greenberg Traurig
333 SE 2 Avenue, Suite 4400
Miami, FL 33131

Reserved for Recording

DECLARATION OF RESTRICTIVE COVENANTS

KNOW ALL MEN BY THESE PRESENT that the undersigned BRISAS DEL RIO, INC., a Florida Corporation (“**Owner**”) hereby makes, declares and imposes on the land herein described, this Restrictive Covenant (the “**Covenant**”) running with title to the land contained herein, which shall be binding on Owner, all heirs, grantees, successors and assigns, personal representatives, mortgagees, lessees, and against all persons claiming by, through or under them.

WHEREAS, Owner is the fee simple title holder to certain properties located at 1583, 1535, and 1545 NW 24th Avenue all located in Miami, Florida, more particularly described in **Exhibit “A”** (collectively, the “**Property**”) attached hereto and incorporated herein; and

WHEREAS the Owner seeks to rezone the portion of the Property described in **Exhibit “B”** attached hereto and incorporated herein (the “**Upland Parcel**”) from D3 Marine Transect Zone to T5-R Urban Center Transect Zone under Miami 21 and to amend the Comprehensive Plan designation on the Upland Parcel from Industrial to Medium Density Multifamily Residential (the “**Application**”); and

WHEREAS, the remaining portion of the Property described in **Exhibit “C”** attached hereto and incorporated herein (the “**Waterfront Parcel**”) will remain zoned D3 Transect Zone with an Industrial Comprehensive Plan designation; and

WHEREAS, the Property is also governed by the Port of Miami River Sub-Element and identified as Category A therein; and

WHEREAS, the Owner voluntarily proffers this Covenant acknowledging and accepting the presence of the existing Working Waterfront 24-hour operations, as permitted, and providing for certain other improvements to the portion of the Property abutting the Miami River; and

NOW, THEREFORE, in consideration of the premises, agreements and covenants set forth hereinafter, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Owner, Owner hereby agrees as follows:

1. **Recitals.** The foregoing recitals are true and correct and are incorporated herein as if repeated at length.

2. **Restrictions.** Owner covenants the following:

- a. The Property shall be developed pursuant to the Las Brisas Apartments and Marina Site Plan (the “**Site Plan**”), as prepared by Bellon Architecture and dated _____, 2017, a copy of which is attached as **Exhibit “D”**.
- b. The Owner shall limit development on the Upland Parcel in accordance with the T5-R Transect Zone regulations of Miami 21 Code including the density limitations therein.
- c. The Owner shall enhance the existing marina at the Property and maintain its operation in accordance with the Site Plan.
- d. The Owner shall not seek to reduce the number of recreational wet-slips along the Miami River, except as required by the United States Coast Guard, the Miami-Dade County Department of Regulatory and Economic Resources, or as required by other regulating agencies with appropriate jurisdiction.
- e. Owner recognizes that legally permitted existing Working Waterfront 24-hour operations currently exist proximate to the Property. Therefore, Owner agrees:
 - i. not to object or otherwise attempt to impede any legally permitted Working Waterfront 24-hour operations;
 - ii. to provide all future tenants and prospective owners of the Property notice of the existing Working Waterfront 24-hour operations and will include a provision to agree not to object to legally permitted Working Waterfront 24- hour operations in each lease and or Condominium Sale Documents;
 - iii. that it is solely the Owner's responsibility to design its structures to accommodate legally permitted Working Waterfront 24-hour operations; and
 - iv. that it will not pursue any claims for liability, loss or damage, whether through litigation or otherwise, against permittees engaging in Working Waterfront 24-hour operations, related to, noise, smoke, fumes, federally regulated bridge openings, and/or other quality of life issues that might result from legally permitted Working Waterfront

24-hour operations.

f. The Owner shall give preference to persons employed at a working waterfront operation along the Miami River in the leasing or sale of housing units on the Upland Parcel over other applicants.

g. The Owner shall construct a publicly accessible Riverwalk in accordance with the Miami River Greenway Action Plan and Miami 21 Code Waterfront Standards and as consistent with the Site Plan requiring review and approval by the City of Miami's Planning Department and the Office of Zoning.

h. Subsequent to obtaining approval of the Application, including expiration of applicable appeal periods, the Owner shall replat the Property in compliance with Section 55-7(b)(1)(l) of the City Code in order to create two separate parcels of land; a Waterfront Parcel and an Upland Parcel as previously defined.

3. Covenant Running with the Land. This Covenant on the part of the Owner shall constitute a covenant running with the land and shall be recorded by Owner within ten (10) days of acceptance by the City of Miami ("City"), at Owner's expense, in the Public Records of Miami-Dade County, Florida, and same shall remain in full force and effect and be binding upon the undersigned Owner, and its heirs, successors, and assigns until such time as the Covenant is terminated, modified, or released. These restrictions during their lifetime shall be for the benefit of, and be a limitation upon, all present and future owners of the subject Property and for the public welfare.

The provisions of this instrument shall become effective upon their recordation in the Public Records of Miami-Dade County, Florida, and shall continue in effect for a period of thirty (30) years after the date of such recordation, after which time they shall be extended automatically for successive periods of ten (10) years each, unless this Covenant, pursuant to Section 2 and Section 4 herein, is released in writing by the following: (i) then owners of the Property AND (ii) the City's Directors of the Department of Planning and the Department of Zoning subject to the approval of the City Attorney as to legal form, or their respective designees or successors.

4. Modification, Amendment, Release. This Covenant may be modified, amended, or released as to the land herein described, or any portion thereof, by a written instrument executed by the then owner(s) of the fee simple title to the Property, or any portion thereof, provided that the same is reviewed by the Miami River Commission, Planning Director and Zoning Director for an advisory recommendation and approved by the City of Miami City Commission. Should this Declaration be so modified, amended, or released, the Directors of the Departments of Planning and Zoning or the executive officer of a successor department, or their designees or successors, shall execute a written instrument effectuating and acknowledging such modification, amendment, or release, at the direction of the City Commission subject to the City Attorney, or successor or designee, as to legal form.

5. **Inspection and Enforcement.** It is understood and agreed that any official inspector of the City may have the right at any time during the normal working hours of the City's inspector to enter upon the Property for the purpose of investigating the use of the Property, and for determining whether the conditions of this Declaration and the requirements of the City's building and zoning regulations are being complied with. Enforcement shall be by action against any parties or person violating, or attempting to violate any covenant contained herein. This enforcement provision shall be in addition to any other remedies available at law or in equity or both.

6. **Election of Remedies.** All rights, remedies, and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.

7. **Severability.** Invalidation of any one of these covenants by judgment of Court shall not affect any of the other provisions of this Covenant, which shall remain in full force and effect.

8. **Recording.** This Covenant shall be filed of record in the public records of Miami-Dade County, Florida at the cost of the Owner following the full approval of the Application and expiration of any appeal period. This Covenant shall become effective immediately upon recordation. Notwithstanding the previous sentence, if any appeal is filed, and the disposition of such appeal results in the denial of the Application, in its entirety, then this Covenant shall be null and void and of no further effect. Upon the disposition of an appeal that results in the denial of the Application, in its entirety, and upon written request, the Directors of the Planning and Zoning Departments, or their designees or successors, shall forthwith execute a written instrument, in recordable form, acknowledging that this Covenant is null and void and of no further effect, subject to the City Attorney, or successor or designee, as to legal form.

9. **No Vested Rights.** Nothing in this covenant shall be construed to create any vested rights whatsoever to the Owner, its successors and assigns.

[Signature Page to Follow]

Signed, witnessed, executed and acknowledged this ___ day of _____, 2018.

Brisas del Rio, Inc., a Florida Corporation

By: _____

Name: _____

Title: _____

STATE OF FLORIDA

) SS.

COUNTY OF MIAMI DADE

The foregoing instrument was acknowledged before me this ___ day of _____, 2018, by
, as _____ of Brisas del Rio, Inc., a Florida corporation, who is [] personally known to me,
or [] has produced _____, as identification and she acknowledged before
me that he executed the same, freely and voluntarily, for the purposes therein expressed.

Name: _____

Notary Public, State of _____

Commission No. _____

APPROVED:

By: _____
Francisco Garcia, Director of Planning and Zoning

APPROVED AS TO LEGAL FORM AND CORRECTNESS:

By: _____
Victoria Méndez, City Attorney

This instrument was prepared by:

Name: Melissa Tapanes Llahues, Esq.
Address: Bercow Radell, & Fernandez, P.A.
200 S. Biscayne Boulevard, Suite 850
Miami, FL 33131

(Space reserved for Clerk)

DECLARATION OF RESTRICTIONS

WHEREAS, the undersigned Owner holds the fee simple title to approximately 6.3 acres of land in the City of Miami, Florida (the "City"), described in Exhibit "A," attached to this Declaration (the "Property"), which statement as to title is supported by the attorney's opinions attached to this Declaration as Exhibit "B";

WHEREAS, the Property is currently designated Industrial and Restricted Commercial on the City's Future Land Use Map, shown on Exhibit "C," attached to this Declaration;

WHEREAS, the Property is currently zoned D3 Waterfront Industrial and T6-36B-O Urban Core, as shown on Exhibit "D," attached to this Declaration;

WHEREAS, the portion of the Property zoned D3 Waterfront Industrial is also governed by the Port of Miami River Sub-Element and identified as Category B therein;

WHEREAS, Owner will be seeking approval of a Special Area Plan ("SAP") created for the Property, to be developed in coordination with the City;

WHEREAS, the Property is a subset of the SAP Application Area, as described in Exhibit "E;"

WHEREAS, Owner will be applying to rezone the Property pursuant to the abovementioned Special Area Plan;

WHEREAS, the portion of the Property zoned D3 Marine Industrial will remain D3 Marine Industrial;

WHEREAS, Policy PA-3.1.9 of the Miami Neighborhood Comprehensive Plan requires that all new residential development located along the Miami River be the subject of a recorded

(Space reserved for Clerk)

covenant acknowledging and accepting the presence of the existing Working Waterfront 24-hour operations, as permitted;

WHEREAS, the Port of Miami River has a designated Federal Navigable Channel featuring numerous job generating businesses, including International Shipping Terminals, Boatyards, Marinas, Tug Boat Basins, Commercial Fishing, etc.

NOW THEREFORE, in order to assure the City, and other stakeholders, that the representations made by the Owner during the City's consideration of the concurrent Land Use and Special Area Plan Applications will be abided by the Owner, its successors and assigns, freely, voluntarily, and without duress, makes the following Declaration of Restrictions covering and running with the Property:

- 1) This Declaration of Restrictions satisfies the requirement set forth in Policy PA-3.1.9 of the Miami Neighborhood Comprehensive Plan.
- 2) The Property will be redeveloped in accordance with the Miami River Greenway Action Plan and the Miami River Corridor Urban Infill Plan.
- 3) The portion of the Property currently zoned D3, and designated as Industrial on the City's Future Land Use Atlas, shall maintain a working waterfront use.
- 4) Owner recognizes that legally permitted existing Working Waterfront 24-hour operations currently exist proximate to the Property. Therefore, Owner agrees:
 - (a) not to object or otherwise attempt to impede any legally permitted Working Waterfront 24-hour operations;
 - (b) to provide all future tenants and prospective owners of the Property notice of the existing Working Waterfront 24-hour operations and will include a provision to agree not to object to legally permitted Working Waterfront 24-hour operations in each lease and or Condominium Sale Documents;
 - (c) that it is solely the Owner's responsibility to design its structures to accommodate legally permitted Working Waterfront 24-hour operations; and
 - (d) that it will not pursue any claims for liability, loss or damage, whether through litigation or otherwise, against permittees engaging in Working Waterfront 24-hour operations, related to, noise, smoke, fumes, federally regulated bridge openings, and/or other quality of life issues that might result from legally permitted Working Waterfront 24-hour operations.
- 5) There shall be no net loss of the number of recreational wet-slips along the Miami River, except as required by the United States Coast Guard, the Miami-Dade County Department of Regulatory and Economic Resources, or as required by other regulating agencies with appropriate jurisdiction.

(Space reserved for Clerk)

Covenant Running with the Land. This Declaration on the part of the Owner shall constitute a covenant running with the land and may be recorded, at Owner's expense, in the public records of Miami-Dade County, Florida and shall remain in full force and effect and be binding upon the undersigned Owner, and their heirs, successors and assigns until such time as the same is modified or released. These restrictions during their lifetime shall be for the benefit of, and limitation upon, all present and future owners of the real property and for the benefit of the City of Miami and the public welfare. The Owner, and their heirs, successors and assigns, acknowledge that acceptance of this Declaration does not in any way obligate or provide a limitation on the City.

Term. This Declaration is to run with the land and shall be binding on all parties and all persons claiming under it for a period of thirty (30) years from the date this Declaration is recorded after which time it shall be extended automatically for successive periods of ten (10) years each, unless an instrument signed by the, then, owner(s) of the Property has been recorded agreeing to change the covenant in whole, or in part, provided that the Declaration has first been modified or released by the City of Miami.

Modification, Amendment, Release. This Declaration of Restrictions may be modified, amended or released as to the land herein described, or any portion thereof, by a written instrument executed by the then owner(s) of the fee simple title to the Property, or any portion thereof, provided that the same is reviewed by the Miami River Commission for an advisory recommendation and approved by the City Commission of the City of Miami, Florida. Should this Declaration be so modified, amended, or released, the Director of the Department of Planning and Zoning or the executive officer of a successor department, or, in the absence of such Director or executive officer, by his or her assistant in charge of the office in his/her office, shall execute a written instrument effectuating and acknowledging such modification, amendment, or release.

Enforcement. Enforcement shall be by action against any parties or person violating, or attempting to violate, any covenants. The prevailing party in any action or suit pertaining to or arising out of this declaration shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may adjudge to be reasonable for the services of his attorney. This enforcement provision shall be in addition to any other remedies available at law, in equity or both.

Election of Remedies. All rights, remedies and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.

Presumption of Compliance. Where construction has occurred on the Property or any portion thereof, pursuant to a lawful permit issued by the City, and inspections made and approval of occupancy given by the City, then such construction, inspection and approval shall create a

(Space reserved for Clerk)

rebuttable presumption that the buildings or structures thus constructed comply with the intent and spirit of this Declaration.

Severability. Invalidation of any one of these covenants, by judgment of Court, shall not affect any of the other provisions which shall remain in full force and effect. However, if any material portion is invalidated, the City shall be entitled to revoke any approval predicated upon the invalidated portion

Recordation and Effective Date. This Declaration shall be filed of record in the public records of Miami-Dade County, Florida at the cost of the Owner following the approval of the Application. This Declaration shall become effective immediately upon recordation. Notwithstanding the previous sentence, if any appeal is filed, and the disposition of such appeal results in the denial of the Application, in its entirety, then this Declaration shall be null and void and of no further effect. Upon the disposition of an appeal that results in the denial of the Application, in its entirety, and upon written request, the Director of the Planning and Zoning Department or the executive officer of the successor of said department, or in the absence of such director or executive officer by his/her assistant in charge of the office in his/her absence, shall forthwith execute a written instrument, in recordable form, acknowledging that this Declaration is null and void and of no further effect.

Acceptance of Declaration. The Owner acknowledges that acceptance of this Declaration does not obligate the City in any manner, nor does it entitle the Owner to a favorable recommendation or approval of any application, zoning or otherwise, and the City Commission retains its full power and authority to deny each such application in whole or in part and decline to accept any conveyance.

Owner. The term Owner shall include all heirs, assigns, and successors in interest.

[Execution Pages Follow]

Office of City Attorney
444 S.W. 2nd Avenue, Suite 945
Miami, FL 33130-1910

Return Recorded Copy to:
City of Miami
Office of Zoning, Attn: Zoning
Administrator 444 S.W. 2nd Avenue,
2nd Floor
Miami, FL 33130-1910

Folio No(s): 01-3134-000-0230

(Space Above for Recorder's Use Only)

DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS (the "Declaration"), made this ____ day of _____, 2022, by **POLISH AMERICAN CLUB OF MIAMI INC**, a Florida not-for-profit corporation (the "Owner"), in favor of the **CITY OF MIAMI, FLORIDA**, a municipality of the State of Florida (the "City").

WITNESSETH:

WHEREAS, Owner holds fee-simple title to certain property in the City of Miami, Florida, located at 1250 N.W. 22nd Ave., Miami, Florida, legally described in **Exhibit "A"** attached hereto and made a part hereof (the "Property"); and

WHEREAS, the Owner sought and obtained a Future Land Use Map redesignation pursuant to Ordinance No. _____ for the Property; and

WHEREAS, the Owner sought and obtained a rezoning approval pursuant to Ordinance No. __ for the Property; and

WHEREAS, the Owner is desirous of making a voluntary binding commitment to assure that the Property shall be developed in accordance with the provisions of the

Declaration herein; and

NOW THEREFORE, the Owner, for valuable consideration, the receipt and adequacy of which are hereby acknowledged, voluntarily covenants and agrees that the Property shall be subject to the following restrictions that are intended and shall be deemed to be a covenant running with the land and binding upon the Owner of the Property, and its heirs, grantees, successors, and assigns as follows:

1. **Recitals**. The recitals and findings set forth in the preamble of this Declaration are hereby adopted by reference thereto and incorporated herein as if fully set forth in this Section.

2. **Restrictions**: The Owner hereby makes the following voluntary declarations running with the land concerning the use of the Property:

a. **Waterfront Public Access**. The owner shall allow waterfront access to the public from 6:00 AM to 10:00 PM along the river walk to be developed as part of any future mixed-use project on the Property.

b. **Riverwalk Design**. The proffered river walk will be designed in accordance with Article 3, Section 3.11 and Appendix B of the Miami 21 Code.

c. **Working Waterfront Restrictions**. The Owner recognizes that legally permitted existing Working Waterfront 24-hour operations may currently exist proximate to the Property. Therefore, Owner agrees to:

i. Design structures on the Property, to the greatest extent economically feasible, to attenuate noise that may be generated by legally permitted Working Waterfront 24-hour operations; and

ii. Provide all future tenants and prospective owners of the Property notice of the existing Working Waterfront 24-hour operations and will include such notice in all future leases and/or condominium documents; and

d. **Development Restrictions.** The Owner agrees to:

i. Limitation on Height: Limit the height of any future structure or building on the Property to the maximum height permitted by the then existing zoning transect designation without the use of any public benefits or other bonuses that may authorized by the zoning code;

ii. Community Facility Use: Include a space for the future home of The Polish American Club of Miami, Inc. (or its successor entity) of not less than 10,000 gross square feet in size in any structure constructed on the Property; and

iii. Miami River Commission Urban Infill Subcommittee Review: Prior to procuring a building permit for any structure or building on the Property, Owner shall submit a site plan of the proposed improvements to the Miami River Commission's Urban Infill Subcommittee for its review of the same.

e. **Workforce Housing.** The Owner shall require that not less than twenty percent (20%) of all future residential dwelling units constructed on the Property be set-aside as workforce housing for households earning up to one hundred percent (100%) of the Area Median Income ("AMI").

3. Effective Date. This Declaration shall constitute a covenant running with the title to the Property and be binding upon Owner, its successors and assigns upon recordation in the Public Records of Miami-Dade County, Florida. These restrictions shall be for the benefit of, and

a limitation upon, all present and future owners of the Property and for the public welfare.

4. Term of Covenant. This voluntary Declaration on the part of the Owner shall remain in full force and effect and shall be binding upon the Owner, its successors in interest and assigns for an initial period of thirty (30) years from the date this Declaration is recorded in the public records and shall be automatically extended for periods of ten (10) years, unless modified, amended or released prior to the expiration thereof.

5. Inspection and Enforcement. It is understood and agreed that any official inspector of the City of Miami may have the right at any time during normal working hours of the City of Miami's inspector to enter upon the Property for the purpose of investigating the use of the Property, and for determining whether the conditions of this Declaration and the requirements of the City's building and zoning regulations are being complied with. After notice and an opportunity to cure, an action to enforce the terms and conditions of this Declaration may be brought by the City and may be by action at law or in equity against any party or person violating or attempting to violate any covenants of this Declaration or provisions of the building and zoning regulations, either to restrain violations or to recover damages. This enforcement provision shall be in addition to any other remedies available under the law.

6. Amendment, Modification, Release. This Declaration may be modified, amended, or released as to any portion or all of the Property only after the occurrence of a determination of the Zoning Administrator that the Declaration is no longer necessary to preserve and protect the Property for the purposes herein intended. Any amendment, modification, or release shall be executed by the Zoning Administrator, or his or her successor or designee, and be in a form

acceptable to the City Attorney.

7. Severability. Invalidation of any one of these covenants by judgment of Court shall not affect any of the other provisions of this Declaration, which shall remain in full force and effect.

8. Counterparts/Electronic Signature. This Declaration may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute but one and the same Declaration. The parties shall be entitled to sign and transmit an electronic signature of this Declaration (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Any party providing an electronic signature agrees to promptly execute and deliver to the other parties an original signed Declaration upon request.

9. Recordation. This Declaration will be e-recorded by the City of Miami, at the Owner's expense, in the public records of Miami-Dade County, Florida upon full execution.

10. No Vested Rights. Nothing in this Declaration shall be construed to create any vested rights whatsoever to the Owner, its successors and assigns.

SIGNATURE PAGES TO FOLLOW

IN WITNESS WHEREOF, the undersigned has set his hand and seal this _____ day of _____, 2022.

POLISH AMERICAN CLUB OF MIAMI INC., a Florida not-for-profit corporation

By: _____

Monika DeMari
President

Witnessed by:

Witnesses:

Print Name: _____

Print Name: _____

STATE OF FLORIDA)
)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ____ day of _____, 2022, by Monika DeMari as President of Polish American Club of Miami, Inc., a Florida not-for-profit corporation, who is personally known to me or who has produced _____ as identification.

Notary Public, State of Florida

Print Name: _____
My Commission Expires:

Declaration of Restrictive Covenants
Folio No(s): 01-3134-000-0230

CITY OF MIAMI:

APPROVED AS TO CONTENTS:

Daniel Goldberg, Esq.
Zoning Administrator

APPROVED AS TO LEGAL
FORM AND CORRECTNESS:

Victoria Mendez, Esq.
City Attorney