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## COMMISSION MEMORANDUM

TO: Mayor Steven Meiner and Members of the City Commission

FROM: Eric Carpenter, City Manager

DATE: May 21, 2025

TITLE: ALTON BEACH BAYFRONT OVERLAY - DEVELOPMENT AGREEMENT A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING, FOLLOWING FIRST READING/PUBLIC HEARING, OF A DEVELOPMENT AGREEMENT, AS AUTHORIZED UNDER SECTION 2.11.1 OF THE MIAMI BEACH RESILIENCY CODE, AND SECTIONS 163.3220 – 163.3243, FLORIDA STATUTES, BETWEEN THE CITY AND WEST HOSPITALITY OWNER LLC AND 1250 WEST AVE OWNER LLC (COLLECTIVELY THE “DEVELOPER”), WHICH DEVELOPMENT AGREEMENT DELINEATES THE TERMS AND CONDITIONS FOR THE DEVELOPMENT OF THE PROPERTY LOCATED AT 1250 WEST AVENUE (THE “DEVELOPMENT PROPERTY”) AND 1247, 1255 WEST AVENUE AND 1234 13 STREET (THE “HOSTEL PROPERTY”) LOCATED IN MIAMI BEACH, FLORIDA CONSISTING OF (1) A MAXIMUM OF 125 RESIDENTIAL UNITS AT THE DEVELOPMENT PROPERTY, (2) GROUND FLOOR RETAIL/COMMERCIAL AT THE DEVELOPMENT PROPERTY, AND (3) ACCESSORY USES; AND (4) A PUBLIC PARK AT THE HOSTEL PROPERTY (THE “PROJECT”); AND MEMORIALIZES CERTAIN PUBLIC BENEFIT COMMITMENTS MADE BY THE DEVELOPER, INCLUDING ACQUISITION OF THE HOSTEL PROPERTY AND CONVEYANCE TO THE CITY, AMONG OTHER PUBLIC BENEFITS; AND FURTHER, SETTING THE DAY, TIME, AND PLACE FOR THE SECOND AND FINAL READING OF THE DEVELOPMENT AGREEMENT

### **ADMINISTRATION RECOMMENDATION**

The Administration recommends that the Mayor and City Commission (City Commission) approve the Resolution at First Reading with the modifications recommended herein and schedule a Second Reading public hearing for June 25, 2025.

The Administration also recommends that consideration be given to the findings that will be presented as part of the third-party economic analysis of the value of the additional FAR and height contemplated in the proposal, and that these be subject to further negotiations between First and Second Reading.

The Planning Department staff have expressed concerns with the proposed LDR and Comprehensive Plan amendments pertaining to increases in intensity (FAR) and building height, as well as the proposed modifications to minimum setbacks and recommends the following;

1. The existing setback requirements should remain, with no modifications. The proposed setback modifications would result in the width of the proposed tower increasing from a maximum of 100 feet in width to 148 feet in width. Additionally, the pedestal portion of the building, at all levels, should fully comply with the minimum side setbacks of 16 feet.
2. The proposed FAR bonuses, collectively, should not exceed 2.0 and the aggregate increase in FAR should not exceed 4.75.
3. The proposed height bonus should be limited to 150 feet and the maximum allowable height should not exceed 300 feet.

## **HISTORY**

### **Amendment Application**

On August 11, 2024, 1250 West Ave Owner LLC, applied to modify the Land Development Regulations of the City Code (LDRs) and the 2040 Comprehensive Plan, with respect to the property located at 1250 West Avenue. This is a private application filed pursuant to Sections 2.4.1 and 7.1.10 of the Resiliency Code and proposes to create the Alton Beach Bayfront Overlay within the City's Future Land Use Map, the text of the City's 2040 Comprehensive Plan, and the City's Resiliency Code.

On March 4, 2025, the Planning Board transmitted the proposed Comprehensive Plan and LDR Amendments to the City Commission with an unfavorable recommendation (4-3). These proposed amendments (Items R5AE and R5AF, respectively) were approved by the City Commission at First Reading on April 23, 2025, and Second Reading / Adoption of these amendments was set for June 25, 2025.

## **ANALYSIS**

### **Proposal Summary**

The applicant is proposing to create a new overlay, entitled the Alton Beach Bayfront Overlay, as well as amend the RM-3 development regulations specific to properties in the overlay. The proposed amendments to the Comprehensive Plan and the LDRs would enable the construction of a luxury housing development, including an accessory restaurant, located at 1250 West Avenue.

### **Existing Property (1250 West Avenue)**

- Lot size: 83,706 square feet
- Current Number of Units: 239 Residential Apartment Units
- Current maximum allowable residential density: 288 Residential Units (based on a maximum density of 150 units per acre). However, when taking into consideration common area requirements, it is likely that the maximum number of residential units could not exceed 244.
- Current maximum hotel density: Hotels are not permitted in the West Avenue Overlay.

**Proposed Amendments to LDRs**

- A proposed increase in maximum FAR from 2.75 up to 5.75, which would result in an increase of 251,121 square feet, through bonuses.
- A maximum building height increase from 150 feet to 330 feet, through bonuses.
- Modifications to minimum setback requirements and allowable encroachments into required yards.
- Removal of Planning Board review of mechanical parking systems.
- A maximum density of 75 units per acre is proposed, which equates to a maximum of up to 144 residential units.

**Proposed FAR and Height Bonuses:**

- FAR bonus of .25 for not exceeding a density of 75 apartments per acre.
- FAR bonus of .25 for executing a covenant prohibiting short term rentals in perpetuity.
- FAR bonus of .50 for the design and construction of baywalk extensions at adjacent properties on West Avenue.
- FAR bonus of 2.0 for acquiring an existing property on the east side of West Avenue that has a transient use and conveyance of the property to the city.
- A building height bonus of 180 feet above the current maximum height of 150 feet for a project that implements all the above bonuses, allowing for a maximum height of 330 feet.

**Development Agreement Terms**

At the April 23, 2025, City Commission meeting, pursuant to item C7 AZ, sponsored by Commissioner Joseph Magazine, the Administration was directed to commence negotiations with the developer, 1250 West Ave Owner LLC, and First Reading of the proposed development agreement was set for May 21, 2025. On May 6, 2025, the developer provided a draft development agreement, in substantial form, to the Administration and the City Attorney's office.

The development agreement is proposed to be entered into by the City of Miami Beach and the developer of the property at 1250 West Avenue (1250 West Ave Owner LLC). The developer has represented that they would be obligated to comply with certain requirements as public benefits to the city, provided the developer obtains approval of the proposed amendments to the Comprehensive Plan and LDRs, as well as final approval for the proposed future development project on the site.

Attached is an updated version of the development agreement, which includes, to date, revised terms proposed by the Administration and the City Attorney's office. These revised terms have been provided to the development team for their review and consideration. The following is a general summary of the key draft terms of the proposed development

agreement, as well as modifications (**in bold**) proposed by the Administration and the City Attorney's office:

Definitions

General updates and clarifications have been proposed, which are mostly non-substantive.

Hostel Property Demolition.

The developer has proposed that within 120 days (4 months) after the legislative approvals of the amendments to the Comprehensive plan and LDRs becoming final and unappealable, the developer has agreed to do the following:

1. Acquire the Hostel Site located at 1247-1255 West Avenue.
2. Ensure compassionate relocation of the population of unhoused individuals that may be residing at the Hostel Site.
3. File a demolition permit application with the City seeking to demolish all improvements on the Hostel Property and, within thirty (30) days of the issuance of all necessary approvals, commence demolition of the existing improvements on the Hostel Property and diligently pursue the demolition.
4. Within thirty (30) days of the completion of the demolition, bring the Hostel Property into compliance with Section 14-501 of the Miami Beach Code of Ordinances, governing the maintenance of vacant lots after demolition.

**The Administration recommends the following revised timeframes regarding the Hostel Property:**

- 1. Within 30 days of the adoption of the LDR and Comprehensive Plan Amendments by the City Commission, but no later than July 31, 2025, the developer shall close on the acquisition of the Hostel Site located at 1247-1255 West Avenue.**
- 2. Within 45 days of the adoption of the LDR and Comprehensive Plan Amendments by the City Commission, but no later than August 15, 2025, the developer shall file a demolition permit application with the City to demolish all existing buildings and improvements at the Hostel Site, and the developer shall begin the eviction of all individuals from the Hostel Site premises including the relocation of the population of unhoused individuals that may be residing at the Hostel Site.**
- 3. Within 60 days of the adoption of the LDR and Comprehensive Plan Amendments by the City Commission, but no later than September 1, 2025, the developer shall complete the eviction of all individuals from the Hostel Site premises, as well as ensure all utilities are disconnected and that all buildings are fully locked and secured.**
- 4. Within 10 days of the issuance of a demolition permit for the Hostel Site, the developer shall commence demolition of all existing buildings and improvements at the Hostel Site.**

**5. Within thirty (30) days of the completion of the demolition, the developer shall bring the Hostel Site into compliance with all applicable provisions of the Miami Beach Resiliency Code and the Miami Beach Code of Ordinances, governing the maintenance of vacant lots after demolition.**

**6. If the developer does not successfully consummate the closing of the acquisition of the Hostel Site in breach of its obligations under the agreement, the agreement shall terminate and the City shall have all remedies for such default specified in the agreement.**

Waiver of Applicable Fees

**The Administration recommends that the city not agree to waive applicable land use board fees or other fees.**

Implementation of Baywalk Project.

*1. Concept Plan Approval.* Within sixty (60) days after approval of the private project at 1250 West Avenue has become final and unappealable the developer shall submit to the City a concept plan for the baywalk project for the City to approve, provided that the City shall not require a scope, design or specifications that include the relocation or harmonizing of existing boat slips and dock or such that the aggregate hard and soft costs for the development and construction of the baywalk project exceeds \$5,000,000.00 including the costs of the baywalk easements, as determined by Developer.

The City shall review and either confirm, approve or disapprove the baywalk concept Plan within thirty (30) days after receipt of the same. If the City fails to confirm, approve or disapprove such concept plan within such thirty (30) day period, then such concept plan shall be deemed confirmed/approved by the City. However, if the City timely disapproves such concept plan, the developer shall, at its election, either (i) submit the City's disapproval to the expedited arbitration process to be set forth in Section 29 of the development agreement or (ii) within sixty (60) days after such disapproval, submit proposed modifications to such concept plan, and then re-submit the concept plan to the City pursuant to the foregoing process until such concept plan has been or is deemed to have been confirmed/approved by the City.

**The Administration recommends that the review period for the concept plan be extended to 45 days, and that concept plan include all materials and specifications set forth in the applicable exhibits. In addition, the aggregate hard and soft costs for the development and construction of the Baywalk Project shall be increased to \$25,000,000.00 (for avoidance of doubt, including the costs of the Baywalk Easements) and shall include the relocation or harmonizing of existing boat slips, docks or anything necessary to implement the baywalk segments. The Administration also recommends removing the proposed arbitration process.**

*2. Final Construction Documents and Proprietary Review.* Following approval of the baywalk concept plan the developer shall prepare construction documents, including the preparation of design and permit plans, and the preparation of materials necessary for any development permits required by the City, County, and State. The developer shall submit such final construction documents to the city to confirm that such final construction documents conform in all material respects with the approved baywalk concept plan. The

final construction documents, once confirmed/approved or deemed approved by the City, shall be the documents submitted for building permit for the baywalk improvements.

**The Administration recommends that construction documents be prepared within 3 months of concept plan approval and the City review period be extended from 30 to 45 days. The Administration also recommends removing the proposed arbitration process in the event of a denial and that the developer instead simply resubmit the plans addressing denial comments.**

### *3. Permitting of Baywalk Project.*

The City shall be responsible for the following:

- a. Obtaining all necessary permits for the baywalk project based on the approved baywalk concept plan.
- b. At its sole cost and expense, the City shall obtain all necessary joinders and consents from the owners of 800 West Avenue and 1450 Lincoln Road, provided however, to the extent any such owner of any such upland parcel is the developer, in which case the developer shall deliver such joinders or consents to the City upon request for same.

The Developer shall be responsible for all permit fees associated with the Baywalk Project.

**The Administration recommends that the developer be responsible for obtaining all permits no later than 12 months from the date all construction documents are approved by the city. Additionally, the developer shall be responsible for obtaining all necessary joinders and consents from the applicable upland owners.**

*4. Construction of Baywalk Project.* After the City obtains the baywalk permits, the City shall deliver same to the developer, who shall then be responsible, at the developer's sole cost and expense, to complete or cause to be completed the construction of the baywalk project pursuant to the baywalk permits. The developer shall complete or cause to be completed the construction of the baywalk project within twenty-four (24) months after the City delivers the Baywalk Permits to the Developer.

**The Administration recommends that the developer be responsible for obtaining all required permits and complete the construction of the baywalk within 18 months of obtaining the permits.**

*5. Payment in Lieu for Missing Baywalk Segments.* The developer shall make good faith efforts to secure the baywalk easement for 1228 West Avenue. If the developer is unable to obtain a baywalk easement for 1228 West Avenue, or the City is unable to obtain a suitable baywalk easement for 800 West Avenue, or the City is unable to obtain the baywalk permits, then upon the later of: (i) forty-eight (48) months after the effective Date of this Agreement, or (ii) the date on which Developer obtains a TCO for the private project at 1250 West Avenue, the developer shall provide a payment to the City in the amount of \$1,250,000.00 per baywalk segment that cannot be constructed to fund the future improvement of that baywalk segment and that segment shall be removed from the baywalk project scope. The Developer shall thereafter have no further responsibility for that segment(s) of the baywalk project.



**The Administration recommends that specific timeframes for obtaining required easements be included in the agreement. Additionally the payment in lieu be increased to \$18,000,000 in respect of the 800 West Avenue Baywalk Segment, (ii) \$5,000,000 in respect of the 1228 West Avenue Baywalk Segment and (iii) \$2,000,000 in respect of the 1450 Lincoln Road Baywalk Segment.**

Development and Implementation of a Park Project at the Hostel Site and Transfer to City. The developer shall design and construct a park on the hostel property (1247-1255 West Avenue) at the developer's sole cost and expense, not to exceed \$2,000,000.00. The park project, which will be transferred to the City upon completion, shall be governed as follows:

*1. Concept Plan Approval.* Within 120 days (4 months) of the private project at 1250 West Avenue approval becoming final and unappealable, the developer shall present a concept plan to the City Manager or designee for the creation of the park for the City to approve. The City may not require a scope, design or specifications such that the aggregate hard and soft costs for the development and construction of the park project exceeds \$2,000,000.00. The City Manager shall review and either confirm, approve or disapprove the park concept plan within thirty (30) days after receipt of the same. If the City Manager fails to confirm, approve or disapprove the park concept plan within such thirty (30) day period, the plan shall be deemed confirmed/approved by the City. However, if the City Manager timely disapproves of the park concept plan, specific and detailed reasons for such rejection shall be provided, in which event the developer shall, at its election, either (i) submit the City's disapproval to the expedited arbitration process to be set forth in Section 29 of the agreement or (ii) within sixty (60) days after such disapproval, submit proposed modifications to such concept plan, and then re-submit the concept plan to the City pursuant to the foregoing process until such concept plan has been or is deemed to have been confirmed/approved by the City.

*2. Schematic Plans / Hearing Approval.* The developer, at their sole cost and expense, shall be responsible for preparation and processing of all necessary materials for review and approval of schematic design plans by the DRB to implement the park concept plan. The developer shall prepare and submit the DRB application within 120 days of the City's approval of the park concept plan, and the City shall timely execute all necessary application materials upon the written request by the developer. In the event the DRB requires changes to the proposed design, the developer will be responsible for preparing all necessary modifications.

*3. Final Construction Documents and Proprietary Review.* Within 365 days of the DRB approval of schematic design plans, the developer shall prepare and submit to the City Manager the final construction documents, including the preparation of design and permit plans, and the preparation of materials necessary for any development permits required by the City, County, and State, it being understood and agreed that the developer's design professionals shall be responsible for preparing the construction documents in consultation with the City. The developer shall submit such final construction documents to the City Manager for the sole and limited purpose of verifying that the final construction documents conform in all material respects with the applicable approved Park Plans. The City shall review and either confirm/approve or disapprove such final construction documents within thirty (30) days after receipt of the same, but for avoidance of doubt, the

City may disapprove the final construction documents only if they do not conform in all material respects to the applicable approved schematic design plans.

If the City fails to confirm/approve or disapprove such final construction documents within such thirty (30) day period, then such final construction documents shall be deemed confirmed/approved by the City. However, if the City timely disapproves such final construction documents, it shall give the specific and detailed reasons for such rejection, in which event, the developer shall, at its election, either (i) submit the City's disapproval to the expedited arbitration process to be set forth in Section 29 of the agreement or (ii) within sixty (60) days after such disapproval, submit proposed modifications to such final construction documents so that they conform in all material respects to the approved park concept plan and DRB approval and then re-submit them to the City pursuant to the foregoing process until such final construction documents have been or are deemed to have been confirmed/approved by the City, and such final construction documents, once confirmed/approved or deemed approved by the City, shall be the documents submitted for building permit for the Park Project.

*4. Processing of Construction Permit.* Within ninety (90) days of the City's proprietary approval of the final construction documents for the park, the developer shall, at its sole cost and expense, submit the building permit plans to the City. The City shall waive any permit fees associated with the submittal, unless mandated by state law. The developer shall diligently pursue the issuance of a building permit for the improvements, including making timely revisions and resubmittals until the permit for the improvements is issued.

*5. Temporary Sales Center.* The Developer shall be permitted to utilize the Hostel Property for a temporary sales center for the Project.

*6. Transfer of Hostel Site:*

- a. Upon completion of the park improvements, the developer shall provide notice to the City, and the parties will thereafter set a mutually-agreed upon date for the closing of the conveyance of the Hostel Site to the City, but no earlier than sixty (60) days following the developers receipt of of temporary certificate of occupancy for the private project at 1250 West Avenue.
- b. At the Closing, the developer shall deliver to the City a warranty deed conveying to the City fee title to the Hostel Site free and clear of all liens and encumbrances as well as a customary title affidavit reasonably required by the title company.
- c. The City shall be responsible at its sole cost and expense for the operations, maintenance, repair, replacement, restoration of the Hostel Site from and after the closing, and all obligations and liabilities of the developer with respect to the Hostel Site shall terminate at the closing except for the warranties in the deed.

**The Administration recommends the following:**

- 1. An environmental assessment of the park site shall be required, at the sole cost of the developer.**
- 2. The City shall have a 24-month grace period to decide whether the City would like the developer to build a park or to make a payment in lieu thereof. If the City**



**elects not to proceed with the park, then developer shall transfer the Hostel Site to the City within one hundred twenty (120) days from the later of (i) the date the city elects not to proceed with the park, or (ii) the date upon which the private project approval at 1250 West Avenue has become final and the appeals period has run.**

- 3. If the city elects to proceed with the developer constructing a park, the timeframe for city review of the concept plan shall be extended from 30 to 45 days and the proposed. The Administration also recommends removing the proposed arbitration process in the event of a denial and that the developer instead simply resubmit the plans addressing denial comments.**
- 4. The Administration recommends the proposal for a temporary sales trailer on the park site be removed.**
- 5. The Administration recommends that specific timeframes for the completion of the park and conveyance to the City be established.**

**Rental Assistance for Lessees of the Existing Building at 1250 West Avenue**

Prior to the City's issuance of a permit to demolish the existing building at 1250 West Avenue (Bay Garden Manor) the developer shall demonstrate that it has offered financial assistance in the amount of \$7,500 for one-bedroom units or \$10,000 for two-bedroom units to all bona fide lessees of the property to assist those lessees in securing new residential leases.

For purposes of this provision, bona fide lessees shall mean leaseholders meeting the following requirements:

- a. Resides full time in the unit.
- b. Is a lessee under a written lease with a term exceeding six (6) months entered into between the Bona Fide Lessee and the relevant unit owner.
- c. Is not currently subject to eviction proceedings pursuant to Chapter 83 of the Florida Statutes.
- d. Provides documentation in a form acceptable to the Developer demonstrating intent to relocate within the City of Miami Beach.

The developer shall provide an affidavit to the City affirming compliance with this Section before a demolition permit may issue for the existing building on the Development Property.

**The Administration recommends that the bona fide lessees provision pertaining documentation demonstrating intent to relocate within the City of Miami Beach be removed.**

**SUMMARY**

The first draft of the development agreement was provided less than a week prior to the printing deadline for the May 21, 2025 City Commission agenda. Although the Administration and City Attorney's office were able to review and provide suggested modifications within this limited review period, additional revisions will be forthcoming, as a comprehensive review of the entirety of the document has not yet been completed. The proposed development agreement is tethered to the companion amendments to the LDRs and the Comprehensive Plan. If the development agreement is approved by the City Commission at First Reading on May 21, 2025, all three of these components would be considered for adoption together at a Second Reading public hearing on June 25, 2025.

Additionally, the City has engaged the services of Miami Economic Associates (MEA) to perform an economic analysis as to the value of the increased FAR and building height associated with the proposed LDR and Comprehensive Plan Amendments. This analysis is expected to be completed prior to May 21, 2025 and will be forwarded to the City Commission under separate cover.

### **CONCLUSION**

The Administration recommends that the City Commission approve the attached Resolution and draft Development Agreement at First Reading, with the amendments proposed by the Administration herein, and schedule a Second Reading public hearing for June 25, 2025.

The Administration also recommends that consideration be given to the findings that will be presented as part of the third-party economic analysis of the value of the additional FAR and height contemplated in the proposal, and that these be subject to further negotiations between First and Second Reading

EC/DM/TRM

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