

R9 Q DISCUSS NORTH BEACH HISTORIC PRESERVATION FUND AND COLLECTION OF FINES RESULTING FROM VIOLATIONS ISSUED TO THE DEAUVILLE HOTEL.

Applicable Area:

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: City Manager Eric Carpenter

DATE: September 11, 2024

TITLE: DISCUSS NORTH BEACH HISTORIC PRESERVATION FUND AND COLLECTION OF FINES RESULTING FROM VIOLATIONS ISSUED TO THE DEAUVILLE HOTEL.

RECOMMENDATION

The Administration recommends that the City Commission discuss the item and provide policy direction.

BACKGROUND/HISTORY

On February 9, 2022, at the request of Commissioner Alex Fernandez, the Mayor and City Commission referred a discussion item (R7 O) to the Public Safety and Neighborhood Quality of Life Committee (PSNQLC) pertaining to the creation of a North Beach Historic Preservation Fund. On March 29, 2022, the PSNQLC discussed the item and continued the discussion to the May 17, 2022, meeting.

On May 17, 2022, the item was deferred to the first available PSNQLC meeting in 2023. On February 28, 2023, the item was deferred to the March 23, 2023, meeting. On March 23, 2023, the item was deferred indefinitely.

On March 20, 2024, the PSNQLC discussed the item and moved the item to the City Commission with a recommendation to establish a restricted North Beach Historic Preservation Fund. Additionally, the PSNQLC recommended that the City Commission discuss the fines associated with the former Deauville hotel site.

The item was placed on the May 15, 2024 Commission agenda but was not reached. The item was moved to the June 26, 2024 Commission agenda but was not reached. The item was moved to the July 24, 2024 Commission agenda, but was not reached.

ANALYSIS

Multiple violations of the City's building, zoning, and fire codes have been issued to the property owner of the then Deauville Hotel located at 6701 Collins Avenue. These violations, which include the failure to maintain a contributing building in accordance with the City's demolition by neglect regulations, have resulted in cases pending before the City's Special Magistrate. The outstanding fines and recorded liens on the property exceed \$5.2 million dollars, as of January 2024.

These fines are anticipated to continue to accrue until the violations are brought into compliance. The City intends to vigorously pursue the collection of such fines. Should the City be successful, these monies could be used to establish a fund to assist property owners of contributing or historic buildings.

The Deauville Hotel (Deauville), which was completely demolished in November 2022, was

formerly a contributing structure located within the North Beach Resort Local Historic District. For more than four and a half years, the vacant and unsafe condition of this structure on a nearly 4-acre oceanfront property negatively impacted surrounding businesses and residences. Additionally, there are four (4) other local historic districts in proximity to the Deauville site, including the North Shore, Normandy Isles, Altos del Mar, and Harding Townsite/South Altos del Mar historic districts. Collectively, these historic districts contain 287 contributing buildings.

In 2019, the firm KCI was retained by the City to research best practices and provide the City with recommendations for the creation of an historic preservation fund. The study, completed in March 2020, could be used to assist in the creation of a framework for implementation of a North Beach Historic Preservation Fund. Similarly, regarding the Miami Beach Private Property Adaptation Fund established by the Mayor and City Commission via Resolution No. 2020-31504 on November 18, 2020, the KCI report recommended a matching grant structure and an independent committee to review and rank applications for the distribution of funds.

Pursuant to the input of the PSNQLC at the March 20, 2022 meeting, staff was requested to develop a more specific structure for how any monies the City may receive as a result of the violations issued to the Deauville Hotel could be disbursed. In this regard, a matching grant program, consistent with recommendations made by KCI in 2020 could be a potential option. The following is a summary of how a matching grant program could be structured:

Eligibility

The property must be located within the North Beach Resort, Altos del Mar, Harding Townsite/South Altos del Mar, North Shore or Normandy Isles local historic district and must contain at least one building classified as contributing. The application shall be submitted by either the property owner of record, for individually owned properties, or the condominium association, for properties with multiple owners.

Types of Improvements Eligible for Funding

All proposed improvements shall comply with the Certificate of Appropriateness Criteria as outlined in the Land Development Regulations of the City Code (LDRs) and shall include at least one of the following:

1. Exterior painting of the entire building, which may include stucco repair.
2. Improvements to street or water facing yards that must include, at a minimum, the removal of non-pervious paving and the introduction of resilient landscape materials and pervious hardscape.
3. Modifications to existing original and/or architecturally significant exterior railings to satisfy current Building/Life Safety regulations.
4. Replacement of existing exterior railings, in a manner as consistent as possible with the original design and in accordance with the MiMo Design Guidelines.
5. Removal of street and/or waterway facing through-the-wall and/or through-the-window air conditioning units and replacement with new equipment that is not located within the front yard or side facing a street yard.
6. Restoration of missing or damaged exterior architectural features consistent with historical documentation including, but not limited to, architectural planter features, decorative property walls, façade ornamentation, decorative roof eaves, decorative exterior materials such as brick or stone, projecting window frames, eyebrows, breeze block & signage.
7. Window and/or door replacement as consistent as possible with the historic configuration.

Disbursement of Funds

The Historic Preservation Fund would allow for 1:1 matching grants from \$5,000 to \$50,000, or 50% of the project cost, whichever is less. For projects that are awarded funding, the grant funds would be disbursed on a reimbursement basis, after the completion of all approved work, and after the contractor has been paid for the work.

The completed work must satisfy all of the following:

1. All work shall be within the grant project's scope, budget, and schedule.
2. All work shall be done in full accordance with an approved Certificate of Appropriateness.
3. All work shall be done in full accordance with all applicable planning and/or building permits and all permits shall be finalized (all final inspections passed).

Once the work has been completed and inspected, a copy of the paid invoice from the Contractor, with a request for disbursement of the grant funds, would then be submitted to the City for processing. The grant may be considered income for tax purposes.

Administration

If the program is implemented, it is recommended to be administered by a city department other than Planning or Building due to the regulatory involvement of these departments. Depending upon the department identified to administer the program, additional staffing may be needed.

Implementation

The program is expected to have fiscal implications, as additional staff and monetary support would be needed to ensure it is well-run, can meet demand, and complies with all anticipated audit requirements. Should the fund be established, and monies collected, the Administration recommends that a procurement process be established for the selection of a pool of architects, engineers and contractors who would be responsible for the work and reporting necessary budgets and receipts to the City. Additionally, to streamline the application process, the Administration would recommend the establishment of a ranking committee comprised of City staff members who would review applications on a yearly cycle.

Special Magistrate And Court Proceedings

On November 20, 2020, Code Compliance issued a violation (ZV2020-03121) for failing to comply with Section 118-532(g) of the City Code for the Deauville's failure to prevent demolition by neglect. The Deauville failed to take any corrective action and on February 23, 2021 this matter was heard by the City's Special Magistrate. The Chief Special Magistrate granted the City's request for an adjudication of non-compliance. Additionally, the Magistrate granted the City's request to impose daily fines and assessed the maximum daily fine in the amount of \$5,000.

After obtaining a permit for demolition (BC2116167), the Deauville made a request to stop the fines, which was granted by the Special Magistrate on October 20, 2022. The last hearing (SMC2020-01415/ZV2020-03121) was held on March 7, 2024 at which time the City was successful in having the fines re-instated based on the fact that the demolition permit was not in final status. The Special Magistrate granted the City's request, and the fines were retroactively reinstated to January 3, 2024. There are no future hearings scheduled in the open Special Magistrate (demolition by neglect) case.

Chapter 30 of the City Code requires that a violation be in compliance before any fines can be mitigated. On April 5, 2024, the permit status was updated to finalized and it is anticipated that a hearing before the Special Magistrate will be scheduled in the near future. The criteria for mitigation is outlined in section 30-76(b) of the City Code as follows:

Sec. 30-76. - Rehearings; mitigation.

a. Mitigation. All applications for mitigation shall be made in writing and under oath. No applications for mitigation shall be considered until an affidavit of compliance has been filed by a city inspector. A petition for relief from order shall be brought within one year. A petition for mitigation shall be brought within three years after the filing of an affidavit of compliance with the clerk of the special magistrate and is subject to the following mitigation criteria:

- (1) The gravity of the violation;
- (2) The promptness of compliance;
- (3) The good faith actions taken to correct the violation; and
- (4) The amount of equity in the property relative to the amount of the lien.

Circuit Court Action

The circuit court action (City of Miami Beach vs Deauville Associates – case number 19-03653 CA 43) is stayed until demolition of the Deauville Hotel is complete and the demolition permit is closed by the City of Miami Beach.

Collection Of Fines

There are multiple City of Miami Beach liens on the property, including the lien associated with the demolition by neglect violation. The interest rate is 12% per annum. The City liens will not be released or satisfied until payment is received whether it be payment in full or payment in connection with a successful mitigation request.

In the event of a sale or refinance (i.e. construction loan), the City's recorded liens will need to be addressed in a similar manner in order for the lender to proceed with the funding of the loan.

FISCAL IMPACT STATEMENT

N/A

Does this Ordinance require a Business Impact Estimate?

(FOR ORDINANCES ONLY)

The Business Impact Estimate (BIE) was published on . See BIE at:

<https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

FINANCIAL INFORMATION

CONCLUSION

The Administration recommends that the City Commission discuss the item and provide policy direction.

Applicable Area

North Beach

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-17?

Yes

Is this item related to a G.O. Bond Project?

No

Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying? No

If so, specify the name of lobbyist(s) and principal(s):

Department

Planning

Sponsor(s)

Commissioner Alex Fernandez

Co-sponsor(s)