



# City of Miami

## Legislation

### Ordinance

City Hall  
3500 Pan American  
Drive  
Miami, FL 33133  
www.miamigov.com

File Number: 11-01196ap1

Final Action Date:

AN ORDINANCE OF THE MIAMI CITY COMMISSION, WITH ATTACHMENT(S), APPROVING WITH CONDITIONS, PURSUANT TO ARTICLES 3 AND 7 OF THE MIAMI 21 CODE, THE ZONING ORDINANCE OF THE CITY OF MIAMI, FLORIDA, AN AMENDMENT TO THE PREVIOUSLY APPROVED "**MIAMI DESIGN DISTRICT RETAIL STREET SPECIAL AREA PLAN (SAP)**", ADDING ADDITIONAL PROPERTIES LOCATED AT APPROXIMATELY 3815 AND 3840 NORTHEAST MIAMI COURT; 3825, 3852 AND 3900 NORTH MIAMI AVENUE; 20, 21, 28, NORTHWEST 39TH STREET; 30 AND 50 NORTHEAST 39TH STREET AND 4100 AND 4039 NORTHEAST 1ST AVENUE, MIAMI, FLORIDA; AS DESCRIBED IN EXHIBIT "A", ATTACHED AND INCORPORATED; THE AMENDMENT PROPOSES: A) ADDING APPROXIMATELY 86,263 SQUARE FEET (1.98 ACRES) OF LOT AREA SPLIT AMONG 12 ADDITIONAL PARCELS FOR A TOTAL COMBINED LOT AREA OF 917,495 SQUARE FEET: (21.06 ACRES) SPLIT AMONG SIXTY-THREE (63) PARCELS; B) INCREASING THE COMMERCIAL SPACE BY APPROXIMATELY 422,971 SQUARE FEET FOR A TOTAL OF 1,374,689 SQUARE FEET; C) INCREASING THE RESIDENTIAL UNITS BY APPROXIMATELY 489 UNITS FOR A TOTAL OF 561 UNITS; D) DECREASING THE HOTEL KEYS BY ONE (1) FOR A TOTAL OF 52 KEYS; E) INCREASING THE PARKING SPACES BY APPROXIMATELY 1,181 SPACES ABOVE GROUND AND BELOW GRADE FOR A TOTAL OF 3,752 SPACES; F) INCREASING THE OPEN SPACE BY APPROXIMATELY 1,764 SQUARE FEET FOR A TOTAL OF 41,566 SQUARE FEET; THE SQUARE FOOTAGES ABOVE ARE APPROXIMATE AND MAY INCREASE OR DECREASE UP TO TEN PERCENT (10%) PURSUANT TO ARTICLE 7.1.2.5.A.28 OF THE ZONING ORDINANCE OF THE CITY OF MIAMI, FLORIDA; MAKING FINDINGS OF FACT AND STATING CONCLUSIONS OF LAW; PROVIDING FOR BINDING EFFECT; CONTAINING A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the original "Miami Design District Retail Street" is a 19.08 acre Special Area Plan ("SAP") approved on July 26, 2012 (Ordinance No. 13334); pursuant to Article 3 and Article 7 of the Miami 21 Code, the Zoning Ordinance of the City of Miami, Florida, ("Zoning Ordinance"), with current general boundaries of Northeast 43rd Street to the North, North Federal Highway and Biscayne Boulevard to the East, Northeast 38th Street to the South, and Northeast Miami Court and North Miami Avenue to the West, Miami, Florida; and

WHEREAS, the applicant wishes to amend the SAP Regulating Plan and Concept Book by adding 12 new properties and adjusting the original development program to include additional 86,263 square feet of lot area for a new lot area total of 917,495 square feet or approximately 21.06 acres, said parcels located approximately 3815 & 3840 Northeast Miami Court; 3825, 3852 and 3900 North Miami Avenue; 20, 21, 28 Northwest 39th Street; 30 and 50 Northeast 39th Street and 4100 and 4039 Northeast 1st Avenue, Miami Florida; and

WHEREAS, the proposed amended SAP will facilitate redevelopment and benefit the area by

creating residential units, hotel rooms, commercial uses, as well as civic and open space for the enjoyment of the general public, and

WHEREAS, the amended SAP will integrate public improvements and infrastructure while providing greater flexibility resulting in higher or specialized quality building and streetscape design; and

WHEREAS, projects such as this are critically important to the economic revitalization and enhancement of the City, in general, and specifically, the Miami Design District area; and

WHEREAS, the amended SAP will create certain recurring and nonrecurring financial benefits as well as temporary and permanent jobs; and

WHEREAS, the Miami Planning, Zoning and Appeals Board, at its meeting on July 17, 2013, following an advertised public hearing, adopted Resolution No. PZAB-R-13-036 by a vote of eleven to zero (11-0), item no. 1, recommending APPROVAL with conditions of the SAP as follows: 1) Remove the rezoning request of 299 NE 38 Street (Parcel 10) from the application; 2) "T4" regular setback to remain at 20 feet; 3) The Rezoning for 3720 Biscayne Boulevard (Parcel 9) is not recommended for the up-zoning of "T6-24-O" and will remain at "T6-12-O"; and 4) Developer to meet on a quarterly basis with the abutting registered associations of the Design District. ; and

WHEREAS, the City Commission, after careful consideration of this matter deems it advisable and in the best interest of the general welfare of the City of Miami and its citizens to amend its Zoning Ordinance as hereinafter set forth;

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

Section 1. The recitals and findings contained in the Preamble to this Ordinance are hereby adopted by reference thereto and incorporated herein as if fully set forth in this Section.

Section 2. The amended SAP attached hereto, is approved subject to the conditions specified herein.

Section 3. The amended SAP includes lower ranking SAP Permits as set forth in the Exhibit "C": Regulating Plan of the amended SAP which shall be reviewed for approval by Planning and Zoning, as needed.

Section 4. The findings of fact set forth below are made with respect to the amended SAP:

- a. The amended SAP is consistent with the adopted Miami Comprehensive Neighborhood Plan, as amended.
- b. Development proposed in the amended SAP is expected to cost approximately \$152 million reaching a total of \$443 million for the entire SAP, exclusive of land costs and developer fees. A total of 460 people will be employed at the proposed project, which will stimulate the creation of 300 direct and induced jobs and will generate approximately \$2,593,699 annually in recurring and non-recurring benefits to the City (2013 dollars). The total SAP will now result in the creation of in excess of 1,230 FTE (Full Time Employees) permanent new jobs and will generate approximately \$4,691,208 annually in tax revenues to the City (2013 dollars)."
- c. The City Commission further finds that the amended SAP:

- (1) Will have a favorable impact on the economy of the City;
- (2) Will efficiently use public transportation facilities;
- (3) Any potentially adverse effects of the development will be mitigated through compliance with the conditions of this SAP;
- (4) Will efficiently use existing public or civic spaces;
- (5) Will not negatively impact the environment and natural resources of the City;
- (6) Will not adversely affect living conditions in the neighborhood;
- (7) Will not adversely affect public safety;
- (8) Based on the record and the evidence presented, the public welfare will be served by the SAP; and
- (9) Any potentially adverse effects arising from this development not limited to safety and security, fire protection, solid waste, heritage conservation and trees will be mitigated through compliance with the conditions of this amended SAP.

Section 5. The amended SAP, inclusive of all exhibits, in particular, the Exhibit "C": Amended Regulating Plan, Exhibit "D": Amended Concept Book, and Exhibit "E": Amended Development Program Spreadsheet, as approved, shall be binding upon the Applicant and any successors in interest.

Section 6. The amended application for this SAP, which was submitted on March 27, 2013 and on file with the Planning and Zoning Department, Hearing Boards Section of the, shall be relied upon generally for administrative interpretations and is incorporated herein by reference.

Section 7. The City Manager is directed to instruct the Planning Director to transmit a copy of this Ordinance and attachments to the Applicant upon final approval.

Section 8. The Findings of Fact and Conclusions of Law are made with respect to the SAP as described in the record, herein, and in documents incorporated hereto.

Section 9. The amended SAP for the "Miami Design District Retail Street" is granted and approved.

Section 10. In the event that any portion or section of this Ordinance or the amended SAP is determined to be invalid, illegal, or unconstitutional by a court or agency of competent jurisdiction, such decision shall in no manner affect the remaining portions of this Ordinance or SAP which shall remain in full force and effect.

Section 11. The provisions for this Ordinance, as approved, shall become effective thirty (30) days after the final adoption of the Ordinance.

Section 12. The Zoning Ordinance is hereby amended by changing Appendix F: Miami Design District Retail Street SAP" to said Ordinance, as follow and incorporating: the amended SAP:

APPENDIX F: "MIAMI DESIGN DISTRICT RETAIL STREET SPECIAL AREA PLAN", AS  
AMENDED

Which includes:

Development Agreement

Applicants

Amended Regulating Plan

Amended Concept Book,

Amended Development Program Spreadsheet

CONDITIONS:

Based on analysis and findings, the Planning Department recommends approval of the proposed amendment to the "Miami Design District Retail Street" SAP with the following conditions:

- 1) Meet all applicable building codes, land development regulations, ordinances and other laws and pay all applicable fees due prior to the issuance of any building permit.
- 2) Allow the Miami Police Department to conduct a security survey, at the Department's discretion, and to make recommendations concerning security measures and systems; further submit a report to the Planning Department, prior to commencement of construction, demonstrating how the Police Department recommendations, if any, have been incorporated into the amended SAP security and construction plans, or demonstrate to the Planning Director why such recommendations are impractical.
- 3) Obtain approval from, or provide a letter from the Department of Fire-Rescue indicating applicant's coordination with members of the Fire Plan Review Section at the Department of Fire-Rescue in the review of the scope of the amended SAP, owner responsibility, building development process and review procedures, as well as specific requirements for fire protection and life safety systems, exiting, vehicular access and water supply.
- 4) Obtain approval from, or provide a letter of assurance from the Department of Solid Waste that the SAP has addressed all concerns of the said Department prior to the obtaining a shell permit.
- 5) Record the following in the Public Records of Miami-Dade County, Florida, prior to the issuance of any building permit:
- 6) Record in the Public Records:
  - a. A Declaration of Covenants and Restrictions providing that the ownership, operation and maintenance of all Civic and Open Spaces, and any related improvements located thereon, shall be the responsibility of the property owner(s), their successor(s), or their designee in perpetuity; and
  - b. A Unity of Title or a covenant in lieu of a Unity of Title, if applicable, subject to the review and approval of the City Attorney's Office.
- 7) Prior to the issuance of a shell permit, provide the Planning Department with a recorded copy of the documents mentioned in condition (6) above.
- 8) Provide the Planning Department with a temporary construction plan that addresses construction phasing and includes the following elements:

- Temporary construction parking plan, with an enforcement policy;
- Construction noise management plan with an enforcement policy; and
- Maintenance plan for the temporary construction site: said plan shall be subject to the review and approval by the Planning Department prior to the issuance of any building permits and shall be enforced during construction activity. All construction activity shall remain in full compliance with the provisions of the submitted construction plan. Failure to comply may lead to a suspension or revocation of this SAP.

As applicable, Developer Parties and Retail Developer Party, as defined in the approved amended "Miami Design District Retail Street SAP", shall be responsible for securing the City's approval for any change or modification to the approved temporary construction plan. Request for approval of any change or modification to the previously approved temporary construction plan shall be submitted for review and approval no later than two weeks prior to implementation of requested change or modification.

9) Prior to the issuance of any building permit, the applicant shall provide the Planning and Zoning Department for review and approval:

- Sufficiency Letter from the City of Miami, Office of Transportation.
- Final determination of Public School Concurrency and Capacity Reservation.
- Proof of compliance with conditions established by the following department or agencies, specifically:
  - o City and County Public Works Departments
  - o Miami-Dade County Water and Sewer
  - o Miami-Dade County Traffic Engineering Division
  - o Florida Department of Transportation (FDOT); and
  - o Other agencies as needed

10) The amended "Miami Design District Retail Street SAP" includes a Development Review Process which addresses the build out of the individual Buildings as identified in the Regulating Plan. All development within this SAP shall be submitted for review and approval by the Planning and Zoning Director prior to the issuance of any building permit consistent with the requirements of Sec. 3.9.1.(g) of Miami 21 and the SAP.

11) If the project is to be developed in phases and/or individual specific projects, the Applicant shall submit an interim plan, including a landscape plan, which addresses design details for the land occupying future phases of this Project. In the event that the future phases are not developed, said plan shall include a proposed timetable and shall be subject to review and approval by the Planning Director.

12) The applicant shall meet conditions identified in this Ordinance, with the amended SAP and all applicable local, state and federal regulations.

13) Within 90 days of the effective date of this Ordinance, record a certified copy of the Development Agreement associated with this SAP, specifying that the Development Agreement runs with the land and is binding on the Applicant, its successors, and assigns, jointly or severally.

THE CITY OF MIAMI SHALL:

Establish the operative date of the associated Development Agreement as being thirty (30) days from

the date of its final adoption; the final adoption date shall constitute the commencement of the thirty (30) day period to appeal the provisions of the Development Agreement.

CONCLUSIONS OF LAW:

The amended "Miami Design District Retail Street SAP", as approved, complies with the Miami Comprehensive Neighborhood Plan as amended, is consistent with the orderly development and goals of the City of Miami, and complies with local land development regulations pursuant to the Zoning Ordinance.

APPROVED AS TO FORM AND CORRECTNESS:

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VICTORIA MÉNDEZ  
CITY ATTORNEY

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Footnotes:

{1} This Ordinance shall become effective as specified herein unless vetoed by the Mayor within ten days from the date it was passed and adopted. If the Mayor vetoes this Ordinance, it shall become effective immediately upon override of the veto by the City Commission or upon the effective date stated herein, whichever is later.