



CITY OF NORTH MIAMI BEACH

City Council Meeting
Council Chambers, 2nd Floor
City Hall, 17011 NE 19 Avenue
North Miami Beach, FL 33162
Tuesday, August 6, 2013
7:30 PM

Mayor George Vallejo
Vice Mayor Anthony F. DeFillipo
Councilwoman Barbara Kramer
Councilwoman Marlen Martell
Councilman Frantz Pierre
Councilwoman Phyllis S. Smith
Councilwoman Beth E. Spiegel

City Manager Roslyn B. Weisblum
City Attorney Darcee S. Siegel
City Clerk Pamela L. Latimore, CMC

Notice to All Lobbyists

Any person who receives compensation, remuneration or expenses for conducting lobbying activities is required to register as a Lobbyist with the City Clerk prior to engaging in lobbying activities before City Boards, Committees, or the City Council.

AGENDA

1. **ROLL CALL OF CITY OFFICIALS**
2. **INVOCATION** - Pastor Chris Ogali, The Redeemed Christian Church of God
3. **PLEDGE OF ALLEGIANCE**
4. **REQUESTS FOR WITHDRAWALS, DEFERMENTS AND ADDITIONS TO AGENDA**
5. **PRESENTATIONS /DISCUSSIONS**
 - 5.1 **Presentation to Home Depot (Chief of Police Larry Gomer)**
 - 5.2 **Presentation to the American Red Cross (Chief of Police Larry Gomer)**
6. **PUBLIC COMMENT**

To All Citizens Appearing Under Public Comment

The Council has a rule which does not allow discussion on any matter which is brought up under Public Comment. We are, however, very happy to listen to you. The reason for this is that the Council must have Staff input and prior knowledge as to the facts and figures, so that they can intelligently discuss a matter. The Council may wish to ask questions regarding this matter, but will not be required to do so. At the next or subsequent Council meeting you may have one of the Councilpersons introduce your matter as his or her recommendation. We wish to thank you for taking the time to bring this matter to our attention. Under no circumstances will personal attacks, either from the public or from the dais, be tolerated.

Speaking Before the City Council

There is a three (3) minute time limit for each speaker during public comment and a three (3) minute time limit for each speaker during all public hearings. Your cooperation is appreciated in observing the three (3) minute time limit policy. If you have a matter you would like to discuss which requires more than three (3) minutes, please feel free to arrange a meeting with the appropriate administrative or

elected official. In the Council Chambers, citizen participants are asked to come forward to the podium, give your name and address, and the name and address of the organization you are representing, if any. If you are speaking on a public hearing item, please speak only on the subject for discussion. Thank you very much, in advance, for your cooperation.

Pledge of Civility

A resolution was adopted by the Mayor and City Council of the City of North Miami Beach recognizing the importance of civility, decency, and respectful behavior in promoting citizen participation in a democratic government. The City of North Miami Beach calls upon all residents, employees, and elected officials to exercise civility toward each other. (Resolution Nos. R2007-57, 11/06/07 and R2011-22, 4/26/11)

7. APPOINTMENTS - *None*

8. CONSENT AGENDA

8.1 Regular Meeting Minutes of July 2, 2013 (City Clerk Pamela L. Latimore)

8.2 Resolution No. R2013-48 (City Manager Roslyn B. Weisblum)

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER TO EXECUTE ON BEHALF OF THE CITY, THE AFSCME AGREEMENT RATIFIED AND APPROVED BY THE BARGAINING UNIT ON JULY 29, 2013 COVERING THE TERM AUGUST 6, 2013 THROUGH SEPTEMBER 30, 2015.

8.3 Resolution No. R2013-49 (Finance Director Janette Smith)

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA APPROVING A BUDGET TRANSFER IN THE AMOUNT OF \$200,000.00 FROM THE LEGISLATIVE CONTINGENCY ACCOUNT INTO THE EXECUTIVE CONTINGENCY ACCOUNT FOR THE FISCAL YEAR COMMENCING OCTOBER 1, 2012.

9. CITY MANAGER'S REPORT

9.1 Forfeiture (LETF) Appropriation Request (Chief of Police Larry Gomer)

10. CITY ATTORNEY'S REPORT

10.1 Litigation List

As of August 6, 2013

11. MAYOR'S DISCUSSION

12. MISCELLANEOUS ITEMS - *None*

13. WAIVER OF FEE - *None*

14. BUSINESS TAX RECEIPTS - *None*

15. DISCUSSION ITEMS

15.1 Review of City Attorney's Contract

15.2 Review of City Clerk's Contract

16. LEGISLATION

16.1 Resolution No. R2013-46 (Director of Public Services Shari Kamali)

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING CONDITIONAL USE APPROVAL IN ACCORDANCE WITH SECTION 24-52(C)(4) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH FOR THE OPERATION OF A PACKAGE LIQUOR STORE IN AN EXISTING SHOPPING CENTER, AS PROPOSED, ON PROPERTY LEGALLY DESCRIBED AS: LENGTHY LEGAL - SEE ATTACHED EXHIBIT "A") A/K/A 13555 Biscayne Boulevard, North Miami Beach, Florida (P&Z Item No. 13-548 of July 8, 2013)

16.2 Ordinance No. 2013-12 - First Reading by Title Only (Director of Public Services Shari Kamali)

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA REZONING PROPERTY WITHIN THE CITY OF NORTH MIAMI BEACH LOCATED AT 17071 WEST DIXIE HIGHWAY FROM A CLASSIFICATION OF B-1, LIMITED BUSINESS DISTRICT, TO A CLASSIFICATION OF B-2, GENERAL BUSINESS DISTRICT; DIRECTING THE DIRECTOR OF COMMUNITY DEVELOPMENT TO MAKE ALL NECESSARY CHANGES IN THE OFFICIAL ZONING MAP OF THE CITY OF NORTH MIAMI BEACH TO CARRY OUT THE INTENT OF THIS ORDINANCE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

16.3 Ordinance No. 2013-13 - First Reading by Title Only (Director of Public Services Shari Kamali)

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA AMENDING SECTION 1 OF THE COMPREHENSIVE PLAN, ENTITLED "FUTURE LAND USE ELEMENT" TO CHANGE THE CURRENT NOTICE REQUIREMENTS FOR COMPREHENSIVE PLAN AMENDMENTS TO CONFORM WITH FLORIDA STATUTES; AUTHORIZING THE TRANSMITTAL OF THIS AMENDMENT FOR REVIEW TO THE APPROPRIATE AGENCIES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

16.4 Ordinance 2013-14 -First Reading by Title Only (Director of Public Services Shari Kamali)

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA AMENDING SECTION 24-180(B)(5)(a)(b)and(c) OF THE CODE OF ORDINANCE, ENTITLED "DENIALS, NOTICES AND FEES", BY DELETING SPECIAL NOTICE REQUIREMENTS FOR COMPREHENSIVE PLAN AMENDMENTS; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

16.5 Ordinance No. 2013-15 - First Reading by Title Only (City Manager Roslyn B. Weisblum)

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING THE RETIREMENT PLAN FOR GENERAL EMPLOYEES OF THE CITY OF NORTH MIAMI BEACH; AMENDING SECTION 1.05, AMENDMENT OF THE PLAN;

AMENDING ARTICLE II, DEFINITIONS; AMENDING SECTION 6.01, NORMAL RETIREMENT; AMENDING SECTION 6.02, EARLY RETIREMENT AND RETIREMENT INCOME; AMENDING SECTION 6.04, BENEFITS OTHER THAN ON RETIREMENT; DELETING SECTION 6.12, EARLY RETIREMENT INCENTIVE; AMENDING SECTION 6.13, COST OF LIVING ADJUSTMENTS; AMENDING SECTION 6.14, DEFERRED RETIREMENT OPTION PLAN; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

16.6 Ordinance No. 2013-8 - Second and Final Reading (Code Compliance Manager Eric Wardle)

AN ORDINANCE AMENDING CHAPTER 24, ARTICLE XV, OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, FLORIDA BY CREATING SECTION 24-176.1 ENTITLED "ADMINISTRATIVE CODE WAIVER PROCESS"; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

17. CITY COUNCIL REPORTS

18. NEXT REGULAR CITY COUNCIL MEETING

19. ADJOURNMENT



City of North Miami Beach
17011 NE 19 Avenue
North Miami Beach, FL 33162
305-947-7581
www.citynmb.com

MEMORANDUM

 Print

TO: Mayor and City Council
FROM: Pamela L. Latimore, City Clerk
DATE: Tuesday, August 6, 2013

RE: Regular Meeting Minutes of July 2, 2013 (City Clerk Pamela L. Latimore)

BACKGROUND: N/A

RECOMMENDATION:

FISCAL IMPACT:

CONTACT PERSON(S): Pamela L. Latimore, City Clerk

ATTACHMENTS:

[Regular Meeting Minutes of July 2, 2013](#)



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Councilwoman Phyllis S. Smith
Councilwoman Beth E. Spiegel

City Manager Roslyn B. Weisblum
City Attorney Darcee S. Siegel
City Clerk Pamela L. Latimore, CMC

REGULAR MEETING MINUTES

1. ROLL CALL OF THE CITY OFFICIALS

The meeting was called to order at 7:40 p.m. Present at the meeting were Mayor George Vallejo, Vice Mayor Anthony F. DeFillipo, and Council Members Barbara Kramer, Marlen Martell, Frantz Pierre, Phyllis S. Smith, and Beth E. Spiegel. Also, present were City Manager Roslyn B. Weisblum, City Attorney Darcee S. Siegel and City Clerk Pamela L. Latimore

2. INVOCATION – Pastor Chris Ogali, The Redeemed Christian Church of God.

3. PLEDGE OF ALLEGIANCE

4. REQUESTS FOR WITHDRAWALS, DEFERMENTS AND ADDITIONS TO AGENDA

4.1 Item 15.1 Discussion on City Manager Interviews was moved after Legislation items.

4.2 Item 16.3 of Legislation was moved after **Item 16.1** by Mayor Vallejo on the dais.

5. PRESENTATIONS/DISCUSSIONS

5.1 Presentation from the North Miami Beach Little League to Mayor and Council.

6. PUBLIC COMMENT

Miami Dade County Commissioner Sally A. Heyman spoke before Council. She announced that the County will have a first of its kind, regional Gun Buy Back program. The event will take place on Saturday, July 27, 2013, from 10:00 a.m. to 2:00 p.m. at the Biscayne Landings Sales Office site at 15045 Biscayne Boulevard.

City Clerk Latimore read the rules of Public Comment into record. The following person(s) spoke on the record:

1. Jarret Gross – 1557 NE 164 Street, North Miami Beach, FL
2. Herschel Smith – 1510 NE 155 Terrace, North Miami Beach, FL

Mayor Vallejo directed staff to report back to Council at the next meeting on the progress of the traffic situation in the area of 15th Avenue and 155 Terrace.

3. Joseph W. Roy – 1520 NE 155 Terrace, North Miami Beach, FL
4. Jean Colas – 1500 N.E. 155 Terrace, North Miami Beach, FL
5. Jack Lieberman – 2040 NE 163 Street #210, North Miami Beach, FL
6. Terrence Camenzuli – 17151 NE 17 Avenue, North Miami Beach, FL

Mayor Vallejo directed City Manager Weisblum to get more information on enforcing the Miami Dade County Curfew.

7. Marlon Migala – 130 NW 156 Street, North Miami Beach, FL
8. Mubarak Kazan – 15564 NE 12 Avenue, North Miami Beach, FL

7. APPOINTMENTS - None

8. CONSENT AGENDA

8.1 Regular Meeting Minutes of June 4, 2013

8.2 Resolution No. R2013-37

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH WALTER L. LISTA, INC. IN THE AMOUNT OF \$158,800.00, FOR THE SAVE-ALL TANK AND PUMP ACCESS PROJECT.

8.3 Resolution No. R2013-38

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH LANZO CONSTRUCTION CO., FLORIDA, IN THE AMOUNT OF \$6,543,000.00 COMING FROM A STATE REVOLVING FORGIVENESS LOAN FOR THE NORWOOD-OEFFLER WATER PLANT VOC REMOVAL PHASE II PROJECT.

8.4 Resolution No. R2013-39

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH RISK MANAGEMENT ASSOCIATES, INC., THE FIRST-RANKED

FIRM, TO SERVE AS THE INSURANCE BROKER FOR THE CITY OF NORTH MIAMI BEACH.

8.5 Resolution No. R2013-40

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA APPROVING A BUDGET AMENDMENT TO INCREASE BOTH THE REVENUES AND EXPENDITURES FOR THE BUILDING FUND IN THE AMOUNT OF \$100,000 FOR THE FISCAL YEAR COMMENCING OCTOBER 1, 2012 IN ORDER TO COMPLY WITH DEMOLITION ORDERS ISSUED BY THE MIAMI-DADE COUNTY UNSAFE STRUCTURE BOARD.

8.6 Resolution No. R2013-41

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER TO EXECUTE A SECOND AMENDMENT TO THE AGREEMENT WITH AMERICAN TRAFFIC SOLUTIONS, INC. FOR A TRAFFIC SAFETY CAMERA PROGRAM DATED OCTOBER 30, 2008.

MOTION by Councilman Pierre, seconded by Councilwoman Kramer, to approve the Consent Agenda. (**Approved** 7-0)

9. CITY MANAGER'S REPORT

9.1 Forfeiture (LETF) Appropriation Request

Captain Kevin Prescott spoke on behalf of Police Chief Gomer, who was not present at the meeting, giving a brief explanation of how the funds will be used.

MOTION by Councilman Pierre, seconded by Councilwoman Smith, to approve the LETF appropriation request. (**Approved** 7-0)

Councilwoman Spiegel directed staff to review the current contract for the current radio system to make sure that the terms will allow for termination before the new system comes online.

9.2 PACT Initiative – Police and Community Together

Police Services Manager Tom Carney spoke briefly on the item.

10. CITY ATTORNEY'S REPORT

City Attorney Siegel updated Council on the Special Magistrate for the Red Light Camera Program. She will bring forward a Resolution at the next Council Meeting to appoint the magistrates.

10.1 Litigation List

As of July 2, 2013

- 11. **MAYOR'S DISCUSSION** - *None*
- 12. **MISCELLANEOUS ITEMS** - *None*
- 13. **WAIVER OF FEE** – *None*
- 14. **BUSINESS TAX RECEIPTS** – *None*
- 15. **DISCUSSION**

15.1 **Discussion on City Manager Interviews** (**MOVED** to come after Legislation, see item 4.1)

16. **LEGISLATION**

16.1 **Ordinance No. 2013-8 First Reading by Title Only**

AN ORDINANCE AMENDING CHAPTER 24, ARTICLE XV, OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, FLORIDA BY CREATING SECTION 24-176.1 ENTITLED "ADMINISTRATIVE CODE WAIVER PROCESS"; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

Code Compliance Manager Eric Wardle gave a brief explanation of the item.

Mayor and Council discussed the item.

Vice Mayor DeFillipo opened the item for public comment.

- 1. Mubarak Kazan – 15564 NE 12 Avenue, North Miami Beach, FL
- 2. Jamie Miller – 2130 NE 171 Street, North Miami Beach, FL
- 3. Allison Robie – 2131 NE 179 Street, North Miami Beach, FL

Public comment closed.

MOTION by Councilman Pierre, seconded by Councilwoman Spiegel, to adopt **Ordinance No. 2013-8** on First Reading By Title Only.

Mayor and Council discussed the item.

ROLL CALL: Vice Mayor DeFillipo – **Yes**, Councilwoman Kramer – **Yes**, Councilwoman Martell – **Yes**, Councilman Pierre – **Yes**, Councilwoman Smith – **Yes**, Councilwoman Spiegel – **Yes**, and Mayor Vallejo – **Yes** (**Approved 7-0**)

16.3 **Ordinance No. 2013-11 Second and Final Reading** (Taken out of the regular order of business – see Item 4.2)

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING CHAPTER XA OF THE CITY CODE ENTITLED "DANGEROUS INTERSECTION SAFETY ORDINANCE," IN ORDER TO IMPLEMENT THE 2013 CHANGES TO THE STATE OF FLORIDA'S "MARK WANDALL TRAFFIC SAFETY ACT"; PROVIDING FOR LOCAL HEARING OFFICERS CONSISTENT WITH GENERAL LAW; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

City Attorney Darcee Siegel gave a brief explanation of the item.

MOTION by Councilman Pierre, seconded by Councilwoman Kramer, to adopt **Ordinance No. 2013-11** on Second and Final Reading.

Mayor Vallejo opened the item for public comment.

1. Mubarak Kazan – 15564 NE 12 Avenue, North Miami Beach, FL
2. Marlon Migala – 130 NW 156 Street, North Miami Beach, FL

Public comment closed.

ROLL CALL: Vice Mayor DeFillipo – **Yes**, Councilwoman Kramer – **Yes**, Councilwoman Martell – **Yes**, Councilman Pierre – **Yes**, Councilwoman Smith – **Yes**, Councilwoman Spiegel – **Yes**, and Mayor Vallejo – **Yes** (**Approved 7-0**)

16.2 Ordinance No. 2013-12 First Reading by Title Only

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA REZONING PROPERTY WITHIN THE CITY OF NORTH MIAMI BEACH LOCATED AT 17071 WEST DIXIE HIGHWAY FROM A CLASSIFICATION OF B-1, LIMITED BUSINESS DISTRICT, TO A CLASSIFICATION OF B-2, GENERAL BUSINESS DISTRICT; DIRECTING THE DIRECTOR OF COMMUNITY DEVELOPMENT TO MAKE ALL NECESSARY CHANGES IN THE OFFICIAL ZONING MAP OF THE CITY OF NORTH MIAMI BEACH TO CARRY OUT THE INTENT OF THIS ORDINANCE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION by Councilman Pierre, seconded by Councilwoman Martell, to adopt **Ordinance No. 2013-12** on First Reading by Title Only.

JENNINGS DISCLOSURE: Councilwoman Kramer – **No**, Councilwoman Martell – **Yes**, Councilman Pierre – **No**, Councilwoman Smith – **No**, Councilwoman Spiegel – **No**, Vice Mayor DeFillipo – **Yes**, Mayor Vallejo – **Yes**

Mayor Vallejo opened the item for public comment. City Clerk Latimore swore in all citizens speaking on this item.

1. Joe Davis – 2173 NE 173 Street, North Miami Beach, FL – Against
2. Bill Ullman – 19290 NE 22 Avenue, North Miami Beach, FL, Attorney representing Joe Davis
3. Edward Corbin – 19240 NE 25 Avenue #243, North Miami Beach, FL – Against
4. Jack Lieberman – 2040 NE 163 Street #210, North Miami Beach, FL – Against
5. Charles M. Baron – 2645 NE 207 Street #C, Aventura, FL – Against
6. Deborah Bachar – 2330 NE 174 Street, North Miami Beach, FL – Against
7. Bruce Lamberto – 3420 NE 165 Street, North Miami Beach, FL
8. Don Caruso – 1050 NE 105 Street, Miami Shores, FL

Public comment closed.

City Planner Chris Heid spoke briefly about the item.

Mayor and Council discussed the item.

Councilwoman Spiegel suggested that the item be tabled for further discussion at the next Council meeting.

Applicant addressed Council: Alan Macken – Jaal, LLC, 17071 W. Dixie Highway, North Miami Beach, FL

MOTION by Councilwoman Spiegel, seconded by Vice Mayor DeFillipo to table this item and schedule it for discussion at the July 16, 2013 Council Conference and it will be brought back to Council for a vote on August 6, 2013. (**Passed** 4-3, Vallejo – **No**, Martell – **No**, Pierre – **No**)

15.1 Discussion on City Manager Interviews (Taken out of the regular order of business – see Item 4.1)

At the April 2, 2013 Council meeting council unanimously decided on a selection process for the City Manager position. A Committee comprised of Mayor Vallejo as chairperson, Human Resources Director Rose Amberson, and Jorge Forte a former City Manager and Former President of Miami-Dade City and County Management Association reviewed the applications. Forty four (44) applications were submitted and Human Resources Director Amberson screened applicants to assure they met the qualifications set by Council. The screened applicants were submitted to the committee for review and narrowed down to four candidates. Each councilperson had the opportunity to interview each candidate individually and then as a group. Now we are at the final step where we debate the merit of the candidates and come to a consensus on a choice for City Manager.

On behalf of everyone, Mayor Vallejo thanked City Manager Weisblum for the great job she has done and for her service to the City.

MOTION by Vice Mayor DeFillipo, seconded by Councilman Pierre, to select Ana Garcia to position of City Manager.

Mayor and Council discussed candidates from the City Manager interviews. Human Resources Director Rose Amberson was on hand to answer the Council members' questions.

ROLL CALL: Councilwoman Kramer – **No**, Councilwoman Martell – **Yes**, Councilman Pierre – **Yes**, Councilwoman Smith – **No**, Councilwoman Spiegel – **No**, Vice Mayor DeFillipo – **Yes**, Mayor Vallejo – **Yes** (**Passed** 4-3)

MOTION by Councilman Pierre, seconded by Vice Mayor DeFillipo to have Mayor Vallejo and Human Resources Director Rose Amberson negotiate the terms of the contract for the newly selected City Manager Ana Garcia and present it at the July 16th Council meeting. (**Passed** 7-0)

Mayor and Council discussed the motion.

Human Resources Director Rose Amberson suggests that a On-Boarding Plan, that is more than just an orientation, to assist the new City Manager to acclimate themselves with the various Departments and their specific needs. She will work on the Plan and present it at the July 16th Council Conference meeting.

17. CITY COUNCIL REPORTS

Vice Mayor DeFillipo commended City Manager Weisblum and Assistant City Manager Serda for their hard work and diligence on getting the Washington Park Pool open with extended hours for the residents of Washington Park and the surrounding areas. He thanked City Manager Weisblum for the work she has done as the City Manger.

Councilwoman Kramer encouraged the residents to volunteer for any of the boards and committees at the City. She thanked City Manager Weisblum for all her years of service to the City and appreciates her professionalism. She also welcomed Ms. Garcia and she is looking forward to working with her.

Councilwoman Martell announced that she has a position open on the Planning and Zoning Board and if anyone in the community is interested they can submit an application at the City Clerk's Office. She commended City Manager Weisblum for years of service to the City and she stated it was a pleasure to work with her during that time.

Councilman Pierre announced that the Library will be closed on July 4th in observance of the holiday and will reopen the following day at the regularly scheduled time. On Thursday July 19th the Police Department will be at St. Lawrence School to speak with residents about the crime in their area. He reminded the residents of the Gun Buy Back Event on Saturday, July 27, 2013, from 10:00 a.m. to 2:00 p.m. at the Biscayne Landings sales office site at 15045 Biscayne Boulevard.

Councilwoman Smith announced that the Public Utilities Commission on July 10th has been cancelled. She welcomed the new City Manager, Ana Garcia and she looks forward to working with her. She thanked City Manager Weisblum her professionalism during the search for a new City Manager. Councilwoman Smith commended her for her dedication to the City and its residents.

Councilwoman Spiegel thanked the candidates that applied for the position of City Manager. She expressed her admiration to City Manager Weisblum for her professionalism and rising to meet any challenge set before her. Councilwoman Spiegel stated the debt of knowledge and commitment to the City and its resident by City Manager Weisblum will be missed. She announced that the pools at Uleta, Washington Park, and Victory will be open through the start of the school year and on weekends. She thanked City Manager Weisblum and Leisure Services Director Paulette Murphy for their hard work on

making the pools available to the community. There will be a Planning and Zoning meeting on Monday July 8th at 6:00p.m.

Mayor Vallejo thanked all the candidates for the City Manager position. Change is coming to the City of North Miami Beach and that change will be the catalyst for growth in our City. He thanked his colleagues for making the tough decisions over the past two years or so that will move us forward for the better.

18. NEXT REGULAR CITY COUNCIL MEETING

Tuesday, July 16, 2013

19. ADJOURNMENT

There being no further business to come before the City Council, Meeting was adjourned at 11:40 p.m.



City of North Miami Beach
17011 NE 19 Avenue
North Miami Beach, FL 33162
305-947-7581
www.citynmb.com

MEMORANDUM

 **Print**

TO: Mayor and City Council
FROM: Roslyn B. Weisblum, City Manager
DATE: Tuesday, August 6, 2013

RE: Resolution No. R2013-48 (City Manager Roslyn B. Weisblum)

BACKGROUND: AFSCME Local 3293 ratified the Collective Bargaining Agreement with the City on July 29th. 133 AFSCME members voted with 103 voting yes and 30 voting no. The term of the Agreement is from August 6, 2013 through September 30, 2015. The City Manager recommends approval of the Agreement by the City Council.

RECOMMENDATION: Approval is recommended.

FISCAL IMPACT:

CONTACT PERSON(S): Roslyn B. Weisblum, City Manager

ATTACHMENTS:

- [resolution No. R2013-48](#)
- [Agreement](#)

RESOLUTION NO. R2013-48

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER TO EXECUTE ON BEHALF OF THE CITY, THE AFSCME AGREEMENT RATIFIED AND APPROVED BY THE BARGAINING UNIT ON JULY 29, 2013 COVERING THE TERM AUGUST 6, 2013 THROUGH SEPTEMBER 30, 2015.

WHEREAS, the classified employees of the City of North Miami Beach, Florida, who are represented by the AFSCME Union have voted to approve a contract with the City for the term of August 6, 2013 through September 30, 2015, incorporated herein by reference; and

WHEREAS, the City Manager has requested the approval of the Mayor and City Council to enter into this contract; and

WHEREAS, the Mayor and City Council have determined it to be in the best interests of the City, its residents, citizens and employees to approve the contract.

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of North Miami Beach, Florida.

Section 1. The foregoing recitals are hereby deemed to be true and correct.

Section 2. The AFSCME Agreement between the City of North Miami Beach and those classified employees represented by the AFSCME Union, was ratified and approved by the AFSCME membership on July 29, 2013 and shall be in effect from August 6, 2013 through September 30, 2015. The AFSCME Agreement is incorporated herein by reference and is hereby approved by the Mayor and Council.

APPROVED AND ADOPTED by the City Council of the City of North Miami Beach,

Florida at its regular meeting assembled this ____ **day of August, 2013.**

ATTEST:

PAMELA L. LATIMORE
CITY CLERK

GEORGE VALLEJO
MAYOR

(CITY SEAL)

APPROVED AS TO FORM:

DARCEE S. SIEGEL
CITY ATTORNEY

SPONSORED BY: Mayor and City Council

AGREEMENT BETWEEN
THE CITY OF NORTH MIAMI BEACH, FLORIDA
AND
NORTH MIAMI BEACH, CITY EMPLOYEES
LOCAL 3293, AFSCME

2012 - 2015

CORRECTED TABLE OF CONTENTS

ARTICLE	TITLE	PAGE
1	AGREEMENT	1
2	RECOGNITION	2
3	MANAGEMENT RIGHTS	6
4	NON-DISCRIMINATION	8
5	NO STRIKES.....	9
6	DUES	11
7	UNION STEWARDS, UNION REPRESENTATION, AND SERVICES TO THE UNION.....	12
8	LABOR-MANAGEMENT COMMITTEE	17
9	SENIORITY, LAYOFF, RECALL	18
10	WORK SCHEDULE	21
11	OVERTIME.....	23
12	MAINTAINING OF DISCIPLINE	27
13	GRIEVANCE PROCEDURE AND ARBITRATION	29
14	LEAVE	33
15	HOLIDAYS	39
16	GROUP INSURANCE	42
17	SAFETY & HEALTH AND SAFETY PROGRAM.....	44
18	UNIFORMS, EQUIPMENT AND PERSONAL ITEMS	45
19	PROBATIONARY PERIOD	49
20	JOB DESCRIPTIONS AND TEMPORARY ASSIGNMENTS	50
21	TRAINING AND TRAINING PROGRAMS	52
22	BULLETIN BOARDS.....	54
23	SAVINGS CLAUSE	55
24	WAGE PROVISIONS	56
25	DRUG AND ALCOHOL TESTING.....	58
26	RETIREMENT	61
27	TERM OF AGREEMENT AND REOPENING	62
28	COMPLETE AGREEMENT AND WAIVER OF BARGAINING.....	63
Attachment 1	Confidential Employees' Job Titles.....	A
Attachment 2	CDL and Safety-Sensitive Positions.....	B

ARTICLE 1: AGREEMENT

Section 1 - Parties: This Agreement entered into on this day of _____, 2013, by and between the CITY OF NORTH MIAMI BEACH, FLORIDA (hereinafter referred to as the City), and the NORTH MIAMI BEACH, FLORIDA, CITY EMPLOYEES, LOCAL 3293, AFSCME (hereinafter referred to as the Union). Said Agreement to be effective on the above date, provided that it has been ratified by the bargaining unit and upon ratification by the City Council of North Miami Beach, Florida.

Section 2 – Mutual Cooperation: The Union and the City, jointly recognizing the need to perform maximum municipal services at minimum cost, and the difficult problems facing the City, hereby agree that the interest of both the employees and the City will best be served by attaining maximum efficiency and productivity. Therefore, the parties hereto agree to use their best efforts to create and maintain an atmosphere in which every employee can give a day's work for a day's pay. The Union agrees that the efforts of all employees are required to achieve these objectives and will cooperate to this end.

ARTICLE 2: RECOGNITION

Section 1 – Parties Representatives: The City recognizes the Union as the sole and exclusive bargaining representative of the employees within the Bargaining Unit covered by this Agreement for the purpose of Collective Bargaining with respect to wages, hours of employment, and other conditions and terms of employment. The Union recognizes the City Manager, or his/her designee, as the representative of the City in all such matters.

Section 2 – Bargaining Unit: The Bargaining Unit covered by this Agreement is: all regular full-time and Part-Time A employees, as defined by the Public Employees Relations Commission Certification number 738, as follows: (see Article XI Sec 4 for (*) explanation).

All other employees of the City are excluded from this bargaining unit.

Accountant I	City Electrician	Engineering Technician*
Accountant II	Civil Engineering Designer	Facility Maintenance
Account Clerk	Civil Engineering Technician	Operator Specialist*
Accreditation Coordinator	Claims Coordinator	Facility Maintenance
Administrative Aide I	Clerk	Specialist*
Administrative Aide II	Clerk Typist	Graphics Design/Sign
Administrative Assistant I	Codes Enforcement Officer*	Specialist I
Administrative Assistant II	Community Center Leader I	Graphics Design/Sign
Administrative Assistant III	Community Center Leader II	Specialist II
Administrative	Community Center Leader III	Heavy Equipment Operator*
Secretary/Floater	Community Resource	Horticulturist
Athletic Specialist	Coordinator	HVAC Air Conditioning
Automotive Mechanic I*	Construction Coordinator	Technician*
Automotive Mechanic II*	Construction Worker I*	Information Technology
Building Inspector*	Construction Worker II*	Coordinator*
Building Superintendent*	Crime Scene Technician*	Information Technology
Bus Driver	Custodian Maintenance	Operator*
Buyer I	Worker I	Journeyman/Electrician
Buyer II	Custodian Maintenance	Laboratory Technician I*
C.I.P.	Worker II	Laboratory Technician II*
Construction	Data Processing Operator	Laboratory Technician III*
Coordinator	Division Specialist	Library Assistant I
Cadd Operator I	Division Specialist II	Library Assistant II
Cadd Operator II	Draftsperson	Library Assistant III
Cadd Operator III	Engineering Technician	Library Associate I
Cashier I	Trainee	Library Associate II
Cashier II		

Library Associate III	Public Safety Clerk	Utility Mechanic II*
Lifeguard I	Public Services Analyst	Utility Worker I*
Lifeguard II	Public Services Assistant	Utility Worker II*
Lift Station Technician*	Public Services Administrative	Warehouse Worker*
Mail Clerk	Coordinator	Wastewater Heavy
Maintenance Worker I*	Public Services Administrative	Equipment
Maintenance Worker II*	Specialist	Operator*
Marketing Specialist I	Records Management	Wastewater Lift Station
Marketing Specialist II	Coordinator	Mechanic I*
Materials Control Assistant*	Recreation Leader	Wastewater Lift Station
Mechanic Apprentice	Recreation Office	Mechanic II*
Micrographics Clerk	Coordinator	Wastewater Lift Station
Micrographics Records	Recreation Specialist	Technician I*
Coordinator	Recreation Technical	Wastewater Lift Station
Motor Equipment Operator*	Coordinator	Technician II*
Network Administrator	Secretary	Wastewater Line
NMB Line Dispatcher	Senior Engineering	Technician I*
Nursery Specialist	Technician*	Wastewater Line
Nursery Technician	Senior Meter Reader	Technician II*
Occupational License	Storekeeper*	Wastewater TV Technician*
Inspector	Switchboard Operator*	Water Conservation
P.C. Technician I	T.V. Inspection Technician*	Technician
P.C. Technician II	Telecommunications	Water Meter Reader
P.C. Technician Trainee	Coordinator*	Water Plant Operator I*
Painter*	Telecommunications	Water Plant Operator II*
Permit Clerk I	Specialist*	Water Plant Operator III*
Permit Clerk II	Tire Technician*	Water Plant Operator Trainee
Plant Electrician*	Tractor Trailer Operator*	Water Service Rep. I*
Plant Electrician I*	Tradesman Technician	Water Service Rep. II*
Plant Electrician II*	Utilities Engineer I	Water Service Tech. I*
Plant Electrician III*	Utilities Engineer II	Water Service Tech. II*
Plumber*	Utility Development	Welder I*
Programmer	Coordinator	Welder II*
Programmer Trainee	Utilities Locator*	
Police Services Analyst	Utility Carpenter	
Property Custodian/	Utility Construction Worker*	
Quartermaster*	Utility Mechanic I*	

Employment of a person in a position regularly established without limitation as to the length of said employment shall be considered a regular appointment after completion of a probationary period if recommended by the appointing authority. Regular full time

appointments are for positions that are scheduled for forty (40) hours per week. Regular full time positions are entitled to the benefits set forth in this Agreement.

Section 3: Part time employment: There are two types of part time positions. Part Time A positions are those that are regularly scheduled for thirty (30) through thirty-five (35) hours per week. Part Time B positions are those that are scheduled for twenty-nine (29) hours per week or less. Part time employees are not within the Civil Service of the City and are not covered by the Civil Service Rules. Benefits, if any, associated with each type of part time position are set forth below:

Part Time A positions are entitled only to the following specified benefits: one-half ($\frac{1}{2}$) the annual leave, sick leave, and holiday leave benefits per year that are set forth in this Agreement. The leave must be used on an annual basis by calendar year and may not be carried over to the following calendar year. There is no payout of any unused leave upon leaving the employment of the City. Part Time A employees must be employed by the City for six (6) months before they are eligible for leave. Part Time A positions may use the grievance procedure set forth in the Agreement. All new hires into Part Time A positions and current Part Time A employees employed less than one year will have to serve a one-year probationary period from their date of appointment with the City. Part Time A employees are not entitled to any benefits of this Agreement not specifically mentioned in this paragraph.

Part Time B positions are not entitled to any of the benefits of this Agreement. Further, Part Time B positions in the Recreation Department may work over the twenty-nine (29) hours per week and during peak seasons: namely, the summer (mid-May through September), winter break and spring break without affecting their status as a Part Time B employee.

If Part-time B or temporary employees are hired by the City as Part-time A or regular full time employees, they will be given credit for the time served in completing their initial probationary period as a bargaining unit employee.

Section 4: It is agreed by the parties that, if new position classifications are created by action of the City Council of North Miami Beach, the question of inclusion or exclusion within the Bargaining Unit shall be determined by reference to the above classifications, after consultation with the Union Representative and the City Manager or his designee. If no agreement is reached, the party desiring inclusion or exclusion may petition the Public Employees Relations Commission.

Section 5: Employment of a person in a position for a limited or specified period of time of six (6) months or less is a temporary appointment. (Temporary appointments may be renewed as set forth in the Civil Service Rules.) Temporary appointments are not covered by this Agreement and are not part of the bargaining unit. Seasonal employees (i.e., summer contract employees) and temporary employees are temporary appointments of the City classified as Part Time C positions.

Section 6: The City agrees to limit the employment of “contract” employees to those positions outside the bargaining unit.

Section 7 – New Hires: New hires shall be given a copy of the Civil Service Rules (via CD) and the City's Policy and Procedures Packet.

ARTICLE 3: MANAGEMENT RIGHTS

Section 1: The Union and its members recognize that the City has the exclusive right to manage and direct all of its operations. Accordingly, the City specifically, but not by way of limitation, reserves the exclusive right to:

- (a) decide the scope of service(s) to be performed and the method of service(s);
- (b) hire; fire, demote, suspend (or otherwise discipline) for just cause; promote, lay off, and determine the qualifications of employees;
- (c) reasonable transfer of employees from location to location and from time to time;
- (d) rehire employees;
- (e) determine the starting and quitting time and the number of hours and shifts to be worked, subject to Article 10;
- (f) merge, consolidate, expand or curtail or discontinue temporarily or permanently, in whole or in part, operations whenever in the sole discretion of the City good business judgment makes such curtailment or discontinuance advisable;
- (g) control the use of equipment and property of the City;
- (h) schedule and assign the work to the employees and to determine the size and composition of the work force;
- (i) fill any job on an emergency or interim basis not to exceed sixty (60) days;
- (j) determine the services to be provided to the public, and the maintenance procedures, materials, facilities, and equipment to be used, and to introduce new or improved services, maintenance procedures, materials, facilities, and equipment;
- (k) formulate and revise rules and regulations, provided same are not inconsistent with this Agreement; and
- (l) have complete authority to exercise those rights and powers that are incidental to the rights and powers enumerated above.

Section 2: It is agreed and understood that the City has the right to determine the nature and to what extent the work required in its operation shall be performed by employees

covered by this Agreement, and shall have the right to contract and/or subcontract any existing or future work. The City will notify the Union not less than sixty (60) days of the City's intent to contract and/or subcontract any existing or future work and will inform the Union of the estimated scope and duration of such work. This does not imply any limitation to the City's right to contract and/or subcontract such work. When contracting or subcontracting is necessary, the City agrees to make every reasonable effort to minimize the impact of such action by using reasonable efforts to place affected employees in other existing permanent positions for which there are vacancies and for which the employees are qualified. When contracting or subcontracting of work is necessary, the City further agrees to request that the contractor involved employ available employees or laid-off employees who are qualified; and to request that the contractor pay at least the equivalent of the wages of employees in the same classification of the City.

Section 3: The above rights of the City are not all-inclusive but indicate the type of matters or rights which belong to and are inherent in the City in its general capacity as management. Any of the rights, powers, and authority that the City had prior to entering into this collective bargaining agreement are retained by the City, except as specifically abridged, delegated, granted or modified by this Agreement.

Section 4: If the City fails to exercise any one or more of the above functions from time to time, this will not be deemed to constitute a waiver of the City's right to exercise any or all of such functions.

ARTICLE 4: NON-DISCRIMINATION

Section 1 – Union Membership as a Condition of Employment: It is agreed that no employee shall be required as a condition of employment to join or refrain from joining the Union.

Section 2 – Union Membership Discrimination: The City agrees it will not discriminate against, coerce or intimidate any employee covered by this Agreement because of membership or non-membership in the Union, or for filing a grievance.

Section 3 – Other Forms of Discrimination: Neither the City nor the Union will discriminate against employees covered by this Agreement as to membership or representation because of race, color, creed, sex, age, national origin, or physical handicap.

Section 4 – Access to City Property: The Union agrees that no officer, agent, representatives or members of the Union will coerce, or intimidate any employee into joining the Union. The Union further agrees that it will not interfere with or condone any interference with the free and unrestricted right of any employee of the City to enter and leave City property.

Section 5 - Grievances: Refusal by the Union to process a grievance for an employee who is not a member of the Union shall not be considered discriminatory.

ARTICLE 5: NO STRIKES

Section 1 - Prohibitions: There shall be no strikes, work stoppages, picketing, slowdowns, boycotts, or concerted failure, or refusal to perform assigned work by the employees or the Union covered under this Agreement and there will be no lockout by the City for the duration of this Agreement. The Union supports the City fully in maintaining efficient operations.

Section 2 – Discipline for Violations: Any employee who participates in, or promotes a strike, work stoppage, picketing, slowdown, boycott, or concerted failure or refusal to perform assigned work, may be disciplined or discharged by the City and the sole and exclusive jurisdiction to grieve such discipline or discharge shall be as provided in Article 13 of this Agreement, provided the arbitrator shall dismiss the grievance if he/she finds the employee violated any of the prohibitions set forth in this Article.

Section 3 – Irreparable Injury: It is recognized by the parties that the City is responsible for, and engaged in activities, which are the basis of the health and welfare of the citizens of the City and that any violation of this Article would give rise to irreparable damage to the City and the public at large. Accordingly, it is understood and agreed that in the event of any violation of this Article, the City shall be entitled to seek and obtain immediate injunctive relief provided, however, it is agreed that the Union shall not be responsible for any act alleged to constitute a breach of this Article, if neither the Union, nor any of its officers or agents, instigated, authorized, condoned, sanctioned, or ratified such action and, provided further, that the Union and its officers or agents have used every reasonable means available to prevent or terminate such actions.

Section 4 - Picketing: There shall be no picketing by the Union or members of the bargaining unit, provided however they may engage in informational picketing solely for the purpose of conveying to the general public the Union's position in the labor dispute, subject to the following restrictions:

- A. picketing shall be confined to that area of the sidewalk immediately in front of the front plaza of City Hall;
- B. pickets shall be off duty and shall not be in City uniform;
- C. the public's unrestricted use of City facilities shall not be impaired;
- D. mass picketing (more than ten (10) pickets at any one time) will not be permitted;
- E. the picketing does not interfere with or impede the ability of employees to perform their duties or the providing of City Services.

ARTICLE 6: DUES

Section 1 – City Deduction: Upon receipt of a written authorization from an employee, the City agrees to deduct the regular Union dues of such employees from his/her regular pay and remit such deduction to the duly elected Treasurer of the Union, AFSCME, Council 79, 3064 Highland Oaks Terrace, Tallahassee, Florida 32301, within ten (10) working days from the date of the deduction. The Union will notify the City, in writing, thirty (30) days prior to any change in the regular Union dues structure.

Section 2 – Revocation of Authorization: An employee may revoke his/her union dues deduction authorization only by requesting such revocation upon 30 days written notice to the employer and the Union.

Section 3 - Indemnification: The Union agrees to indemnify and hold the City harmless against any and all claims, suits, orders or judgments brought or issued against the City, as a result of any action taken by the City under the provisions of this Article.

Section 4: It is agreed and understood that the City, through its Manager, department heads, division heads, supervisory employees and those employees not included in this bargaining unit, will take no action to either encourage or discourage membership in the Union. Assistance to any employee in the preparation of either Union membership or withdrawal forms shall constitute a violation of this provision.

**ARTICLE 7: UNION STEWARDS,
UNION REPRESENTATION, AND SERVICES TO THE UNION**

Section 1 – Number of Stewards / Locations: The Union has the right to select employees from within the Bargaining Unit, as herein defined, to act as Union Stewards. The names of employees selected shall be certified, in writing, to the City Manager and the Human Resources Department by the Union. It is agreed to and understood by the parties to this Agreement that Union Stewards may, with prior approval of his supervisor, process grievances. The supervisor's approval shall not be unreasonably withheld. When given permission to leave the job to perform Union business, the Steward is to clock out, unless it is to attend a grievance or other meeting called by the City during the Steward's scheduled work day in which the Steward shall remain on the clock. It is agreed to and understood by the Union, that Union Stewards shall process grievances in such a manner as to not disrupt normal City activities and services. An employee may be designated as a Union Steward and be a member of the Union's Executive Board, but must be designated as a Union Steward in order to process grievances as provided in this paragraph. There may be one (1) Union Steward from each of the following locations:

City Hall	17011 N. E. 19 th Avenue North Miami Beach
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Leisure Services	17051 N. E. 19 th Avenue North Miami Beach
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Public Services Administrative Offices	17050 N. E. 19 th Avenue North Miami Beach
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Public Services Operations Center	2101 N.E. 159 th Street North Miami Beach
Solid Waste/Fleet Maintenance (includes Beautification personnel)	1965 N. E. 151 Street North Miami Beach
Wastewater	17820 N.W. 29 th Court Miami, Florida
Norwood Water Plant	19150 N. W. 8 th Avenue Miami, Florida

Section 2: The City agrees that the person designated as Steward shall remain on the job as long as there is work in their classification. In no event shall the City discriminate against a Steward or lay the Steward off or discharge the Steward for any reasonable and lawful action taken by the Steward in the proper performance of his duty as a Steward. A Steward shall not be laid off unless all employees in the like classification have been laid off and in the event the Steward is laid off, the Steward shall be the first person to be re-employed.

Section 3 – Timely Investigation: Every effort shall be made, by both the City and the Union, to allow Union Stewards to investigate grievances as rapidly as possible, preferably on the same day as the grievance becomes known and at least within one (1) working day.

Section 4 – Union Representatives: Non employee Union Representatives, including Business Representatives, shall be certified, in writing, to the City Manager by the Union. The Union agrees that activities by the Union Representatives shall be carried out in such a fashion as not to interfere with normal work production and they shall not enter work areas without the permission of the managerial employee responsible for the area the representative wishes to visit.

Section 5: The City shall provide two hundred forty (240) hours of paid leave annually to be used by the Union in order to attend state or national AFSCME/Union Conventions as well as any other AFSCME/Union related business. In order to use paid leave, the leave must be

requested at least two (2) weeks in advance for leave of eight (8) hours or more. Approval for use of paid leave for periods of less than eight (8) hours will normally be approved with four (4) hours notice. Unused leave time will roll over from year to year.

Section 6 – Employee Information: The City agrees to furnish to the Union, electronically or by hard copy, a copy of the names, addresses, telephone numbers, job classification, department, division, and current pay rate of all employees in this Unit quarterly. All new hire information will likewise be forwarded to AFSCME weekly at the close of payroll (if available).

Section 7 – Other Information: The City agrees to notify the Union in writing as early as practicable, of any public hearing in which personnel matters relative to this Unit are to be the subject of discussion. To facilitate this section, the City agrees to furnish the Union the following documents and publications:

Civil Service Board Agendas and Minutes

Civil Service Eligibility List

Civil Service Job Announcements

New Classification Specifications

Proposed and Final Annual Budget and Pay Plan

1 Set of Current Job Descriptions

A copy of the AFSCME Agreement on the City's Intranet site, "Inside NMB"

A copy of the AFSCME Agreement via CD or the equivalent and a hard copy for each division

The City shall make other public documents available to the Union upon proper request at the same terms it supplies them to the public; provided, the City will not charge the Union for the first ten (10) pages of a document properly requested.

Section 8: Four (4) employees from the Bargaining unit will be permitted to attend contract negotiations on City time.

Section 9: The Union shall receive a written invitation to attend all orientation programs sponsored by the City in each department covered by this Agreement.

Section 10 – Union Pool Time: Employees may contribute up to eight (8) hours of earned annual leave each year to a Union Pool Time Bank. The contributions shall be voluntary and shall be made during the months of November and April each year. Union pool time may be utilized to avoid the loss of pay when permission is granted to clock out for any of the following purposes:

- A. Preparation for and participating in collective bargaining, the contractual grievances and arbitrations.
- B. Attending meetings and conventions relating to union business.
- C. Engaging in other Union related activities.

Administration of the Union Pool Time Bank shall be the sole responsibility of the Union and the only responsibility of the City is to transfer the earned annual leave upon the employee's written authorization to the Union Pool Time Bank and to pay employee's from the Bank upon a written request from the Union President or his/her designee specifying the hours, rate and activities for which the employee is to be paid.

Section 11 – Information to Employees: Upon completion of the bargaining process and the ratification of this Agreement, the City shall cause to have printed twenty (20) copies of the signed and ratified Agreement and will provide via CD or its equivalent a copy of any departmental procedural directives. The City will provide to the Union via CD, its equivalent, or a hard copy of the collective bargaining agreement, any rules, regulations, policies or

departmental procedural directives applicable to bargaining unit employees. Each division of each department will also make one (1) hard copy of any departmental procedural directives, rules, regulations and policies applicable to employees easily accessible to employees within the division. Access to the collective bargaining agreement will be made available for each department by electronic means or hard copy.

ARTICLE 8: LABOR-MANAGEMENT COMMITTEE

Section 1 – Departmental Committees: There shall be a Labor-Management Committee formed within each department affected by this Agreement. Said Committee shall consist of one (1) bargaining unit member designated by the Union and of one (1) member of management designated by the head of each affected department. By mutual agreement, the parties may each have up to three (3) bargaining unit members and three (3) members of management at meetings of larger departments. The City Manager or his/her designee may also participate in all such meetings. In the event the City Manager or his/her designee chooses to participate in a meeting the Union will be permitted to select one (1) additional bargaining unit employee to participate on the Committee for that meeting.

Section 2 - Meetings: Each department Labor-Management Committee shall meet as needed by mutual consent. These meetings shall be held during working hours, without loss of pay. The purpose of these meetings will be to discuss problems and objectives of mutual concern.

Section 3 - City Manager: Upon mutual agreement, there shall be a Labor-Management meeting every six (6) months between the City Manager and the Union President to discuss general topics of interest. Each may be accompanied by up to two (2) other persons unless the parties both agree otherwise.

ARTICLE 9: SENIORITY, LAYOFF, RECALL

Section 1 – Definition / Accumulation:

- A. Bargaining unit seniority shall mean the length of continuous service an employee has with the City beginning with the date he/she was hired so long as the employee has been carried for payroll purposes as a full time civil service employee.
- B. Bargaining unit seniority will continue to accrue during all types of City of North Miami Beach approved leave except for leave of absence without pay for more than thirty (30) days, which shall cause this date to be adjusted for an equivalent period of time. Leave of absences without pay for less than thirty (30) days shall not cause the bargaining unit seniority date to be adjusted.

Section 2: If it is necessary to reduce the workforce, layoffs will first be by type of position within the division, as follows: temporary appointments, provisional appointments, substitute appointments, part time appointments (Part Time B and then Part Time A), full time probationary appointments, and regular full time appointments. If it is necessary to layoff regular full time employees, bargaining unit seniority by division, by classification, will be used for the purpose of layoff and recall and for other purposes as provided in this agreement. Regular full time employees are the only employees entitled to recall. The other types of employees within the City (i.e., temporary, provisional, substitute, Part Time A or Part Time B) do not have recall rights. Nothing herein shall adversely affect a laid-off full-time employee's right to displace another employee with less bargaining unit seniority in an equal or lower bargaining unit position, which he or she is qualified.

Section 3: An employee affected by a reduction in force shall have the right to displace another employee with less bargaining unit seniority in any equal or lower bargaining unit

position, provided the retained employee has satisfactorily completed the probationary period in the equal or lower job classification, is technically qualified, and physically capable of performing the duties of the position.

Section 4 - Recall: Regular full time employees are the only employees entitled to recall and they shall be recalled in their job classification in the department in reverse order of their layoff. Recall rights shall expire after twenty four (24) months.

Section 5: Any employee who accepts a lower paid position shall retain their eligibility for longevity pay as previously attained in the old position.

Section 6 – Recall Procedure: When a vacancy occurs within the bargaining unit, the Human Resources Department will send a certified letter of notice to the employee eligible for recall at the last known address he/she filed with the City with a courtesy copy to AFSCME. Further, the City agrees not to hire new employees while laid off employees qualified to perform the job remain on the recall list. The recalled employee shall also be credited with seniority earned prior to layoff. However, the time spent on layoff, except for time spent on a layoff for less than thirty (30) days, shall not be credited in the calculation of benefits.

If an employee refuses to return to work on the classification for which he or she is recalled for, or if no response is received within ten (10) working days after the notice of recall is sent, such employee's recall rights are forfeited. The employee would still be eligible for employment with the City, but not on a preferential basis.

Section 7 – Recall List: The Human Resources Department will maintain a recall list of regular full time employees based on department, by classification, by bargaining unit seniority. Seniority lists by department, by classification, shall be furnished to the Union, and shall be kept posted in each department that has bargaining unit members. Such lists shall be provided to

AFSCME by Human Resources by January 1st and June 1st of each year. In preparing seniority lists, when it is impossible to determine the proper order by date of hire or length of service with the City, then the names shall be listed in alphabetical order by surnames.

Section 8 – Severance in Lieu of Notice: All employees shall receive at least two (2) weeks' notice of layoff or, in lieu of notice, two (2) weeks' pay at his/her regular rate of pay. AFSCME shall be furnished copies of all layoffs at the same time as the laid off employee receives notice.

ARTICLE 10: WORK SCHEDULE

Section 1 – Work Hours: The standard workweek shall consist of seven (7) consecutive twenty-four (24) hour “days” coinciding with the “pay period” week, Thursday through Wednesday.

Section 2 - Hours: The standard number of working hours during any standard workweek will normally be forty (40) hours. This Article is intended to be construed as establishing a basis for overtime and shall not be construed as a guarantee of hours of work per day or week.

Section 3: No change in the number of days of work per week, or number of hours of work per day, shall be made without prior consultation and written notification with the Union.

- A. The City agrees to continue scheduling employees engaged in “residential” and “commercial” sanitation collection on a task assignment basis, a “task” being defined as when all scheduled collection for the day has been completed on all routes. This means that the City shall have the right to direct crews who have completed their route to assist other routes in completing their collection.
- B. It is recognized that from time to time the City may need to change permanently the employees’ hours and/or days of work, routes, methods of sanitation collection and/or otherwise make alterations to the employees’ work schedule. The City may formulate and implement any such changes in its discretion provided that it first discusses them with the Union and notifies the union in writing. Any such changes made by the City will be subject to the grievance/arbitration procedure of this Agreement. However, an arbitrator’s jurisdiction is limited to determining whether the City is maintaining a task assignment. If so, then the City’s “changes” must be upheld. If not, the arbitrator nevertheless has no jurisdiction to impose any particular work schedule. Rather, the City will then have ninety (90) calendar days which to implement a work schedule that is consistent with a task assignment. The Union may challenge this “new” schedule, but only as provided herein above.

Section 4: The City will not change employee’s work schedules to avoid the payment of overtime.

Section 5 – Days Off: All regular full time employees shall receive two (2) consecutive or three (3) days off at the completion of five (5) consecutive days or four (4) days of work,

whichever applies. In Monday to Friday operations, these days off shall be Saturday and Sunday. In seven (7) day per week operations, these days off shall be either Friday and Saturday, Saturday and Sunday, or Sunday and Monday. Due to scheduling necessities, Library Personnel, Recreation Personnel, Water Plant Operators, Crime Scene Technicians, Code Compliance and Public Works employees may be exempted from the provisions of this Section based on operational needs.

Section 6 – Shift Assignment Change: Employees shall be notified in writing at least fourteen (14) calendar days in advance of any change in their assigned shift except Recreation Personnel, Crime Scene Technicians, and Library Personnel which may receive less notice due to scheduling necessities.

Section 7 – Lunch Breaks: Employees will have a sixty (60) minute unpaid lunch break. The timing of said lunch period will be determined at the discretion of the employee's department head.

ARTICLE 11: OVERTIME

Section 1 - Overtime: An employee shall be compensated at one and one-half (1-1/2) times his/her normal base hourly rate for time worked in excess of forty (40) hours in a week, provided however, that overtime shall first be certified by an authorized representative of the City as being necessary.

A: The majority of classifications in the Civil Service are assigned to a forty (40) hour week and such is considered their normal workweek. Where employees are serving in positions wherein they are required to work varying schedules, as necessary to accomplish the required work, overtime compensation provisions will not apply. In classifications where the normal work schedule assigned is over forty (40) hours, salaries are set at a level to compensate for this factor and overtime compensation provisions will not apply, unless the total worked is in excess of the prescribed normal work schedule.

B: Overtime compensation will not be paid, unless the normally scheduled work week is actually worked in full. Early completion due to planned incentive scheduling shall not constitute the normal work day or normal work week. However, paid holiday leave and annual leave (but not sick leave) shall be included as part of the normal workweek for purposes of computing eligibility for overtime payment.

Section 2 - Call Out Pay:

There will be no guaranteed minimum for regularly scheduled overtime.

- A. Employees who are called from home to work and who actually report as requested, shall be guaranteed three (3) hours' pay at one and one-half (1-1/2) their regular straight time rate of pay.
- B. Employees who work emergency overtime, and who complete their task within the guaranteed call back hours, will not be required to remain on-duty for the full

three (3) hours. No additional compensation will be paid for other call backs within the three (3) hours.

- C. An employee who works two (2) or more hours beyond his/her normal work day shall be allowed one-half ($\frac{1}{2}$) hour for mealtime without loss of pay.
- D. An employee called to work at least three (3) hours before his/her normal starting time shall be allowed one-half ($\frac{1}{2}$) hour break with no loss of pay, provided he/she completes his/her normal shift. Non-Exempt Supervisory personnel, unless on regular duty, will not perform work which is ordinarily performed by Bargaining Unit employees in order to avoid payment of overtime to Bargaining Unit employees.

Section 3 – Overtime Assignments:

- A. Overtime work shall be offered according to seniority in the division on a rotating basis. Qualified employees who decline an offer of overtime work shall be placed at the bottom of the seniority rotation roster. In the event all employees decline overtime, it shall be assigned to the least senior qualified employee at the discretion of the Department Head.
- B. In cases of an emergency condition, when an employee is dispatched or is on-site/route the employee must remain on-site/route until properly relieved even though the employee may be working beyond his/her scheduled work shift and will be paid in accordance with the FLSA. Grieving any issues relating to this Section shall not be grounds for not adhering to this Section.

Section 4 - Disasters: In the event the City Manager declares an emergency condition due to a disaster, or in preparation for a potential disaster such as a hurricane, or other unforeseen event, such declaration being made at his sole and exclusive discretion, employees who are informed by their department head to remain at work or to report to work during the emergency will be compensated at two and a half ($2 \frac{1}{2}$) times their normal rate of pay for the duration of the emergency condition. Employees who are sent home on the day the emergency condition is declared will receive their normal pay for the remainder of that day. Employees who are directed by their department heads not to report to work on subsequent days of the emergency will be paid as follows:

a. The first five days that a civilian employee would have been scheduled to work and is unable to do so as determined by his/her department head, will be paid by the City at the civilian employee's normal rate of pay. These hours of compensation may not be used towards meeting the 40 work hour requirement for overtime purposes.

b. If the condition as declared by the City Manager continues beyond the initial five (5) day period and department heads are still not able to direct their civilian employees to return to work, they must then use accrued sick or annual leave time if they wish to continue to receive weekly compensation.

c. Since normally they would not have been scheduled to work, civilian employees who are already on vacation or using sick hours, during or when the emergency is declared, are not eligible to be paid by the City for the hours described in paragraph a., above. They will continue to use their pre-arranged vacation or sick time. If said employee is scheduled to return to work, they will be subject to a. or b. whichever applies.

d. On May 1st of each year the City shall establish and display a list of job classifications designated as essential in case of emergency. The City reserves the right to modify said list as necessary.

Section 5 – Overtime List: City will provide a monthly overtime list including new hire list for previous month, in accordance with seniority in each department indicating the relative seniority of each employee by classification and division within a department. This list shall be posted in a conspicuous location and periodically updated as required by personnel activity.

Section 6 – Return to Work for Disciplinary / Corrective Action: When employees are required to return to work for corrective or disciplinary action, they shall be entitled to overtime compensation beyond his/her regular shift. However, an employee who has not worked a forty

(40) workweek shall be compensated at the regular straight time rate until the forty (40) hours has accrued.

Section 7 – Appearance on Behalf of the City: If an employee is required to appear on behalf of the City at any administrative proceeding or court proceeding, the employee will be paid their regular straight-time rate of pay. If the employee has already worked a forty (40) hour workweek and attendance at such proceeding would cause the employee to exceed forty (40) hours in the workweek, the employee will be paid their overtime rate for any time spent over forty (40) hours. This provision shall not be interpreted to provide payment to an employee for appearance at proceedings brought by the employee against the City.

Section 8 – Witness Fees: If an employee is required to appear on behalf of the City at any administrative proceeding or court proceeding, and the employee receives a witness fee, the employee shall be entitled to keep the witness fee. If the employee receives reimbursement for mileage, such reimbursement shall be provided to the City only if the employee used a City vehicle for transportation to and from the proceeding.

ARTICLE 12: MAINTAINING OF DISCIPLINE

Section 1: Whenever an employee violates any rule, regulation, or policy, or upon discovery of the violation, the employee shall be notified by his/her supervisor of said violation within twenty one (21) days. An informal discussion with the Union representative and the employee prior to the issuance of any disciplinary action will be conducted if requested by the employee. It is the responsibility of the employee to assure the Union representative's attendance at such meeting; the supervisor shall delay such meeting to allow a reasonable time (within one week) for the Union representative (shop steward) to be present. Prior to any action more serious than a written reprimand, a pre-disciplinary hearing will be conducted by the Department Head or his designee and written charges will be presented to the employee.

Section 2: Notice of Disciplinary Action: The City agrees to promptly furnish the Union with a copy of any disciplinary action notification against an employee in this Bargaining Unit.

Section 3: The City agrees that all performance reports, evaluation statements and the employee counseling report will have a place designated for the employee's signature and will provide a space for an employee to comment on the content of the form report. After presenting aforementioned form to an employee, the City shall provide the employee a maximum of two working days to prepare a response if he/she so desires. There shall be no performance report, evaluation statement, or employee counseling report in an employee's personnel folder, unless the employee has been given a copy at the same time it is placed in the file.

Section 4: The employee shall have the right to representation on any matter, including discussions on disciplinary action.

Section 5: Employees shall have the right to respond in writing to all letters of reprimand and shall have that response placed in his/her personnel folder, attached to the letter to which it responds.

ARTICLE 13: GRIEVANCE PROCEDURE AND ARBITRATION

Section 1 – General:

A. In a mutual effort to provide a harmonious working relationship between the parties to this Agreement, it is agreed and understood that there shall be a procedure for the resolution of the grievances between the parties and that such procedure shall cover grievances involving the application or interpretation of this Agreement.

B. It is understood and agreed by the parties that this grievance/arbitration procedure is intended to be the sole and exclusive method of resolving grievances. Accordingly, employees covered by this Agreement may no longer file a grievance pursuant to Civil Service Rules Chapter 13, Sections 13.01 and 13.07 nor to City Charter, Article 13, Department of Personnel, Section 79 (Appeals) and, therefore, the Civil Service Board shall not have jurisdiction to hear any grievance filed by a bargaining unit employee (i.e., whether it is a grievance over discipline or any other matter).

Section 2 – Definition of a Grievance: A grievance is restricted to a claim by the Union that a specific provision or provisions of this Agreement has been violated, misapplied or misinterpreted.

Section 3 - Timelines: Time is considered to be of the essence for the purposes of this Article. Accordingly, any grievance not submitted or processed by the grieving party in accordance with the time limits provided below shall be considered conclusively abandoned. Any grievance not answered by management within the time limits provided below will automatically advance to the next higher step of the grievance procedure, unless waived by mutual consent.

Section 4 - The Grievance Process: Grievances shall be presented in the following manner.

Step 1: The employee, with or without the Union representative or Steward, shall first take up his/her grievance with his/her immediate supervisor within seven (7) working days of the occurrence of the event(s) which gave rise to the grievance, or when the Union knew or should have known of the grievance, whichever first occurs. Such grievance shall be presented to the supervisor in writing, shall be signed by the employee, and shall specify: (a) the date of the alleged grievance; (b) the specific article or articles of this Agreement allegedly violated; (c) statement of fact pertaining to or giving rise to the alleged grievance; and (d) the relief requested. If within seven (7) working days of the presentation of the grievance the dispute has not been satisfactorily resolved, the employee may proceed to Step 2;

Step 2: In the event that the Union is not satisfied with the disposition of the grievance in Step 1, the Union shall have the right to appeal his/her immediate supervisor's decision to his/her Department Head within seven (7) working days of the date of issuance of the immediate supervisor's decision or the last day for such a decision, whichever comes first. Such appeal must be accompanied by the filing of a copy of the original written grievance together with a letter signed by the Union requesting that the immediate supervisor's decision be reversed or modified. The Department Head shall, within seven (7) working days of the appeal (or for such longer period of time as is mutually agreed upon) meet with the employee. Within seven (7) working days of this meeting (or for such longer period of time as is mutually agreed upon), the Department Head shall render his/her decision in writing.

Step 3: In the event that the Union is not satisfied with the disposition of the grievance in Step 2, the Union shall have the right to appeal the Department Head's decision to the City Manager within seven (7) working days of the date of issuance of the Department Head's decision or the last day for such a decision, whichever comes first. Such appeal must be accompanied by the filing of a copy of the original written grievance together with a letter signed by the employee requesting that the Department Head's decision be reversed or modified. The City Manager, or his/her designee, shall, within ten (10) working days of the appeal (or for such longer period of time as is mutually agreed upon); review the

decision and all evidence submitted by the employee and the Department Head; and render his/her decision in writing.

Section 5 – General Grievances: Where a grievance is deemed, by mutual agreement between the City and the Union, to be general in nature in that it applies to a number of employees having the same issue to be decided, or if the grievance is directly between the Union and the City, it shall be presented directly to the Second or Third Step of the Grievance Procedure, whichever is appropriate, within the time limits provided for the submission of a grievance in Step 1, and signed by the aggrieved employees or the Union representative on their behalf.

Section 6 - Arbitration: In the event a grievance processed through the grievance procedure has not been resolved at Step 3, above, the Union may request that the grievance be submitted to arbitration within fifteen (15) working days after the City Manager, or his/her designee, renders a written decision on the grievance. The parties shall jointly request the Federal Mediation Conciliatory Service to furnish a panel of seven (7) names. The selection of a neutral arbitrator shall be in accordance with the procedures of the Federal Mediation Conciliatory Service.

Section 7 – Arbitration Procedure: The City and the Union may mutually agree in writing as to the statement of the grievance to be arbitrated prior to the arbitration hearing, and the arbitrator, thereafter, shall confine his/her decision to the particular grievance thus specified. In the event the parties fail to agree on the statement of the grievance to be submitted to the arbitrator, the arbitrator will confine his/her consideration and determination to the written statement of the grievance presented in Step 1 of the grievance procedure. The arbitrator shall have no authority to change, amend, add to, subtract from, or otherwise alter or supplement this

Agreement or any part thereof or amendment thereto. The arbitrator shall have no authority to consider or rule upon any matter which is stated in this Agreement not to be subject to arbitration or which is not a grievance as defined in this Agreement, except to the extent as specifically provided herein.

Section 8: The arbitrator may not issue declaratory opinions and shall confine himself/herself exclusively to the question which is presented to him/her, which question must be actual and existing.

Section 9 - Expenses: Each party shall bear the expense of its own witnesses and of its own representative(s) for the purpose of the arbitration hearing. Upon advance notice being given, the City shall make appropriate arrangements to excuse from work necessary witnesses. The impartial arbitrator's fee and related expenses and expense of obtaining a hearing room, if any, shall be equally divided between the parties. Any person desiring a transcript of the hearing shall bear the cost of such transcript unless both parties mutually agree to share such costs.

Section 10 - Decision: Upon conclusion of the hearings, the arbitrator shall render his/her decision within thirty (30) days. Such decision shall set forth the arbitrator's opinion and conclusion on the issue(s) submitted. The arbitrator's award shall be final and binding on the parties. Copies of the award shall be furnished to both parties.

Section 11 – Probationary and Part-Time A Employees: Probationary and Part-Time A employees shall have no right to utilize this grievance procedure for any matter concerning discharge, suspension or other discipline.

Section 12: The Union shall not be required to process grievances for employees covered by this Agreement who are not members of the Union.

ARTICLE 14: LEAVE

Section 1: Annual Leave: All full time employees will earn ninety-six (96) hours of annual leave each year at the rate of one (1) day (8 hours) per calendar month. Leave may be utilized for vacation or personal purposes by the employee after it has been earned; an employee may not draw upon future leave earned. All use of annual leave, other than in an emergency situation, must be requested and approved by the employee's Department Head in advance of use per Civil Service Rule 12.13. Prepayment of salary for vacation purposes will be made, provided there is sufficient leave accrued to cover the vacation period, it is approved by the Department Head, and is submitted to the Human Resources Department not less than three (3) weeks in advance of the date requested for the advance payment.

Part-time A employees shall be eligible for one half (1/2) of the vacation provided to regular full time employees based on the same continuous years of service.

Probationary employees will earn leave at the rate indicated above; however, during the first six (6) months of the probationary period they may not utilize any of this leave. Further, in the event of termination prior to completion of the first six (6) months of the probationary period, all leave so earned is forfeited.

Section 2: Service Leave: Full time employees who have completed six (6) years of continuous service with the City will earn an additional eight (8) hours of annual leave; employees with ten (10) continuous years of service will receive twenty four (24) hours of annual leave; employees with fifteen (15) years of continuous service will receive thirty two (32) hours of annual leave; employees with twenty (20) years of continuous service will receive forty (40) hours of annual leave.

Section 3: Annual Leave Accumulation and Carryover: All annual leave may be accumulated up to a maximum of 250 hours. Employees will not be allowed to cash in any unused annual leave until separating from the City. For employees having more than two hundred and fifty (250) hours of accumulated leave on January 1, 2013, the maximum amount of leave shall be grandfathered in as the number of hours in the employee's leave account on January 1, 2013, up to a maximum of four hundred (400) hours. For subsequent years, the maximum allowable accumulated leave balance shall be the lowest balance in the employee's account as of January 1, 2013, or any year thereafter. If the balance on January 1 of any year should drop below two hundred and fifty (250) hours, the maximum accumulation shall be two hundred and fifty (250) hours.

Section 3(a): Upon separation of employment, payment for annual leave will be at the employee's current rate of pay.

Annual leave may be temporarily accumulated above the allowable maximum during the course of a calendar year, however, any such leave not taken by December 31 of the year in which it was earned will be forfeited.

Section 4: Reporting on Leave: Each employee will receive an annual balance sheet indicating leave earned, leave used, and any balance left. The official record of annual and sick leave credits is maintained in the Human Resources Department.

Section 5: Scheduling of Leave: Annual leave will be scheduled in accordance with the desires of the employee, subject to the following:

- (a) leave must have been earned prior to the date of utilization;
- (b) the needs of the Department must be met;

(c) strict seniority by classification will be the determining factor in choice of leave dates between employees provided, if an employee had his/her vacation request approved, a senior employee's later request for the same vacation time will be denied unless management determines both employees can have the same vacation time.

Section 6: Sick Leave: All full time employees will earn seventy two (72) hours of Sick Leave each year at the rate of six (6) hours per calendar month. Leave may be utilized for the following purposes only:

- (a) for personal or family illness (as per Section (c) below) or injury, including pregnancy, or pregnancy related illnesses, and any reason that qualifies for family and medical leave. Verification of illness by a certified physician may be requested for any illness or injury absence of one (1) day or more; verification of illness or injury by a certified physician may be required.
- (b) for personal visits to a physician or dentist that cannot otherwise be arranged during off duty hours; permission must be obtained forty-eight (48) hours in advance of appointment, except in emergency situations.
- (c) employees are entitled to City paid leave of up to three (3) days when no travel outside of the State of Florida is needed and up to five (5) days when travel outside the State of Florida is needed for bereavement purposes. Sick leave may also be used for bereavement reasons, due to a death in the employee's immediate family; immediate family is defined as parent (by blood or legal adoption), spouse, child (by blood or legal adoption), brother, sister, grandparents, or in-laws residing in the same household.

Section 7: Sick Leave Accumulation All unused or unconverted sick leave shall be accumulated in a "sick leave bank." The accumulation of sick leave shall be unlimited.

However, upon separation, employees are subject to a sick leave maximum compensable balance of 600 hours. Upon separation from employment, payment for sick leave will be at the employee's current rate of pay.

The rate of payment due to an employee upon separation from Civil Service based upon the limits set forth above, shall be in accordance with the following schedule:

Date of hire to 2 ½ years of service.....	0%
2 ½ years to 10 years of service.....	15%
10 years to 15 years of service.....	25%
15 years to 20 years of service.....	40%
Over 20 years of service.....	50%

Current employees as of the date of execution of this agreement will be grandfathered in at their then-current percentage rate, but will only be permitted to advance based upon the new rates outlined above. For example, a fourteen (14) year employee will be grandfathered in at the rate of fifty percent (50%), and will be maxed out at that percentage rate. A nine (9) year employee will be grandfathered in at the rate of twenty five percent (25%), and will be eligible to accrue up to forty percent (40%) or fifty percent (50%) based on their subsequent years of service with the City. Any payment made for use of sick leave during the course of an employee’s normal employment shall be made at the then current rate of pay.

Probationary employees will earn leave at the rates indicated above; however, during the first six (6) months of the probationary period, they may not utilize any of this leave. Further, in the event of termination prior to completion of the first six (6) months of the probationary period, all leave so earned is forfeited. Part-Time A employees will earn sick leave at one half (1/2) of the rates of regular full time employees.

Section 8: Official Leave: Full time employees will be granted official leave (time off with pay) for the purposes of jury duty service and to attend official or educational meetings as directed by the City only. Such time off will not be charged against the employee’s Annual or Sick leave accounts. Jury fees may be retained by the employee.

Section 9: Military Leave: The City of North Miami Beach is governed by Federal and State Law concerning military leave and all employees covered under this agreement shall receive the benefits of such laws.

Section 10: Workers' Compensation: In the event a regular full time employee suffers an injury arising out of the course of his/her employment, he/she shall be entitled to receive benefits subject to the following conditions:

- (a) The injury must be attributable to the employee's occupation in the City and be considered as such under the administrative code and rules and regulations of the Workers' Compensation Statute of the State of Florida.
- (b) All Workers' Compensation Medical Benefits and Leave will be provided in accordance with the applicable Workers' Compensation law of the State of Florida.

Section 11: Leave Without Pay:

- (a) A permanent employee may be granted Leave of Absence without pay for a period not to exceed six (6) months, provided it is first requested and then approved in advance by the Department Head and the City Manager. The decision of the City Manager is final and binding. Extensions for up to an additional six (6) months may be made, subject to these same prior approvals. Under no circumstances will a Leave of Absence Without Pay exceed one (1) year except as provided by Federal Law for Military Services.
- (b) Leave without pay, up to thirty (30) days, may be granted by the City Manager or his designee. Employees will not accrue benefits for unpaid leaves in excess of thirty (30) calendar days.

- (c) Requests for unpaid sick/maternity/adoption leave shall be subject to the provisions of the Family Medical Leave Act (FMLA).
- (d) Leave of Absence may be granted to a permanent employee to enable him/her to take an appointment in the exempt service; however, this leave of absence period shall be limited to a maximum of one year effective from the exempt service appointment date. If an employee returns to bargaining unit member status after the one year leave of absence as an exempt employee having expired, he/she will regain the bargaining unit seniority/benefits status that he/she had as of the exempt service appointment date. Leave may also be granted for sickness or disability, to engage in a course of study, or other good and sufficient reasons which are considered to be in the best interests of the City of North Miami Beach.

ARTICLE 15: HOLIDAYS

Section 1 – Holidays Recognized: The following shall be recognized holidays:

New Year's Day
Martin Luther King's Birthday
Presidents' Day
Memorial Day
Fourth of July
Labor Day
Columbus Day
Veteran's Day
Thanksgiving Day
Friday after Thanksgiving
Christmas Day
Two (2) Floating Holidays

Section 2: Use of Floating Holiday: The Floating Holidays may be used in one-hour blocks for any purpose desired by the employee, provided:

- (a) it is requested and approved;
- (b) it does not disrupt the functioning of the department or division;
- (c) must be used within the calendar year, January 1st through December 31st; and
- (d) will be forfeited if not utilized - i.e., there will be no payment for unused day.

Section 3 – Official Day of Observance: Holidays falling on a Saturday will normally be observed on the Friday before; holidays falling on a Sunday will normally be observed on the Monday after. However, exception may be made if the Federal Government's official observance of a holiday is contrary to this Section.

Section 4 – Holiday Pay:

- A. Holiday pay for full time regular employees shall be eight (8) or ten (10) hours depending on the employee's regular schedule.
- B. Holiday pay for Part-Time A employees shall be four (4) hours.

Section 5: Christmas and New Year's Eve: When the day immediately preceding December 25th and December 31 falls on a weekday (Monday through Friday) which is a normal work day, employees may be allowed one-half ($\frac{1}{2}$) day off with pay in the sole and exclusive discretion of the City Manager. This shall not be considered a holiday and employees not receiving time off under this provision will not be entitled to compensatory time off or overtime pay. Employees on Annual Leave or Sick Leave on this day will be charged for a full day. Employees not allowed to take their one-half ($\frac{1}{2}$) day on this day shall receive equivalent administrative leave prior to April 1st. However, no employee shall be entitled to pay for such leave if it is not used.

Section 6: Holiday Pay:

- (a) When a Holiday falls on an employee's regularly scheduled work day and the employee is required to work that day, the employee shall receive either one day's pay plus one and one-half ($1\frac{1}{2}$) times the hourly rate for all hours worked that day (in effect, the employee will be paid double time and one-half for that (8) hour day) or one and a half ($1\frac{1}{2}$) times the hourly rate for all hours worked that day and he/she will be allowed to take a day off with pay within ninety (90) days after the holiday. The days off that may accrue in this "holiday time" bank may be taken in conjunction with scheduled regular leave time. It is also expressly understood that any hours that may be accrued in the "holiday bank" but not taken, at the time of an employee's termination will not be paid by the City. The selection as to which method of payment to use for compensating employees working a holiday shall be at the discretion of the employee's department head.

- (b) When a Holiday falls on an employee's regularly scheduled day off, and the employee is not required to work, the employee shall receive another day off, or an extra day's pay within the same pay period, at the convenience of the Department.
- (c) When a Holiday falls on an employee's regularly scheduled day off and the employee is required to work, then the employee shall be entitled to be paid at one and one-half (1-1/2) times the hourly rate for all hours worked on that day, with a guaranteed minimum of four (4) hours. In addition, the employee, at his department head's discretion, will be entitled to either:
 - 1. an additional eight (8) hours' pay for the Holiday; or
 - 2. one (1) day off within the same week.
- (d) Whenever an employee works a second shift under the conditions specified in Section 5(c) above, the employee will be paid at two (2) times his regular straight time rate of pay for the hours of the second shift actually worked, but will not receive the additional compensation provided for in Section 5(c) (1) and (2) for the second shift.

Section 7: To be eligible for holiday pay, the employee must work his/her scheduled work day or shift immediately preceding and after the holiday unless the absence is approved or excused by his/her Department Head.

ARTICLE 16: GROUP INSURANCE

Section 1 - Health: The City shall provide group health insurance for its regular full time employees covered by this Agreement, subject to the following conditions:

- (a) The employee will be responsible for paying the following contributions toward the cost of HMO coverage:
 - 1. \$10.00 weekly by an employee solely electing Single coverage;
 - 2. \$40.00 weekly by an employee electing Couple coverage; and
 - 3. \$95.00 weekly by an employee electing Family coverage.
- (b) Should the employee elect POS or PPO coverage, the schedule will be as follows:
 - 1. POS Single - \$22.00 weekly
POS Couple - \$71.75 weekly
POS Family - \$113.75 weekly
 - 2. PPO Single - \$23.00 weekly
PPO Couple - \$72.40 weekly
PPO Family - \$115.75 weekly
- (c) It is agreed that the City may establish, change, supplement and implement the City Health Insurance program, including but not limited to changes in benefits and all costs related thereto. The only exception to the foregoing sentence is that if the City exercises its right to implement any such changes, it will provide reasonable notice and discuss with the Union the explanation of changes and reasons thereof.
- (d) The company selected shall be at the option of the City. Prior to making a change of health insurance carriers the City shall survey employees to ascertain their level of satisfaction with the present carrier. This information will be considered in the

overall decision making process by the City but the City shall not be bound by the results of the survey.

Section 2 - Life: The City shall provide a term Life Insurance policy equal to the employee's annual salary rounded to the nearest thousand for each regular full time employee at no cost to the employee.

Section 3 - Disability: The City shall provide a short term disability insurance program as per City Ordinance 79-14 with disability compensation computed at 75% of employee's base salary.

Section 4: The City agrees to deduct and remit, as required Death Benefits Premiums from employees pay checks, upon request. This shall be limited to one such program.

Section 5: The Union will be entitled to appoint one (1) member to the Health Insurance Solicitation Committee.

ARTICLE 17: SAFETY & HEALTH AND SAFETY PROGRAM

Section 1: Employees shall not be expected to perform work in unsafe and unsanitary conditions. If any employee believes that he/she is being required to work under such conditions, he/she should notify his/her immediate supervisor, who will immediately investigate the condition and take corrective action, if necessary. If no action is taken, the employee should refer the matter to his/her department head who may, in turn, refer the matter to the City Manager's Office for investigation. The employee may file a grievance if the results of the investigation are unsatisfactory. If the condition is not remedied by the supervisor, the employee must refer the matter to his/her Department Head for resolution or referral to the City Manager's Office. If the City Manager, or his/her designee, determines the condition is not unsafe or unsanitary, the employee will perform the work. If the employee refuses to do so, and is disciplined, he/she may file a grievance.

Section 2: It is the responsibility of the City to provide safe and sanitary working conditions in all present and future installations and to develop a safety-conscious work force. The Union will cooperate with and assist management in living up to this responsibility.

Section 3: The City and the Union insist on the observance of safety rules and safety procedures by employees and insist on correction of unsafe conditions, as determined by the City Manager.

Section 4 – Safety Training: If, in the discretion of the Department Head, it is determined that any employee must take or participate in a safety related course or program, the employee may be required to take such course or program as a condition of continued employment. All time spent by the employee at the direction of the City shall be considered hours of work.

Section 5– Safety Devices / Equipment: Employees who work at jobs in areas deemed by the Department Head in his/her discretion, to be dangerous, shall be required to wear safety devices and/or safety equipment designated by that office as necessary for their protection. Such devices and equipment will be provided by the City at no cost to the employee.

Section 6 - Standards: Minimum standards for safety and health shall be determined by the City Manager, at his/her discretion.

Section 7 – Safety Program: The parties recognize the need for flexibility in the administration of the Safety Program. Accordingly, where modification of the Safety Program is necessary, the City agrees to give the union notice of any intended modification and to meet and confer with the Union prior to implementation of such modification.

Section 8: The City will furnish safety shoes to the employees who it determines need them. The shoes to be issued on a turn-in, reissue basis, up to two (2) pairs per year. Employees who abuse or use such equipment as personal wear apparel off duty, causing same to wear out in less than the normal and usual time, will be required to pay for any additional shoes that must be furnished.

ARTICLE 18: UNIFORMS, CLOTHES, SHOES, EQUIPMENT AND PERSONAL ITEMS

Section 1 - General Guidelines: The following shall apply to all uniforms, clothes, shoes and equipment required and supplied by the City:

- A. The City shall determine the uniforms, clothing, shoes and all equipment to be used by employees in the performance of their duties and except as provided below, will supply them without cost to the employee. Employees shall be

responsible to report to work in clean and serviceable uniforms, clothes, and shoes; to maintain equipment in good working condition; and to report to their division manager when uniforms, shoes or other equipment are in need of replacement or repair.

- B. Employees shall be responsible to replace uniforms, clothes, shoes or other equipment lost or damaged due to employee neglect.
- C. Uniforms, clothes, shoes and equipment are not to be used except in connection with the employee's work as a City employee, unless specifically authorized by the department manager.
- D. Uniforms, clothes, shoes and equipment which need to be repaired or replaced should be turned in when in need of repair or replacement.
- E. The City shall determine whether repair or replacement is appropriate.
- F. Reimbursement shall be made only upon a presentation of a receipt acceptable to the City.

Section 2 – Replacement, Repair or Reimbursement: Subject to Section 1 above the City shall replace and/or reimburse the employee for replacement or repair damaged or worn out uniforms, shoes and equipment as follows:

- A. Safety Shoes – replace or reimburse up to seventy dollars (\$70.00) for City approved safety shoes.
- B. Each employee holding the classification of Welder I, Welder II, Automotive Mechanic I, Automotive Mechanic II, or Mechanic Apprentice and who weld as part of their job duties shall be reimbursed up to a maximum of

\$300.00 per fiscal year for replacement of damaged prescription eyeglasses. Such reimbursement will be made only upon submission of a paid receipt for new eyeglasses.

- C. Each employee holding the classification of Automotive Mechanic I, Automotive Mechanic II, or Mechanic Apprentice shall be reimbursed up to a maximum of \$400.00 per fiscal year for replacement of tools necessary for their job. Reimbursement will only be made upon submission of a paid receipt for the new tool.

Section 3 – Special Uniforms: Subject to Section 1(A) above, special uniforms shall be supplied by the City as follows:

A. Crime Scene Technician:

The City will furnish the following uniform items to employees in the job classification of Crime Scene Technician: 3 pairs of BDU'S; 1 pair of dress trousers; 2 pairs of shorts; 1 dress shirt; 5 polo shirts; 1 thermal jacket; 1 badge; webgear; 1 raincoat; radio holder; up to a \$70.00 voucher for each of 2 pairs of shoes; 1 vest; 1 traffic vest; 1 handcuff case; 1 flashlight with holder and badge holder; and an annual cleaning allowance of \$350.00. The shoes will be issued on a turn-in, reissue basis, up to two (2) pairs per year. Employees who abuse or use such equipment as personal wear apparel off duty, causing same to wear out in less than the normal and usual time, will be required to pay for any additional shoes that must be furnished.

B. Code Enforcement Officer:

The City will furnish the following uniform items to employees in the job classification of Code Enforcement Officer: 2 pairs of long pants; 4 pairs of shorts; 5 City logo polo shirts; 1 thermal jacket; 1 raincoat; and up to a \$70.00 voucher for each of 2 pairs of shoes. The shoes will be issued on a turn-in, reissue basis, up to two (2) pairs per year. Employees who abuse or use such equipment as personal wear apparel off duty, causing same to wear out in less than the normal and usual time, will be required to pay for any additional shoes that must be furnished.

C. Salary Differential:

Automotive Mechanics are entitled to a salary differential of \$4.00 per week for each Automotive Service Excellence Certification ("ASE Certification") class or examination that the employee passes up to a maximum amount of \$32.00 per week (or a maximum of eight (8) classes or examinations).

D. Safety Committee:

The City will formulate a Citywide Safety Committee inclusive of one (1) representative from each department. This Committee will meet monthly. A Representative from AFSCME and IUPA may also be committee members.

ARTICLE 19: PROBATIONARY PERIOD

Section 1 – Initial Probation: The standard probationary period for all full time new employees shall be one year from date of hire. Upon the expiration of this time period, the Department Head shall either recommend retention of the employee, at which time the employee shall be granted full time regular status; or, in the event the Department Head shall fail to make a positive recommendation, the employee shall automatically be terminated with no rights of appeal to any authority.

Section 2 – Promotional Probation: In the event an employee receives a promotion from a lower to a higher position, that employee shall serve a probationary period of six (6) months from the date of promotion. Upon the expiration of this time period, the Department Head shall either recommend retention of the employee in the position to which he/she was promoted, at which time the employee shall be placed in regular status or, in the event the Department Head shall fail to make a positive recommendation, the employee shall automatically revert to the lower position with the rights and benefits of the position, from which he/she had been promoted. Such reversion shall be final with no rights of appeal to any authority.

Section 3 – Promotion During Promotional Probation: Employees who are on probation due to a promotion may test for a higher classification. However, such employees must have completed three (3) months of the promotional probation before being eligible to be promoted to a higher classification.

ARTICLE 20: JOB DESCRIPTIONS AND TEMPORARY ASSIGNMENTS

Section 1 – Work in Higher Classification: When an employee of a lower classification is assigned to perform the duties of an employee of a higher classification, or those of a Department Head, due to the temporary absence of an employee, or due to a position in a higher classification being vacant (*), the employee so assigned shall receive a salary differential of \$1.00 per hour while acting in this capacity. Such assignment may exceed sixty (60) working days but no more than six (6) months, unless extended by the City Manager.

(*) For purposes of this Section, a temporary absence shall be a period exceeding one (1) week.

Section 2 – On Call Employees: When an employee is assigned on call duty, the employee shall receive a pay differential of \$1.00 per hour when on call. The selection of employees to be on call is within the absolute discretion of the City.

Section 3 – Lead Worker: When an employee is assigned to work as a lead worker, the employee shall receive a pay differential of \$1.00 per hour. The decision on whether a lead worker is necessary for a particular assignment as well as the selection of employees to be lead workers is within the absolute discretion of the City.

Section 4 – No Duplication: It is agreed to and understood between the parties that an employee cannot receive both the lead worker differential and the working in a higher classification differential for work performed during the same period of time.

Section 5 – Work Assignments: It is understood by the parties that the duties enumerated in job descriptions are not always specifically described and are to be construed liberally and employees are to perform work as assigned.

Section 6 – Job Descriptions: Whenever there is a proposed change in the job description or title of a class within this Bargaining Unit, the City shall discuss with the Union the proposed change in the job description. If the Union is not satisfied with the proposed change, it may, in writing, request permission to appear before the City Manager for the purpose of presenting its views prior to acceptance of the change and approval of the City Manager.

ARTICLE 21: TRAINING AND TRAINING PROGRAMS

Section 1 – Training and Development: The City and the Union agree that the training and development of employees within this Bargaining Unit is mutually beneficial. The Union will be kept informed of all training programs. The Union may make recommendations to the City relative to the training of employees within this Bargaining Unit. The City will consider recommendations and improvements submitted by the Union. The parties agree to meet, at the request of either party, for the purpose of exchanging information concerning the overall training of employees within this Bargaining Unit.

Section 2 – Pay for Training: Employees may be required to attend classes or training programs in order to retain their present jobs or positions. The time spent at the direction of the City shall be considered hours worked.

Section 3 – Educational Reimbursement:

- A. Maximum limitation on reimbursement shall be \$4,000 for undergraduate studies or for graduate studies per fiscal year.
- B. The eligibility requirements for education assistance are as follows:
 - 1. Must be a full time employee and not a participant in the DROP program;
 - 2. Must have completed one (1) year of continuous service;
 - 3. Must be an employee when course is completed;
 - 4. The course is determined to be job related and beneficial to the City by the City Manager in advance of registering for the course;
 - 5. The course must be given by an institution or entity acceptable to the City Manager.

- C. Every application shall be subject to the prior approval of the City Manager or designee and shall not be subject to Article 13. The decision of the City Manager/designee shall be final in all respects.
- D. Reimbursement will be made at the conclusion of a successfully completed course, pursuant to the following schedules, and up to the maximum limitation listed in Section 3A.
- “A” grade -- 100% of the tuition
 - “B” grade -- 75% of the tuition
 - “C” grade -- 50% of the tuition
 - Grades lower than a “C” – no reimbursement
 - PASS -- The City will reimburse 100% of the tuition
 - FAIL -- The City will reimburse 0% of the tuition

Requests for reimbursement must be submitted to Human Resources no later than ninety (90) days after completion of the eligible educational course. Requests must be accompanied by paid receipt for tuition, and a copy of the grade report.

In order to be reimbursed for approved educational expenses under the City Tuition Reimbursement Policy before he/she registers, the employee agrees that the reimbursement may be deducted from accumulated leave to pay the City back if he/she leaves employment within three (3) years of receipt of the reimbursement.

ARTICLE 22: BULLETIN BOARDS

Section 1 – Size and Locations: The City will furnish the Union with sufficient Bulletin Board space for up to four (4) Union notices size 8½" x 14" at agreed upon locations.

Section 2 - Contents: All articles to be posted shall be informational only and shall not be political in nature nor shall they promote specific products other than those that are union related, service or religious belief or in any way demean or cast aspersions upon the City or any of its representatives; nor shall they exhort, encourage or influence the employees in any way to perform their duties other than at full capacity. To this end, copies of all articles shall be submitted to the Human Resources Director before posting.

Section 3: These Bulletin Boards shall be provided primarily for employee information and internal communications and not for the primary purpose of communicating with the general public. A key shall be provided to the union for each locked bulletin board.

ARTICLE 23: SAVINGS CLAUSE

Section 1: There shall be no special agreements or arrangements entered into between the City and any employees of this unit for the specific purposes of circumventing any of the provisions provided in this Agreement.

ARTICLE 24: WAGE PROVISIONS

The following provisions shall constitute the entire wage provision for the employees covered by the provisions of this Agreement.

Section 1 - Payday: Employees may be paid on a biweekly basis or a weekly basis.

Section 2 – Interim Wage Adjustments: The City agrees that there shall be no wage adjustments for any classification covered by this Agreement, other than those specified herein, unless it shall first negotiate such adjustment with the Union.

Section 3: At the discretion of the City Manager, all employees may receive a Holiday bonus.

Section 4: In recognition of longevity of service, employees who qualify for a longevity bonus on or before February 10, 1994, shall continue to qualify for such bonus, but will not advance to the next level. For example, if an employee is currently receiving \$700, he/she will not advance to the next level of \$1,050. There shall be no new longevity bonuses provided. That is: employees who are not currently receiving a longevity bonus by February 10, 1994, will not be eligible for such a bonus in the future. Any longevity bonus shall be paid in a lump sum during that pay period covering the employees' anniversary date. The above bonuses are non-cumulative in that employees may not receive more than one of any of the longevity steps at any one time. If an employee terminates his/her service during the year, the employee will receive a pro-rata portion of the bonus in their final payout.

Section 5 - Wages: Employees covered by this Agreement will be subject to a wage freeze of any and all wage increases including, but not limited to, cost-of-living increases, merit increases, and/or step increases for the duration of this fiscal year (October 1, 2012 – September

30, 2013), and until an increase is agreed to pursuant to Section 6 - Reopener. The City has set salary ranges for each position title covered by this Agreement that has been agreed to during the negotiation of this article. The City agrees that any employee earning more than the "Maximum" of the range for his/her position will not have his/her salary reduced to place them within the range for the position. The City shall attach to this agreement all AFSCME salary ranges/titles upon ratification of this agreement.

Section 6 – Reopener: Either party may reopen this Article with written notice to the other on or before August 1, 2013, for the fiscal year beginning October 1, 2013, and for the fiscal year beginning October 1, 2014 on or before April 1, 2014.

Section 7 – Promotional Increases: Employees who receive a promotion to a higher classification will receive either a four (4%) percent increase to their base salary or an increase in base salary to the minimum of the pay range for the new position, whichever is greater. In no event, however, will the increase to an employee's base salary place that employee above the maximum salary for a position. Thus, if the four (4%) percent increase to the base salary is greater than the maximum salary for the new position, the employee will receive a base salary equal to the maximum salary for the new position.

ARTICLE 25: DRUG AND ALCOHOL POLICY

Section 1 - General: The City and the Union recognize that employee substance and alcohol abuse may have an adverse impact on City government, the image of City employees, and the general health, welfare and safety of the employees and the general public at large. Therefore, the parties agree that the City shall have the right and authority to require employees to submit to toxicology and alcohol testing designed to detect the presence of any controlled substance, narcotic, drug, or alcohol, as further defined below.

Section 2 - Prohibitions:

- A. Illegal Controlled Substances. The City prohibits the use, distribution, possession, manufacture, cultivation, sale or attempt to sell or distribute illegal controlled substances at any time whether on or off duty, whether on or off City property. Illegal controlled substances are defined by applicable state and federal laws.
- B. Alcohol Abuse. Employees of the City are prohibited from using or possessing alcohol while on duty; while on City premises; while driving a City vehicle, operating a piece of City equipment, or being transported in City vehicles at any time; reporting to work under the influence of alcohol.

Section 3 - Types of Testing:

The City agrees to use a licensed or certified laboratory that will abide by the requirements of Section 440.102(5) and (9), Florida Statutes.

The following types of testing are authorized: job applicant testing; reasonable suspicion testing; routine fitness for duty testing; follow-up testing. In addition, employees in safety

sensitive and/or special risk positions shall also be subject to random drug testing in accordance with applicable law.

Reasonable suspicion drug testing means drug testing based on a belief that an employee is using or has used drugs in violation of the employer's policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Among other things, such facts and inferences may be based upon:

- (1) Observable phenomena while at work, such as direct observation of drug use or of physical symptoms or manifestation of being under the influence of a drug or alcohol;
- (2) Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;
- (3) A report of drug use;
- (4) Evidence that an individual has tampered with a drug test during his employment with the City;
- (5) Information that an employee has caused, contributed to, or been involved in an accident while at work; and
- (6) Evidence that an employee has used, possessed, manufactured, cultivated, sold, solicited, or transferred drugs.

“Drug” means alcohol, including a distilled spirit, wine, a malt beverage, or an intoxicating liquor; an amphetamine; a cannabinoid; cocaine; phencyclidine (PCP); a hallucinogen; methaqualone; an opiate; a barbiturate; a benzodiazepine; a synthetic narcotic; a designer drug; or a metabolite of any of the substances listed in this paragraph.

Section 4 - Discipline for Violation of Policy:

Employees who violate this article; or who are directed to take a physical examination, blood, breathalyzer, urinalysis or other test allowed by law and refuse or fail to do so when and as directed; or who, after having taken such examination and/or test are determined to have utilized an illegal controlled substance at any time or to have violated the prohibitions in section 2 shall be subject to discipline up to and including immediate termination.

Section 5: The City agrees to create an Employee Assistance Program (EAP) and to fund it during the term of this Agreement.

Section 6: The City agrees to provide yearly briefings on the Drug Free Work Place Policy to all employees. These briefings will cover all aspects of the Policy and employees will be given the opportunity to ask any questions they may have concerning the Policy.

ARTICLE 26: RETIREMENT

1. The benefit multiplier shall be 2.5% for all service after the effective date. Members who are employed on the effective date shall retain their accrued benefits based on service prior to the effective date.
2. There shall be a .75% cost of living adjustment applied to all benefits earned based on service after the effective date.
3. The normal retirement eligibility is the earlier of attainment of age sixty-two (62) with ten (10) years of service; or attainment of age sixty (60) with twenty-five (25) years of service (future accruals after the effective date).
4. The early retirement eligibility will be in accordance with the Plan.
5. Employees shall be vested 100% after 10 years of service for currently non-vested members.
6. The maximum period for DROP participation is thirty-six (36) months (for future retirees and DROP participants).
7. COLA is deferred three (3) years following termination of employment for future retirees and future DROP participants.
8. The foregoing provisions shall not apply to any member who is employed on the effective date and has attained age fifty-five (55) with 20 or more years of service or age 62.

ARTICLE 27: TERM OF AGREEMENT AND REOPENING

Section 1: This Agreement shall be effective upon ratification by the Union and approval and appropriation of necessary funds by the City Council of North Miami Beach, Florida, and it shall continue until September 30, 2015.

Section 2: Either party may require, by written notice to the other, between April 1, 2015, and not later than June 1, 2015, discussions concerning modifications, amendments and renewal of this Agreement to be effective October 1, 2015. If neither party shall submit such written notice during the indicated period, this Agreement shall automatically be renewed for the period of October 1, 2015, through September 30, 2016.

ARTICLE 28: COMPLETE AGREEMENT AND WAIVER OF BARGAINING

Section 1 – Complete Agreement: It is agreed and understood that this Agreement constitutes the complete understanding between the parties, terminating all prior agreements, memoranda of understanding and concluding all collective bargaining during its term, except as otherwise specifically provided in the Article entitled “TERM OF AGREEMENT AND RE-OPENING.” The Union specifically waives the right to bargain during the term of this Agreement, with respect to any subject or matter referred to covered in this Agreement, or to any subject or matter not specifically referred to or covered, even though it may not have been in the knowledge or contemplation of the parties at the time this Agreement was negotiated. This entire Agreement may be re-opened for negotiations in the event any portion of it is not approved by the City Council of North Miami Beach, or funds are not made available for its implementation.

Section 2 – Conflict with Law: It is understood and agreed that if any part of this Agreement is in conflict with mandatory Federal or State Laws or mandatory provisions of the City Charter or ordinances, such parts shall be renegotiated and the appropriate mandatory provision shall prevail.

Section 3 – Saving Clause: Should any part of this Agreement or any portion therein contained be rendered or declared illegal, legally invalid or unenforceable by a Court of competent jurisdiction, or by the decision of any authorized governmental agency, such invalidation of such part or portion of this Agreement shall not invalidate the remaining portions thereof. In the event of such occurrence, the parties agree to meet immediately and, if possible,

to negotiate substitute provisions for such parts or portions rendered or declared illegal or invalid. The remaining parts and provisions of this Agreement shall remain in full force and effect.

Section 4 - Implementation: Any delays in the signing of this Agreement after ratification by the City Council and the Union membership shall not defer the implementation date as it affects the distribution of the benefits and provisions provided by this Agreement.

THIS AGREEMENT SIGNED THIS _____ DAY OF _____, 2013.

North Miami Beach, Florida
City Employees, Local 3293

City Manager
City of North Miami Beach

AFSCME:

CITY:

President Local 3293

Labor Counsel
North Miami Beach

Vice President Local 3293

City Attorney
(Approved as to form and as
authorized by Mayor and City
Council and as drafted by
Labor Counsel.)

AFSCME Chief Negotiator

Witness

Witness

Attachment 1

ATTACHMENT TO AFSCME/CITY OF NORTH MIAMI BEACH

BARGAINING AGREEMENT

Revised as of the effective date of this Agreement.

CONFIDENTIAL EMPLOYEES' JOB TITLES

Human Resources Coordinator	Secretary to Public Services Director
Risk Management Coordinator	Administrative Secretary to City Manager
Human Resources Clerk	Finance Director's Secretary
City Manager's Secretary	Administrative Assistant III/Mayor and Council
Secretary/Mayor and Council	Sr. Application Systems Analyst
Office Manager to Police Chief	Administrative Assistant I to Library Director
Sr. Network Administrator	City Attorney Secretaries
Personnel Technician I	Personnel Technician II
All Department and Division Heads	

Attachment 2

CDL AND SAFETY-SENSITIVE POSITIONS



City of North Miami Beach
17011 NE 19 Avenue
North Miami Beach, FL 33162
305-947-7581
www.citynmb.com

MEMORANDUM

 Print

TO: Mayor and City Council
FROM: Roslyn B. Weisblum, City Manager
DATE: Tuesday, August 6, 2013

RE: Resolution No. R2013-49 (Finance Director Janette Smith)

BACKGROUND: This item is a request to transfer \$200,000 from the Council Contingency Account to the City Manager's Contingency Account.

RECOMMENDATION: Staff recommends approval of the transfer.

FISCAL IMPACT: No net fiscal impact.

CONTACT PERSON(S): Roslyn B. Weisblum, City Manager
Janette Smith, Finance Director

ATTACHMENTS:

[Resolution No. R2013-49](#)

RESOLUTION NO. R2013-49

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL
OF THE CITY OF NORTH MIAMI BEACH, FLORIDA
APPROVING A BUDGET TRANSFER IN THE AMOUNT
OF \$200,000.00 FROM THE LEGISLATIVE
CONTINGENCY ACCOUNT INTO THE EXECUTIVE
CONTINGENCY ACCOUNT FOR THE FISCAL YEAR
COMMENCING OCTOBER 1, 2012.**

WHEREAS, the City Council of the City of North Miami Beach approved and adopted the Annual Budget of the City of North Miami Beach for Fiscal Year 2012-2013 by Ordinance No. 2012-20 (“Budget Ordinance”); and

WHEREAS, from time to time, during the normal conduct of the City’s operations, situations arise which require the amendment or modification of the City’s annual adopted budget; and

WHEREAS, the Budget Ordinance provides that from time to time the City Council may transfer money from one fund, account or department to another, as necessary, without being required to further amend the terms and provisions of the Budget Ordinance; and

WHEREAS, the changes are necessary to provide additional funding for unforeseen expenditures that may arise within the general fund from time to time.

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of North Miami Beach, Florida that:

Section 1. The City Manager is hereby authorized to transfer funds in the amount of Two Hundred Thousand Dollars (\$200,000.00) from the Legislative Contingency Account No. 010100-511995, to the Executive Contingency Account No. 010200-512995.

APPROVED AND ADOPTED by the City Council of the City of North Miami Beach,
Florida at regular meeting assembled this ____ **day of August, 2013.**

ATTEST:

PAMELA L. LATIMORE
CITY CLERK

(CITY SEAL)

GEORGE VALLEJO
MAYOR

APPROVED AS TO FORM:

DARCEE S. SIEGEL
CITY ATTORNEY

SPONSORED BY: Mayor and City Council



City of North Miami Beach
17011 NE 19 Avenue
North Miami Beach, FL 33162
305-947-7581
www.citynmb.com

MEMORANDUM

 **Print**

TO: Mayor and City Council

FROM: Roslyn B. Weisblum, City Manager

DATE: Tuesday, August 6, 2013

RE: Forfeiture (LETf) Appropriation Request (Chief of Police Larry Gomer)

BACKGROUND: The asset forfeiture program is a process to deprive criminals from the proceeds of their crime, and offset any investigative expenses of law enforcement. Police departments are allowed to utilize the proceeds from these investigations to offset the costs of certain allowed expenses as provided by federal guidelines and State Statutes. Usually the investigations are long-term and are conducted as part of a task force operation. These task forces may be entirely comprised of NMB Police Officers or they may include other local, state and federal agencies.

The specific nature of processing the case determines in which forfeiture fund the proceeds are to be recorded. The Police Department has three (3) separate funds to account for the revenues and expenditures as required by the State of Florida, U.S. Department of Justice and U.S. Department of Treasury. The table below identifies the agencies within each forfeiture fund.

The Police Department is requesting appropriation approval of \$315,000.00 from the Federal Justice Law Enforcement Trust Fund (Fund 172), \$0.00 from the Federal Treasury Law Enforcement Trust Fund (Fund 177), and \$1,285,000.00 from the State/Local Law Enforcement Trust Fund (Fund 173). Please refer to the attached LETf request dated July 23, 2013 for a description of expenditure requests from each of the three (3) Law Enforcement Trust Funds (LETf).

RECOMMENDATION: It is respectfully requested that the funding requests be approved for the expenditures described in the attached document.

FISCAL IMPACT: The request will not affect the City's General Fund, but will

reduce the available balance in each corresponding LETF.

CONTACT PERSON(S):

Larry Gomer, Chief of Police
Kevin Prescott, Administrative Police Captain

ATTACHMENTS:

- ▣ [LETF Request July 2013](#)

CITY OF NORTH MIAMI BEACH, FLORIDA

INTER-OFFICE MEMORANDUM

TO: Roslyn B. Weisblum
City Manager

DATE: July 23, 2013

SUBJECT: Use of LETF Funds

FROM: Larry Gomer
Chief of Police

REFERENCES:

ENCLOSURES:

I respectfully request that you place on the agenda for the next City Council meeting the attached appropriation request totaling **\$1,600,000.00** for expenditure from the Law Enforcement Trust Accounts. We will ask for **\$315,000.00** from the Federal Justice Law Enforcement Trust Fund (Fund 172), **\$ 0.00** from the Federal Treasury Law Enforcement Trust Fund (Fund 177), and **\$1,285,000.00** from the State/Local Law Enforcement Trust Fund (Fund 173).

As Chief of Police, I certify that to the best of my knowledge, the items requested below are in compliance with applicable Federal Guidelines and Florida Statute Chapter 932.7055, subsection 4, regarding the disposition of lien, seized, and forfeited property.

If you have any questions concerning this request, please contact Chief Larry Gomer at extension 2717 or Captain Kevin Prescott at extension 2528.

cc: Kevin Prescott, Administrative Police Captain
Betty Kennedy, Police Finance

Federal (Justice) LETF (Fund 172):

The above requested amount will be used for the following law enforcement related purpose(s):

1. K9 Specialty vehicles \$169,000.00

This request is for the purchase of specialty vehicles for the K9 unit. Four vehicles (Chevy Tahoes or other similar SUV type) to be equipped with the updated heat alarms, specialty equipment to ensure the safety of the K9.

2. BusinessWatch (Investigative software)..... \$10,000.00

BusinessWatch is an online investigative system used by law enforcement to solve crimes from burglary and identity theft to homicide and narcotics. It allows investigative data to be shared with surrounding jurisdictions within and outside of the state. It also provides a community awareness program, enabling citizens to safely store serial numbers, images and receipts for their valuables online.

3. CELLEBRITE (Cellphone forensic software) \$22,000.00

Cellebrite is the current standard in Law Enforcement cell phone forensics. It enables logical, physical, file system and password extraction of data from mobile devices. It is the latest hardware and software technology in a user-friendly environment. This technology will be used in various investigations to develop leads, gather evidence/information that will assist in solving crimes.

4. Upgrade of Emergency Operations Center equipment \$25,000.00

This request is for the purchase of EOC monitors in order to view the same information (real time) that is displayed at the Miami Dade EOC. As the divisional EOC, we host numerous agencies in order to provide service to the community during times or potential hazardous weather and unusual events. The upgrades include monitors, computers and other equipment that will provide the necessary information to the agencies in order to effectively respond to the community's need in a time of crises.

5. Traffic Homicide Equipment \$13,000.00

This is new technology that will assist in the processing and investigation of traffic homicide accidents. This equipment includes an Event Data Recorder: Handheld system w/ laptop computer that will allow our THI Unit to retrieve information from a vehicles "black box". The unit can obtain information concerning force of impact, air bag deployment, safety belt usage, engine speed, vehicle speed and braking status. Other equipment includes a Vericon Roadway Friction Meter and a Nikon Laser Measuring device.

Federal (Treasury) LETF (Fund 177):

The above requested amount will be used for the following law enforcement related purpose(s):

Federal (Treasury) Status Report (as of 6/24/2013):

Surplus Carryover - 10/01/12 \$ 1,224,774.92

FY 2013 to Date:

Revenues	30,199.70
Current Year Council Appropriations	(75,000.00)
Prior Year Council Appropriations)	(75,000.00)
Encumbered Prior Year Approvals	(26,768.75)
Expenditures	(19,204.53)
 Total of this request	 0.00

Balance Available for Expenditure \$ 1,059,001.34

State and Local LETF (Fund 173):

The above requested amount will be used for the following law enforcement related purpose(s):

- 1. Police Salary and Related Expenses \$1,200,000.00

This request provides funding in FY 2013 for salary and related expenses for 11 police employees. These employees include six Detectives involved with Task Force investigations, three Crime Prevention Officers, a Domestic Violence/ Prevention Coordinator, a Haitian Liaison and a Police Training Coordinator. This request also provides funding for overtime related to task force efforts and for operating expenses.

- 2. NFL (Neighborhood Football league) \$ 35,000.00

This request is to fund the NFL Project for 2013. This will include money for overtime, equipment, and the end of season banquet which provides trophies and plaques to the kids. Last year, the NFL had 135 kids from the community register for this program. This request helps satisfy the provision of the Florida Contraband Forfeiture Act (932.7055) which require no less than 15% of forfeiture proceeds for the support or operation of any drug treatment, drug abuse education, drug prevention, crime prevention, safe neighborhood, or school resource officer program(s).

- 3. DEFY Camp Sponsorship..... \$ 4,000.00

This request is for the sponsorship of ten youth to attend DEFY camp. DEFY (Drug Education For Youth) is a seven day, overnight camp that provides drug, and gang prevention guidance for youth. Approximately 110 youths from at risk neighborhoods attend from Miami Dade and Broward Counties. The curriculum also includes leadership and life skills to help the youth develop healthy and productive lifestyles. This program is facilitated by the US Attorneys Office. This request helps satisfy the provision of the Florida Contraband Forfeiture Act (932.7055) which require no less than 15% of forfeiture proceeds for the support or operation of any drug treatment, drug abuse education, drug prevention, crime prevention, safe neighborhood, or school resource officer program(s).

- 4. Alternative to Suspension Program \$ 30,000.00

This request is for a charitable donation to fund the ASP Program. The ASP is a partnership with CIS (Community In Schools), it is an alternative to outdoor suspension. It provides a classroom atmosphere during the suspension time which includes an academic component as well as a social/ life skills component. ASP serves approximately 150 students a year with suspension from 1-10 days in length. This program serves the community and students by keeping suspended students off of the street during the daytime and provides them with a constructive/ positive atmosphere of

learning and motivation. This request helps satisfy the provision of the Florida Contraband Forfeiture Act (932.7055) which require no less than 15% of forfeiture proceeds for the support or operation of any drug treatment, drug abuse education, drug prevention, crime prevention, safe neighborhood, or school resource officer program(s).

5. NDI (City Watch software)..... \$ 16,000.00

This request is to fund the City Watch program for the next two years. City Watch is a full-featured, notification system used for outbound communication. The system enables you to quickly, accurately and automatically send emergency and non-emergency messages to contacts via landline, cellphone, text message, and fax. City Watch gives you the ability to create and send messages to thousands of recipients within minutes. It is used to contact citizens during hurricanes and other unusual occurrences in their neighborhood. It is also used as crime prevention tool to ensure the safety of the citizens.

State and Local LETF Status Report (as of 6/24/2013):

Surplus Carryover - 10/1/12 \$ 2,772,059.29

FY 2013 to Date:

Revenues	188,007.86
Current Year Council Appropriations	(24,000.00)
Prior Year Council Appropriations)	(120,924.28)
Encumbered Prior Year Approvals	(4,933.35)
Expenditures	(716,555.63)
 Total of this request	 1,285,000.00

Balance Available for Expenditure \$ 2,093,653.89



City of North Miami Beach
17011 NE 19 Avenue
North Miami Beach, FL 33162
305-947-7581
www.citynmb.com

MEMORANDUM

 **Print**

TO: Mayor and City Council
FROM: Darcee S. Siegel, City Attorney
DATE: Tuesday, August 6, 2013

RE: Litigation List

BACKGROUND:

RECOMMENDATION:

FISCAL IMPACT:

CONTACT PERSON(S): Darcee S. Siegel, City Attorney

ATTACHMENTS:

▣ [Litigation List](#)

TO: Mayor and City Council
FROM: Darcee S. Siegel, City Attorney
DATE: August 6, 2013

LITIGATION LIST

I. Civil Rights:

II. Personal Injury:

* **Gibson, Pamela v. CNMB**

III. Other Litigation:

IV. Forfeitures:

* **CNMB v. Colomathi**

* **CNMB v. Fleurimond**

* **CNMB v. Noel**

V. Mortgage Foreclosures:

* **Citifinancial Services v. CNMB (Dominique)**

* **JP Morgan v. CNMB (Gratereux)**

* **NationStar Mortgage v. CNMB (Dowe)**

* **Suntrust v. CNMB (Jones)**

* **Wells Fargo v. CNMB (Mervil)**

VI. Bankruptcies:

Jolicoeur, Leonide

ORDER OF DISMISSAL

Ordonez, Julian

ORDER OF DISCHARGE

Rojas, Amorina a/k/a/ Thomas, Amorina

ORDER OF DISCHARGE



City of North Miami Beach
17011 NE 19 Avenue
North Miami Beach, FL 33162
305-947-7581
www.citynmb.com

MEMORANDUM

 Print

TO: Mayor and City Council

FROM:

DATE: Tuesday, August 6, 2013

RE: Review of City Attorney's Contract

BACKGROUND: N/A

RECOMMENDATION:

FISCAL IMPACT:

CONTACT PERSON(S):

ATTACHMENTS:

- ❑ [Conditions of Employment - City Attorney Darcee S. Siegel](#)

CONDITIONS OF EMPLOYMENT

Employer: *City of North Miami Beach*

Employee: *Darcee S. Siegel, Esquire*

Position: *City Attorney*

Effective Date: *October 1, 2012 - September 30, 2013*

Renewal/

Expiration Date: *This contract shall be reviewed and renewed by the Mayor and Council at a Council meeting in July 2013.*

Duties: *Employee shall perform the duties and exercise the powers as provided by State law, the City Charter and City Code, and to perform such other legally permissible and proper duties and functions as assigned by the City Council from time to time.*

Salary: *Employee's compensation shall be \$3,615 per week or \$188,000.00 yearly equivalent and includes motor vehicle allowance, expense allowance, and cellular phone allowance.
Employee may be entitled to receive a cost of living increase annually. Employee's salary and/or benefits may be enhanced at the City Council's discretion. Employee may also receive an annual discretionary performance bonus in the maximum amount of ten percent (10%) of Employee's current salary.*

Leave: *Employee shall be entitled to the following:*

Annual Leave: 20 days/160 hours (formerly 30 days/240 hours)

Sick Leave: 10 days/80 hours (formerly 28 days/224 hours)

Floating Holiday: ~~2 days/16 hours per year~~ None

Birthday: ~~1 day/8 hours per year~~ None

Pension Eligibility: *Employee shall continue his/her participation in a City of North Miami Beach's Pension Plan. Employee's mandatory employee contribution is 8% and is subject to change as determined by the City.*



City



Siegel

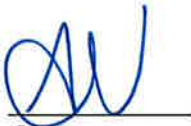
Health Insurance: *City shall provide Employee with health benefits that are consistent with the benefits that are provided to the City's senior management. Upon separation of employment with the City, Employee's health insurance shall be continued in accordance with Resolutions No. 98-53, 2008-51 and Ordinances No. 2000-10 and 2002-30 as amended from time to time.*

Dental Insurance: *City shall provide Employee with dental benefits that are consistent with the benefits that are provided to the City's senior management. Upon separation of employment with the City, Employee's dental insurance shall be continued in accordance with Resolutions No. 98-53, 2008-51 and Ordinances No. 2000-10 and 2002-30 as amended from time to time.*

Disability: *Employee shall be provided long and short term disability at no cost to employee.*

Life Insurance: *City shall provide Employee with life insurance in an amount that is twice Employee's annual salary. For this purpose salary shall be capped at \$200,000.00. At separation, City's obligation to continue to pay for Employee's life insurance shall discontinue. Employee's insurance shall be portable so that if the Employee elects, the policy may be converted.*

Severance: *Employee may be terminated from employment with or without cause at anytime. If Employee is terminated without cause, the City agrees to shall pay Employee a lump sum cash payment equal to ~~twenty (20)~~ twelve (12) weeks salary pursuant to Florida State Statutes Chapter 112. Furthermore, the City Council may within its discretion, provide Employee an additional eight (8) weeks of severance pursuant to Florida State Statutes Chapter 112. Employee shall not be entitled to any severance if terminated for cause pursuant to the City Charter and laws of North Miami Beach and the laws of the State of Florida.*


City


Siegel

Darcee S. Siegel, Esquire
Conditions of Employment
Page 3

Professional Development: *City shall pay Employee's reasonable dues, subscriptions and travel expenses along with subsistence expenses for continuing education, membership and participation in professional associations and organizations.*

City of North Miami Beach, Florida

Employee:

By: 

GEORGE VALLEJO, Mayor



DARCEE S. SIEGEL, Esquire

**PURSUANT TO motion adopted unanimously
on September 20, 2012**

ATTEST:



PAMELA L. LATIMORE, City Clerk



City of North Miami Beach
17011 NE 19 Avenue
North Miami Beach, FL 33162
305-947-7581
www.citynmb.com

MEMORANDUM

 Print

TO: Mayor and City Council

FROM:

DATE: Tuesday, August 6, 2013

RE: Review of City Clerk's Contract

BACKGROUND: N/A

RECOMMENDATION:

FISCAL IMPACT:

CONTACT PERSON(S):

ATTACHMENTS:

- ▣ [Conditions of Employment - City Clerk Pamela L. Latimore](#)

CONDITIONS OF EMPLOYMENT

Employer: *City of North Miami Beach*

Employee: *Pamela L. Latimore, CMC*

Position: *City Clerk*

Effective Date: *October 1, 2012 - September 30, 2013*

Renewal/


Expiration Date: *This contract shall be reviewed and renewed by the Mayor and Council at a Council meeting in July 2013.*

Duties: *Employee shall perform the duties and exercise the powers as provided by State law, the City Charter and City Code, and to perform such other legally permissible and proper duties and functions as assigned by the City Council from time to time.*

Salary: *Employee's compensation shall be \$1,586.54 per week or \$82,500 yearly equivalent and includes cellular phone allowance. Employee may be entitled to receive a cost of living increase annually. Employee's salary and/or benefits may be enhanced at the City Council's discretion. Employee may also receive an annual discretionary performance bonus in the maximum amount of ten percent (10%) of Employee's current salary.*

Leave: *Employee shall be entitled to the following:*
Annual Leave: 20 days/160 hours
Sick Leave: 10 days/80 hours
Floating Holiday: 2 days/16 hours per year None
Birthday: 1 day/8 hours per year None

Pension Eligibility: *Employee shall continue his/her participation in a City of North Miami Beach's Pension Plan. Employee's mandatory employee contribution is 8% and is subject to change as determined by the City. However, City Clerk agrees to transfer to any new pension plan when it becomes available.*



City



Latimore

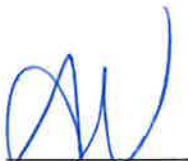
Health Insurance: *City shall provide Employee with health benefits that are consistent with the benefits that are provided to the City's senior management.*

Dental Insurance: *City shall provide Employee with dental benefits that are consistent with the benefits that are provided to the City's senior management.*

Disability: *Employee shall be provided long and short term disability at no cost to employee.*

Life Insurance: *City shall provide Employee with life insurance in an amount that is twice Employee's annual salary. For this purpose salary shall be capped at \$200,000.00. At separation, City's obligation to continue to pay for Employee's life insurance shall discontinue. Employee's insurance shall be portable so that if the Employee elects, the policy may be converted.*

Severance: *Employee may be terminated from employment with or without cause at anytime. If Employee is terminated without cause, the City shall pay Employee a lump sum cash payment equal to twelve (12) weeks salary pursuant to Florida State Statutes Chapter 112. Furthermore, the City Council may within its discretion, provide Employee an additional eight (8) weeks of severance pursuant to Florida State Statutes Chapter 112. Employee shall not be entitled to any severance if terminated for cause pursuant to the City Charter and laws of North Miami Beach and the laws of the State of Florida.*



City

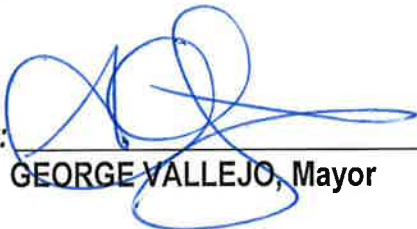
Latimore

**Professional
Development:**

City shall pay Employee's reasonable dues, subscriptions and travel expenses along with subsistence expenses for continuing education, membership and participation in professional associations and organizations.

City of North Miami Beach, Florida

Employee:

By: 
GEORGE VALLEJO, Mayor


PAMELA L. LATIMORE, CMC

PURSUANT TO motion adopted
on September 20, 2012

ATTEST:

**Approved as to Form and Legal Sufficiency
For Use and Reliance of the City Only:**


JOANNE CALLAHAN, Assistant City Clerk


Darcee S. Siegel, City Attorney



City of North Miami Beach
17011 NE 19 Avenue
North Miami Beach, FL 33162
305-947-7581
www.citynmb.com

MEMORANDUM

 **Print**

TO: Mayor and City Council

FROM: Roslyn B. Weisblum, City Manager

DATE: Tuesday, August 6, 2013

RE: Resolution No. R2013-46 (Director of Public Services Shari Kamali)

BACKGROUND: The applicant, 3 Crown Liquor Inc., requests conditional use approval for the operation of a package liquor store in an existing shopping center located at 13555 Biscayne Boulevard.

RECOMMENDATION: Approval.

FISCAL IMPACT: This new development project will add to the City's tax base and significantly increase the value of the currently vacant subject property as well as add value to the surrounding properties.

CONTACT PERSON(S): Shari Kamali, Director of Public Services

ATTACHMENTS:

- ❑ [Staff Report](#)
- ❑ [P&Z Minutes - July 8, 2013](#)
- ❑ [Resolution No. R2013-46](#)
- ❑ [Legal Description](#)



City of North Miami Beach, Florida

COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

CITY COUNCIL

TUESDAY, AUGUST 6, 2013

ITEM # 13-548	PACKAGE LIQUOR STORE
OWNER OF PROPERTY	KEYSTONE PLAZA, LLC.
ADDRESS OF PROPERTY	13555 BISCAYNE BOULEVARD
FOLIO NUMBER	07-2220-014-0290
LEGAL DESCRIPTION	LENGTHY LEGAL DESCRIPTION (SEE EXHIBIT 4)
EXISTING ZONING	B-2, GENERAL BUSINESS
EXISTING LAND USE	COMMERCIAL SHOPPING CENTER
FUTURE LAND USE DESIGNATION	BUSINESS

The applicant, 3 Crown Liquor Inc., requests conditional use approval, in accordance with Section 24-52(C)(4), for the operation of a package liquor store in an existing shopping center located at 13555 Biscayne Boulevard, in the B-2, General Business Zoning District.

ZONING – The subject property, as well as the properties to the north, is zoned B-2, General Business Zoning District. The properties to the east are zoned MH-1, Mobile Home Zoning District. The property to west is zoned CF, Community Facility Zoning District. The properties to the south are located in the City of North Miami and are commercially zoned. (See attached Exhibit #1 for a Zoning Map of the subject property).

EXISTING LAND USE - The subject property currently contains a one story retail shopping center. The properties to the north and south are currently a mix of retail and restaurant uses. The properties to the east are mobile homes. The property to the west is a County Park. (See attached exhibit #2 for a Land Use Map of the subject property).

FUTURE LAND USE - The subject property, as well as the properties to the north have a future land use designation of Business. The properties to the east have a future land use designation of Residential Low Density. The property to the west has a future land use designation of Recreation and Open Space. The properties to the south are located in the City of North Miami. (See attached exhibit #3 for a Future Land Use Map of the subject property.)

THE SITE – The subject property contains 3.76 acres of land with 832 feet of frontage along Biscayne Boulevard. There are currently 2 one story commercial buildings on the site that comprises the retail shopping center. The southern portion of the parcel, and the smaller corner building, is located in the City of North Miami.

THE PROJECT – The project propose the use of a currently vacant 1,626 square feet bay as a package liquor store.

COMMUNITY DEVELOPMENT DEPARTMENT ANALYSIS

Package liquor stores are a conditional use because they do have the potential to be problematic to neighboring uses, particularly residential and educational uses. In this case the nearest school is more than 2,300 feet away from the subject property. The subject property does share a common property line with a residential district to the east, the MH-1 Zoning District. However the residential properties are adjacent to the rear of the subject property and are separated by a 6 foot concrete wall, and the entrance to the neighborhood is 2 blocks north at Highlands Drive.

Staff supports the applicant’s request for conditional use to operate a package liquor store. The use will be a good addition to an established and well maintained shopping center.

PLANNING & ZONING BOARD HISTORY

This item was heard by the planning & Zoning Board at the meeting of July 8, 2013 and received a favorable recommendation with a vote of 5-0.

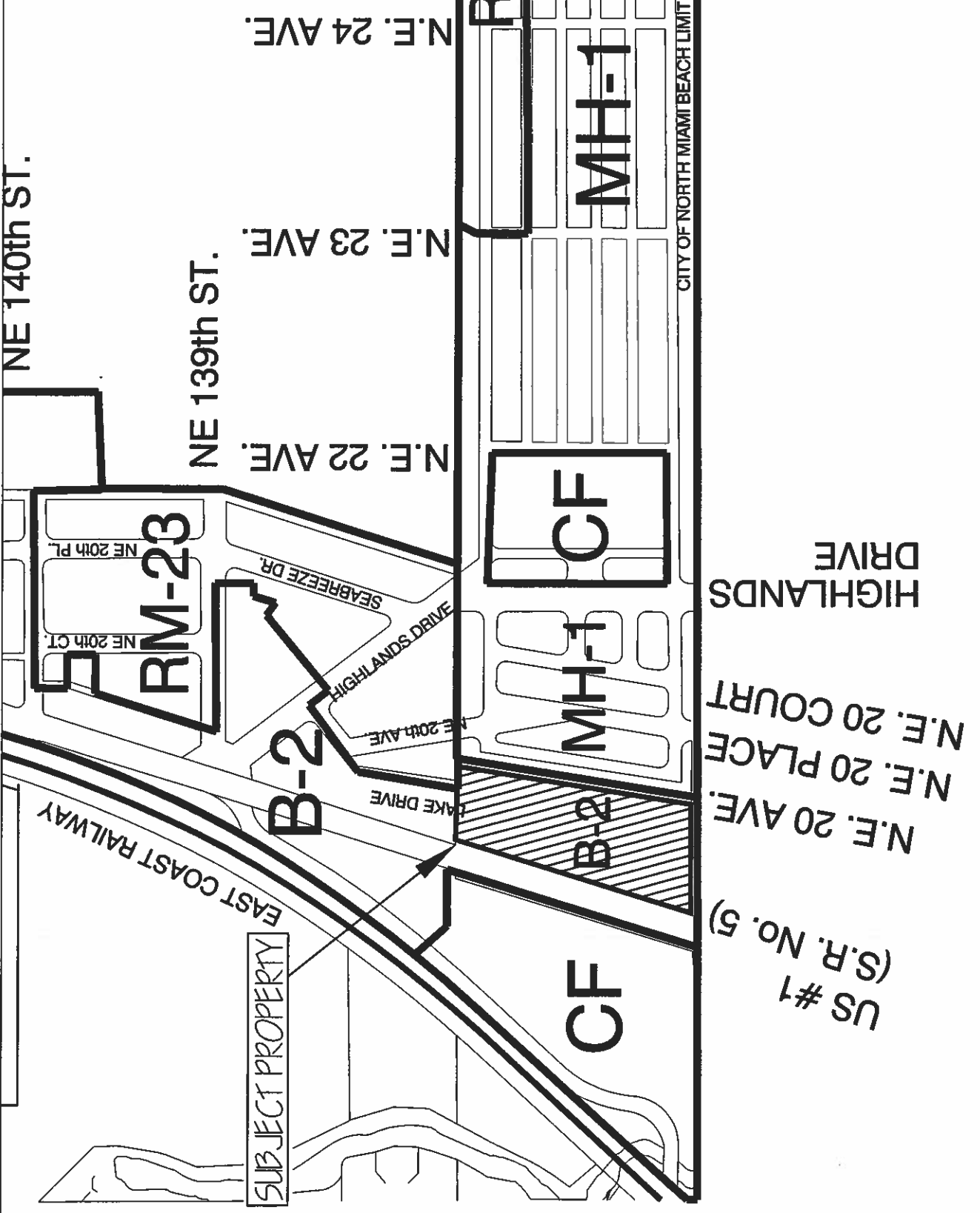
COMMUNITY DEVELOPMENT DEPARTMENT RECOMMENDATION

It is recommended that the request for conditional use approval be granted for the operation of a package liquor store subject to the following conditions:

1. The conditional use approval is limited to the subject bay. The use may not be relocated or expanded without prior approval by a subsequent public hearing process.
2. Window signage is limited to 25% coverage, and the windows may not be framed with neon lights.
3. All wall signage must be of individual, flush mounted channel letter type only. The number and size of which may not exceed that as permitted in the City’s Land Development Regulations (LDRs). All signage requires a separate permit prior to installation.

Legend:

- RS-1 Residential Single Family (8,000 sq. minimum)
- RS-2 Residential Single Family (7,000 sq. minimum)
- RS-3 Residential Single Family (6,000 sq. minimum)
- RS-4 Residential Single Family (5,000 sq. minimum)
- RS-5 Residential Single Family (1,200 sq. minimum)
- MH-1 Mobile Home Subdivision
- RD Residential Two-Family (Duplex)
- RM-19 Residential Low Rise Multifamily Medium Density-19 Units / Acre
- RM-23 Residential Mid-Rise Multifamily High Density-23 Units / Acre
- RM-32 Residential High-Rise Multifamily High Density-32 Units / Acre
- RO Residential Office District
- B-1 Limited Business District
- B-2 General Business District
- B-3 Intensive Business District
- B-4 Distribution Business and Light Industrial
- B-5 Distribution Business and Medium Industrial
- CF Community Facility
- PUD Planned Unit Development

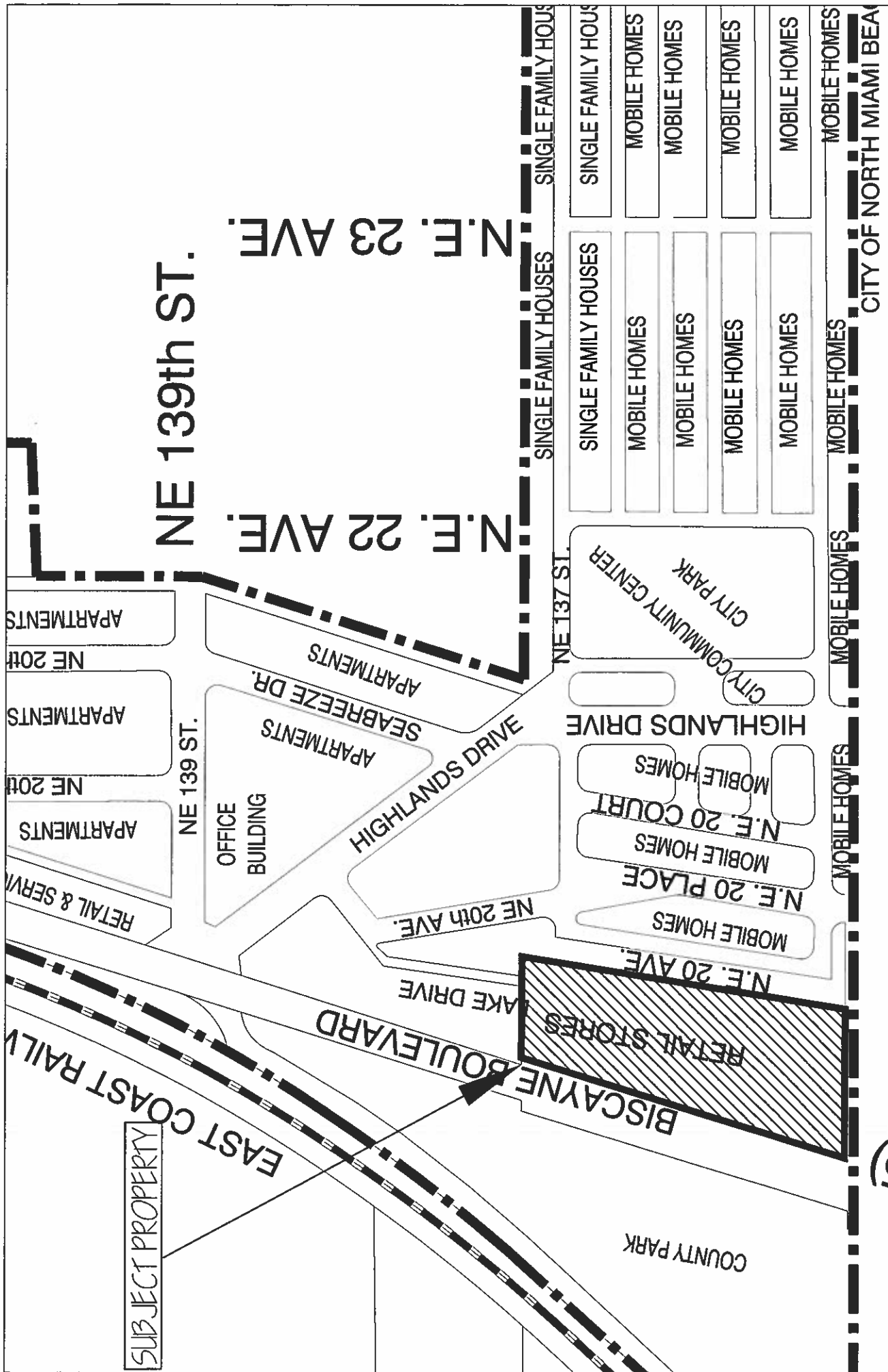


City of North Miami Beach
 17050 N.E. 19th Avenue
 North Miami Beach, Florida 33162

RETAIL STORE
 13555 BISCAYNE BOULEVARD



Existing Zoning Map
 Exhibit No. 1
 Prepared by CNMB Engineering Division



Existing Land Use Map
 Exhibit No. 2
 Prepared by CNWB Engineering Division

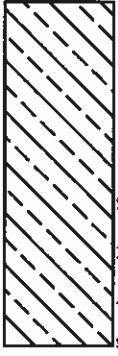


RETAIL STORE
 13555 BISCAYNE BLVD

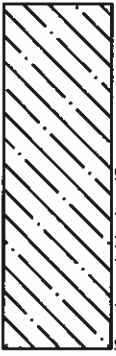
City of North Miami Beach
 17050 N.E. 19th Avenue
 North Miami Beach, Florida 33162



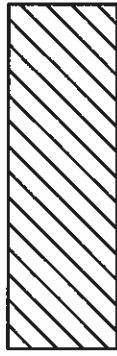
Legend:



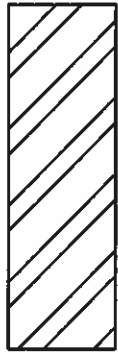
Residential Low Density



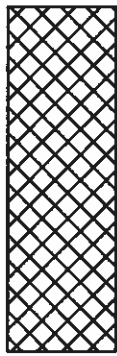
Residential Medium Density



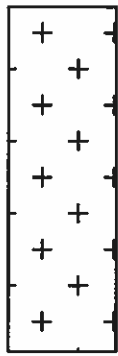
Residential High Density



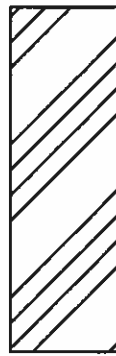
Business



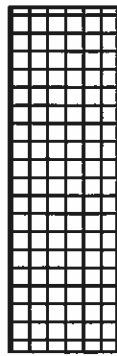
Public and Quasi - Public



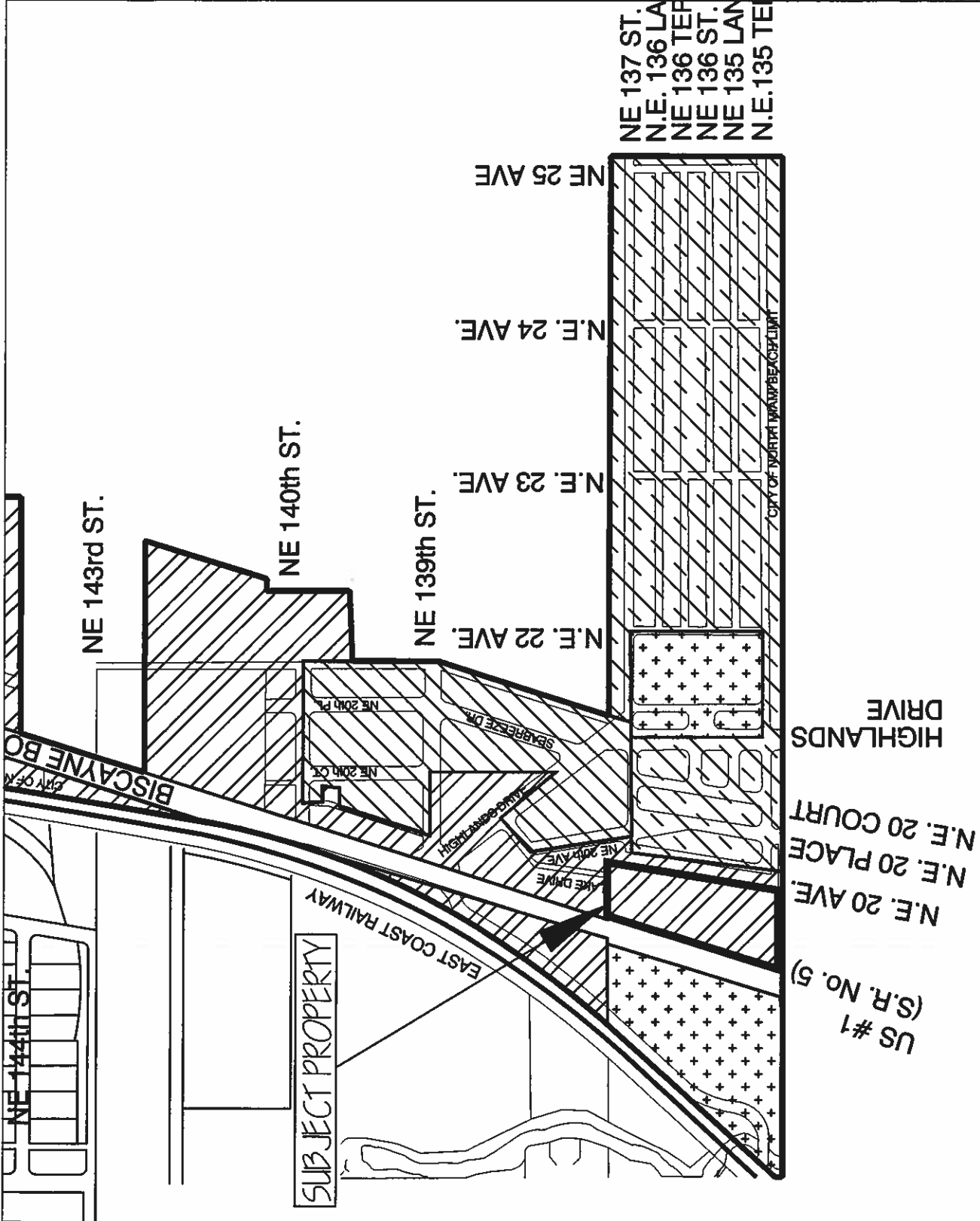
Recreation and Open Space



Industrial



Mixed Use



Future Land Use Map
Exhibit No. 3

Prepared by CNMB Engineering Division



RETAIL STORE
13555 BISCAYNE BLVD

City of North Miami Beach
17050 NE 19th Avenue
North Miami Beach, Florida 33162



EXHIBIT " 4 "

LEGAL DESCRIPTION

PARCEL 1

A parcel of land lying and being in a portion of Tracts 35 and 49, of AMENDED PLAT OF R.E. MCDONALD'S SUBDIVISION, according to the plat thereof as recorded in Plat Book 2, Page 22 and portion of Tract 1, of SUBDIVISION OF THE REMAINDER OF FOSTER AND SANCHEZ TRACT, according to the plat thereof as recorded in Plat Book 31, Page 66, all of the Public Records of Miami - Dade County, Florida, more particularly described as follows:

Begin at the Northeast corner of said Tract 35; thence South 06 degrees 17'58" West along the East line of said Tract 35, for 663.44 feet; thence South 87 degrees 30'50" West, for 66.40 feet; thence South 02 degrees 29'10" East, for 150.00 feet to a point on the North right-of-way line of N.E. 135th Street; the following described (5) courses along said right-of-way; thence South 87 degrees 30'50" West, for 77.48 feet; thence South 02 degrees 23'02" East, for 25.29 feet to a point of non-tangent intersection with a curve concave to the Northwest having a radius of 1673.81 feet and from which a radial line of said curve bears North 02 degrees 37'44" West; thence along said curve to the right with an arc length of 76.93 feet through a central angle of 02 degrees 38'00" to a point of tangency, thence North 89 degrees 59'44" West, for 98.13 feet to a point of curvature of a curve concave to the Northeast having a radius of 25.00 feet, thence along said curve to the right with an arc length of 45.93 feet through a central angle of 105 degrees 16'05" to a point of tangency on the East right-of-way line of State Road No. 5; thence North 15 degrees 16'21" East along said East right-of-way line, for 832.24 feet to a point on the North line of said Tract 35; thence North 87 degrees 32'10" East along said North line of Tract 35, for 189.09 feet to the Point of Beginning.

Parcel 3:

That part of Lots 10 through 20, inclusive, in Block 6, ARCH CREEK HIGHLANDS, according to the Plat thereof, as recorded in Plat Book 15, Page 3, of the Public Records of Miami-Dade County, Florida, that lies Southeasterly of the existing Southeasterly Right-of-Way line of Biscayne Boulevard (S.R.5/U.S.1) as shown on the Right-of-Way Map Section 87030-2571, Sheets 2 and 3 of 14 Sheets dated 1-16-89.

EXHIBIT "4"

LEGAL DESCRIPTION

PARCEL 2:

A parcel of land lying and being in a portion of Tract 1, of SUBDIVISION OF THE REMAINDER OF FOSTER AND SANCHEZ TRACT, according to the plat thereof as recorded in Plat Book 31, Page 66, all of the Public Records of Miami - Dade County, Florida, more particularly described by metes and bounds as follows:

Commence at the Northeast corner of Tract 35 of AMENDED PLAT OF R.E. MCDONALD'S SUBDIVISION, according to the plat thereof as recorded in Plat Book 2, Page 22; thence South 06 degrees 17'58" West along the East line of said Tract 35, for 663.44 feet to the Point of Beginning of the hereinafter described parcel of land; thence North 87 degrees 30'50" East, for 33.60 feet; thence South 02 degrees 29'10" East for 150.00 feet to a point on the North right-of-way line of N.E. 135th Street; thence South 87 degrees 30'50" West along said right-of-way line, for 100.00 feet; thence North 02 degrees 29'10" West for 150.00 feet; thence North 87 degrees 30'50" East for 66.40 feet to the Point of Beginning.



City of North Miami Beach, Florida
COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING & ZONING BOARD MEETING
MONDAY, JULY 8, 2013

Attendees:

Members - Chairman Evan Piper Christopher Heid, City Planner
 Julian Kreisberg Patricia Minoux, Assistant City Attorney
 Joseph Litowich Steven Williams, Board Recorder
 Hector Marrero
 Saul Smukler
Michael Mosher – Absent

◆-----◆
Call to Order and Pledge of Allegiance:

Chairman Piper called the meeting to order at 6:11 p.m. The Pledge of Allegiance was recited and roll was called.

◆-----◆
Minutes:

A motion was made by Julian Kreisberg, seconded by Joseph Litowich, to approve the minutes of the June 10, 2013 meeting. In a voice vote, the motion passed unanimously.

Chairman Piper administered the oath for any members of the public wishing to speak during the meeting. He instructed them to sign in as well.

◆-----◆
OLD BUSINESS

Mr. Heid provided the following status report:

1. Item 13-542 Rezoning & Conditional Use Approval (RM-23 to B-3)
 1998 NE 161 Street
Denied by City Council.
2. Item 13-538 LDR Text Amendments
 Residential Driveways
Approved by City Council.
3. Item 13-539 LDR Text Amendments
 Front Yard Pervious Area
Approved by City Council.
4. Item 13-543 After-the-Fact Variances: Dock (Single-Family Home)
 3467 NE 168 Street
Approved by City Council.

5. Item 13-544 Site Plan Review, Conditional Use, & Variances: Starbucks (Drive-Thru)
199 NE 167 Street
Approved by City Council.
6. Item 13-547 Rezoning B-1 to B-2
17071 West Dixie Highway
Tabled by City Council for further discussion.
7. Item 13-546 LDR Text Amendments
Administrative Code Waiver Process
Approved by City Council on first reading. Pending second reading.

NEW BUSINESS

Item 13-548: Conditional Use Approval; Package Liquor Store - 13555 Biscayne Boulevard

Mr. Heid stated that the Applicant is seeking conditional use approval for the operation of a package liquor store in an existing shopping center in a B-2 General Business zoning district. This district includes both permitted and conditional uses; conditional uses are typically considered to have potential to create a negative or harmful impact on the surrounding community. While the proposed liquor store has no close proximity to schools or day-care centers, a residential area is located immediately to the east, although it is separated by a wall around the shopping center. Staff feels the store would have no impact on the residential area, and favorably recommends the Application.

Fred Hector, Applicant, stated that the liquor store would be a family-owned business.

Mr. Smukler asked if there were existing restrictions on liquor store hours. Mr. Heid replied that hours are restricted by City Code, and the Applicant is aware of the restriction.

Mr. Litowich asked if any other liquor stores were located within the same shopping center. Mr. Hector said there were not, estimating that the closest liquor store was approximately 1,600 ft. to the south of the subject property. Mr. Heid noted that a survey of nearby liquor stores was included in the members' information packets.

Chairman Piper opened the floor to public comment. As there were no members of the public wishing to speak on the Item, public comment was closed.

Mr. Heid stated that the City recommends the Application favorably with the three conditions listed. Mr. Hector said he would accept the conditions.

A motion was made by Julian Kreisberg, seconded by Hector Marrero, for approval with the three conditions. In a roll call vote, the motion passed with a vote of 5-0.

Chairman Evan Piper	YES
Joseph Litowich	YES
Hector Marrero	YES
Julian Kreisberg	YES
Saul Smukler	YES
Michael Mosher	ABSENT

Mr. Heid advised that the Item would now go before the City Council for further approval; this meeting will be advertised in the newspaper and individual notices would once again be sent out. The date posted on the property will be changed to reflect the date of the City Council meeting.

◆-----◆
Item 13-537: Site Plan Review and Variances; Nova Plaza - 1875 NE 167 Street

Mr. Heid stated that the existing zoning for the site is FCC, Fulford City Center, with an existing land use that is filled with vacant commercial buildings. The future land use designation is Mixed-Use Town Center. The Applicant, Universal Investment Group, wishes to re-occupy two existing buildings totaling 9389 sq. ft. The requested variances would waive two of the minimum six required dwelling units, allow parking in front of the building, retain access from the primary street, exceed the maximum allowed front yard setback, add 34% of the minimum required building frontage, waive 29% of the minimum required ground floor size, and waive one of the minimum required two stories and 1 ft. of the minimum required 12 ft. ceiling height.

Mr. Heid explained that the subject property has been unused for more than 180 days, which meant the property has lost its legal nonconforming status. The property's FCC zoning does not anticipate the reuse of existing buildings, as it is designed entirely around new construction. Mr. Heid advised that the change in zoning makes it very difficult for an existing building to meet Code.

Luis Larosa, architect for the Applicant, stated that the project lies on a triangular lot facing a primary street and two secondary streets. The Applicant's intent is to improve the property. Plans include meeting some of the design standards required by the FCC zoning district, such as changing the building's glazing and enhancing its modern characteristics to make them more visually attractive.

Mr. Heid added that the improvements on 167 Street are not limited to private property, but include significant improvements to the public right-of-way as well, including the parking area and landscaping of islands and sidewalks.

Mr. Piper requested background information on the property. Mr. Heid said there had been discussions of placing a hotel on the site, which had never reached the public hearing process. He asserted that the proposed project would bring new life to the area, such as a restaurant with outdoor dining.

Mr. Litowich asked if the Applicant had a tenant in mind for the location. Mr. Larosa replied that a Peruvian restaurant has shown interest in the site.

Mr. Litowich asked how the Applicant planned to separate the residential area from the commercial area. Mr. Larosa said he is focusing on the commercial area rather than the residential space, although there has been some address of the residential portion in terms of landscaping and improved rear access to the site. He added that an attempt will be made to modernize the residential building's appearance and create continuity between the two commercial buildings.

Vice Chairman Kreisberg asked if the buildings have had a change in ownership. Mr. Larosa said there has been no such change. Mr. Heid said the owners had allowed the nonconforming use to expire, which triggered the approval process. If the Application is denied, there would be no use on the property, and it would lie vacant or be demolished.

Vice Chairman Kreisberg asked if there is anticipation of renting the residential units. Mr. Heid replied that this might be possible for a tenant seeking a small "live/work" apartment.

Mr. Smukler requested clarification of the minimum requirement of six dwelling units. Mr. Heid explained that the minimum requirement of 10 dwelling units per acre would have required the Applicant to build two new units in addition to the existing four units, which was an unanticipated consequence of FCC zoning. The existing units are vacant; as they cannot be occupied until the legal nonconforming status issue is resolved.

Mr. Larosa stated that work will be done on the interior of the residential units at a later time once the exterior improvements to the property are made. Mr. Heid noted that the apartments would need to be significantly updated before they are suitable for rental.

Mr. Smukler asked if the commercial property can still be occupied if the residential units remain unoccupied after another 180 days. Mr. Heid confirmed this, although he recommended that the Applicant obtain the necessary permits for the work on the residential units; if this is not possible, the Applicant is encouraged to rent one of the units in order to maintain the legal nonconforming status.

Chairman Piper opened the floor to public comment. As there were no members of the public wishing to speak on the Item, public comment was closed.

Mr. Heid stated that the City recommends the Application favorably, with the 14 conditions listed. Mr. Larosa stated that the Applicant accepted these conditions.

A motion was made by Julian Kreisberg, seconded by Joseph Litowich, for approval with the 14 conditions. In a roll call vote, the motion passed 5-0.

Chairman Evan Piper	YES
Joseph Litowich	YES
Hector Marrero	YES
Julian Kreisberg	YES
Saul Smukler	YES
Michael Mosher	ABSENT

◆-----◆
(Items 13-550 and 13-551 were discussed together.)

Item 13-550: Comprehensive Plan Text Amendment; Deletion of Policy 1.8.3.

Item 13-551: LDR Text Amendment; Notices for Comprehensive Plan Amendments

Mr. Heid explained that while these Items would be voted upon separately, they would be discussed together, as they are related. A provision of both the Comprehensive Plan and the Land Development Regulations (LDR) states that any changes resulting in greater height or density are subject to a nine-month waiting period before the City Council may consider that Application. This provision is in addition to the requirements set forth by State Statute. There are no other municipalities in Florida that require a similar waiting period; in addition, Mr. Heid pointed out that the waiting period can have a damaging effect on development or redevelopment, as Applicants are required to wait nearly one year before making any changes to the property.

The City's recommendation is to remove this additional waiting period and rely upon the requirements set forth by the State Statute, as well as notice and advertising requirements. He recommended that the Board vote to amend both the Comprehensive Plan and the LDR accordingly.

Mr. Smukler observed that while the nine-month waiting period sounded onerous, the rest of the policy includes a requirement for Applicants to notify and register with the City Clerk. He asked if this part of the policy would stand. Mr. Heid said it would not, as it is neither included in the State Statute nor required by any other Florida municipalities. He advised that Staff found no evidence that this policy has been followed with regard to height or density.

Mr. Smukler asked how long the policy has been in effect. Mr. Heid said it was adopted five years ago as "a cooling-off period" in response to some of the larger projects proposed for the City, as some residents had expressed concern with these projects' height and/or density. It had, however, proved to be more damaging than positive for property owners and developers.

Mr. Smukler agreed that the waiting period did seem to be detrimental to developers, but he was not certain that the entire policy should be abandoned. He stated that he did not know what the State Statute required without the policy. Mr. Heid said the result would be that the City would be held to the same standard as every other city in Florida.

Mr. Litowich requested clarification of the notices that would be required. Mr. Heid said written notice would be required within 15 days, with further notices no less than 90 days and no more than 120 days; the existing nine-month period would take effect between the two readings required by City Council. This would effectively result in a one-year process from the time of application.

Mr. Litowich asked if either the 90-day period or the nine-month waiting period would remain. Mr. Heid said the text amendment would eliminate both of these periods. He pointed out that Applications would still be required to go before the Planning and Zoning Board, then be re-advertised for both first and second readings. He estimated that the process would now take approximately five months rather than 17.

Chairman Piper asked if the proposed amendment has been reviewed by the City Attorney's Office. Assistant City Attorney Patricia Minoux confirmed this, stating that the deletions were found to be legally sound and compliant with State law.

Chairman Piper opened the floor to public comment. As there were no members of the public wishing to speak on the Item, public comment was closed.

A motion was made by Julian Kreisberg, seconded by Hector Marrero, to approve Item 13-550. In a roll call vote, the motion passed 4-1 (Mr. Smukler dissenting).

Chairman Evan Piper	YES
Joseph Litowich	YES
Hector Marrero	YES
Julian Kreisberg	YES
Saul Smukler	NO
Michael Mosher	ABSENT

A motion was made by Julian Kreisberg, seconded by Hector Marrero, to approve Item 13-551. In a roll call vote, the motion passed 4-1 (Mr. Smukler dissenting).

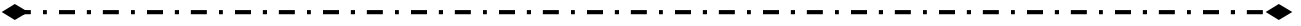
Chairman Evan Piper	YES
Joseph Litowich	YES
Hector Marrero	YES
Julian Kreisberg	YES
Saul Smukler	NO
Michael Mosher	ABSENT

Mr. Heid advised that the LDR Resolution would go before City Council for two readings.

◆-----◆
NEXT MEETING

Chairman Piper observed that the next regular Board meeting is scheduled for August 12, but there was the possibility of a special meeting to be scheduled for July 22. Mr.

Heid said this has not yet been directly confirmed by the City Manager or City Attorney's Office.



ADJOURNMENT

There being no further business to come before the Board at this time, the meeting was adjourned at 6:56 p.m.

RESOLUTION NO. R2013-46

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING CONDITIONAL USE APPROVAL IN ACCORDANCE WITH SECTION 24-52(C)(4) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH FOR THE OPERATION OF A PACKAGE LIQUOR STORE IN AN EXISTING SHOPPING CENTER, AS PROPOSED, ON PROPERTY LEGALLY DESCRIBED AS:

(LENGTHY LEGAL - SEE ATTACHED EXHIBIT "A")

A/K/A

**13555 Biscayne Boulevard
North Miami Beach, Florida
(P&Z Item No. 13-548 of July 8, 2013)**

WHEREAS, the property described herein is zoned B-2, General Business Zoning District; and

WHEREAS, the applicant requests conditional use approval, in accordance with Section 24-52(C)(4), for the operation of a package liquor store in an existing shopping center located at 13555 Biscayne Boulevard; and

WHEREAS, on July 8, 2013, the Planning and Zoning Board recommended approval of the conditional use approval with a vote of 5-0, subject to the following conditions:

1. The conditional use approval is limited to the subject bay. The use may not be relocated or expanded without prior approval by a subsequent public hearing process.
2. Window signage is limited to 25% coverage, and the windows may not be framed with neon lights.
3. All wall signage must be of individual, flush mounted channel letter type only. The number and size of which may not exceed that as permitted in the City's Land Development Regulations (LDRs). All signage requires a separate permit prior to installation.

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of North Miami Beach, Florida.

EXHIBIT "A"

LEGAL DESCRIPTION

PARCEL 1

A parcel of land lying and being in a portion of Tracts 35 and 49, of AMENDED PLAT OF R.E. MCDONALD'S SUBDIVISION, according to the plat thereof as recorded in Plat Book 2, Page 22 and portion of Tract 1, of SUBDIVISION OF THE REMAINDER OF FOSTER AND SANCHEZ TRACT, according to the plat thereof as recorded in Plat Book 31, Page 66, all of the Public Records of Miami - Dade County, Florida, more particularly described as follows:

Begin at the Northeast corner of said Tract 35; thence South 06 degrees 17'58" West along the East line of said Tract 35, for 663.44 feet; thence South 87 degrees 30'50" West, for 66.40 feet; thence South 02 degrees 29'10" East, for 150.00 feet to a point on the North right-of-way line of N.E. 135th Street; the following described (5) courses along said right-of-way; thence South 87 degrees 30'50" West, for 77.48 feet; thence South 02 degrees 23'02" East, for 25.29 feet to a point of non-tangent intersection with a curve concave to the Northwest having a radius of 1673.81 feet and from which a radial line of said curve bears North 02 degrees 37'44" West; thence along said curve to the right with an arc length of 76.93 feet through a central angle of 02 degrees 38'00" to a point of tangency, thence North 89 degrees 59'44" West, for 98.13 feet to a point of curvature of a curve concave to the Northeast having a radius of 25.00 feet, thence along said curve to the right with an arc length of 45.93 feet through a central angle of 105 degrees 16'05" to a point of tangency on the East right-of-way line of State Road No. 5; thence North 15 degrees 16'21" East along said East right-of-way line, for 832.24 feet to a point on the North line of said Tract 35; thence North 87 degrees 32'10" East along said North line of Tract 35, for 189.09 feet to the Point of Beginning.

Parcel 3:

That part of Lots 10 through 20, inclusive, in Block 6, ARCH CREEK HIGHLANDS, according to the Plat thereof, as recorded in Plat Book 15, Page 3, of the Public Records of Miami-Dade County, Florida, that lies Southeasterly of the existing Southeasterly Right-of-Way line of Biscayne Boulevard (S.R.5/U.S.1) as shown on the Right-of-Way Map Section 87030-2571, Sheets 2 and 3 of 14 Sheets dated 1-16-89.



City of North Miami Beach
17011 NE 19 Avenue
North Miami Beach, FL 33162
305-947-7581
www.citynmb.com

MEMORANDUM

 [Print](#)

TO: Mayor and City Council
FROM: Roslyn B. Weisblum, City Manager
DATE: Tuesday, August 6, 2013

RE: Ordinance No. 2013-12 - First Reading by Title Only (Director of Public Services Shari Kamali)

BACKGROUND: The applicant, JAAL, LLC., is requesting the rezoning of a 27,905 square foot parcel of land located at 17071 West Dixie Highway from B-1, Limited Business Zoning District to B-2, General Business Zoning District.

RECOMMENDATION: Approval

FISCAL IMPACT: None.

CONTACT PERSON(S): Shari Kamali, Director of Public Services
Christopher Heid, City Planner

ATTACHMENTS:

- ❑ [Staff Report](#)
- ❑ [P&Z Minutes - June 10, 2013](#)
- ❑ [Ordinance No. 2013-12](#)



City of North Miami Beach, Florida
COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

CITY COUNCIL MEETING

TUESDAY, JULY 2, 2013

ITEM No. 13-547	Rezoning (B-1 to B-2)
OWNER OF PROPERTY	JAAL, LLC.
ADDRESS OF PROPERTY	17071 West Dixie Highway
FOLIO NUMBER	07-2209-002-0010
LEGAL DESCRIPTION	LOTS 1 THRU 5, IN BLOCK 5, OF "A SUBDIVISION OF A PORTION OF TRACT "A" GREYNOLDS PARK GARDENS", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 55 AT PAGE 57 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, LYING AND BEING IN THE CITY OF NORTH MIAMI BEACH, MIAMI-DADE COUNTY, FLORIDA.
EXISTING ZONING	B-1, LIMITED BUSINESS DISTRICT
EXISTING LAND USE	Office Building
FUTURE LAND USE DESIGNATION	BUSINESS

The applicant, JAAL, LLC., requests rezoning of a 27,905± square foot (0.64± acres) property located at 17071 West Dixie Highway from B-1, Limited Business Zoning District to B-2, General Business District.

ZONING – The subject property as well as the properties to the east, on the east side of the FEC Rail Road right-of-way, is zoned B-2, General Business Zoning District. All properties to the north, south, and west are zoned B-1, Limited Business Zoning District. (See attached Exhibit #1 for a Zoning Map of the subject property).

EXISTING LAND USE - The subject property currently contains an office building. All surrounding properties contain a mix of retail, offices, and restaurants. (See attached exhibit #2 for a Land Use Map of the subject property).

FUTURE LAND USE - The subject property, as well as all surrounding properties have a future land use designation of Business. (See attached exhibit #3 for a Future Land Use Map of the subject property.)

THE SITE – Subject property is irregular in shape containing 27,905 square feet (0.64 acres) of land with 178 feet of frontage along West Dixie Highway. There is currently a 17,710 square foot one story office building, with roof top parking, on the property.

THE PROJECT – The applicant proposes an amendment to the City's Zoning Map to rezone the property from B-1, Limited Business Zoning District to B-2, General Business Zoning District. At this time, there are no proposed changes to the existing building or contemplated redevelopment.

PLANNING & ZONING BOARD HISTORY

This item was heard by the Planning & Zoning Board at the meeting of Monday, June 10, 2013 and received a favorable recommendation with a vote of 5-0.

COMMUNITY DEVELOPMENT DEPARTMENT ANALYSIS

Staff supports the request for rezoning. The proposed B-2 zoning is consistent with the properties existing Future Land Use designation of Business. This rezoning, along with the rezoning of the nearby property at 17400 West Dixie Highway, provides redevelopment opportunity to strengthen the northern West Dixie Highway business corridor. Future redevelopment on the both sites will tie the north end of West Dixie Highway to the potential redevelopment in the NE 163rd/164th Street area, creating a more vibrant and cohesive business corridor along West Dixie Highway.

COMMUNITY DEVELOPMENT DEPARTMENT RECOMMENDATION

It is recommended that the request for rezoning from B-1, Limited Business District to B-2, General Business District be approved.



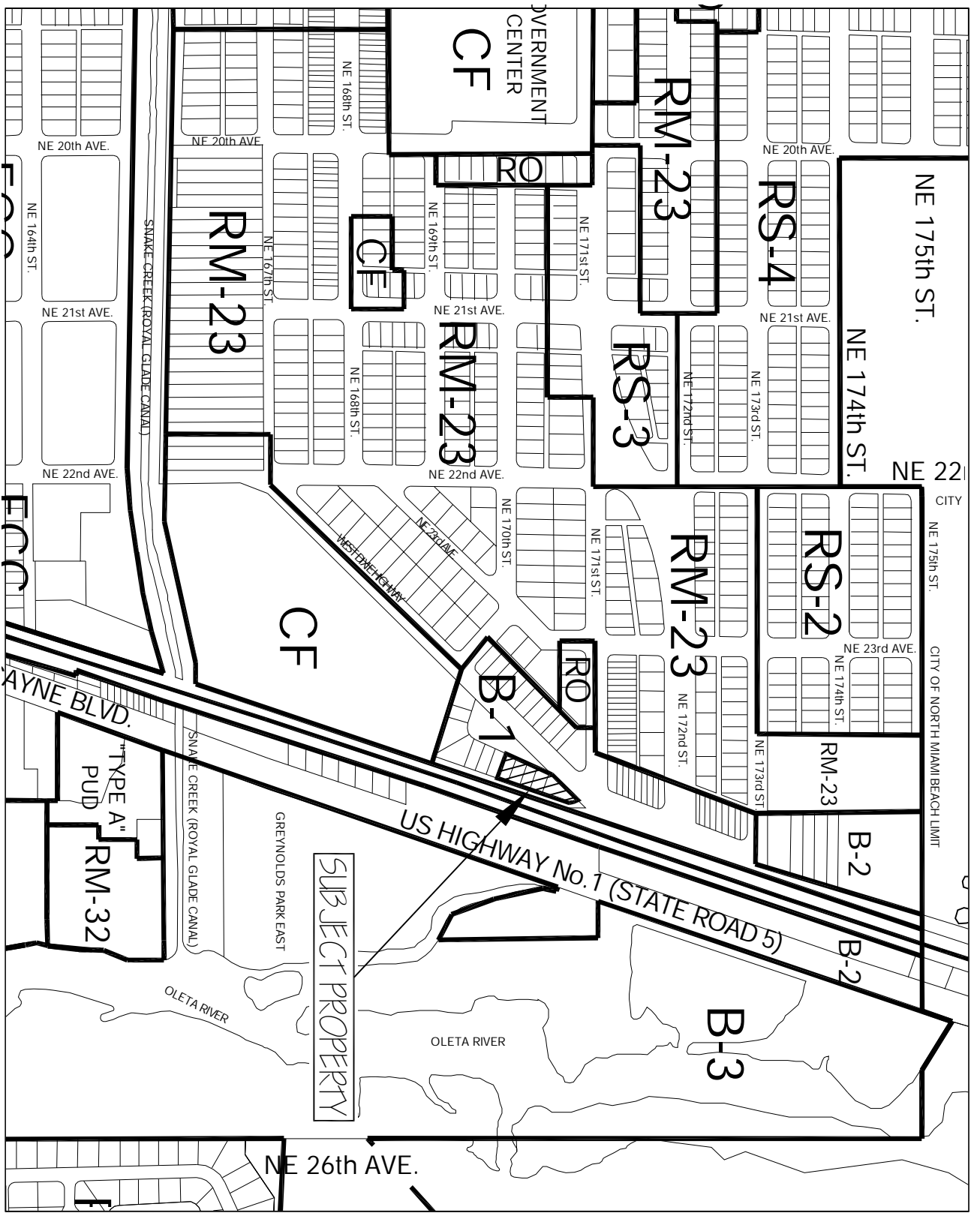
City of North Miami Beach
 17050 N.E. 19th Avenue
 North Miami Beach, Florida 33162

OFFICE BUILDING ADDITION
 17071 WEST DIXIE HIGHWAY



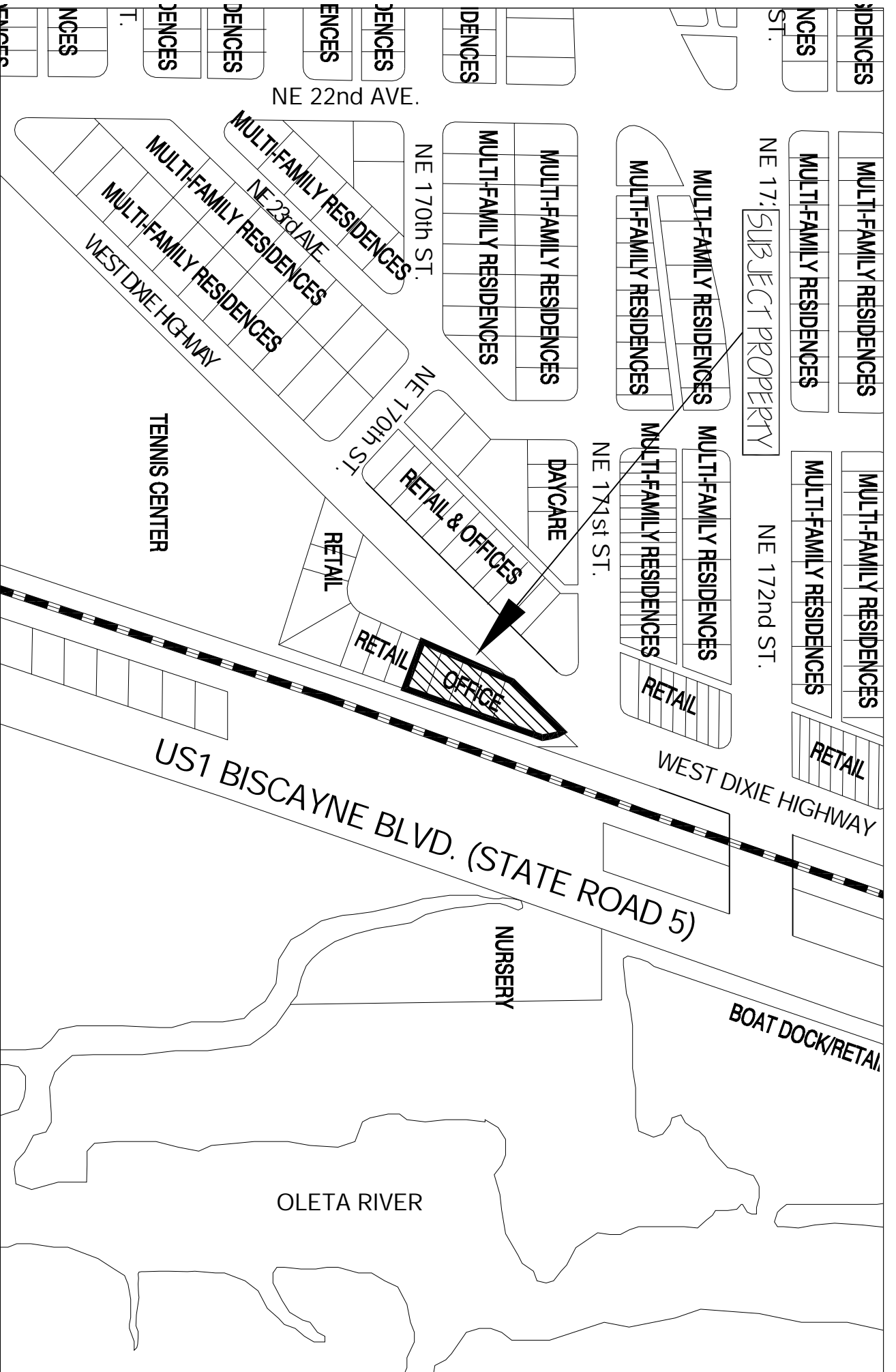
Existing Zoning Map
 Exhibit No. 1

Prepared by CNME Engineering Division



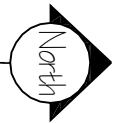
Legend:

- RS-1 Residential Single Family (8,000 SF minimum)
- RS-2 Residential Single Family (7,000 SF minimum)
- RS-3 Residential Single Family (6,000 SF minimum)
- RS-4 Residential Single Family (5,000 SF minimum)
- RS-5 Residential Single Family (1,200 SF minimum)
- MH-1 Mobile Home
- RD Residential Two-Family (Duplex)
- RM-19 Residential Low Rise Multifamily Medium Density-19 Units / Acre
- RM-25 Residential Mid-Rise Multifamily High Density-25 Units / Acre
- RM-32 Residential High-Rise Multifamily High Density-32 Units / Acre
- RO Residential Office District
- B-1 Limited Business District
- B-2 General Business District
- B-3 Intensive Business District
- B-4 Distribution Business and Light Industrial
- B-5 Distribution Business and Medium Industrial
- CF Community Facility
- PUD Planned Unit Development



City of North Miami Beach
 17050 N.E. 19th Avenue
 North Miami Beach, Florida 33162

OFFICE BUILDING ADDITION
 17071 WEST DIXIE HIGHWAY



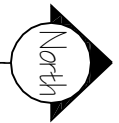
Existing Land Use Map
 Exhibit No. 2

Prepared by CINMB Engineering Division



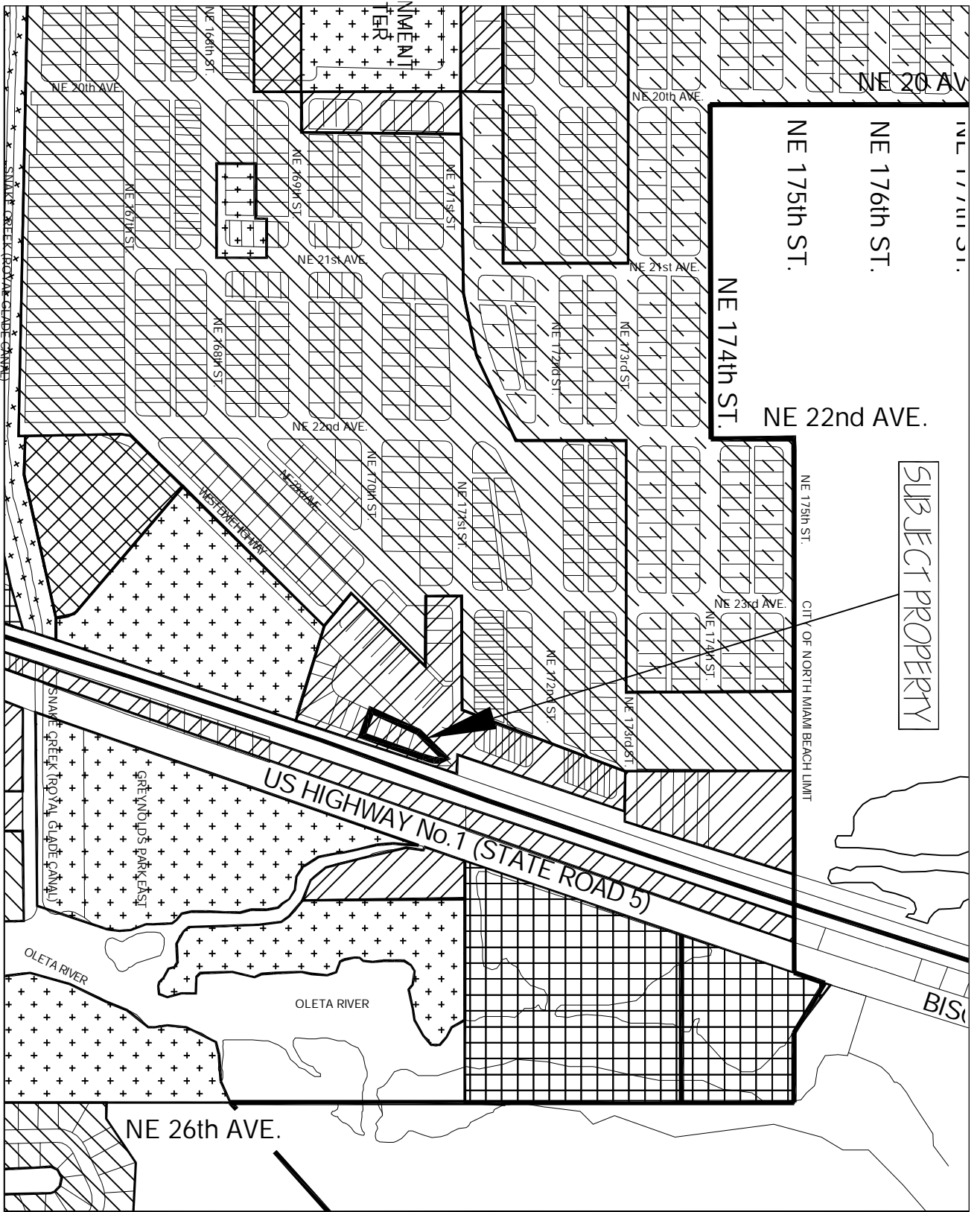
City of North Miami Beach
 17050 N.E. 19th Avenue
 North Miami Beach, Florida 33162

OFFICE BUILDING ADDITION
 17071 WEST DIXIE HIGHWAY



Future Land Use Map
 Exhibit No. 3

Prepared by CNM3 Engineering Division



Legend:

	Residential Low Density
	Residential Medium Density
	Residential High Density
	Business
	Public and Quasi - Public
	Recreation and Open Space
	Industrial
	Mixed Use



City of North Miami Beach, Florida
COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING & ZONING BOARD MEETING
MONDAY, JUNE 10, 2013

Attendees:

Members - Chairman Evan Piper Christopher Heid, City Planner
 Julian Kreisberg Darcee Siegel, City Attorney
 Joseph Litowich Shari Kamali, Public Services Director
 Hector Marrero Eric Wardle, Code Compliance Manager
 Saul Smukler Steven Williams, Board Recorder
Michael Mosher – Absent

Call to Order and Pledge of Allegiance:

Chairman Piper called the meeting to order at 6:07 p.m. The Pledge of Allegiance was recited and roll was called.

◆-----◆
Minutes:

A motion was made by Julian Kreisberg, seconded by Joseph Litowich, to approve the minutes of the May 13, 2013 meeting. In a voice vote, the motion passed unanimously.

Chairman Piper administered the oath for any members of the public wishing to speak during the meeting. He instructed them to sign in as well.

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OLD BUSINESS

Mr. Heid provided the following status report:

1. Item 13-540 After-the-Fact Variances (Cabana)
 3207 NE 168 Street
 Approved by City Council.
2. Item 13-542 Rezoning & Conditional Use Approval (RM-23 to B-3)
 1998 NE 161 Street
 Pending June 18, 2013 City Council meeting.
3. Item 13-541 Site Plan Review and Variances (Townhouses)
 3500 NE 166 Street
 Approved by City Council.
4. Item 13-538 LDR Text Amendments
 Residential Driveways
 *Approved on first reading. A second reading is scheduled for the
 June 18, 2013 City Council meeting.*

5. Item 13-539 LDR Text Amendments
Front Yard Pervious Area
Approved on first reading. A second reading is scheduled for the June 18, 2013 City Council meeting.
6. Item 13-543 After-the-Fact Variances (Dock, Single-Family Home)
3467 NE 168 Street
Pending June 18, 2013 City Council meeting.
7. Item 13-544 Site Plan Review, Conditional Use, & Variances
Starbucks (Drive-Thru)
199 NE 167 Street
Pending June 18, 2013 City Council meeting.

Ms. Siegel noted that Item 13-539, Front Yard Pervious Area, was amended upon first reading. The amendment specified 25% minimum coverage for pervious area.

NEW BUSINESS

Item 13-547: B-1 to B-2: 17071 West Dixie Highway: Rezoning

Mr. Heid stated that the existing zoning for this property is B-1, Limited Business District, with an existing land use of Office Building and future land use designation of Business. The Applicant is requesting rezoning of a 27,905 sq. ft. property from Limited Business District to B-2, General Business District.

Ms. Siegel recommended that the Board members disclose any contact with the Applicant or the Applicant's representatives in relation to this Item. Mr. Litowich and Mr. Smukler stated they were contacted by the Applicant's representative, Charles Falkanger. Vice Chairman Kreisberg and Mr. Marrero said they were not contacted. Chairman Piper said he had minor non-substantive conversation with the Applicant's representative.

Charles Falkanger, representing JAAL LLC principal owner Alan Macken, stated that the Applicant believes the subject property can be developed into a gateway to welcome people to the City. He added that the proposed zoning is consistent with the future land use map, and the Applicant has a vested interest in the community and looks forward to working with the City and the CRA on future developments.

Alan Macken, Applicant, said he had owned the building on the subject property for six to seven years. He advised that he sought to amend its zoning due to changes currently taking shape within the City.

Mr. Litowich requested to hear the Applicant's plans for the property. Mr. Macken replied that he was exploring "other options and opportunities" for the property, and wished to change its zoning in order to remain consistent with the changing landscape of the City, which will be affected by the planned Hyatt hotel on Dixie Highway and other major developments. While he did not have a specific plan in place for the property at present, he concluded that he looked forward to any opportunities that may present themselves.

Mr. Litowich asked how the proposed rezoning would affect height restrictions. Mr. Heid said while the current B-1 zoning allows only two stories, B-2 zoning allows up to 15 stories and 150 ft. in height.

Chairman Piper asked what uses might be allowed by the proposed zoning change. Mr. Heid responded that uses within B-2 are limited, as the district is primarily designed for businesses that serve the consumer needs of nearby residents. Uses include small restaurants, gyms, apparel shops, garden supplies, home improvement, and jewelry stores, among others.

Chairman Piper asked if the subject property could join with the parcel to its south to create a more significant plot. Mr. Heid said the City would be pleased to see these parcels joined together in order to attract a larger development. He noted that there is also a City parcel in the area that could be joined to the parcel or parcels as well. He noted that any plans for the property would come back before both Staff and the Board for further review.

Mr. Macken added that he also hoped to open a conversation regarding the joining of the subject property with another parcel. A change in zoning could enhance the property's value.

Chairman Piper opened the floor to public comment. As there were no members of the public wishing to speak on the Item, public comment was closed.

Mr. Heid stated that Staff recommends the Application favorably with no conditions.

Mr. Litowich commented that the properties across the street from the subject property would create a buffer between the B-2 zoning district and the property's nearby residential neighbors. Mr. Heid noted that the property is also buffered by the railroad tracks and Biscayne Boulevard, which isolate it from residential areas.

A motion to approve Item 13-547 was made by Saul Smukler and seconded by Hector Marrero. In a roll call vote, the motion passed with a vote of 5-0.

Chairman Evan Piper	YES
Joseph Litowich	YES
Hector Marrero	YES
Julian Kreisberg	YES
Saul Smukler	YES
Michael Mosher	ABSENT

◆-----◆
Item 13-546: LDR Text Amendments: Administrative Code Waiver Process

Chairman Piper recognized City Councilwoman Beth Spiegel, who was present at the meeting.

Mr. Heid stated that this Item was discussed at the May 13 Board meeting, at which concerns were raised with respect to enforcement of the draft Ordinance. He recalled that there had been particular concern regarding "door-to-door, street-to-street" searches for Code violations. Changes to the proposed Ordinance include removal of the random inspection of City zones by Code Compliance Officers. The reference to door-to-door and street-to-street searches for zoning violations was also removed.

Mr. Heid noted that while these procedures could still be used, their removal from the Ordinance's language meant they would not be required. This would allow more flexibility for City administration to determine how they wished to proceed in enforcing the proposed Ordinance.

Eric Wardle, Code Compliance Manager, stated that he would be in charge of enforcement of the Ordinance. The intent would be to identify all violations within the community and allow residents the opportunity to comply through the waiver process. He noted that there may be several ways to enforce the Ordinance. Mr. Wardle added that many residents are not aware that Code violations exist, as they may have purchased existing properties that include a violation or installed structures without knowing they must first apply for a permit. He estimated that there are hundreds of violations throughout the City; the goal of the administrative waiver process is to give residents the opportunity to legalize or get rid of these violations.

Vice Chairman Kreisberg requested clarification that a resident who may have caused his or her own violation could use the administrative waiver process as a remedy to the situation. Mr. Wardle confirmed this, noting that residents may apply for the process before their violation is identified by Code Compliance.

Vice Chairman Kreisberg asked if the process still included empaneling a review board consisting of City employees. Mr. Heid said the possibility of a board consisting of City Councilmembers, City Staff, or members of the community had been discussed, as well as the size of the board. Staff had ultimately determined they would rely on City employees in order to provide consistency. Ms. Siegel added that the board would consist of Staff members who are well-versed in disciplines related to applicable Code. Residents may appeal directly to the City Council to appeal any decision made by the administrative group, or may apply for a variance.

Vice Chairman Kreisberg asked if the result of the Ordinance might still be to "blanket the City" with Code Compliance inspectors. Mr. Wardle pointed out that this is the current process used by Code Compliance: Officers are assigned to particular zones and respond to complaints within these zones. He noted that Officers are currently holding off on identifying many violations while the Ordinance is developed. The method of identifying violations would not be made more onerous by the Ordinance.

Chairman Piper asked if the identification process for Code violations would be made any different by the Ordinance. Mr. Wardle said it would not. He noted that while Code Compliance receives some complaints, the majority of violations are noted by Officers patrolling their zones.

Vice Chairman Kreisberg asked who would put the Ordinance's procedures, such as the review board, into place. Mr. Wardle said the City Manager would appoint the board and establish its meeting schedule.

Vice Chairman Kreisberg asked who was responsible for re-drafting the proposed Ordinance. Ms. Siegel said she and Mr. Williams had worked with Community Development, based upon the Board's comments and concerns from the last meeting, to draft the revised document.

Chairman Piper commented that the result was a less expensive, more streamlined waiver procedure. Mr. Wardle added that the proposed process would also be more lenient than the process currently in place, which would require residents to seek a variance or an after-the-fact permit. Mr. Heid emphasized that the Building Department is not allowed to waive certain permit requirements, as they are bound by Florida Building Code.

Mr. Litowich asked if Staff foresaw any possible stumbling blocks to the proposed Ordinance. Mr. Wardle said that an unintended consequence may be that some residents may not keep the structures they currently have once they are identified as Code violations. He anticipated that complaints may arise from this, but noted that this was no different from the current process.

Mr. Smukler asked how it was determined that the best way to proceed would be to have representatives of the Building and Zoning Departments, as well as Code Enforcement, comprise the board that would make decisions. He asked if this would be a formal meeting process, with a recording and minutes. Ms. Siegel said the process would be less formal, although it would also be open to the public and recorded.

Ms. Siegel advised that the best advantage of the proposed Ordinance would be the opportunity to legalize properties that may have been nonconforming for years. She pointed out that many Code violations listed in the proposed Ordinance, such as side setbacks, sheds, and carports, can be easily corrected, and hundreds of these violations exist throughout the City. The process would allow the City to work with the community and allow violations to be corrected rather than entering into a longer process in which properties may be cited over and over for violations and may ultimately face liens.

She added that the Ordinance will apply for a limited time period: violations must have been in existence prior to January 1, 2013, in order to qualify for the waiver process. This would be confirmed using Google Maps. The Ordinance would sunset on December 31, 2016, which would allow residents ample time to correct violations.

Vice Chairman Kreisberg asked what would happen if a resident applied for the waiver process, was turned down, and failed to correct the violation on his or her property. Ms. Siegel said they would ultimately be cited for any ongoing Code violations.

Mr. Marrero observed that when a house is sold in other cities, such as Hialeah, the seller has the responsibility of coming to the City to get "a clean bill of health" for their properties, ensuring that there are no violations. He felt this could be a good way to proceed in the future to prevent the continuation of a large number of violations. Mr. Wardle noted that another aspect of the problem is the number of complaints about Code violations, which must be addressed right away and cannot be put off until the resident sells the building. The Ordinance would allow violations to be addressed equally and on a City-wide basis.

Mr. Litowich asked if Mr. Wardle felt Code Compliance would be a more streamlined Department after the initial inundation of identified violations. Mr. Wardle replied that the violations would be easier to deal with after the Ordinance has been in effect for some months, but he did not foresee a change in his Department, other than less

revenue in fines. He pointed out, however, that Code Compliance has never been a Department that resulted in significant revenue for the City.

Mr. Smukler observed that surrounding properties within 150 ft. of a subject property would be noticed of violations and have 15 days to respond, which was very different from the variance process. He asked if this would be legal for minor violations. Ms. Siegel confirmed this, noting that the expense is also significantly less from the variance process. She pointed out that a Code waiver differed from a variance, as a variance allows a structure to vary from one particular aspect of Code; some of the violations that may be discovered could be granted a waiver and grandfathered in under the proposed Ordinance.

Mr. Smukler asked if an individual residing within 200 ft. of a violation would have any recourse against the City if s/he was not provided notice. Ms. Siegel said they would not, as the Ordinance defines the distance of notice as 150 ft. She added that another reason was that the violations would not be egregious or especially problematic, and would be more likely to affect adjacent or abutting neighbors rather than neighbors within a greater distance.

Mr. Smukler asked if the filing fee for the waiver process would cover the cost of the notification process. Mr. Heid said the City would perform the notifications, but the cost of notification would be borne by the applicant.

Vice Chairman Kreisberg asked if there were standards of determination, and whether these standards could be inequitably applied, such as when one neighbor makes a complaint about a violation but another neighbor might not choose to do so. Ms. Siegel said the evaluation criteria outlined in the proposed Ordinance include the affect on adjacent properties, drainage, right-of-way, compatibility with primary structure, and other considerations to be reviewed by the committee. Mr. Heid noted that a neighbor who does or does not make a complaint could be weighed as a mitigating factor, and decisions made by the board would not be arbitrary or capricious.

A motion to approve Item 13-546 was made by Saul Smukler and seconded by Vice Chair Kreisberg. In a roll call vote, the motion passed 5-0.

Chairman Evan Piper	YES
Joseph Litowich	YES
Hector Marrero	YES
Julian Kreisberg	YES
Saul Smukler	YES
Michael Mosher	ABSENT

◆-----◆
NEXT MEETING

It was noted that the next Board meeting would be on Monday, July 8, 2013.

Mr. Marrero commented that the City should focus on paving and drainage in the Eastern Shores neighborhood.

◆-----◆
ADJOURNMENT

There being no further business to come before the Board at this time, the meeting was adjourned at 6:55 p.m.

ORDINANCE 2013-12

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA REZONING PROPERTY WITHIN THE CITY OF NORTH MIAMI BEACH LOCATED AT 17071 WEST DIXIE HIGHWAY FROM A CLASSIFICATION OF B-1, LIMITED BUSINESS DISTRICT, TO A CLASSIFICATION OF B-2, GENERAL BUSINESS DISTRICT; DIRECTING THE DIRECTOR OF COMMUNITY DEVELOPMENT TO MAKE ALL NECESSARY CHANGES IN THE OFFICIAL ZONING MAP OF THE CITY OF NORTH MIAMI BEACH TO CARRY OUT THE INTENT OF THIS ORDINANCE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the property described herein is zoned B-1, Limited Business District; and

WHEREAS, the applicant has requested a rezoning of the property to B-2, General Business District, in order to allow future use consistent with that zoning district; and

WHEREAS, after public hearing on June 10, 2013, the Planning and Zoning Board favorably recommended approval of the request for rezoning from B-1, Limited Business District, to B-2, General Business District, with a vote of 5 to 0.

NOW, THEREFORE,

BE IT ORDAINED by the City Council of the City of North Miami Beach, Florida.

Section 1. The foregoing recitals are true and correct.

Section 2. The property is legally described as:

LOTS 1 THRU 5, IN BLOCK 5, OF "A SUBDIVISION OF A PORTION OF TRACT "A" GREYNOLDS PARK GARDENS", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 55 AT PAGE 57 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, LYING AND BEING IN THE CITY OF NORTH MIAMI BEACH, MIAMI-DADE COUNTY, FLORIDA.

a/k/a
17071 West Dixie Highway
North Miami Beach, FL 33160

is hereby rezoned from a classification of B-1, Limited Business District, to B-2, General Business District, is hereby granted.

Section 3. The Director of Community Development is hereby directed to make all necessary changes to the Official Zoning Map of the City of North Miami Beach to implement the intent of this Ordinance.

Section 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 5. If any section, subsection, clause or provision of this Ordinance is held invalid, the reminder shall not be affected by such invalidity.

Section 6. It is the intention of the City of North Miami Beach and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami Beach, Florida. The Sections of this Ordinance may be renumbered or relettered to accomplish this intention and the word "Ordinance" may be changed to "Section", "Article", or other appropriate word as the Codifier may deem fit.

APPROVED BY TITLE-ONLY on first reading this ____ **day of August, 2013.**

APPROVED AND ADOPTED on second reading this ____ **day of _____, 2013.**

ATTEST:

PAMELA L. LATIMORE
CITY CLERK

GEORGE VALLEJO
MAYOR

APPROVED AS TO FORM:

DARCEE S. SIEGEL
CITY ATTORNEY

SPONSORED BY: Mayor and City Council



City of North Miami Beach
17011 NE 19 Avenue
North Miami Beach, FL 33162
305-947-7581
www.citynmb.com

MEMORANDUM

 Print

TO: Mayor and City Council
FROM: Roslyn B. Wiesblum, City Manager
DATE: Tuesday, August 6, 2013

RE: Ordinance No. 2013-13 - First Reading by Title Only (Director of Public Services Shari Kamali)

BACKGROUND: Staff is recommending amending the Future Land Use Element to remove policy 1.8.3, which pertains to special notice requirements for comprehensive plan amendments that would increase height or density.

RECOMMENDATION: Approval.

FISCAL IMPACT: None.

CONTACT PERSON(S): Shari Kamali, Director of Public Services

ATTACHMENTS:

- ❑ [Staff Report](#)
- ❑ [Planning & Zoning Minutes - July 8, 2013](#)
- ❑ [Ordinance No. 2013-13](#)
- ❑ [Amendments](#)



CITY OF NORTH MIAMI BEACH INTEROFFICE MEMORANDUM

TO: MAYOR AND CITY COUNCIL
FROM: ROSLYN WEISBLUM, CITY MANAGER
DATE: TUESDAY, AUGUST 6, 2013

**RE: ORDINANCE NO. 2013-13 (P&Z ITEM 13-550)
COMPREHENSIVE PLAN AMENDMENT
POLICY 1.8.3 OF THE FUTURE LAND USE ELEMENT**

Staff is recommending the Future Land Use Element of the City's Comprehensive Plan be amended by deleting Policy 1.8.3. Policy 1.8.3 prescribes notice requirements and waiting periods between meetings for Comprehensive Plan amendments that would increase the maximum allowable height or density of a parcel or Future Land Use category.

This policy requires that notice of proposed text amendment be sent to individuals registered with the City Clerk, applicants (including the City) wait at least 90 days from the time of application before the item can be heard before the Planning and Zoning Board, as well as 9 months from the time of application before the second reading at City Council.

These requirements are far more stringent than the notice requirements outlined in the Florida State Statutes. Staff feels that the requirements in this policy are superfluous and make Comprehensive Plan amendments unduly lengthy, burdensome, and unreasonably delay development and redevelopment in the City. It is recommended that this policy be deleted and that the process and notice procedures for Comprehensive Plan amendments be done in accordance with Florida State Statutes.

◆ ◆

PLANNING & ZONING BOARD HISTORY

This item was heard by the Planning & Zoning Board at the meeting of July 8, 2013 and received a favorable recommendation with a vote of 4-1.



City of North Miami Beach, Florida
COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING & ZONING BOARD MEETING
MONDAY, JULY 8, 2013

Attendees:

Members - Chairman Evan Piper Christopher Heid, City Planner
 Julian Kreisberg Patricia Minoux, Assistant City Attorney
 Joseph Litowich Steven Williams, Board Recorder
 Hector Marrero
 Saul Smukler
Michael Mosher – Absent

◆-----◆
Call to Order and Pledge of Allegiance:

Chairman Piper called the meeting to order at 6:11 p.m. The Pledge of Allegiance was recited and roll was called.

◆-----◆
Minutes:

A motion was made by Julian Kreisberg, seconded by Joseph Litowich, to approve the minutes of the June 10, 2013 meeting. In a voice vote, the motion passed unanimously.

Chairman Piper administered the oath for any members of the public wishing to speak during the meeting. He instructed them to sign in as well.

◆-----◆
OLD BUSINESS

Mr. Heid provided the following status report:

1. Item 13-542 Rezoning & Conditional Use Approval (RM-23 to B-3)
 1998 NE 161 Street
Denied by City Council.
2. Item 13-538 LDR Text Amendments
 Residential Driveways
Approved by City Council.
3. Item 13-539 LDR Text Amendments
 Front Yard Pervious Area
Approved by City Council.
4. Item 13-543 After-the-Fact Variances: Dock (Single-Family Home)
 3467 NE 168 Street
Approved by City Council.

5. Item 13-544 Site Plan Review, Conditional Use, & Variances: Starbucks (Drive-Thru)
199 NE 167 Street
Approved by City Council.
6. Item 13-547 Rezoning B-1 to B-2
17071 West Dixie Highway
Tabled by City Council for further discussion.
7. Item 13-546 LDR Text Amendments
Administrative Code Waiver Process
Approved by City Council on first reading. Pending second reading.

NEW BUSINESS

Item 13-548: Conditional Use Approval; Package Liquor Store - 13555 Biscayne Boulevard

Mr. Heid stated that the Applicant is seeking conditional use approval for the operation of a package liquor store in an existing shopping center in a B-2 General Business zoning district. This district includes both permitted and conditional uses; conditional uses are typically considered to have potential to create a negative or harmful impact on the surrounding community. While the proposed liquor store has no close proximity to schools or day-care centers, a residential area is located immediately to the east, although it is separated by a wall around the shopping center. Staff feels the store would have no impact on the residential area, and favorably recommends the Application.

Fred Hector, Applicant, stated that the liquor store would be a family-owned business.

Mr. Smukler asked if there were existing restrictions on liquor store hours. Mr. Heid replied that hours are restricted by City Code, and the Applicant is aware of the restriction.

Mr. Litowich asked if any other liquor stores were located within the same shopping center. Mr. Hector said there were not, estimating that the closest liquor store was approximately 1,600 ft. to the south of the subject property. Mr. Heid noted that a survey of nearby liquor stores was included in the members' information packets.

Chairman Piper opened the floor to public comment. As there were no members of the public wishing to speak on the Item, public comment was closed.

Mr. Heid stated that the City recommends the Application favorably with the three conditions listed. Mr. Hector said he would accept the conditions.

A motion was made by Julian Kreisberg, seconded by Hector Marrero, for approval with the three conditions. In a roll call vote, the motion passed with a vote of 5-0.

Chairman Evan Piper	YES
Joseph Litowich	YES
Hector Marrero	YES
Julian Kreisberg	YES
Saul Smukler	YES
Michael Mosher	ABSENT

Mr. Heid advised that the Item would now go before the City Council for further approval; this meeting will be advertised in the newspaper and individual notices would once again be sent out. The date posted on the property will be changed to reflect the date of the City Council meeting.

◆-----◆
Item 13-537: Site Plan Review and Variances; Nova Plaza - 1875 NE 167 Street

Mr. Heid stated that the existing zoning for the site is FCC, Fulford City Center, with an existing land use that is filled with vacant commercial buildings. The future land use designation is Mixed-Use Town Center. The Applicant, Universal Investment Group, wishes to re-occupy two existing buildings totaling 9389 sq. ft. The requested variances would waive two of the minimum six required dwelling units, allow parking in front of the building, retain access from the primary street, exceed the maximum allowed front yard setback, add 34% of the minimum required building frontage, waive 29% of the minimum required ground floor size, and waive one of the minimum required two stories and 1 ft. of the minimum required 12 ft. ceiling height.

Mr. Heid explained that the subject property has been unused for more than 180 days, which meant the property has lost its legal nonconforming status. The property's FCC zoning does not anticipate the reuse of existing buildings, as it is designed entirely around new construction. Mr. Heid advised that the change in zoning makes it very difficult for an existing building to meet Code.

Luis Larosa, architect for the Applicant, stated that the project lies on a triangular lot facing a primary street and two secondary streets. The Applicant's intent is to improve the property. Plans include meeting some of the design standards required by the FCC zoning district, such as changing the building's glazing and enhancing its modern characteristics to make them more visually attractive.

Mr. Heid added that the improvements on 167 Street are not limited to private property, but include significant improvements to the public right-of-way as well, including the parking area and landscaping of islands and sidewalks.

Mr. Piper requested background information on the property. Mr. Heid said there had been discussions of placing a hotel on the site, which had never reached the public hearing process. He asserted that the proposed project would bring new life to the area, such as a restaurant with outdoor dining.

Mr. Litowich asked if the Applicant had a tenant in mind for the location. Mr. Larosa replied that a Peruvian restaurant has shown interest in the site.

Mr. Litowich asked how the Applicant planned to separate the residential area from the commercial area. Mr. Larosa said he is focusing on the commercial area rather than the residential space, although there has been some address of the residential portion in terms of landscaping and improved rear access to the site. He added that an attempt will be made to modernize the residential building's appearance and create continuity between the two commercial buildings.

Vice Chairman Kreisberg asked if the buildings have had a change in ownership. Mr. Larosa said there has been no such change. Mr. Heid said the owners had allowed the nonconforming use to expire, which triggered the approval process. If the Application is denied, there would be no use on the property, and it would lie vacant or be demolished.

Vice Chairman Kreisberg asked if there is anticipation of renting the residential units. Mr. Heid replied that this might be possible for a tenant seeking a small "live/work" apartment.

Mr. Smukler requested clarification of the minimum requirement of six dwelling units. Mr. Heid explained that the minimum requirement of 10 dwelling units per acre would have required the Applicant to build two new units in addition to the existing four units, which was an unanticipated consequence of FCC zoning. The existing units are vacant; as they cannot be occupied until the legal nonconforming status issue is resolved.

Mr. Larosa stated that work will be done on the interior of the residential units at a later time once the exterior improvements to the property are made. Mr. Heid noted that the apartments would need to be significantly updated before they are suitable for rental.

Mr. Smukler asked if the commercial property can still be occupied if the residential units remain unoccupied after another 180 days. Mr. Heid confirmed this, although he recommended that the Applicant obtain the necessary permits for the work on the residential units; if this is not possible, the Applicant is encouraged to rent one of the units in order to maintain the legal nonconforming status.

Chairman Piper opened the floor to public comment. As there were no members of the public wishing to speak on the Item, public comment was closed.

Mr. Heid stated that the City recommends the Application favorably, with the 14 conditions listed. Mr. Larosa stated that the Applicant accepted these conditions.

A motion was made by Julian Kreisberg, seconded by Joseph Litowich, for approval with the 14 conditions. In a roll call vote, the motion passed 5-0.

Chairman Evan Piper	YES
Joseph Litowich	YES
Hector Marrero	YES
Julian Kreisberg	YES
Saul Smukler	YES
Michael Mosher	ABSENT

◆-----◆
(Items 13-550 and 13-551 were discussed together.)

Item 13-550: Comprehensive Plan Text Amendment; Deletion of Policy 1.8.3.

Item 13-551: LDR Text Amendment; Notices for Comprehensive Plan Amendments

Mr. Heid explained that while these Items would be voted upon separately, they would be discussed together, as they are related. A provision of both the Comprehensive Plan and the Land Development Regulations (LDR) states that any changes resulting in greater height or density are subject to a nine-month waiting period before the City Council may consider that Application. This provision is in addition to the requirements set forth by State Statute. There are no other municipalities in Florida that require a similar waiting period; in addition, Mr. Heid pointed out that the waiting period can have a damaging effect on development or redevelopment, as Applicants are required to wait nearly one year before making any changes to the property.

The City's recommendation is to remove this additional waiting period and rely upon the requirements set forth by the State Statute, as well as notice and advertising requirements. He recommended that the Board vote to amend both the Comprehensive Plan and the LDR accordingly.

Mr. Smukler observed that while the nine-month waiting period sounded onerous, the rest of the policy includes a requirement for Applicants to notify and register with the City Clerk. He asked if this part of the policy would stand. Mr. Heid said it would not, as it is neither included in the State Statute nor required by any other Florida municipalities. He advised that Staff found no evidence that this policy has been followed with regard to height or density.

Mr. Smukler asked how long the policy has been in effect. Mr. Heid said it was adopted five years ago as "a cooling-off period" in response to some of the larger projects proposed for the City, as some residents had expressed concern with these projects' height and/or density. It had, however, proved to be more damaging than positive for property owners and developers.

Mr. Smukler agreed that the waiting period did seem to be detrimental to developers, but he was not certain that the entire policy should be abandoned. He stated that he did not know what the State Statute required without the policy. Mr. Heid said the result would be that the City would be held to the same standard as every other city in Florida.

Mr. Litowich requested clarification of the notices that would be required. Mr. Heid said written notice would be required within 15 days, with further notices no less than 90 days and no more than 120 days; the existing nine-month period would take effect between the two readings required by City Council. This would effectively result in a one-year process from the time of application.

Mr. Litowich asked if either the 90-day period or the nine-month waiting period would remain. Mr. Heid said the text amendment would eliminate both of these periods. He pointed out that Applications would still be required to go before the Planning and Zoning Board, then be re-advertised for both first and second readings. He estimated that the process would now take approximately five months rather than 17.

Chairman Piper asked if the proposed amendment has been reviewed by the City Attorney's Office. Assistant City Attorney Patricia Minoux confirmed this, stating that the deletions were found to be legally sound and compliant with State law.

Chairman Piper opened the floor to public comment. As there were no members of the public wishing to speak on the Item, public comment was closed.

A motion was made by Julian Kreisberg, seconded by Hector Marrero, to approve Item 13-550. In a roll call vote, the motion passed 4-1 (Mr. Smukler dissenting).

Chairman Evan Piper	YES
Joseph Litowich	YES
Hector Marrero	YES
Julian Kreisberg	YES
Saul Smukler	NO
Michael Mosher	ABSENT

A motion was made by Julian Kreisberg, seconded by Hector Marrero, to approve Item 13-551. In a roll call vote, the motion passed 4-1 (Mr. Smukler dissenting).

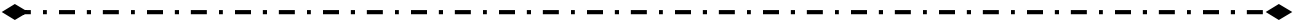
Chairman Evan Piper	YES
Joseph Litowich	YES
Hector Marrero	YES
Julian Kreisberg	YES
Saul Smukler	NO
Michael Mosher	ABSENT

Mr. Heid advised that the LDR Resolution would go before City Council for two readings.

◆-----◆
NEXT MEETING

Chairman Piper observed that the next regular Board meeting is scheduled for August 12, but there was the possibility of a special meeting to be scheduled for July 22. Mr.

Heid said this has not yet been directly confirmed by the City Manager or City Attorney's Office.



ADJOURNMENT

There being no further business to come before the Board at this time, the meeting was adjourned at 6:56 p.m.

ORDINANCE NO. 2013-13

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA AMENDING SECTION 1 OF THE COMPREHENSIVE PLAN, ENTITLED "FUTURE LAND USE ELEMENT" TO CHANGE THE CURRENT NOTICE REQUIREMENTS FOR COMPREHENSIVE PLAN AMENDMENTS TO CONFORM WITH FLORIDA STATUTES; AUTHORIZING THE TRANSMITTAL OF THIS AMENDMENT FOR REVIEW TO THE APPROPRIATE AGENCIES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in 2008, the Mayor and City Council passed Ordinance No. 2008-22 adding a 9-month waiting time period before the City Council could consider applications which increased height and density on City buildings; and

WHEREAS, along with the waiting period, the City Council also reviewed and amended the City's Zoning Code to address the height and density requirements; and

WHEREAS, even though no other municipalities in Florida require a similar waiting period, the current notice requirements for Comprehensive Plan amendments have proven to be unduly lengthy and burdensome to applicants; and

WHEREAS, City staff believes that it is unnecessary to have regulations regarding Comprehensive Plan amendments which are more stringent than Florida State Statutes; and

WHEREAS, according to City staff, the existing waiting period has had a damaging effect on development and redevelopment within the City of North Miami Beach, as applicants have had to wait nearly one year before making any changes to the property; and

WHEREAS, with the proposed Comprehensive Plan notice amendments, the zoning process will be more efficient and the time to obtain a Comprehensive Plan amendment will be reduced by more than 50%; and

WHEREAS, the Planning and Zoning Board, after public hearing on July 8, 2013, recommended approval of the request to transmit this amendment for review to the appropriate agencies by a vote of 4-1; and

WHEREAS, the City Council, upon first reading of this ordinance, authorizes transmittal of this amendment to the required review agencies for the purpose of review in accordance with Florida State Statutes.

NOW, THEREFORE,

BE IT ORDAINED by the City Council of the City of North Miami Beach, Florida.

Section 1. Findings. The foregoing "Whereas" clauses are hereby ratified and incorporated as the legislative intent of this Ordinance.

Section 2. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 3. Inclusion in the Comprehensive Plan. It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Comprehensive Plan of the City of North Miami Beach.

Section 4. **Transmittal.** The City Clerk is directed to transmit the amendments attached hereto in Exhibit "A" to the required review agencies as provided under Chapter 163 of the Florida State Statutes.

Section 5. **Effective Date.** This Ordinance shall be effective pursuant to Chapter 163 of the Florida Statutes.

APPROVED BY TITLE ONLY on first reading this ___ day of _____, 2013.

APPROVED AND ADOPTED on second reading this ___ day of _____, 2013.

ATTEST:

PAMELA L. LATIMORE
CITY CLERK

GEORGE VALLEJO
MAYOR

APPROVED AS TO FORM

DARCEE S. SIEGEL
CITY ATTORNEY

Sponsored by: Mayor & City Council

Exhibit "A"

City of North Miami Beach Comprehensive Plan Future Land Use Element

1. Delete Policy 1.8.3:

Policy 1.8.3.

~~Comprehensive Plan changes or amendments to text ("Text Changes") which would increase the height and/or density for any land or of any existing future land use category or which would create one or more new future land use categories that would exceed the density and/or height of the existing future land use categories, may be approved only one time every two years unless necessary for resolution of conflicts resulting from annexations. Written notice of Text Changes or map changes which would increase the height and/or density for any land ("Map Change Increases") shall be provided to individuals and groups which register with the City Clerk. The applicant shall bear the cost of providing written notice. This written notice shall be provided within fifteen (15) days after the filing of any application seeking Text Change or Map Change Increase. A further notice pursuant to this policy shall be provided not less than ninety (90) nor more than one hundred twenty (120) days prior to the first hearing of the Local Planning Agency (LPA) pertaining to a Text Change or Map Change Increase and not more than forty five (45) days nor less than thirty (30) days prior to final City Council action upon such a proposed change or amendment. No final City Council action shall take place less than nine (9) months from the filing of an application for a Text Change or Map Change Increase. This policy shall apply to applications of the City as well as to all other applications for change or amendment described in this policy.~~

2. Renumber subsequent policies as follows:

Policy 1.8.4 1.8.3

Continue to enforce the Land Development Regulations' provisions relative to subdivision control, sign controls and flood plain protection to assure they are compatible with the intent of this plan. (Amended by Ordinance NO. 2006-14, 10/03/06)

Policy 1.8.5 1.8.4

By 2015 the City will amend its land development regulations and/or will take other actions to implement the 2007 Urban Design Plan.



City of North Miami Beach
17011 NE 19 Avenue
North Miami Beach, FL 33162
305-947-7581
www.citynmb.com

MEMORANDUM

 Print

TO: Mayor and City Council

FROM: Roslyn B. Weisblum, City Manager

DATE: Tuesday, August 6, 2013

RE: Ordinance 2013-14 -First Reading by Title Only (Director of Public Services Shari Kamali)

BACKGROUND: Staff is recommending an amendment to the Land Development Regulation to remove special notice requirements for Comprehensive Plan Amendments that would increase height or density.

RECOMMENDATION: Approval.

FISCAL IMPACT: None.

CONTACT PERSON(S): Shari Kamali, Director of Public Services

ATTACHMENTS:

- ❑ [Staff Report](#)
- ❑ [P&Z Minutes - July 8, 2013](#)
- ❑ [Ordinance No. 2013-14](#)



CITY OF NORTH MIAMI BEACH INTEROFFICE MEMORANDUM

TO: MAYOR AND CITY COUNCIL
FROM: ROSLYN WEISBLUM, CITY MANAGER
DATE: TUESDAY, AUGUST 6, 2013

RE: **ORDINANCE NO. 2013-14 (P&Z ITEM 13-551)**
LDR TEXT AMENDMENT
NOTICE REQUIREMENTS FOR COMP. PLAN AMENDMENTS

Staff is recommending amendments to the Land Development Regulations (LDR) to eliminate the special notice requirements and waiting periods between meetings for Comprehensive Plan amendments that would increase the maximum allowable height or density of a parcel or Future Land Use category.

This policy requires that notice of proposed text amendment be sent to individuals registered with the City Clerk, applicants (including the City) wait at least 90 days from the time of application before the item can be heard before the Planning and Zoning Board, as well as 9 months from the time of application before the second reading at City Council.

These regulations are identical to the requirements in Policy 1.8.3 of the Future Land use Element in the Comprehensive Plan. Just as it has been recommended that Policy 1.8.3 be deleted, staff feel that these regulation should be removed from the LDRs and the process and notice procedures for Comprehensive Plan amendments be done in accordance with Florida State Statutes

◆ ◆

PLANNING & ZONING BOARD HISTORY

This item was heard by the Planning & Zoning Board at the meeting of July 8, 2013 and received a favorable recommendation with a vote of 4-1.



City of North Miami Beach, Florida
COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING & ZONING BOARD MEETING
MONDAY, JULY 8, 2013

Attendees:

Members - Chairman Evan Piper Christopher Heid, City Planner
 Julian Kreisberg Patricia Minoux, Assistant City Attorney
 Joseph Litowich Steven Williams, Board Recorder
 Hector Marrero
 Saul Smukler
Michael Mosher – Absent

◆-----◆
Call to Order and Pledge of Allegiance:

Chairman Piper called the meeting to order at 6:11 p.m. The Pledge of Allegiance was recited and roll was called.

◆-----◆
Minutes:

A motion was made by Julian Kreisberg, seconded by Joseph Litowich, to approve the minutes of the June 10, 2013 meeting. In a voice vote, the motion passed unanimously.

Chairman Piper administered the oath for any members of the public wishing to speak during the meeting. He instructed them to sign in as well.

◆-----◆
OLD BUSINESS

Mr. Heid provided the following status report:

1. Item 13-542 Rezoning & Conditional Use Approval (RM-23 to B-3)
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Denied by City Council.
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4. Item 13-543 After-the-Fact Variances: Dock (Single-Family Home)
 3467 NE 168 Street
Approved by City Council.

5. Item 13-544 Site Plan Review, Conditional Use, & Variances: Starbucks (Drive-Thru)
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17071 West Dixie Highway
Tabled by City Council for further discussion.
7. Item 13-546 LDR Text Amendments
Administrative Code Waiver Process
Approved by City Council on first reading. Pending second reading.

NEW BUSINESS

Item 13-548: Conditional Use Approval; Package Liquor Store - 13555 Biscayne Boulevard

Mr. Heid stated that the Applicant is seeking conditional use approval for the operation of a package liquor store in an existing shopping center in a B-2 General Business zoning district. This district includes both permitted and conditional uses; conditional uses are typically considered to have potential to create a negative or harmful impact on the surrounding community. While the proposed liquor store has no close proximity to schools or day-care centers, a residential area is located immediately to the east, although it is separated by a wall around the shopping center. Staff feels the store would have no impact on the residential area, and favorably recommends the Application.

Fred Hector, Applicant, stated that the liquor store would be a family-owned business.

Mr. Smukler asked if there were existing restrictions on liquor store hours. Mr. Heid replied that hours are restricted by City Code, and the Applicant is aware of the restriction.

Mr. Litowich asked if any other liquor stores were located within the same shopping center. Mr. Hector said there were not, estimating that the closest liquor store was approximately 1,600 ft. to the south of the subject property. Mr. Heid noted that a survey of nearby liquor stores was included in the members' information packets.

Chairman Piper opened the floor to public comment. As there were no members of the public wishing to speak on the Item, public comment was closed.

Mr. Heid stated that the City recommends the Application favorably with the three conditions listed. Mr. Hector said he would accept the conditions.

A motion was made by Julian Kreisberg, seconded by Hector Marrero, for approval with the three conditions. In a roll call vote, the motion passed with a vote of 5-0.

Chairman Evan Piper	YES
Joseph Litowich	YES
Hector Marrero	YES
Julian Kreisberg	YES
Saul Smukler	YES
Michael Mosher	ABSENT

Mr. Heid advised that the Item would now go before the City Council for further approval; this meeting will be advertised in the newspaper and individual notices would once again be sent out. The date posted on the property will be changed to reflect the date of the City Council meeting.

◆-----◆
Item 13-537: Site Plan Review and Variances; Nova Plaza - 1875 NE 167 Street

Mr. Heid stated that the existing zoning for the site is FCC, Fulford City Center, with an existing land use that is filled with vacant commercial buildings. The future land use designation is Mixed-Use Town Center. The Applicant, Universal Investment Group, wishes to re-occupy two existing buildings totaling 9389 sq. ft. The requested variances would waive two of the minimum six required dwelling units, allow parking in front of the building, retain access from the primary street, exceed the maximum allowed front yard setback, add 34% of the minimum required building frontage, waive 29% of the minimum required ground floor size, and waive one of the minimum required two stories and 1 ft. of the minimum required 12 ft. ceiling height.

Mr. Heid explained that the subject property has been unused for more than 180 days, which meant the property has lost its legal nonconforming status. The property's FCC zoning does not anticipate the reuse of existing buildings, as it is designed entirely around new construction. Mr. Heid advised that the change in zoning makes it very difficult for an existing building to meet Code.

Luis Larosa, architect for the Applicant, stated that the project lies on a triangular lot facing a primary street and two secondary streets. The Applicant's intent is to improve the property. Plans include meeting some of the design standards required by the FCC zoning district, such as changing the building's glazing and enhancing its modern characteristics to make them more visually attractive.

Mr. Heid added that the improvements on 167 Street are not limited to private property, but include significant improvements to the public right-of-way as well, including the parking area and landscaping of islands and sidewalks.

Mr. Piper requested background information on the property. Mr. Heid said there had been discussions of placing a hotel on the site, which had never reached the public hearing process. He asserted that the proposed project would bring new life to the area, such as a restaurant with outdoor dining.

Mr. Litowich asked if the Applicant had a tenant in mind for the location. Mr. Larosa replied that a Peruvian restaurant has shown interest in the site.

Mr. Litowich asked how the Applicant planned to separate the residential area from the commercial area. Mr. Larosa said he is focusing on the commercial area rather than the residential space, although there has been some address of the residential portion in terms of landscaping and improved rear access to the site. He added that an attempt will be made to modernize the residential building's appearance and create continuity between the two commercial buildings.

Vice Chairman Kreisberg asked if the buildings have had a change in ownership. Mr. Larosa said there has been no such change. Mr. Heid said the owners had allowed the nonconforming use to expire, which triggered the approval process. If the Application is denied, there would be no use on the property, and it would lie vacant or be demolished.

Vice Chairman Kreisberg asked if there is anticipation of renting the residential units. Mr. Heid replied that this might be possible for a tenant seeking a small "live/work" apartment.

Mr. Smukler requested clarification of the minimum requirement of six dwelling units. Mr. Heid explained that the minimum requirement of 10 dwelling units per acre would have required the Applicant to build two new units in addition to the existing four units, which was an unanticipated consequence of FCC zoning. The existing units are vacant; as they cannot be occupied until the legal nonconforming status issue is resolved.

Mr. Larosa stated that work will be done on the interior of the residential units at a later time once the exterior improvements to the property are made. Mr. Heid noted that the apartments would need to be significantly updated before they are suitable for rental.

Mr. Smukler asked if the commercial property can still be occupied if the residential units remain unoccupied after another 180 days. Mr. Heid confirmed this, although he recommended that the Applicant obtain the necessary permits for the work on the residential units; if this is not possible, the Applicant is encouraged to rent one of the units in order to maintain the legal nonconforming status.

Chairman Piper opened the floor to public comment. As there were no members of the public wishing to speak on the Item, public comment was closed.

Mr. Heid stated that the City recommends the Application favorably, with the 14 conditions listed. Mr. Larosa stated that the Applicant accepted these conditions.

A motion was made by Julian Kreisberg, seconded by Joseph Litowich, for approval with the 14 conditions. In a roll call vote, the motion passed 5-0.

Chairman Evan Piper	YES
Joseph Litowich	YES
Hector Marrero	YES
Julian Kreisberg	YES
Saul Smukler	YES
Michael Mosher	ABSENT

◆-----◆
(Items 13-550 and 13-551 were discussed together.)

Item 13-550: Comprehensive Plan Text Amendment; Deletion of Policy 1.8.3.

Item 13-551: LDR Text Amendment; Notices for Comprehensive Plan Amendments

Mr. Heid explained that while these Items would be voted upon separately, they would be discussed together, as they are related. A provision of both the Comprehensive Plan and the Land Development Regulations (LDR) states that any changes resulting in greater height or density are subject to a nine-month waiting period before the City Council may consider that Application. This provision is in addition to the requirements set forth by State Statute. There are no other municipalities in Florida that require a similar waiting period; in addition, Mr. Heid pointed out that the waiting period can have a damaging effect on development or redevelopment, as Applicants are required to wait nearly one year before making any changes to the property.

The City's recommendation is to remove this additional waiting period and rely upon the requirements set forth by the State Statute, as well as notice and advertising requirements. He recommended that the Board vote to amend both the Comprehensive Plan and the LDR accordingly.

Mr. Smukler observed that while the nine-month waiting period sounded onerous, the rest of the policy includes a requirement for Applicants to notify and register with the City Clerk. He asked if this part of the policy would stand. Mr. Heid said it would not, as it is neither included in the State Statute nor required by any other Florida municipalities. He advised that Staff found no evidence that this policy has been followed with regard to height or density.

Mr. Smukler asked how long the policy has been in effect. Mr. Heid said it was adopted five years ago as "a cooling-off period" in response to some of the larger projects proposed for the City, as some residents had expressed concern with these projects' height and/or density. It had, however, proved to be more damaging than positive for property owners and developers.

Mr. Smukler agreed that the waiting period did seem to be detrimental to developers, but he was not certain that the entire policy should be abandoned. He stated that he did not know what the State Statute required without the policy. Mr. Heid said the result would be that the City would be held to the same standard as every other city in Florida.

Mr. Litowich requested clarification of the notices that would be required. Mr. Heid said written notice would be required within 15 days, with further notices no less than 90 days and no more than 120 days; the existing nine-month period would take effect between the two readings required by City Council. This would effectively result in a one-year process from the time of application.

Mr. Litowich asked if either the 90-day period or the nine-month waiting period would remain. Mr. Heid said the text amendment would eliminate both of these periods. He pointed out that Applications would still be required to go before the Planning and Zoning Board, then be re-advertised for both first and second readings. He estimated that the process would now take approximately five months rather than 17.

Chairman Piper asked if the proposed amendment has been reviewed by the City Attorney's Office. Assistant City Attorney Patricia Minoux confirmed this, stating that the deletions were found to be legally sound and compliant with State law.

Chairman Piper opened the floor to public comment. As there were no members of the public wishing to speak on the Item, public comment was closed.

A motion was made by Julian Kreisberg, seconded by Hector Marrero, to approve Item 13-550. In a roll call vote, the motion passed 4-1 (Mr. Smukler dissenting).

Chairman Evan Piper	YES
Joseph Litowich	YES
Hector Marrero	YES
Julian Kreisberg	YES
Saul Smukler	NO
Michael Mosher	ABSENT

A motion was made by Julian Kreisberg, seconded by Hector Marrero, to approve Item 13-551. In a roll call vote, the motion passed 4-1 (Mr. Smukler dissenting).

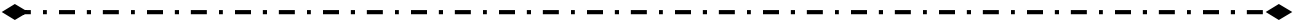
Chairman Evan Piper	YES
Joseph Litowich	YES
Hector Marrero	YES
Julian Kreisberg	YES
Saul Smukler	NO
Michael Mosher	ABSENT

Mr. Heid advised that the LDR Resolution would go before City Council for two readings.

◆-----◆
NEXT MEETING

Chairman Piper observed that the next regular Board meeting is scheduled for August 12, but there was the possibility of a special meeting to be scheduled for July 22. Mr.

Heid said this has not yet been directly confirmed by the City Manager or City Attorney's Office.



ADJOURNMENT

There being no further business to come before the Board at this time, the meeting was adjourned at 6:56 p.m.

ORDINANCE NO. 2013-14

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA AMENDING SECTION 24-180(B)(5)(a)(b)and(c) OF THE CODE OF ORDINANCE, ENTITLED “DENIALS, NOTICES AND FEES”, BY DELETING SPECIAL NOTICE REQUIREMENTS FOR COMPREHENSIVE PLAN AMENDMENTS; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in 2008, the Mayor and City Council passed Ordinance No. 2008-22 adding a 9-month waiting time period before the City Council could consider applications which increased height and density on City buildings; and

WHEREAS, along with the waiting period, the City Council also reviewed and amended the City's Zoning Code to address the height and density requirements; and

WHEREAS, even though no other municipalities in Florida require a similar waiting period, the current notice requirements for Comprehensive Plan amendments have proven to be unduly lengthy and burdensome to applicants; and

WHEREAS, City staff believes that it is unnecessary to have regulations regarding Comprehensive Plan amendments which are more stringent than Florida State Statutes; and

WHEREAS, according to City staff, the existing waiting period has had a damaging effect on development and redevelopment within the City of North Miami Beach, as applicants have had to wait nearly one year before making any changes to the property; and

WHEREAS, with the proposed Comprehensive Plan notice amendments, the zoning process will be more efficient and the time to obtain a Comprehensive Plan amendment will be reduced by more than 50%; and

ORDINANCE NO. 2013-14

WHEREAS, after public hearing on July 8, 2013, the Planning and Zoning Board recommended approval of deleting the special notice requirements for Comprehensive Plan amendments by a vote of 4-1; and

WHEREAS, the Mayor and City Council believe that deleting the special notice requirements will promote and encourage new development and redevelopment in the City of North Miami Beach.

NOW, THEREFORE,

BE IT ORDAINED by the City Council of the City of North Miami Beach, Florida.

Section 1. The foregoing recitals are true and correct.

Section 2. Sec. 24-180 Denial, Notices and Fees of the Code of Ordinances of the City of North Miami Beach is hereby amended as follows:

Sec. 24-180 Denials, Notices and Fees

(B) *Notices.*

~~(5) Comprehensive Plan changes or amendments, notice and schedule requirements.~~

~~(a) Comprehensive Plan changes or amendments to text ("Text Changes") which would increase the height and/or density for any land or of any existing future land use category or which would create one (1) or more new future land use categories that would exceed the density and/or height of the existing future land use categories.~~

~~(b) Written notice of Text Changes or map changes which would increase the height and/or density for any land ("Map Change Increases") shall be provided to individuals and groups which register with the City Clerk. The applicant shall bear the cost of providing written notice. This written notice shall be provided within fifteen (15) days after the filing of any application seeking Text Change or Map Change Increase. A further notice pursuant to this policy shall be provided not less than ninety (90) nor more than one hundred twenty (120) days prior to the first hearing of the Local Planning Agency (LPA) pertaining to a Text Change or Map Change Increase and not more than forty five (45) days nor less than thirty (30) days prior to final City Council action upon such a proposed change or amendment.~~

~~(c) No final City Council action shall take place less than nine (9) months from the filing of an application for a Text Change or Map Change Increase. This policy shall apply to applications of the City as well as to all other applications for change or amendment described in this policy.~~

~~(Ord. No. 2008-22 § 4, 12/16/80)~~

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. If any section, subsection, clause or provision of this ordinance is held invalid the remainder shall not be affected by such invalidity.

Section 5. It is the intention of the City Council of the City of North Miami Beach and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami Beach, Florida. The Sections of this Ordinance may be renumbered or relettered to accomplish this intention and the word "Ordinance" may be changed to "Section", "Article" or other appropriate word as the codifier may deem fit.

APPROVED BY TITLE ONLY on first reading this ___ day of _____, 2013.

APPROVED AND ADOPTED on second reading this ___ day of _____, 2013.

ATTEST:

PAMELA L. LATIMORE
CITY CLERK

GEORGE VALLEJO
MAYOR

APPROVED AS TO FORM

DARCEE S. SIEGEL
CITY ATTORNEY

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MEMORANDUM

 **Print**

TO: Mayor and City Council
FROM: Roslyn B. Weisblum, City Manager
DATE: Tuesday, August 6, 2013

RE: Ordinance No. 2013-15 - First Reading by Title Only (City Manager Roslyn B. Weisblum)

BACKGROUND: AFSCME Local 3293 ratified the Collective Bargaining Agreement with the City on July 29th. 133 AFSCME members voted with 103 voting yes and 30 voting no. Article 26 of the Agreement outlines the changes to the General Employees Pension Plan as shown in the attached Ordinance. Furthermore, AFSCME has agreed to the removal of the 66-2/3% vote of the active participants prior to the City Council amending the Plan. The term of the Agreement is from August 6, 2013 through September 30, 2015. The City Manager and Actuary recommend approving amendments to the Plan by the City Council.

RECOMMENDATION: The City Manager recommends approval of amendments to the Plan.

FISCAL IMPACT:

CONTACT PERSON(S): Roslyn B. Weisblum, City Manager

ATTACHMENTS:

- ❑ [Ordinance No. 2013-15](#)
- ❑ [Summary of Changes](#)

ORDINANCE NO. 2013-15

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING THE RETIREMENT PLAN FOR GENERAL EMPLOYEES OF THE CITY OF NORTH MIAMI BEACH; AMENDING SECTION 1.05, AMENDMENT OF THE PLAN; AMENDING ARTICLE II, DEFINITIONS; AMENDING SECTION 6.01, NORMAL RETIREMENT; AMENDING SECTION 6.02, EARLY RETIREMENT AND RETIREMENT INCOME; AMENDING SECTION 6.04, BENEFITS OTHER THAN ON RETIREMENT; DELETING SECTION 6.12, EARLY RETIREMENT INCENTIVE; AMENDING SECTION 6.13, COST OF LIVING ADJUSTMENTS; AMENDING SECTION 6.14, DEFERRED RETIREMENT OPTION PLAN; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of North Miami Beach has established and maintains a Retirement Plan and Trust for the General Employees of the City of North Miami Beach; and

WHEREAS, on July 29, 2013, the General Employees of AFSCME approved a collective bargaining agreement, by a vote of 103 to 30, which included amendments to the General Employees Pension Plan; and

WHEREAS, besides the amendments to the current General Employees Pension Plan, under Article 26 of the Collective Bargaining Agreement, the AFSCME union further agreed to remove that provision within the Plan which required that 66-2/3% of the active participants of the Plan approve any amendment of the Plan prior to the City Council making any amendments to the Plan; and

Miami Beach, specifying such amendment, subject only to the applicable requirements of federal and state law. ~~following limitations:~~

~~(1) Approval of Participants Approval of 66 2/3% of the active participants shall be required before the Plan may be amended by the City Council.~~

~~(A) Such consent shall not be required if such amendment pertains to the actuarial soundness of the Plan as determined by the actuary employed by the City Council in accordance with Section 5.06 or if such amendment shall be necessary to comply with any laws or regulations of the United States or of any State to qualify this as a tax exempt plan and trust.~~

(2) Report and Recommendation from City Manager and the actuary and/or any other pension board or consultant may be considered~~shall be required~~ before the Plan may be amended by the City Council.

(3) [No change]

(4) [No change]

(b) [No change]

Section 2. Article II of the Retirement Plan for General Employees of the City of North Miami Beach, entitled “Definitions”, is proposed to be amended as follows:

ARTICLE II DEFINITIONS

* * *

DROP Participant means a member of the Deferred Retirement Option Program. Upon the resignation of the Employee, after entering the DROP, or upon conclusion of the maximum DROP

participation period specified in Section 6.14~~five years in the DROP~~, a person is no longer a DROP participant.

* * *

Normal Retirement Date shall have the same meaning as set forth in Section 6.01(b)~~means the first day of the month coincident with or next following the date a member attains the age of 62, or, effective July 1, 1998, completes 20 years of service after having reached the age of 55.~~

* * *

Section 3. Article VI, Section 6.01 of the Retirement Plan for General Employees of the City of North Miami Beach, entitled “Normal Retirement”, is proposed to be amended as follows:

Section 6.01 NORMAL RETIREMENT

- (a) Normal Retirement Defined - Normal retirement under the Plan is retirement from the service of the City on or after the normal retirement date.
- (b) Normal Retirement Date
 - (1) The normal retirement date of each participant will be the first day of the month coincident with or next following the date he attains age 62, or, effective July 1, 1998, completes 20 years of service after having reached the age of 55. Notwithstanding the preceding sentence, the normal retirement date for participants in the AFSCME bargaining unit and participants who are not included in any bargaining unit who are employed and not participating in the DROP on August 31, 2013, and who on that date have not attained age 62 or age 55 with 20 or more years of credited service, shall be age 62 with 10 or more

years of credited service, or age 60 with 25 or more years of credited service. Participants in the AFSCME bargaining unit and participants who are not included in any bargaining unit who are employed and not participating in the DROP on August 31, 2013, and who on that date have not attained age 62 or age 55 with 20 or more years of credited service, may retire upon reaching age 62 or age 55 with 20 or more years of credited service and terminating City employment or entering the DROP, and upon such retirement shall be eligible to receive the benefit based on their credited service prior to September 1, 2013; and such participants shall be eligible to receive the benefit based on their credited service on and after September 1, 2013 upon attaining age 62 with 10 or more years of credited service, or age 60 with 25 or more years of credited service, and terminating City employment or entering the DROP. The normal retirement date for participants in the AFSCME bargaining unit and participants who are not included in any bargaining unit hired on or after September 1, 2013 shall be age 62 with 10 or more years of credited service, or age 60 with 25 or more years of credited service.

(c) Amount of Retirement Income.

The monthly amount of retirement income payable to a participant who retires on or after his normal retirement date shall be an amount as follows:

- (i) [No change]
- (ii) [No change]
- (iii) [No change]

(iv) For participants retiring after September 30, 1996 but before July 1, 1998: 2.50% (.0250) of final monthly compensation, multiplied by years and completed calendar months of credited service.

(v) For participants retiring after July 1, 1998 but before August 24, 2000: 2.60% (.0260) of final monthly compensation, multiplied by years and completed calendar months of credited service.

(vi) For participants retiring after August 24, 2000: 3.00% (.0300) of final monthly compensation, multiplied by years and completed calendar months of credited service.

(vii) Notwithstanding paragraph (vi) above, for credited service earned by participants in the AFSCME bargaining unit and participants who are not included in any bargaining unit on and after September 1, 2013: 2.50% (.0250) of final monthly compensation multiplied by years and completed calendar months of credited service; provided, the monthly amount of retirement income payable to each such participant who is employed and not participating in the DROP on August 31, 2013 and who on that date has attained age 62 or age 55 with 20 years of credited service shall be an amount equal to 3.00% (.0300) of final monthly compensation multiplied by years and completed calendar months of credited service.

(d) Payment of Retirement Income - The monthly retirement income payable in the event of normal retirement will be payable on the first day of each month. The first payment will be made on the participant's normal retirement date (or on the first day of the month coincident with or next following his actual retirement, if later), except as otherwise provided in section 6.01(b)(1) . The last payment will be the payment due next preceding

the retired participant's death. In the event the participant dies after his retirement but before he has received retirement income payments for a period of ten (10) years, the same monthly benefit will be paid for the remainder of such 10-year period to the beneficiary (or beneficiaries) designated by the participant; or, if no designated beneficiary is surviving, the same monthly benefit shall be payable for the remainder of such 10-year period as provided in Sections 7.02 (Beneficiaries) and 7.03 (Contingent Beneficiaries) hereof.

* * *

Section 4. Article VI, Section 6.02 of the Retirement Plan for General Employees of the City of North Miami Beach, entitled “Early Retirement and Retirement Income”, is proposed to be amended as follows:

Section 6.02 EARLY RETIREMENT AND RETIREMENT INCOME

- (a) [No change]
- (b) Payment Governed By - In the event of early retirement, payment of retirement income will be governed by the following provisions:
 - (1) Early Retirement Date - The early retirement date will be the first day of the month coincident with or next following the date a participant retires from the service of the City under the provisions of this section, prior to his normal retirement date.
 - (2) Amount of Retirement Income.
The monthly amount of retirement income payable to a participant who retires prior to his normal retirement date under the provisions of this section shall be an amount as follows:
 - (i) [No change]

- (ii) [No change]
- (iii) [No change]
- (iv) For participants retiring after September 30, 1996 but before July 1, 1998: 2.50% (.0250) of final monthly compensation, multiplied by years and completed calendar months of credited service. This amount is multiplied by the actuarial reduction factor to reflect the early retirement age.
- (v) For participants retiring after July 1, 1998 but before August 24, 2000: 2.60% (.0260) of final monthly compensation, multiplied by years and completed calendar months of credited service. This amount is multiplied by the actuarial reduction factor to reflect the early retirement age.
- (vi) For participants retiring after August 24, 2000: 3.00% (.0300) of final monthly compensation, multiplied by years and completed calendar months of credited service. This amount is multiplied by the actuarial reduction factor to reflect the early retirement age.
- (vii) Notwithstanding paragraph (vi) above, for credited service earned by participants in the AFSCME bargaining unit and participants who are not included in any bargaining unit on and after September 1, 2013: 2.50% (.0250) of final monthly compensation multiplied by years and completed calendar months of credited service; provided, the monthly amount of retirement income payable to each such participant who is employed and not participating in the DROP on August 31, 2013 and who on that date has attained age 62 or age 55 with 20 years of credited service shall be an amount equal to 3.00% (.0300) of

- final monthly compensation multiplied by years and completed calendar months of credited service. This amount is multiplied by the actuarial reduction factor to reflect the early retirement age.
- (3)

[No change]

Section 5. Article VI, Section 6.04 of the Retirement Plan for General Employees of the City of North Miami Beach, entitled “Benefits Other Than on Retirement”, is proposed to be amended as follows:

Section 6.04 BENEFITS OTHER THAN ON RETIREMENT

(a) Benefit on Termination of Service.

- (1) Deferred Payment of Benefits - In the event of the termination of a participant's service prior to his normal retirement date for any reason other than his death, early retirement (as described in Section 6.02) or disability retirement (as described in Section 6.03) after he has completed ten (10) years of credited service (hereafter referred to as a "terminated participant"), he will be entitled to a monthly retirement income. That monthly retirement income will be payable for 10 years certain and life thereafter and will commence on his normal retirement date (if he shall then be living) in an amount as follows, with such amount multiplied by the Vested Percentage described below.

Effective October 1, 2002, in the event of the termination of a participant's service prior to his normal retirement date for any reason other than his death, early retirement (as described in Section 6.02) or disability retirement (as described in Section 6.03) after he has completed six (6) years of credited

service (hereafter referred to as a "terminated participant"), he will be entitled to a monthly retirement income. Notwithstanding the preceding sentence, effective September 1, 2013 for participants in the AFSCME bargaining unit and participants who are not included in any bargaining unit, in the event of the termination of such participant's service prior to the normal retirement date for any reason other than his death, early retirement (as described in Section 6.02) or disability retirement (as described in Section 6.03) after completion of ten (10) years of credited service (hereafter referred to as a "terminated participant"), the participant will be entitled to a monthly retirement income. That monthly retirement income will be payable for 10 years certain and life thereafter and will commence on his normal retirement date (if he shall then be living) in an amount as follows, with such amount multiplied by the Vested Percentage described below.

- (i) [No change]
- (ii) [No change]
- (iii) [No change]
- (iv) For participants terminating after September 30, 1996 but before July 1, 1998: 2.50% (.0250) of final monthly compensation, multiplied by years and completed calendar months of credited service.
- (v) For participants terminating after July 1, 1998 but before August 24, 2000: 2.60% (.0260) of final monthly compensation, multiplied by years and completed calendar months of credited service.

(vi) For participants terminating after August 24, 2000: 3.00% (.0300) of final monthly compensation, multiplied by years and completed calendar months of credited service.

(vii) Notwithstanding paragraph (vi) above, for credited service earned by participants in the AFSCME bargaining unit and participants who are not included in any bargaining unit on and after September 1, 2013: 2.50% (.0250) of final monthly compensation multiplied by years and completed calendar months of credited service; provided, the monthly amount of retirement income payable to each such participant who is employed and not participating in the DROP on August 31, 2013 and who on that date has attained age 62 or age 55 with 20 years of credited service shall be an amount equal to 3.00% (.0300) of final monthly compensation multiplied by years and completed calendar months of credited service.

(2)

Vesting.

(i) [No change]

(ii) [No change]

(iii) The vested percentage for participants who terminate on or after October 1, 2002 will be 0% for those with less than 6 years of credited service, and 100% for those with credited service of 6 years or more.

(iv) Notwithstanding paragraph (iii) above, the vested percentage for participants in the AFSCME bargaining unit and participants who are not included in any bargaining unit who are employed on August 31, 2013, have

not attained 6 years of credited service on that date and terminate after that date will be 0% for those who terminate with less than 10 years of credited service, and 100% for those who terminate with credited service of 10 years or more. The vested percentage for such participants who are employed on August 31, 2013 and have attained 6 years of credited service on that date will be 100%. The vested percentage for participants hired on or after September 1, 2013 will be 0% for those who terminate with less than 10 years of credited service, and 100% for those who terminate with credited service of 10 years or more.

(3) [No change]

(4) [No change]

(5) [No change]

(6) [No change]

(7) [No change]

(8) [No change]

(9) [No change]

(10) Termination Prior to Completion of 10 Years Credited Service for Certain Participants – Notwithstanding subsection (9) above and except as provided in Section 6.01 with respect to normal retirement, Section 6.03 with respect to disability retirement and Section 6.04 with respect to death, participants in the AFSCME bargaining unit and participants who are not included in any bargaining unit who are employed on August 31, 2013 and have less than six (6) years of credited service on that date, whose service is terminated on or after

September 1, 2013 but prior to the date on which such participant has completed ten (10) years of credited service, shall be entitled only to the return of the participant's contributions, plus interest at the rate of 3% compounded annually. Notwithstanding subsection (9) above and except as provided in Section 6.01 with respect to normal retirement, Section 6.03 with respect to disability retirement and Section 6.04 with respect to death, participants in the AFSCME bargaining unit and participants who are not included in any bargaining unit who are hired on or after September 1, 2013 and whose service is terminated prior to the date on which such participant has completed ten (10) years of credited service, shall be entitled only to the return of the participant's contributions, plus interest at the rate of 3% compounded annually.

(b) [No change]

(c) [No change]

Section 6. Article VI, Section 6.12 of the Retirement Plan for General Employees of the City of North Miami Beach, entitled "Early retirement Incentive", is proposed to be deleted in its entirety as follows:

~~Section 6.12 EARLY RETIREMENT INCENTIVE~~

~~Notwithstanding the provisions of subsections 6.01 and 6.02 above, those participants who, as of May 31, 1996, have attained the age of 55 and have completed at least twelve (12) years of credited service or who have attained the age of 59, regardless of years of service, shall be permitted to retire on or before June 1, 1996 on a date approved by the City Manager, and upon retirement, shall~~

~~receive a service pension of 2.5% (.0250) of final monthly compensation, multiplied by years and completed calendar months of credited service, augmented by three additional years of service credit, and, where appropriate, multiplied by the actuarial reduction factor to reflect retirement prior to age 62, with the participant's actual age at retirement augmented by three years of age.~~

~~Terms and conditions for early retirement incentive:~~

- ~~(1) The application for retirement must be received by the Retirement Plan no later than 5:00 p.m. on May 1, 1996, unless extended by the City Manager. All applications for retirement submitted after February 1, 1996 shall be considered as an application under this early retirement incentive section;~~
- ~~(2) As a condition of receiving a pension at the rates set forth above, the participant shall make an irrevocable application to the Retirement Plan for normal retirement on a date approved by the City Manager which must be before June 1, 1996 and shall retire on the date so approved unless the retirement date is extended by the mutual agreement of the participant, the Retirement Committee and the City Manager;~~
- ~~(3) Any accrued annual and sick leave payouts remaining as per contractually established caps and due to a participant as of his or her designated retirement date, shall be paid by the City to the participant in three (3) equal installment payments, without interest, commencing after the participant's designated retirement date, with the remaining two (2) installment payments to be made on January 14, 1997 and January 13, 1998, except that:~~

~~Employees whose total accruals are less than \$9,000 will be paid up to \$3,000 at retirement. Remaining unpaid accruals above \$3,000 but less than \$6,000 will be paid on January 14, 1997. Remaining unpaid accruals \$6,000 or above will be paid on~~

January 13, 1998.

- (4) ~~The City shall pay prorated longevity accrual upon retirement.~~
- (5) ~~Upon retirement, the City shall pay the participant a cash bonus equivalent to five percent (5%) of current annual salary.~~
- (6) ~~The City shall provide the participant with single coverage HMO equivalent for 60 months (5 years) or until participant becomes eligible for medicare, whichever comes first. Retiree may upgrade his/her coverage by paying the difference in monthly premiums. At the end of this period retirees who selected this retirement window may participate in the City's health insurance plan in a manner similar to that available to other retirees at that time.~~

Section 7. Article VI, Section 6.13 of the Retirement Plan for General Employees of the City of North Miami Beach, entitled "Cost of Living Adjustments", is proposed to be amended as follows:

Section 6.13 COST OF LIVING ADJUSTMENTS

Commencing October 1, 1999, and on the first day of each October thereafter, the monthly income payable hereunder to each participant or beneficiary who has been receiving benefits under any provision of this plan for one or more years, or to any such participant's or beneficiary's surviving beneficiary, shall be increased by two and one-quarter percent (2.25%). Notwithstanding the preceding sentence, the cost of living adjustment applied to the benefits earned by participants in the AFSCME bargaining unit and participants who are not included in any bargaining unit for credited service on and after September 1, 2013 shall be three-quarters percent (0.75%) annually with the first adjustment applied on October 1 after three years following termination of

employment; provided, any participant who is employed and not participating in the DROP on August 31, 2013 and who on that date has attained age 62 or age 55 with 25 or more years of credited service, shall upon retirement under section 6.01 hereof be eligible for an annual cost of living adjustment of 2.25% commencing on October 1 after one year following retirement.

Section 8. Article I, Section 6.14 of the Retirement Plan for General Employees of the City of North Miami Beach, entitled “Cost of Living Adjustments”, is proposed to be amended as follows:

Section 6.14 DEFERRED RETIREMENT OPTION PROGRAM (DROP)

(1) [No change]

(2) [No change]

(3) [No change]

(4) [No change]

(5) An employee is eligible to enter the DROP upon attaining twenty (20) years of service and reaching age fifty-five (55), or attaining age 62 regardless of the number of years of service. Notwithstanding the preceding sentence, employees in the AFSCME bargaining unit and employees who are not included in any bargaining unit who are employed on August 31, 2013 and have not attained age 62 or age 55 with 20 or more years of credited service on that date, shall be eligible to enter the DROP upon attaining age 62 or age 55 with 20 or more years of credited service, and upon DROP entry shall be eligible to receive the benefit based on their credited service prior to September 1, 2013; and such participants shall be eligible to receive the benefit based on their credited service on and

after September 1, 2013 upon attaining age 62 with 10 or more years of credited service, or age 60 with 25 or more years of credited service. Employees in the AFSCME bargaining unit and employees who are not included in any bargaining unit who are hired on or after September 1, 2013 shall be eligible to enter the DROP upon attaining age 62 with 10 or more years of credited service, or age 60 with 25 or more years of credited service.

(6) The total years of participation in the DROP may not exceed five (5) years. Notwithstanding the preceding sentence, for employees in the AFSCME bargaining unit and employees who are not included in any bargaining unit who are employed on August 31, 2013 and have not attained age 62 or age 55 with 20 or more years of credited service on that date, and employees in the AFSCME bargaining unit and employees who are not included in any bargaining unit who are hired on or after September 1, 2013, the total years of participation in the DROP may not exceed three (3) years.

(7) [No change]

(8) [No change]

(9) [No change]

(10) [No change]

(11) [No change]

(12) [No change]

(13) [No change]

(14) The decision to enter the DROP is irrevocable. Each Employee who enters the DROP is required to execute whatever documents the Retirement Committee promulgates, which shall include, at a minimum, an agreement that he or she will resign from the City no

later than the end of the maximum DROP participation period~~five (5) years from actual date of entering the DROP.~~

(15) If for any reason, a court of competent jurisdiction determines that the irrevocable election is not enforceable, and an Employee chooses to remain in the employment of the City beyond the end of the maximum DROP participation period~~five (5) years~~, the Employee's retirement benefit will be calculated as if the Employee had never entered the DROP , and the Employee will be required to make contributions to the Pension Fund in an amount sufficient to cover the Employee and City contributions that would have been made had the Employee not elected to participate in the DROP, along with interest, as determined by the Retirement Committee upon the advice of the actuary.

(16) [No change]

(17) [No change]

(18) [No change]

Section 9. All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

Section 10. If any section, subsection, clause or provision of this ordinance is held invalid the remainder shall not be affected by such invalidity.

Section 11. It is the intention of the City Council of the City of North Miami Beach and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami Beach, Florida. The Sections of this Ordinance

may be renumbered or relettered to accomplish this intention and the word “Ordinance” may be changed to “Section”, “Article” or other appropriate word as the codifier may deem fit.

Section 12. This ordinance shall take effect immediately upon adoption.

APPROVED BY TITLE ONLY on first reading this ___ day of _____, 2013.

APPROVED AND ADOPTED on second reading this ___ day of _____, 2013.

ATTEST:

PAMELA L. LATIMORE
CITY CLERK

(CITY SEAL)

GEORGE VALLEJO
MAYOR

APPROVED AS TO FORM

DARCEE S. SIEGEL
CITY ATTORNEY

Sponsored by: Mayor & Council

SUMMARY OF CHANGES TO GENERAL EMPLOYEE PENSION PLAN

The following is a summary of the changes to the City of North Miami Beach General Employees Retirement Plan (the "Plan"),

1. The benefit multiplier shall be 2.5% for benefits based on credited service after the effective date. Members who are employed on the effective date shall retain their accrued benefits based on credited service prior to the effective date.
2. There shall be a cost of living adjustment of three-quarters percent (0.75%) annually applied to benefits based on credited service after the effective date, with the first adjustment applied on October 1 after three years following retirement and termination of city employment.
3. The normal retirement date for benefits based on credited service after the effective date shall be the earlier of age 62 with 10 or more years of credited service, or age 60 with 25 years of credited service. Current employees may retire at the current normal retirement date of age 55 with 20 or more years of credited service or age 62, and receive a benefit based on credited service prior to the effective date.
4. Employees with less than 6 years of credited service on the effective date, and employees hired on or after the effective date, shall be 100% vested after completing 10 years of credited service (including service prior to the effective date).
5. The maximum DROP participation period for employees who are not participating in the DROP on the effective date shall be 36 months.
6. The foregoing provisions shall not apply to any member who is employed on the effective date and has attained age 55 with 20 or more years of credited service or age 62 on that date.
7. Removal of the 66-2/3% active Plan participant approval prior to any amendment to the Plan.



City of North Miami Beach
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North Miami Beach, FL 33162
305-947-7581
www.citynmb.com

MEMORANDUM

 **Print**

TO: Mayor and City Council
FROM: Roslyn B. Weisblum, City Manager
DATE: Tuesday, August 6, 2013

RE: Ordinance No. 2013-8 - Second and Final Reading (Code Compliance Manager Eric Wardle)

BACKGROUND: Staff is recommending the creation of an Administrative Code Waiver Process (ACW) to help residents correct property violations.

RECOMMENDATION: Approval

FISCAL IMPACT: None

CONTACT PERSON(S): Shari Kamali, Director of Public Services
Christopher Heid, City Planner
Eric Wardle, Director of Code Enforcement
Daniel Ozuna, Building Official

ATTACHMENTS:

- ❑ [Staff Report](#)
- ❑ [P&Z Minutes - May 13, 2013](#)
- ❑ [P&Z Minutes - June 10, 2013](#)
- ❑ [Ordinance No. 2013-8](#)



CITY OF NORTH MIAMI BEACH INTEROFFICE MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM: ROSLYN WEISBLUM, CITY MANAGER

DATE: TUESDAY, JULY 2, 2013

RE: Ordinance No. 2013-8 (P&Z ITEM 13-546)
Administrative Code Waivers

Throughout the City there are numerous properties that are nonconforming and in violation of the City's Land Development Regulations. These violations are typically the result of construction without the proper building permits; however there are cases where building permits have been issued in error. Many of these violations have existed for years and have been unknowingly inherited by the current property owners. Currently, the only way to resolve these violations is for the property to receive after-the-fact variances and then obtain after-the-fact building permits. This process is both lengthy and relatively expensive.

In an effort to legalize as many of these violations as possible, while not penalizing the current property owners, staff is recommending the creation of an Administrative Code Waiver Process (ACW).

It is recommended that the ACW process be created as a temporary program for single-family home owners, which would end on December 31, 2016, that would only be applicable to violations that have been in existence prior to January 1, 2013.

Property owners would have 60 days from the issuance of a violation to apply for an ACW. The application for an ACW would be reviewed at a public meeting by a board comprised of one staff member from the Building Department, the Community Development Department, and the Code Enforcement Department. The meeting would be advertised by a individual notice sent to all property owners within 150 feet of the subject property at least 15 days before the meeting.

◆-----◆

Planning & Zoning Board History

- This item was heard by the Planning & Zoning Board at the meeting of May 13, 2013 and was tabled by a vote of 6-0. The board requested

minor changes to the proposed ordinance prior to its return to the Planning & Zoning Board.

- Requested changes were made and this Item was heard for a second time by the Planning & Zoning Board at the meeting of June 10, 2013 and received a favorable recommendation by a vote of 5-0.

CCMemo_ACW_July2_2013



City of North Miami Beach, Florida

COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING & ZONING BOARD MINUTES

MONDAY, MAY 13, 2013

Attendees:

Members - Chairman Evan Piper Christopher Heid, City Planner
Julian Kreisberg Darcee Siegel, City Attorney
Joseph Litowich Shari Kamali, Public Services Director
Anthony DeFillipo Steven Williams, Board Recorder
Michael Mosher
Hector Marrero
Saul Smukler – Absent

Call to Order and Pledge of Allegiance:

Chairman Piper called the meeting to order at 6:07 p.m. The Pledge of Allegiance was recited and roll was called.

Minutes:

A motion was made by Joseph Litowich, seconded by Julian Kreisberg, to approve the minutes of the April 8, 2013 meeting. In a voice vote, the motion passed unanimously.

Chairman Piper administered the oath for any members of the public wishing to speak during the meeting. He instructed them to sign in as well.

OLD BUSINESS

Mr. Heid provided the following status report:

1. Item 13-540 After-the-Fact Variances (Cabana)
3207 NE 168 Street
2. Item 13-542 Rezoning and Conditional Use Approval (RM-23 to B-3)
1998 NE 161 Street
3. Item 13-541 Site Plan Review and Variances (Townhouses)
3500 NE 166 Street

4. Item 13-538 LDR Text Amendments
Residential Driveways
5. Item 13-539 LDR Text Amendments
Front Yard Pervious Area

Mr. Heid reported that approval of these five Items, all recommended favorably by Staff and by the Board, was currently pending. These Items will be brought before the City Council in June.

NEW BUSINESS

Item 13-543: Dock (Single-Family Home): 3467 NE 168 Street – After-the-Fact Variances

Ms. Siegel recommended that the Board members provide disclosures of any contact with a registered lobbyist or representative party in relation to this Item. Chairman Piper, Mr. DeFillipo, Mr. Litowich, and Mr. Mosher stated that they had received telephone calls from Evan Ross, Applicant's representative, who briefly described the Application. Vice Chairman Kreisberg advised that he had received a voice mail from Mr. Ross. Mr. Marrero said he had not been contacted.

Mr. Heid stated that the existing zoning for the lot is RS-1, Residential Single-Family, and the existing land use is Single-Family House. The future land use designation is Residential Low-Density. The Application is for legalization of an existing dock on the subject property. The variances requested include a waiver of the minimum side yard setback on both the east and west sides of the property. The Applicant in this case is the contractor, Miami Beach Seawall.

Evan Ross, representing the property owners, explained that when the home was purchased, it was an eyesore and was in foreclosure. The owners have made significant improvements to the property since its purchase.

Mr. Ross noted that a neighbor of the property had sent the City a letter expressing concerns with the Application, including the subject property's eligibility to have a dock, its construction two years ago without permits, and its impact on the neighbor's own dock. He clarified that the property is allowed a dock, and confirmed that the structure was added without a permit. The dock is built to Code requirements. A boat of up to 25 ft. in length may be docked at the subject property; this does not change based on the size of the dock. He asserted that asking the homeowners to trim the size of their dock would only serve to make it less attractive and useful, and would not affect the impact on the neighboring residence.

Mr. Ross continued that the dock presently has a minimal impact on both neighbors, and has been recommended for approval by City Staff despite the objections. He added that the homeowner's improvements since purchasing the property have added value to their own home and surrounding homes. If the dock was cut back, it would have less visual appeal. He also noted that the property's neighbor on the opposite side has signed a letter of no objection to the variances, and other neighbors on the block have signed similar letters.

Mr. Ross concluded that the dock is up to Code and is only being objected to by one neighbor. He reiterated that the size of the boat allowed would not change, regardless of the size of the dock.

Mr. DeFillipo asked Mr. Heid to confirm the accuracy of Mr. Ross's statements, including whether or not the dock is up to Code. Mr. Heid confirmed that this was true, and added that all waterfront properties within the neighborhood are entitled to a boat that is the length of the water frontage less 3 ft.

Mr. Litowich asked if the dock must be recessed 10 ft. from the property line to the east and west. Mr. Heid said the maximum width allowed is 8x8 ft. and the maximum length is 25 ft. in this case, less 10 ft. on each side for the side yard setback. From the subject property, the dock extends 7 ft. into the canal. Mr. Heid added that the dock in this case tapers into the property and is set back 0 ft. to 3 ft. at its closest point to the neighboring properties. Nearby properties with docks also have variances from the 10 ft. setback requirement.

Mr. Litowich commented that there appeared to be some congestion on the canal. Mr. Heid advised that all docks in this area could be considered slightly problematic due to the configuration of the lots.

Chairman Piper asked for clarification of how setback requirements are determined. Mr. Heid said a D-5 triangle uses the theoretical extensions of the property line, bisects them, and brings them together to a point, within which the dock must lie. However, while this was once a hard-and-fast rule by the Department of Environmental Resources Management (DERM), it is now one of many criteria that must be considered. He stated that in this case, the dock is very slightly outside the triangle and has been given preliminary approval that it is sufficiently close to the triangle specifications.

Chairman Piper requested clarification that the City's setback requirements for a 10 ft. setback on each side were regardless of the D-5 triangle. Mr. Heid confirmed this, noting that if a dock meets the City's setback requirements, they would almost always lie within the triangle's specifications, although there may be unique examples in which this might not occur.

Chairman Piper asked what the historic disposition of similar variance requests has been. Mr. Heid replied that most residents on similar properties have received variances for docks larger than the typical 8 ft. extension.

Vice Chairman Kreisberg requested confirmation that the 10 ft. dock setback is separate from the 8 ft. side yard setback of a house. Mr. Heid confirmed this, noting that the majority of dock variances in the neighborhood in question are on lots of similar size to the subject property. Vice Chairman Kreisberg asked why the dock was triangulated rather than squared, which would allow for a setback. Mr. Heid said squaring the dock area in this case would make no difference to the neighboring property, as the homeowners' boat would lie within the same area. He showed a visual representation of the area.

Russell Lazega, property owner, stated that the dock was constructed in a triangulated manner due to safety concerns for his children, as squaring the dock would allow for openings off the seawall. Mr. Heid advised that this is a common concern with extending docks to property lines, which creates a gap into the canal.

Mr. Mosher observed that the neighbor's dividing wall encroaches on Mr. Lazega's own property. Mr. Lazega confirmed this, noting that the encroachment is estimated at 1.5 ft. to 2 ft. He advised that he wished to dock his 20 ft. sailboat on his property, and noted that his boat recesses away from the view from his neighbor's house, resulting in minimal impact to the neighbor's view. He stated that it would not interfere with the neighbor's dockage. He concluded by requesting that the Board approve the Application as recommended by City Staff.

Chairman Piper opened the floor to public comment.

Barry Shevlin, representing the neighbor who had objected to the Application, stated that the request would reward bad behavior by allowing a variance for a dock that was illegally constructed. He pointed out that dock and pilings were added to the property without oversight by the proper regulatory entities, and added that City Code does not allow for a structure that extends the entire 28 ft. length of the property.

Mr. Shevlin asserted that the property owner had decided not to apply for a permit. He provided photographs of the property owner's dock and boat, as well as the dock on the neighboring property. He stated that the sailboat extends past the owner's property line, and added that the owner would have experienced no hardship if he constructed an 8x8 ft. dock within the required D-5 triangle. The boat currently extends outside this triangle.

He continued that the property owner could have applied for a variance prior to the construction of the dock. Mr. Shevlin added that Mr. Lazega's sailboat would encroach upon a boat's ability to dock or turn around on the neighboring property. He concluded that granting the requested variance would establish a precedent for applying Code differently to different property owners, and asked that Mr. Lazega be required to keep his dock within the parameters set by Code. He also asked that if the variance was granted, the condition should be applied that the owner may not dock a boat longer than 20 ft. on the subject property.

Brian Moretti, Applicant and owner of Miami Beach Seawalls, explained that Mr. Lazega had hired him to permit the dock in question. He stated that the dock was the smallest structure he had worked with since 1987, and pointed out that the neighbor who objected to the boat was infringing on Mr. Lazega's property. Making the dock smaller would be dangerous, as rocks lie below the water where the dock is located.

It was asked if Mr. Moretti's company had built the dock. Mr. Moretti replied that he had only reinforced the dock.

Mr. Shevlin stated that Mr. Lazega had purchased the property with the knowledge of the dock size that would be allowed to him.

Vice Chairman Kreisberg asked what the maximum size of a boat docked on the property could be. Mr. Heid reiterated that the water frontage was 28 ft. in length, which meant a 25 ft. boat could be moored at the end of an 8 ft dock.

Vice Chairman Kreisberg requested clarification of the owner of a concrete wall shown in the Application's photographs. Mr. Heid advised that the wall belonged to the neighbor, encroaching by as much as 1.4 ft. on the subject property.

Chairman Piper observed that a 25 ft. vessel moored at the end of an 8 ft. dock could constitute a "view encroachment" onto the neighbor's property. Mr. Shevlin asserted that if the vessel extended beyond the confines of the D-5 triangle, the dock would not have been approved by DERM. Mr. Heid clarified that DERM's concern was that the dock must lie within the triangle rather than the boat itself. He stated again that DERM has given preliminary approval to the dock, pending structural and zoning approval from the City. Zoning approval may not be granted unless variances are issued.

Chairman Piper observed that the dock could extend further into the water and remain within the property line. Mr. Heid estimated that it could possibly extend another 3 ft. on its northeast end.

Mr. Lazega stated that when he became aware of the need for the variance, construction of the dock had been nearly complete. He had retained a contractor to ensure that this construction was completed with a minimal impact on the neighboring property. Because several permits were issued for renovations on his property at the same time, he had not been aware that no permit had been issued for the dock until the violation was issued. He had then reached out to the City and to DERM to remediate the problem.

Mr. Mosher asked if the contractor had been able to verify that the pilings on the property were properly installed. Mr. Moretti replied that because this could not be verified, the owner had requested extra framing to strengthen them. Mr. Piper pointed out that there was no proof that the pilings were correctly installed. Mr. Heid noted that the drawings submitted for the pilings were approved; however, he agreed that it was possible the pilings were not installed in the manner presented in the documentation.

As there were no other members of the public wishing to speak on the Item, public comment was closed at this time.

Mr. Ross observed that the property line to which Mr. Shevlin had referred was actually the wall on the neighboring property, which intruded onto Mr. Lazega's property. He reiterated that the boat on Mr. Lazega's property may be 25 ft. in size regardless of the size of the dock.

Vice Chairman Kreisberg asked if a penalty is issued for after-the-fact permitting. Mr. Heid confirmed that fees are doubled in addition to a \$200 fine from the Building Department.

Mr. Heid stated that the City recommended approval of the Application, with the three conditions listed. He noted that while Code restricts the maximum size of the boat to 25 ft., Mr. Shevlin has requested that this be reduced to 20 ft. The City did not make a recommendation on this issue, although Mr. Heid noted that mooring a larger vessel on the property would require the dock to be cut back. He advised that the Board may make size limitation of the boat a fourth condition of approval if they wished.

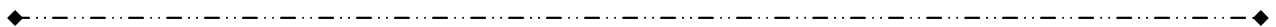
Mr. Lazega said he would have no objection to a condition limiting the size of the boat to 25 ft., as allowed by Code. He would, however, be concerned with a limitation to 20 ft. Chairman Piper commented that the boat size would have the same impact on the neighboring property, regardless of the size of the dock. It was noted, however, that requiring a smaller boat would make it easier for the neighbor to bring a vessel to her own dock.

Mr. Heid clarified that Code defines the length of a boat from the furthest point of the bow to the furthest point of the stern.

A motion to approve Item 13-543, with the fourth condition that the overall length of the boat be no greater than 25 ft., was made by Julian Kreisberg and seconded by Anthony DeFillipo. In a roll call vote, the motion passed with a vote of 5-1.

Chairman Evan Piper	YES
Joseph Litowich	NO
Anthony DeFillipo	YES
Hector Marrero	YES
Julian Kreisberg	YES
Saul Smukler	ABSENT
Michael Mosher	YES

Mr. Heid advised that the Board's decision constituted a recommendation: the Item would go before City Council for final approval, and appropriate notice of that meeting would be posted for the public and sent to neighboring property owners once a date for this hearing has been set.



Item 13-544: 199 NE 167 Street: Starbucks (Drive-Thru) – Site Plan Review, Conditional Use, and Variances

Mr. Williams stated that the Applicant wished to construct a 634 sq. ft. drive-thru fast food restaurant on an 11,000 sq. ft. parcel in the B-2 (General Business) zoning district. The requested variances include waiving 366 sq. ft. of the minimum required floor area, 9 of the minimum required 12 parking spaces, and 2 of the minimum required 8 stacking spaces per drive-thru window.

Brian Plewinski, representing the Applicant, explained that he was seeking site plan approval for the first drive-thru-only Starbucks in Florida, which would also be the first Starbucks in North Miami Beach. There would be no seats in the building, although there would be a walk-up window in addition to the drive-thru.

Mr. Heid pointed out that the parking variance, which would waive 9 of the required 12 parking spaces, is requested because there is currently no parking calculation for a non-seating fast food restaurant. The only individuals expected to park on the site would be employees or an occasional individual who might park and walk up to the window rather than going through the drive-thru facility. The City felt the requested variance would be adequate. Bicycle traffic is expected and encouraged at the site.

Mr. Plewinski concluded that all Staff recommendations were acceptable to the Applicant.

Vice Chairman Kreisberg asked if any consideration had been given to locating the entrance on 2nd Avenue. Mr. Heid said there had been a concern with traffic stacking on 2nd Avenue, which could block the entrance from this roadway. While the Florida Department of Transportation (FDOT) typically favors side access to the property, they have issued preliminary approval for the site plan.

Vice Chairman Kreisberg asked if there would be an "escape route" for drivers who changed their minds about waiting in line for the drive-thru. Mr. Heid said if this decision was made early on, there was an escape route into an alley, although once a vehicle has made the turn, they are committed. He pointed out that the property is only 100 ft. wide. Mr. Plewinski pointed out that in the event a customer placed an unusually large order, management would likely ask this driver to pull over to the side while his/her order was filled.

Mr. Mosher asked to see a rendering of the drive-thru sign. Mr. Heid advised that the sign would be no larger than 6 ft. in height, in accordance with the building's dimensions. Mr. Plewinski confirmed that there were no seats either in- or outside the building, and no public wireless access.

Mr. DeFillipo observed that there could be an issue if an individual attempted to exit a parking space while a line of cars were waiting at the drive-thru. Mr. Heid pointed out that this would only apply when employees were leaving the facility at the end of a shift.

Chairman Piper opened the floor to public comment. As there were no members of the public wishing to speak on the Item, public comment was closed at this time.

Mr. Heid concluded that the City recommended approval of the Application, subject to the 12 conditions as listed. Mr. Plewinski asserted that the conditions were acceptable to the Applicant.

A motion to approve Item 13-544 was made by Anthony DeFillipo, seconded by Joseph Litowich. In a roll call vote, the motion passed 6-0.

Chairman Evan Piper	YES
Joseph Litowich	YES
Anthony DeFillipo	YES
Hector Marrero	YES
Julian Kreisberg	YES
Saul Smukler	ABSENT
Michael Mosher	YES

◆-----◆

Item 13-546: LDR Text Amendments: Administrative Code Waiver Process

Mr. Heid stated that this Item would introduce new administrative Code waiver procedures.

Ms. Siegel explained that there have been long-term issues with Code Enforcement, including the placement of additions on properties without the appropriate variances. Other individuals may have purchased properties within the City that included these encumbrances without realizing they were not properly permitted. In a recent City Council workshop, it was determined that the best way to address this issue would be through an Ordinance that would be in place for a specific window of time, through December 31, 2016.

The proposed Ordinance would allow property owners to apply for an administrative Code waiver (ACW), which would waive certain requirements of the City's Code and Charter. Ms. Siegel stated that the ACW would apply only to single-family homes, and would require an Application under which certain items must be filled out and brought before an administrative committee. This committee would be comprised of members of Code Enforcement, the Building Department, and the Zoning Department. The reason for the waiver request must include photos, copies of any notices of violation issued by the City, and any other pertinent documentation that the committee should take into consideration.

The proposed Ordinance also discusses the conduct of the hearing and criteria for the evaluation of the request. Ms. Siegel noted that the Item's documentation included amendments resulting from the concerns and comments raised by City Council at the workshop. The amendment has not yet been brought before the City Council.

One requirement for the process, should the ACW Ordinance be approved, is that the document must be filed with the property, so future purchases will receive copies of the waiver and documentation will be reflective of what truly appears on the property. The ACW would allow for "cleanup" of many existing violations throughout the City for a minimal \$25 application fee. She concluded that Staff requests approval of the ACW, which would then go before the City Council for two readings.

She added that p.4 of the Item's documentation lists the nine issues that would be addressed by the waiver: storage or tool sheds, carports, setback requirements, driveway lot coverage, pervious areas, fences, walls, gazebos, and pergolas. The integrity of any structures addressed by the ACW would be determined by the Building Department.

Chairman Piper stated that while it was good to see these violations addressed, there seemed to be little difference between going through the ACW process and addressing the issues "the right way" by requesting building permits. Mr. Heid said the ACW process does not waive Building Code requirements, such as structural integrity. It would only provide a waiver from the City's Zoning Code or land development regulations. If a structure cannot be brought up to Code, it would not be allowed to go through the process, but would instead be required to apply for a variance.

Chairman Piper asked where the line might be drawn in order to determine what is or is not allowed, such as the size of a setback. Mr. Heid said this would be addressed on a case-by-case basis, and would not change the minimum setbacks required by Building Code. Neighbors would be notified on a limited basis, such as within a 150 ft. radius.

Ms. Siegel added that several factors would be considered when a request was evaluated, such as the impact on adjacent properties or City drainage, integrity of the structure, compatibility with the primary structure, evidence that the violation existed prior to the Applicant's purchase of the property, and evidence that the existing structure was permitted and approved by the City. These factors are spelled out in the proposed Ordinance.

Vice Chairman Kreisberg requested clarification that the Ordinance would not apply to, for example, a fence erected by the current property owner several years ago. Ms. Siegel said mitigating factors would be considered, and it may be more difficult for property owners who made changes without applying for the necessary permits to receive the ACW. This would provide additional structure and guidelines to the ACW process.

Vice Chairman Kreisberg asked if City employees would be allowed to make decisions on these structures. Ms. Siegel said the process would be similar to the Technical Review Board: individuals with expertise in various disciplines, such as Code Enforcement, Building, and Zoning would be appointed to the committee. There will also be an appeal process to the City Council, as stated in the Item's documents governing the conduct of the committee.

Vice Chairman Kreisberg stated that there was not sufficient Code Enforcement within the City at present: the ACW would require Code Enforcement representatives to go through the City in search of violations that could be addressed through the proposed Ordinance. Ms. Siegel said items could be brought forward in one of two ways: Code Enforcement could identify violations, or members of the community could come forward within the proposed limited time period to have existing issues addressed. After the time frame has expired, property owners would need to either request a variance or bring existing violations into compliance with Code.

Vice Chairman Kreisberg asserted that this seemed to require Code Enforcement to go "door to door" throughout the City in search of violations. Chairman Piper requested clarification that Code Enforcement would not change. Ms. Siegel confirmed this. Chairman Piper asked why Code Enforcement was being addressed in the Ordinance if it would not change. Ms. Siegel reiterated that Code Enforcement would be the entity initiating the violation and conducting any necessary inspections.

Chairman Piper commented that while the Ordinance seemed to present an opportunity for a property owner to bring an issue into compliance, it could instead identify more issues on the property. He felt characterizing the Ordinance as an amnesty program would be deceptive, as it was more of a streamlined variance process. He concluded that while he was in favor of the idea, he was not certain that the proposed details of the program would entice homeowners to come forward and address existing issues.

Ms. Kamali noted that while Code Enforcement is currently included in the Police Department's budget, this would change in October 2013, when it came under the auspices of Public Services.

Ms. Siegel added that once the Ordinance took effect, any structures built prior to its passage would be subject to it. Google Maps would be used to ensure that affected structures were built within the appropriate time frame.

Chairman Piper stated that owners would have to prove the structural integrity of any buildings brought forward under the Ordinance; he did not feel the Building Department could sign off on the applications otherwise. He also noted that it would not be fair to make these applications subject to only a \$25 fee rather than regular permitting fees. Mr. Heid clarified that getting an ACW would simply allow the owners to come forward and obtain the necessary permits at the regular fees. Building permits and structural drawings will also be required.

Chairman Piper pointed out that the language of the proposed Ordinance gave the impression that owners would be able to correct their problems for a fee of \$25. Mr. Heid said the ACW process would be streamlined, but the permitting process would not change. Chairman Piper asserted that the ACW program was not an amnesty program, other than providing a break on variance fees for property owners who admit to existing violations. Ms. Siegel pointed out that once the period has elapsed, owners would once more be subject to double permitting fees and a \$200 fine or the possibility of having to remove structures, when they could instead have dealt with it through the ACW process for a limited time. The cost of requesting a variance was estimated at \$2500-\$3000.

Chairman Piper observed that while the proposed Ordinance was a step in the right direction, he did not feel it adequately addressed the enforcement aspect of the program, or accurately portrayed the ACW program, as he did not feel it was an amnesty program. Mr. DeFillipo added that he was also concerned with proper clarification of the program, as it gave the impression that Code Enforcement planned

to hold "door-to-door, street-to-street" inspections. Chairman Piper said he did not feel enforcement should be part of the program, and also recommended that this section of the proposed Ordinance be further clarified.

Chairman Piper asked if the City Council planned to vote on this Item in the short term, or if it could be tabled while clarifications and/or corrections were made. Ms. Siegel replied that the Item could be tabled and brought back the following month for the Board's reconsideration after the concerns raised at tonight's meeting were addressed.

A motion to table Item 13-546 was made by Julian Kreisberg and seconded by Hector Marrero. In a roll call vote, the motion passed 6-0.

Chairman Evan Piper	YES
Joseph Litowich	YES
Anthony DeFillipo	YES
Hector Marrero	YES
Julian Kreisberg	YES
Saul Smukler	ABSENT
Michael Mosher	YES

NEXT MEETING

It was noted that the next meeting was scheduled for Monday, June 10, 2013.

ADJOURNMENT

There being no further business to come before the Board at this time, the meeting was adjourned at 8:02 p.m.



City of North Miami Beach, Florida
COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING & ZONING BOARD MEETING
MONDAY, JUNE 10, 2013

Attendees:

Members - Chairman Evan Piper Christopher Heid, City Planner
 Julian Kreisberg Darcee Siegel, City Attorney
 Joseph Litowich Shari Kamali, Public Services Director
 Hector Marrero Eric Wardle, Code Compliance Manager
 Saul Smukler Steven Williams, Board Recorder
Michael Mosher – Absent

Call to Order and Pledge of Allegiance:

Chairman Piper called the meeting to order at 6:07 p.m. The Pledge of Allegiance was recited and roll was called.

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Minutes:

A motion was made by Julian Kreisberg, seconded by Joseph Litowich, to approve the minutes of the May 13, 2013 meeting. In a voice vote, the motion passed unanimously.

Chairman Piper administered the oath for any members of the public wishing to speak during the meeting. He instructed them to sign in as well.

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OLD BUSINESS

Mr. Heid provided the following status report:

1. Item 13-540 After-the-Fact Variances (Cabana)
 3207 NE 168 Street
 Approved by City Council.
2. Item 13-542 Rezoning & Conditional Use Approval (RM-23 to B-3)
 1998 NE 161 Street
 Pending June 18, 2013 City Council meeting.
3. Item 13-541 Site Plan Review and Variances (Townhouses)
 3500 NE 166 Street
 Approved by City Council.
4. Item 13-538 LDR Text Amendments
 Residential Driveways
 *Approved on first reading. A second reading is scheduled for the
 June 18, 2013 City Council meeting.*

5. Item 13-539 LDR Text Amendments
Front Yard Pervious Area
Approved on first reading. A second reading is scheduled for the June 18, 2013 City Council meeting.
6. Item 13-543 After-the-Fact Variances (Dock, Single-Family Home)
3467 NE 168 Street
Pending June 18, 2013 City Council meeting.
7. Item 13-544 Site Plan Review, Conditional Use, & Variances
Starbucks (Drive-Thru)
199 NE 167 Street
Pending June 18, 2013 City Council meeting.

Ms. Siegel noted that Item 13-539, Front Yard Pervious Area, was amended upon first reading. The amendment specified 25% minimum coverage for pervious area.

NEW BUSINESS

Item 13-547: B-1 to B-2: 17071 West Dixie Highway: Rezoning

Mr. Heid stated that the existing zoning for this property is B-1, Limited Business District, with an existing land use of Office Building and future land use designation of Business. The Applicant is requesting rezoning of a 27,905 sq. ft. property from Limited Business District to B-2, General Business District.

Ms. Siegel recommended that the Board members disclose any contact with the Applicant or the Applicant's representatives in relation to this Item. Mr. Litowich and Mr. Smukler stated they were contacted by the Applicant's representative, Charles Falkanger. Vice Chairman Kreisberg and Mr. Marrero said they were not contacted. Chairman Piper said he had minor non-substantive conversation with the Applicant's representative.

Charles Falkanger, representing JAAL LLC principal owner Alan Macken, stated that the Applicant believes the subject property can be developed into a gateway to welcome people to the City. He added that the proposed zoning is consistent with the future land use map, and the Applicant has a vested interest in the community and looks forward to working with the City and the CRA on future developments.

Alan Macken, Applicant, said he had owned the building on the subject property for six to seven years. He advised that he sought to amend its zoning due to changes currently taking shape within the City.

Mr. Litowich requested to hear the Applicant's plans for the property. Mr. Macken replied that he was exploring "other options and opportunities" for the property, and wished to change its zoning in order to remain consistent with the changing landscape of the City, which will be affected by the planned Hyatt hotel on Dixie Highway and other major developments. While he did not have a specific plan in place for the property at present, he concluded that he looked forward to any opportunities that may present themselves.

Mr. Litowich asked how the proposed rezoning would affect height restrictions. Mr. Heid said while the current B-1 zoning allows only two stories, B-2 zoning allows up to 15 stories and 150 ft. in height.

Chairman Piper asked what uses might be allowed by the proposed zoning change. Mr. Heid responded that uses within B-2 are limited, as the district is primarily designed for businesses that serve the consumer needs of nearby residents. Uses include small restaurants, gyms, apparel shops, garden supplies, home improvement, and jewelry stores, among others.

Chairman Piper asked if the subject property could join with the parcel to its south to create a more significant plot. Mr. Heid said the City would be pleased to see these parcels joined together in order to attract a larger development. He noted that there is also a City parcel in the area that could be joined to the parcel or parcels as well. He noted that any plans for the property would come back before both Staff and the Board for further review.

Mr. Macken added that he also hoped to open a conversation regarding the joining of the subject property with another parcel. A change in zoning could enhance the property's value.

Chairman Piper opened the floor to public comment. As there were no members of the public wishing to speak on the Item, public comment was closed.

Mr. Heid stated that Staff recommends the Application favorably with no conditions.

Mr. Litowich commented that the properties across the street from the subject property would create a buffer between the B-2 zoning district and the property's nearby residential neighbors. Mr. Heid noted that the property is also buffered by the railroad tracks and Biscayne Boulevard, which isolate it from residential areas.

A motion to approve Item 13-547 was made by Saul Smukler and seconded by Hector Marrero. In a roll call vote, the motion passed with a vote of 5-0.

Chairman Evan Piper	YES
Joseph Litowich	YES
Hector Marrero	YES
Julian Kreisberg	YES
Saul Smukler	YES
Michael Mosher	ABSENT

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Item 13-546: LDR Text Amendments: Administrative Code Waiver Process

Chairman Piper recognized City Councilwoman Beth Spiegel, who was present at the meeting.

Mr. Heid stated that this Item was discussed at the May 13 Board meeting, at which concerns were raised with respect to enforcement of the draft Ordinance. He recalled that there had been particular concern regarding "door-to-door, street-to-street" searches for Code violations. Changes to the proposed Ordinance include removal of the random inspection of City zones by Code Compliance Officers. The reference to door-to-door and street-to-street searches for zoning violations was also removed.

Mr. Heid noted that while these procedures could still be used, their removal from the Ordinance's language meant they would not be required. This would allow more flexibility for City administration to determine how they wished to proceed in enforcing the proposed Ordinance.

Eric Wardle, Code Compliance Manager, stated that he would be in charge of enforcement of the Ordinance. The intent would be to identify all violations within the community and allow residents the opportunity to comply through the waiver process. He noted that there may be several ways to enforce the Ordinance. Mr. Wardle added that many residents are not aware that Code violations exist, as they may have purchased existing properties that include a violation or installed structures without knowing they must first apply for a permit. He estimated that there are hundreds of violations throughout the City; the goal of the administrative waiver process is to give residents the opportunity to legalize or get rid of these violations.

Vice Chairman Kreisberg requested clarification that a resident who may have caused his or her own violation could use the administrative waiver process as a remedy to the situation. Mr. Wardle confirmed this, noting that residents may apply for the process before their violation is identified by Code Compliance.

Vice Chairman Kreisberg asked if the process still included empaneling a review board consisting of City employees. Mr. Heid said the possibility of a board consisting of City Councilmembers, City Staff, or members of the community had been discussed, as well as the size of the board. Staff had ultimately determined they would rely on City employees in order to provide consistency. Ms. Siegel added that the board would consist of Staff members who are well-versed in disciplines related to applicable Code. Residents may appeal directly to the City Council to appeal any decision made by the administrative group, or may apply for a variance.

Vice Chairman Kreisberg asked if the result of the Ordinance might still be to "blanket the City" with Code Compliance inspectors. Mr. Wardle pointed out that this is the current process used by Code Compliance: Officers are assigned to particular zones and respond to complaints within these zones. He noted that Officers are currently holding off on identifying many violations while the Ordinance is developed. The method of identifying violations would not be made more onerous by the Ordinance.

Chairman Piper asked if the identification process for Code violations would be made any different by the Ordinance. Mr. Wardle said it would not. He noted that while Code Compliance receives some complaints, the majority of violations are noted by Officers patrolling their zones.

Vice Chairman Kreisberg asked who would put the Ordinance's procedures, such as the review board, into place. Mr. Wardle said the City Manager would appoint the board and establish its meeting schedule.

Vice Chairman Kreisberg asked who was responsible for re-drafting the proposed Ordinance. Ms. Siegel said she and Mr. Williams had worked with Community Development, based upon the Board's comments and concerns from the last meeting, to draft the revised document.

Chairman Piper commented that the result was a less expensive, more streamlined waiver procedure. Mr. Wardle added that the proposed process would also be more lenient than the process currently in place, which would require residents to seek a variance or an after-the-fact permit. Mr. Heid emphasized that the Building Department is not allowed to waive certain permit requirements, as they are bound by Florida Building Code.

Mr. Litowich asked if Staff foresaw any possible stumbling blocks to the proposed Ordinance. Mr. Wardle said that an unintended consequence may be that some residents may not keep the structures they currently have once they are identified as Code violations. He anticipated that complaints may arise from this, but noted that this was no different from the current process.

Mr. Smukler asked how it was determined that the best way to proceed would be to have representatives of the Building and Zoning Departments, as well as Code Enforcement, comprise the board that would make decisions. He asked if this would be a formal meeting process, with a recording and minutes. Ms. Siegel said the process would be less formal, although it would also be open to the public and recorded.

Ms. Siegel advised that the best advantage of the proposed Ordinance would be the opportunity to legalize properties that may have been nonconforming for years. She pointed out that many Code violations listed in the proposed Ordinance, such as side setbacks, sheds, and carports, can be easily corrected, and hundreds of these violations exist throughout the City. The process would allow the City to work with the community and allow violations to be corrected rather than entering into a longer process in which properties may be cited over and over for violations and may ultimately face liens.

She added that the Ordinance will apply for a limited time period: violations must have been in existence prior to January 1, 2013, in order to qualify for the waiver process. This would be confirmed using Google Maps. The Ordinance would sunset on December 31, 2016, which would allow residents ample time to correct violations.

Vice Chairman Kreisberg asked what would happen if a resident applied for the waiver process, was turned down, and failed to correct the violation on his or her property. Ms. Siegel said they would ultimately be cited for any ongoing Code violations.

Mr. Marrero observed that when a house is sold in other cities, such as Hialeah, the seller has the responsibility of coming to the City to get "a clean bill of health" for their properties, ensuring that there are no violations. He felt this could be a good way to proceed in the future to prevent the continuation of a large number of violations. Mr. Wardle noted that another aspect of the problem is the number of complaints about Code violations, which must be addressed right away and cannot be put off until the resident sells the building. The Ordinance would allow violations to be addressed equally and on a City-wide basis.

Mr. Litowich asked if Mr. Wardle felt Code Compliance would be a more streamlined Department after the initial inundation of identified violations. Mr. Wardle replied that the violations would be easier to deal with after the Ordinance has been in effect for some months, but he did not foresee a change in his Department, other than less

revenue in fines. He pointed out, however, that Code Compliance has never been a Department that resulted in significant revenue for the City.

Mr. Smukler observed that surrounding properties within 150 ft. of a subject property would be noticed of violations and have 15 days to respond, which was very different from the variance process. He asked if this would be legal for minor violations. Ms. Siegel confirmed this, noting that the expense is also significantly less from the variance process. She pointed out that a Code waiver differed from a variance, as a variance allows a structure to vary from one particular aspect of Code; some of the violations that may be discovered could be granted a waiver and grandfathered in under the proposed Ordinance.

Mr. Smukler asked if an individual residing within 200 ft. of a violation would have any recourse against the City if s/he was not provided notice. Ms. Siegel said they would not, as the Ordinance defines the distance of notice as 150 ft. She added that another reason was that the violations would not be egregious or especially problematic, and would be more likely to affect adjacent or abutting neighbors rather than neighbors within a greater distance.

Mr. Smukler asked if the filing fee for the waiver process would cover the cost of the notification process. Mr. Heid said the City would perform the notifications, but the cost of notification would be borne by the applicant.

Vice Chairman Kreisberg asked if there were standards of determination, and whether these standards could be inequitably applied, such as when one neighbor makes a complaint about a violation but another neighbor might not choose to do so. Ms. Siegel said the evaluation criteria outlined in the proposed Ordinance include the affect on adjacent properties, drainage, right-of-way, compatibility with primary structure, and other considerations to be reviewed by the committee. Mr. Heid noted that a neighbor who does or does not make a complaint could be weighed as a mitigating factor, and decisions made by the board would not be arbitrary or capricious.

A motion to approve Item 13-546 was made by Saul Smukler and seconded by Vice Chair Kreisberg. In a roll call vote, the motion passed 5-0.

Chairman Evan Piper	YES
Joseph Litowich	YES
Hector Marrero	YES
Julian Kreisberg	YES
Saul Smukler	YES
Michael Mosher	ABSENT

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NEXT MEETING

It was noted that the next Board meeting would be on Monday, July 8, 2013.

Mr. Marrero commented that the City should focus on paving and drainage in the Eastern Shores neighborhood.

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ADJOURNMENT

There being no further business to come before the Board at this time, the meeting was adjourned at 6:55 p.m.

ORDINANCE NO. 2013-8

AN ORDINANCE AMENDING CHAPTER 24, ARTICLE XV, OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, FLORIDA BY CREATING SECTION 24-176.1 ENTITLED "ADMINISTRATIVE CODE WAIVER PROCESS"; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, for many years, numerous properties in the City of North Miami Beach have become non-conforming and in violation of City Code; and

WHEREAS, many of the violations on these properties have existed for years, leaving current owners with the obligation and responsibility to cure the violation or experience financial implications; and

WHEREAS, due to the economy, modernization, and environmental circumstances, many City property owners have allowed hundreds of Code violations to exist and remain on properties located throughout the City; and

WHEREAS, in order to legalize the hundreds of current non-conforming illegal properties throughout the City, the Mayor and City Council are desirous of creating an Administrative Code Waiver Process by appointing professionals from the Building Department, the Community Development Department, and the Code Enforcement Department to hear property owners' requests for Administrative Code Waivers; and

WHEREAS, through this newly created amnesty program, current owners of non-conforming illegal properties will have the opportunity to cure the violations on the numerous properties at minimal expense to the property owners; and

ORDINANCE NO. 2013-8

WHEREAS, this Ordinance was presented and discussed at the publicly noticed Planning and Zoning Board meeting on Monday, June 10, 2013 and received a favorable recommendation and a unanimous vote of 5 to 0; and

WHEREAS, the Mayor and City Council believe that the creation and implementation of the Administrative Code Waiver Process will provide compliance to many properties by taking into account the health, safety and welfare of all the citizens within our community.

NOW, THEREFORE,

BE IT ORDAINED by the City Council of the City of North Miami Beach, Florida.

Section 1. The foregoing recitals are true and correct.

Section 2. The Code of Ordinances of the City North Miami Beach entitled "Administrative Code Waiver Process" shall be created at Section 24-176.1 to read as follows:

Section 24-176.1 Administrative Code Waiver Process.

A. Membership; Meetings; Approvals and Sunsetting Provision.

An Administrative Code Waiver Process shall be created by the City Manager appointing three (3) City employees representing the Building Department, the Community Development Department and the Code Enforcement Department, who shall meet at least once per month. Meetings shall be open to the public and recorded. Approval of an Administrative Code Waiver shall require a majority vote of the members. The Administrative Code Waiver Process shall be temporary and shall end on December 31, 2016.

B. Procedure: Application Criteria; Fees and Appeals.

Any owner of a single family residential property may apply for an Administrative Code Waiver for violations existing prior to January 1, 2013. Property owners who have received courtesy notices of code violations, will have sixty (60) days from the date of the notice to apply for an Administrative Code Waiver. Failure to apply for an Administrative Code Waiver will result in the property owner having to remove the violation or follow the regular variance procedure outlined in the Code.

Property owners who have not been issued a Code violation may apply for an Administrative Code Waiver at any time up until the process is discontinued. Prior to applying for an Administrative Code Waiver, the property owner must submit an application along with a \$25.00 application fee to the City.

The application shall identify what the waiver is for and should include:

1. The reason for the waiver request.
2. Photos.
3. Copies of any notices of violation issued by the City.
4. How long the violation has existed.
5. Any other documentation the property owner believes is important.

Once the application is received, notice will be sent to all properties within 150 feet of the subject property, allowing those property owners 15 days to respond with any objections. The costs associated with notification is the obligation of the applicant. Once the 15 days have expired, the matter will be scheduled.

C. Conduct of Hearing.

1. The application will be reviewed and the applicant and the public will be allowed to present anything necessary to assist in the requested waiver. A decision at the meeting will be rendered or if additional information is needed, the matter will be continued to the next meeting.
2. If the Administrative Code Waiver is denied, the applicant shall have the right to apply for a variance through the normal variance procedure or directly appeal the panel's decision to the City Council. Any Administrative Code Waiver which is approved shall be filed and recorded by the applicant in the public records of Miami-Dade County with a copy sent to the City for its records.

D. Enforcement.

1. Once a violation is identified, courtesy notices will be issued to the property owner allowing them 60 days to cure the violation or apply for an administrative code waiver.
2. If no action is taken by the property owner within 60 days, a Notice of Violation will be issued and the normal enforcement process will begin. The property will also lose the opportunity to apply for an administrative code waiver.

3. Property owners who apply for an administrative code waiver and are denied will have 60 days to obtain a permit to bring the violation into compliance, appeal the denial to the City Council, or apply for a variance through normal channels. Failure to take any action will result in a Notice of Violation being issued and the normal enforcement process will begin.

E. Types of Violations eligible for Administrative Code Waivers.

The following types of code violations eligible for Administrative Code Waivers shall include but not be limited to:

1. Storage/Tool Sheds;
2. Setback Requirements;
3. Carports;
4. Fence Heights;
5. Driveways;
6. Pervious Area Requirements;
7. Lot Coverage Requirements;
8. Fences and Walls;
9. Gazebos and Pergolas.

F. Evaluation of Administrative Code Waivers Requests.

When evaluating requests for Administrative Code Waivers mitigating factors shall include, but not be limited to the following:

1. Impact on adjacent and nearby properties.
2. Impact on drainage to City right-of-way.
3. Quality of construction and workmanship.
4. Compatibility with primary structure.
5. Condition and maintenance of property.
6. Evidence that the violation(s) existed prior to the applicant's purchase of the property.
7. Evidence the structure, as it now exists, was permitted and approved by the City.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. If any section, subsection, clause or provision of this ordinance is held invalid the remainder shall not be affected by such invalidity.

Section 5. It is the intention of the City Council of the City of North Miami Beach and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami Beach, Florida. The Sections of this Ordinance may be renumbered or relettered to accomplish this intention and the word “Ordinance” may be changed to “Section”, “Article” or other appropriate word as the codifier may deem fit.

APPROVED BY TITLE ONLY on first reading this 2nd day of July, 2013.

APPROVED AND ADOPTED on second reading this ___ day of _____, 2013.

ATTEST:

PAMELA L. LATIMORE
CITY CLERK
(CITY SEAL)

GEORGE VALLEJO
MAYOR

APPROVED AS TO FORM

DARCEE S. SIEGEL
CITY ATTORNEY

Sponsored by: Mayor and City Council

Note: Proposed additions to existing City Code text are indicated by underline; proposed deletions from existing City Code text are indicated by ~~striketrough~~.