



City of Miami

Legislation

Ordinance

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

File Number: 15-00624ap

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, AS AMENDED, THE REZONING OF CERTAIN PARCELS FOR THE DEVELOPMENT OF APPROXIMATELY 10.2 ACRES (444,696 SQUARE FEET) INCLUSIVE OF CITY OF MIAMI OWNED LAND, FOR THE MIAMI RIVER SPECIAL AREA PLAN ("MIAMI RIVER SAP"), A MIXED USE DEVELOPMENT APPROXIMATELY LOCATED WITHIN THE BOUNDARIES OF THE MIAMI RIVER TO THE NORTH, SOUTHWEST 7 STREET TO THE SOUTH, SOUTHWEST 2 AVENUE TO THE EAST, SOUTHWEST 3 AVENUE TO THE WEST, AND THE EASTERN PORTION OF JOSE MARTI PARK, EXTENDING NORTHWEST OF THE MIAMI RIVER AND TERMINATING AT SOUTHWEST 2 STREET, MIAMI, FLORIDA, AS DESCRIBED IN EXHIBIT "A", ATTACHED AND INCORPORATED; THE MIAMI RIVER SAP CONSISTS OF A PHASED PROJECT DIVIDED INTO FIVE (5) PARTS WHICH INCLUDES APPROXIMATELY 4,181,087 SQUARE FEET OF DEVELOPMENT CONSISTING OF THE FOLLOWING: A) APPROXIMATELY 1,678 RESIDENTIAL UNITS; B) APPROXIMATELY 330 LODGING UNITS; C) APPROXIMATELY 66,541 SQUARE FEET OF OFFICE SPACE; D) APPROXIMATELY 176,350 SQUARE FEET OF COMMERCIAL USES; E) APPROXIMATELY 2,376 PARKING SPACES; F) APPROXIMATELY 17 BOAT SLIPS; G) A MINIMUM OF 35,964 SQUARE FEET OF CIVIC SPACE; AND H) A MINIMUM OF 15,175 SQUARE FEET OF OPEN SPACE; THE MIAMI RIVER SAP WILL MODIFY THE TRANSECT ZONE REGULATIONS THAT ARE APPLICABLE TO THE SUBJECT PARCELS, WHERE A SECTION IS NOT SPECIFICALLY MODIFIED, THE REGULATION AND RESTRICTION OF THE MIAMI 21 CODE APPLY; THE NUMBERS OF FEET STATED ABOVE ARE APPROXIMATE AND MAY INCREASE OR DECREASE BY NOT MORE THAN FIVE PERCENT (5%) AT THE TIME OF THE BUILDING PERMIT BUT SHALL NOT EXCEED 4,181,087 SQUARE FEET OF THE DEVELOPMENT; FURTHER AUTHORIZING THE CITY MANAGER TO RELEASE THE FOLLOWING TWO COVENANTS ON THE PROPERTY WHICH ARE NO LONGER NEEDED: COVENANT RECORDED AT OFFICIAL RECORD BOOK ("ORB") 24997 PAGE 2543, AND AT ORB 24194 PAGE 1806, RESPECTIVELY, IN THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, 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 Miami River Special Area Plan ("Miami River SAP") consists of approximately 10.2 acres of selected parcels, as described in Exhibit "A", attached and incorporated, qualifying as a Special Area Plan ("SAP") as per Article 3, Section 3.9 of the Miami 21 Code, the Zoning Ordinance of the City of Miami ("Miami 21 Code"); and

WHEREAS, the aforementioned location for the proposed Miami River SAP currently contains underutilized buildings and vacant lots, and the entire development will consist of approximately 4,181,087 square feet of development with A) approximately 1,678 residential units; B) approximately 330 lodging units; C) approximately 66,541 square feet of office space; D) approximately 176,350 square feet of commercial uses; E) approximately 2,376 parking spaces; F) approximately 17 boat slips; G) a minimum of 35,964 square feet of civic space; and H) a minimum of 15,175 square feet of open space; and

WHEREAS, the proposed Miami River SAP will facilitate the redevelopment and benefit the area by creating residential units, hotel rooms, and commercial uses as well as civic and open space for the enjoyment of the general public; and

WHEREAS, the requested Miami River SAP will integrate public improvements and infrastructure while providing greater flexibility resulting in a higher quality of specialized building and streetscape design; and

WHEREAS, projects such as this are critically important to the economic revitalization and enhancement of the City of Miami ("City"), in general, and specifically the downtown and Little Havana Miami River area; and

WHEREAS, the Miami River SAP will create certain recurring and non-recurring financial benefits as well as temporary and permanent jobs; and

WHEREAS, the Miami Planning, Zoning and Appeals Board ("PZAB"), at its meeting on June 3, 2015, following an advertised public hearing, adopted Resolution No. 15-032 by a vote of ten to one (10-1), Item No. PZAB. 6, recommending APPROVAL of the Miami River SAP; and

WHEREAS, the City Commission after careful consideration of the matter deems it advisable and in the best interest of the general welfare of the City and its citizens to amend the Miami 21 Code 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 Miami River SAP, attached hereto, is approved subject to the conditions specified herein.

Section 3. The Miami River SAP includes lower ranking SAP Permits as set forth in the Regulating Plan of the SAP, attached hereto as "Exhibit B", which shall be reviewed for approval by the Department of Planning and Zoning.

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

a. The Miami River SAP is consistent with the adopted Miami Comprehensive Neighborhood Plan, as amended;

b. The City Commission further finds that:

- (1) The Miami River SAP will have a favorable impact on the economy of the City;
- (2) The Miami River SAP will efficiently use public transportation facilities;
- (3) Any potentially adverse effects of the development will be mitigated through compliance with the conditions of this Miami River SAP;
- (4) The Miami River SAP will efficiently use existing public or civic spaces;
- (5) The Miami River SAP will not negatively impact the environment and natural resources of the City;
- (6) The Miami River SAP will not adversely affect living conditions in the neighborhood;
- (7) The Miami River SAP will not adversely affect public safety;
- (8) Based on the record presented and evidence presented, the public welfare will be served by the Miami River 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 Miami River SAP.

Section 5. The Miami River SAP, inclusive of the Regulating Plan Exhibit "B", Concept Document Exhibit "C", and Executive Summary Exhibit "D", as approved, shall be binding upon the Applicant and any successors in interest.

Section 6. The application for the Miami River SAP, which was submitted on April 28, 2015, and on file with the Hearing Boards Section of the Department of Planning and Zoning, shall be relied upon generally for administrative interpretations and is incorporated by reference.

Section 7. The City Manager is directed to instruct the Director of Planning and Zoning 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 Miami River SAP as described herein and in documents incorporated hereto.

Section 9. The Miami River SAP is granted and approved.

Section 10. In the event that any portion or section of this Ordinance or the Miami River 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 Miami River SAP which shall remain in full force and effect.

Section 11. The provisions for this Miami River SAP, as approved, shall commence and become operative thirty (30) days after the final adoption of the Ordinance.

Section 12. The City Manager is hereby authorized to release the following two covenants on the property which are no longer needed: the covenant recorded at Official Record Book ("ORB") 24997 Page 2543, and at ORB 24194 Page 1806, respectively, in the Public Records of Miami-Dade County, Florida.

Section 13. This Ordinance shall become effective immediately upon its final adoption and signature of the Mayor, following any applicable appeal period.

CONDITIONS

Based on analysis and findings, the Department of Planning and Zoning recommends approval of the Miami River SAP with the following conditions which are adopted by the City Commission:

- 1) Comply with 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 Department of Planning and Zoning, prior to commencement of construction, demonstrating how the Police Department recommendations, if any, have been incorporated into the Miami River SAP security and construction plans, or demonstrate to the Director of Planning and Zoning 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 Miami River 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 Miami River SAP has addressed all concerns of said Department prior to obtaining a building permit.
- 5) Comply with the Minority Participation and Employment Plan (including a Contractor/Subcontractor Participation Plan) submitted to the City as part of the Application for Development Approval, with the understanding that the Applicant must use its best efforts to follow the provisions of the City's Community Small Business Enterprises ("CSBE") and Procurement Program as a guide, as applicable.
- 6) Record the following in the Public Records of Miami-Dade County, Florida, prior to the issuance of any building permit:
 - a. Declaration of Covenants and Restrictions providing that the ownership, operation, and maintenance of all common areas and facilities will be by the property owner or a mandatory

property owner association in perpetuity; and

b. Record in the Public Records a Unity of Title or a Covenant in Lieu of a Unity of Title, if applicable, subject to the review and approval of the Department of Planning and Zoning and the City Attorney's Office.

7) Prior to the issuance of any building permit, provide the Department of Planning and Zoning with a recorded copy of the documents mentioned in condition (6) above.

8) Provide the Department of Planning and Zoning with a temporary construction plan that address construction phasing and includes the following elements:

- a. Temporary construction parking plan, with an enforcement policy;
- b. Construction noise management plan with an enforcement policy; and
- c. Maintenance plan for the temporary construction site. Said plan shall be subject to the review and approval by the Department of Planning and Zoning 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 Miami River SAP.

As applicable, the developer of the approved Miami River 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 approved no later than two (2) weeks prior to the implementation of such a requested change or modification.

9) Prior to the issuance of any building permit for the Miami River SAP, the Applicant for the Miami River SAP shall provide the Department of Planning and Zoning for review for compliance and further approval:

- a. Sufficiency Letter from the City's Office of Transportation;
- b. Final determination of Public School Concurrency and Capacity Reservation;
- c. Conservation Assessment Report as portions of the project are located within a High Archeological Probability Zone; and
- d. Proof of compliance with conditions established by the following departments or agencies, specifically:
 - i. City and Miami-Dade County Public Works Departments;
 - ii. Miami-Dade County Water and Sewer Department;
 - iii. Miami-Dade County Traffic Engineering Division;
 - iv. Florida Department of Transportation.

10) The Miami River SAP includes a Development Review Process which address the build out of the individual Buildings as identified in the Regulating Plan. All development within the Miami River SAP shall be submitted for the review and approval by the Director of Planning prior to the issuance of any building permit consistent with the requirements of Article 3, Section 3.9.1(g) of the Miami 21 Code and the Miami River SAP.

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

12) The Applicant shall comply with the conditions identified in the Miami 21 Code, the Miami River SAP, and all applicable local, state and federal regulations.

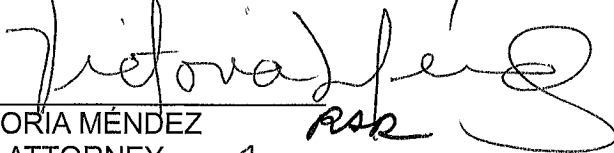
THE CITY OF MIAMI SHALL

Establish the operative date of the associated Development Agreement as being thirty (30) days from the date of the final adoption of the Development Agreement. The final adoption date of the Development Agreement shall constitute the commencement of the thirty (30) day period to appeal the provisions of the Development Agreement.

CONCLUSIONS OF LAW

The Miami River SAP, as approved, complies with the Miami Comprehensive Neighborhood Plan as amended, is consistent with the orderly development and goals of the City, and complies with local land development regulations pursuant to the Miami 21 Code.

APPROVED AS TO FORM AND CORRECTNESS:


VICTORIA MÉNDEZ
CITY ATTORNEY

Footnotes:

{1} This Ordinance shall become effective as specified herein unless vetoed by the Mayor within ten (10) 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.