



To: Devin Cejas, Deputy Development Services Director / Zoning Official
Ramon Trias, Development Services Assistant Director for Planning

From: Cristina M. Suárez, Deputy City Attorney for the City of Coral Gables

Approved By: Miriam Soler Ramos, City Attorney for the City of Coral Gables *MSR*

RE: Legal Opinion Regarding 719 Biltmore Way / Request for Zoning Confirmation

Date: January 7, 2020

As you know, our office has received the attached inquiry regarding the zoning regulations applicable at 719 Biltmore Way (the "Property"). While the request seeks confirmation of the allowable density, FAR, and height that can be developed at the Property, this opinion, developed in consultation with Devin, will only address the maximum height of development, given that it involves interpretation of the site specific regulations in conjunction with the more general regulations. We will otherwise refer the property owner's counsel to your office for a zoning verification letter as to the requested zoning analysis.

The Property, which according to the attached letter is approximately 11,984 square feet, has a Comprehensive Plan Future Land Use Map designation of Residential Multi-Family High, which permits a maximum height of 150 feet (or 190.5 feet (with a maximum 3 additional floors)) with architectural incentives per the Zoning Code). The Property is zoned Multi-Family 2 District ("MF2") which requires a parcel size of at least 20,000 square feet for buildings with a height exceeding 45 feet, but otherwise provides in section 4-103(D)(10)(a) that the maximum height is "[p]ursuant to the Comprehensive Plan Map designation and/or Site Specific Zoning regulations." The applicable site specific standards for the Property are set forth in Section A-12.B.2.C which provide that the maximum height of any apartment building and/or structure shall not exceed thirteen (13) stories or one-hundred-fifty (150) feet in height. Moreover, section 5-604 of the Zoning Code provides that the Property is eligible for Mediterranean Design bonuses. Specifically, the Zoning Code provides in Section 5-604(A)(3) "Site Specific Zoning Regulations and Mediterranean Bonus," that "bonuses and/or incentives as provided for in this Section may be awarded as supplemental (additional) intensity/density or the reduction of existing limitations as assigned in 'Appendix A – Site Specific Zoning Regulations.' These supplemental (additional) bonuses and/or incentives shall be evaluated pursuant to the applicable development standards included in tables 1, 2, and 3 of Section 5-604." Moreover, the transitional rules in the Zoning Code provide that "[i]n the event the Site-Specific Standards and these regulations conflict,

the Site-Specific Standards shall control except if granted Coral Gables Mediterranean Style Design Standards bonuses as provided for in Section 5-604.” Zoning Code Sec. 1-108(C).

This office has previously issued opinions providing that in the MFSA District and the MF2 District, the height of development for properties for which there are site specific regulations is governed by such site-specific regulations. See CAO 2018-020; CAO 2017-13; CAO 2013-33. Consistent with the prior opinions of this office and in consultation with Devin, it is my conclusion that the height of development on the Property is governed by the site specific regulations, such that a height of up to 13 stories or 150 feet (whichever is less) is permitted, or up to 190.5 feet (with a maximum 3 additional floors), which is also consistent with the comprehensive plan, is permitted, provided that the development complies with the requirements for bonuses pursuant to section 5-604 of the Zoning Code.

This opinion is issued pursuant to section 2-252(e)(1) and (8) of the City Code, as well as section 2-702 of the Zoning Code.

From: [Ramos, Miriam](#)
To: [Paulk, Enga](#)
Cc: [Suarez, Cristina](#)
Subject: FW: 719 Biltmore Way / Request for Zoning Confirmation
Date: Tuesday, January 7, 2020 4:48:54 PM
Attachments: [image001.png](#)
[719 Biltmore Way Request for Zoning Confirmation.pdf](#)
[image002.png](#)
[image006.png](#)

Enga, please publish.

Miriam Soler Ramos, Esq., B.C.S.

City Attorney

*Board Certified by the Florida Bar in
City, County, and Local Government Law
City of Coral Gables*

405 Biltmore Way, 2nd Floor
Coral Gables, FL 33134
(305) 460-5084 direct dial



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From: Suarez, Cristina
Sent: Tuesday, January 7, 2020 3:37 PM
To: Cejas, Devin <dcejas@coralgables.com>; Trias, Ramon <rtrias@coralgables.com>
Cc: Ramos, Miriam <mramos@coralgables.com>
Subject: FW: 719 Biltmore Way / Request for Zoning Confirmation

Devin and Ramon:

As you know, our office has received the attached inquiry regarding the zoning regulations applicable at 719 Biltmore Way (the “Property”). While the request seeks confirmation of the allowable density, FAR, and height that can be developed at the Property, this opinion, developed in consultation with Devin, will only address the maximum height of development, given that it involves

interpretation of the site specific regulations in conjunction with the more general regulations. We will otherwise refer the property owner's counsel to your office for a zoning verification letter as to the requested zoning analysis.

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This office has previously issued opinions providing that in the MFSA District and the MF2 District, the height of development for properties for which there are site specific regulations is governed by such site specific regulations. See CAO 2018-020; CAO 2017-13; CAO 2013-33. Consistent with the prior opinions of this office and in consultation with Devin, it is my conclusion that the height of development on the Property is governed by the site specific regulations, such that a height of up to 13 stories or 150 feet (whichever is less) is permitted, or up to 190.5 feet (with a maximum 3 additional floors), which is also consistent with the comprehensive plan, is permitted, provided that the development complies with the requirements for bonuses pursuant to section 5-604 of the Zoning Code.

This opinion is issued pursuant to section 2-252(e)(1) and (8) of the City Code, as well as section 2-702 of the Zoning Code.

Thanks,
Cristina

Cristina M. Suárez
Deputy City Attorney & City Prosecutor
City of Coral Gables
405 Biltmore Way, 3rd Floor

Coral Gables, Florida 33134
Main Phone: (305) 460-5218
Direct Dial: (305) 476-7231
Email: csuarez@coralgables.com



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From: Garcia-Serra, Mario <MGarcia-Serra@gunster.com>
Sent: Monday, December 2, 2019 9:56 AM
To: Ramos, Miriam <mramos@coralgables.com>; Suarez, Cristina <csuarez@coralgables.com>
Subject: FW: 719 Biltmore Way / Request for Zoning Confirmation

CAUTION: External email. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning and welcome back! Hope that you both enjoyed the holiday weekend! What is your ETA on a response to the attached? Feel free to reach out to me if anything needs to be discussed further. Thanks!

Best regards,

Mario



Mario Garcia-Serra | Shareholder
600 Brickell Avenue
Brickell World Plaza
Suite 3500
Miami, Florida 33131

P 305-376-6061 F 786-425-4104
gunster.com

From: Garcia-Serra, Mario

Sent: Monday, November 11, 2019 4:35 PM
To: Ramos, Miriam; Suarez, Cristina
Subject: 719 Biltmore Way / Request for Zoning Confirmation

Dear Miriam and Cristina,

Hope that you are both well. As we briefly discussed last week, attached is my request for confirmation of certain zoning issues for the property at 719 Biltmore Way. As you will see in my letter, I was able to confirm that previous City Attorney determinations have affirmatively taken the position that the site specific regulations regarding height are applicable to MF-2 zoned properties.

Best regards,

Mario



Mario Garcia-Serra | Shareholder
600 Brickell Avenue
Brickell World Plaza
Suite 3500
Miami, Florida 33131

P 305-376-6061 F 786-425-4104
gunster.com

November 11, 2019

VIA ELECTRONIC MAIL

Miriam S. Ramos, Esq.
City Attorney
City of Coral Gables
405 Biltmore Way, 2nd Floor
Coral Gables, Florida 33134

Re: 719 Biltmore Way / Request for Zoning Confirmation

Dear Ms. Ramos:

On behalf of Mr. and Mrs. T Russell Sherrill, the owners of the property located at 719 Biltmore Way (the "Property"), we are requesting confirmation of the zoning regulations applicable to the Property. The Property is further identified by Miami-Dade County Tax Folio Number: 03-4117-008-0160. According to the A.L.T.A. / A.C.S.M. Land Title Survey dated March 2, 2011 and signed by Rene Aiguesvives, which is attached as **Exhibit A** (the "Survey"), the Property is approximately 11,984 square feet in size (0.28 acres). Our research has yielded the following conclusions:

The Future Land Use designation of the Property pursuant to the Coral Gables Future Land Use Map (the "FLUM"), the relevant excerpt of which is attached as **Exhibit B**, is "Residential Multi-Family High," which permits a maximum height of 150 feet (or 190.5 feet with Mediterranean design bonus) and a maximum of 60 units per acre (or 75 units per acre with Mediterranean design bonus). This means that a maximum of 16 units could be constructed on the Property which can be increased to 21 units if Mediterranean design bonuses are utilized.

The Property is zoned "Multi-Family 2" District (MF2) pursuant to the Coral Gables Zoning Map, the relevant excerpt of which is attached as **Exhibit C** along with the applicable Coral Gables Zoning Code (the "Zoning Code") regulations. Since the Property is located within the Coral Gables Biltmore Section, Section A-12 of the Site Specific regulations, a copy of which is attached as **Exhibit D**, also applies to the Property. Of particular note, is the height permitted of 13 stories or 150 feet, pursuant to Section A-12.B.2.c., and the minimum residential dwelling unit size of 400 square feet pursuant to Section A-12.F.1. The maximum height pursuant to Site Specific regulations is consistent with the maximum height permitted under the Property's FLUM designation and can be increased to 190.5 feet using Mediterranean bonus. Section 4-103.D.9.a. of the MF2 District regulations provides that the maximum permitted height for buildings within MF2 is "pursuant to the Comprehensive Plan Map designation and/or Site Specific Zoning regulations." While pursuant to

November 11, 2019

Page 2

Section 4-103.D.2.b. of the MF2 regulations, a minimum lot size of 20,000 square feet and a minimum lot frontage of 200 feet is typically required in order to achieve a building height of greater than 45 feet, the maximum height provisions of the Site Specific regulations supersede this minimum lot area and frontage requirement. This has been confirmed by previous City Attorney determinations. Pursuant to City Attorney Opinion 2018-020, attached as **Exhibit E** a property zoned MF2 with a lot area less than 20,000 square feet is permitted a height greater than 45 feet, where the applicable site specific regulations provide for a greater maximum height. In an email dated March 31, 2016, attached as **Exhibit F**, former City Attorney, Craig Leen, further confirmed that the site specific regulations govern with respect to height for another similarly situated MF-2 zoned property.

Sections 4-103.D.8 and 4-103.D.9 of the Zoning Code limit the maximum floor area ratio ("FAR") based on the height of the building. Since the maximum permitted F.A.R. generally decreases with height under the existing Zoning Code regulations, a higher F.A.R. could be achieved if a lower height is pursued. To optimize height and F.A.R. under the existing Code, an architect would have to do a feasibility study, but, theoretically, the greatest F.A.R. (2.0 or 2.5 with Mediterranean bonus) can be achieved at a height of 80 feet or greater but less than 90 feet. An F.A.R. of 2.5 for this Property would yield a total buildable floor area of 29,960 square feet.

Please confirm that you agree with our analysis above that:

- (1) the maximum possible density for the Property is 60 units per acre, or 75 units with Mediterranean Design Bonus;
- (2) the maximum possible F.A.R. for the Property is 2.0, or 2.5 with Mediterranean Design Bonus; and
- (3) the maximum height for the Property is governed by Section A-12 of the City's site specific zoning regulations and permit a base height of 13 stories and 150 feet, which can be increased to 16 stories and 190.5 feet with Mediterranean Design Bonus.

Please contact me at 305-376-6061 if you would like to discuss this matter further. Thank you for your attention to this matter.

Best Regards,



Mario Garcia-Serra

Enclosures

Cc: Ms. Cristina Suarez, Deputy City Attorney

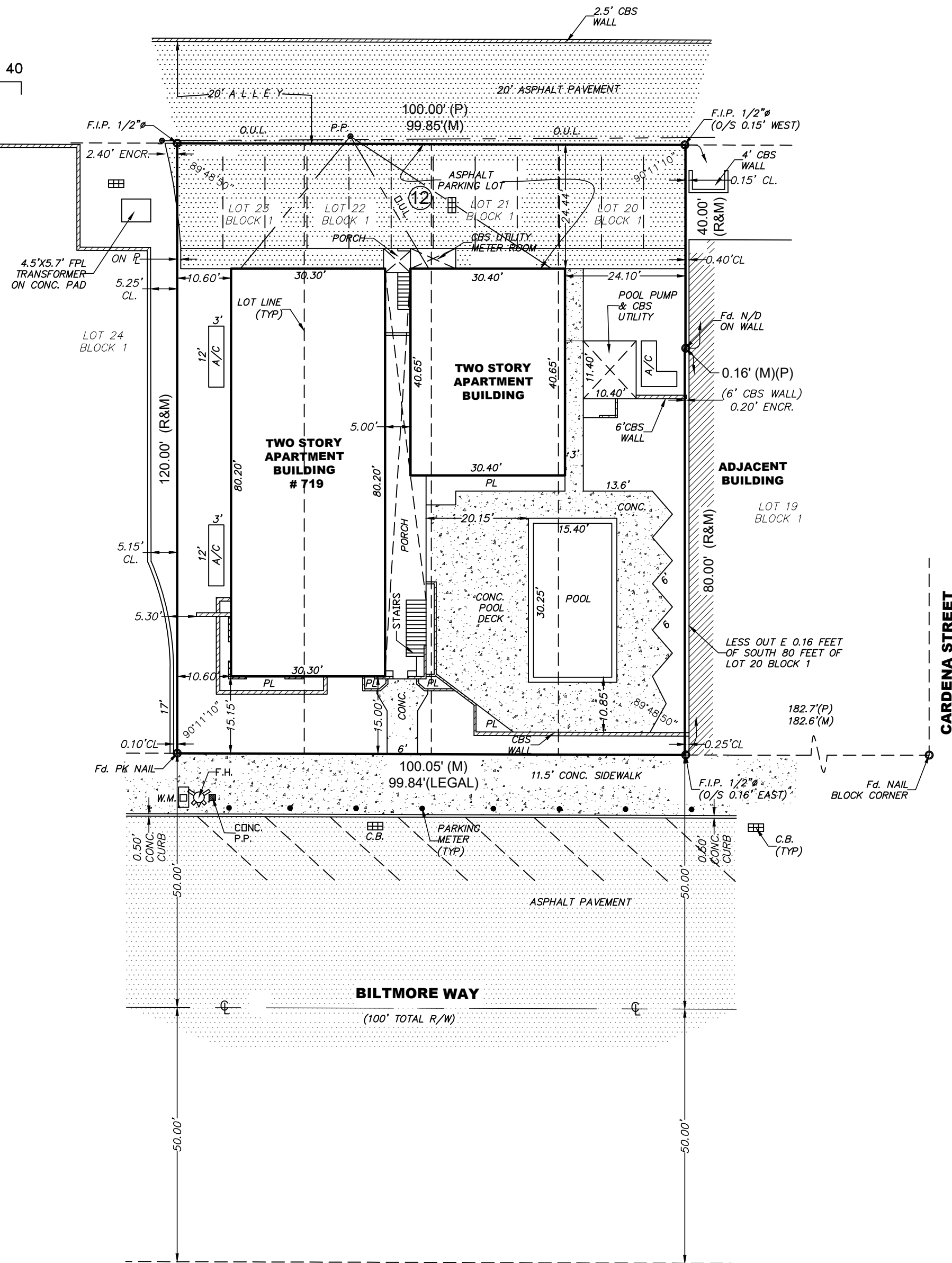
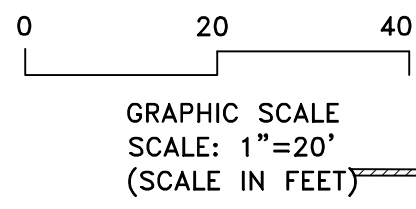
ACTIVE 11382878.1

Exhibit A

- LEGEND**
- A = Arc
 - ASPH = Asphalt
 - BM = Bench Mark
 - BRG = Bearing
 - CB = Catch basin
 - CBS = Concrete Block Structure
 - CH = Chord
 - Chatta = Chatahoochee
 - C = Center Line
 - CLF = Chain Link Fence
 - CL = Clear
 - CONC = Concrete
 - D = Delta
 - Ø = Diameter
 - DH = Drill Hole
 - DME = Drainage & Maintenance Easement
 - E.B. = Electric Box
 - Enc. = Encroachment
 - F.F. = Finish Floor
 - F.H. = Fire Hydrant
 - F.I.R. = Found Iron Rebar
 - FPL = Florida Power & Light
 - F.P. = Found Iron Pipe
 - FD = Found
 - L.P. = Light Pole
 - M = Measured
 - M.F. = Metal Fence
 - M.H. = Manhole
 - M = Monument Line
 - MON. = Monument
 - N/A = Not Applicable
 - N/D = Nail & Disc
 - NTS = Not to Scale
 - OS = Offset
 - O.U.L. = Overhead Utility Lines
 - OH = Overhang
 - P = Plat
 - PB = Plat Book
 - PC = Point of Curvature
 - PCP = Permanent Control Point
 - PG = Page
 - P.I. = Point of Intersection
 - P.L. = Property Line
 - PL = Planter
 - P.O.B. = Point of Beginning
 - P.O.C. = Point of Commencement
 - P.P. = Power Pole
 - P.R.M. = Permanent Reference Monument
 - P.R.C. = Point of Reverse Curvature
 - PT = Point of Tangency
 - R = Radius
 - R/R = Railroad
 - PSM = Professional Surveyor Mapper
 - R/W = Right-of-Way
 - SWK = Sidewalk
 - Sec. = Section
 - (TYP) = Typical
 - T = Tangent
 - U.E. = Utility Easement
 - W.F. = Wood Fence
 - W.M. = Water Meter
 - W.V. = Water Valve
 - ⊕ = Denotes Spot Elevations Taken
 - ⊕ = Denotes Number of Parking Spaces

A.L.T.A. / A.C.S.M. LAND TITLE SURVEY

A portion of land in the N.W. 1/4 of Section 17, Township 54 South, Range 41 East
City of Coral Gables, Miami-Dade County, Florida.



(g) All roads shown hereon are public, unless otherwise noted.
 (h) No identification cap found on property corners unless otherwise noted.
 (i) Distance along boundary are record and measured unless otherwise noted.
 (j) The graphic portions of this document are intended to be displayed as they are depicted. Scale may be altered in reproductions and as such, should be considered when depicted.
 (k) Accuracy: The expected use of land as classified in the minimum technical standards (S17-FAC), is "Suburban". The minimum relative distance accuracy for the type of boundary survey is 1 foot in 7,500 feet. The accuracy obtained by measurement and calculation of a closed traverse is 1 foot in 1,000 feet. The accuracy obtained by measurement and calculation of a closed traverse is 1 foot in 1,000 feet. The accuracy obtained by measurement and calculation of a closed traverse is 1 foot in 1,000 feet.
 (l) Contact the surveyor for information on the design work or excavation on the herein described parcel for building, zoning information and utilities location.

(a) Easements and/or encroachments shown hereon are of the apparent nature, fence legal ownership and not intended for the exclusive and specific use of those persons, parties or institutions in the certification.
 (b) The issue of this survey is only for the exclusive and specific use of those persons, parties or institutions in the certification.
 (c) Code restrictions and title search not reflected in this survey.
 (d) The field information shown hereon does not imply that the subject property will or will not be free from flooding or damage and does not create liability on the part of the firm or employee thereof, for any damage that occurs from reliance on said information.
 (e) Lands depicted hereon were surveyed per legal description provided by client and no claims as to ownership or matters of title are made or implied.

This property described as:
 Lots 20, 21, 22 and 23, in Block 1, CORAL GABLES BILTMORE SECTION, according to the Plat thereof, as recorded in Plat Book 20, Page 28, of the Public Records of Miami-Dade County, Florida; LESS and except the South 80 feet of the East 0.16 feet of Lot 20.

719 Biltmore Way, Coral Gables, FL 33134
 Bearing, if any, shown based on N/A (reference) N/A

NOTES:
 ZONING DESIGNATION = (MF2) Multi-Family 2 District
 Access to Public Right of Way on North Property line (Public Alley)
 No water boundaries within or near the subject property

"THIS SURVEY DECLARATION IS MADE ON THE FIELD DATE INDICATED, TO THE OWNER(S) LISTED. IT IS NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS."

REVISIONS: 12/03/12 ALTA SURVEY

ELEVATION NOTE: (IF APPLICABLE) L.F. Elev. = N/A (lowest habitable floor elevation). Elevation shown hereon refer to N.G.V.D. 1929. Lowest adjacent grade elevation = N/A. BM. = N/A Elev. = N/A Garage Elev. = N/A Erp. = N/A	Not valid unless it bears the signature and the original raised seal of Florida licensed Surveyor and Mapper.
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AREA TABULATION			
TOTAL LOT AREA	± 11,984	sq. ft.	
TOTAL BUILDING FOOTPRINT	± 3,666	sq. ft.	

FLOOD ZONE X	COMM. No. 120639	PANEL No. 0457	SUFFIX L
F.I.R.M. DATE 09/11/09	F.I.R.M. INDEX 09/11/09	BASE ELEV. + N/A N.G.V.D.	

ALTA/ACSM SURVEY
 To Tim Russell Sherrill, EverBank, a Federal Savings Bank, Sawgrass Title & Escrow, Inc., Fidelity National Title Insurance Company:
This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2011 Minimum Standard Detail Requirements for ALTA and NSPS, and includes items 1, 2, 3, 4, 6(a), 8, 11(a), 13 and 14 of Table A thereof. The field work was completed on 03/02/2011.

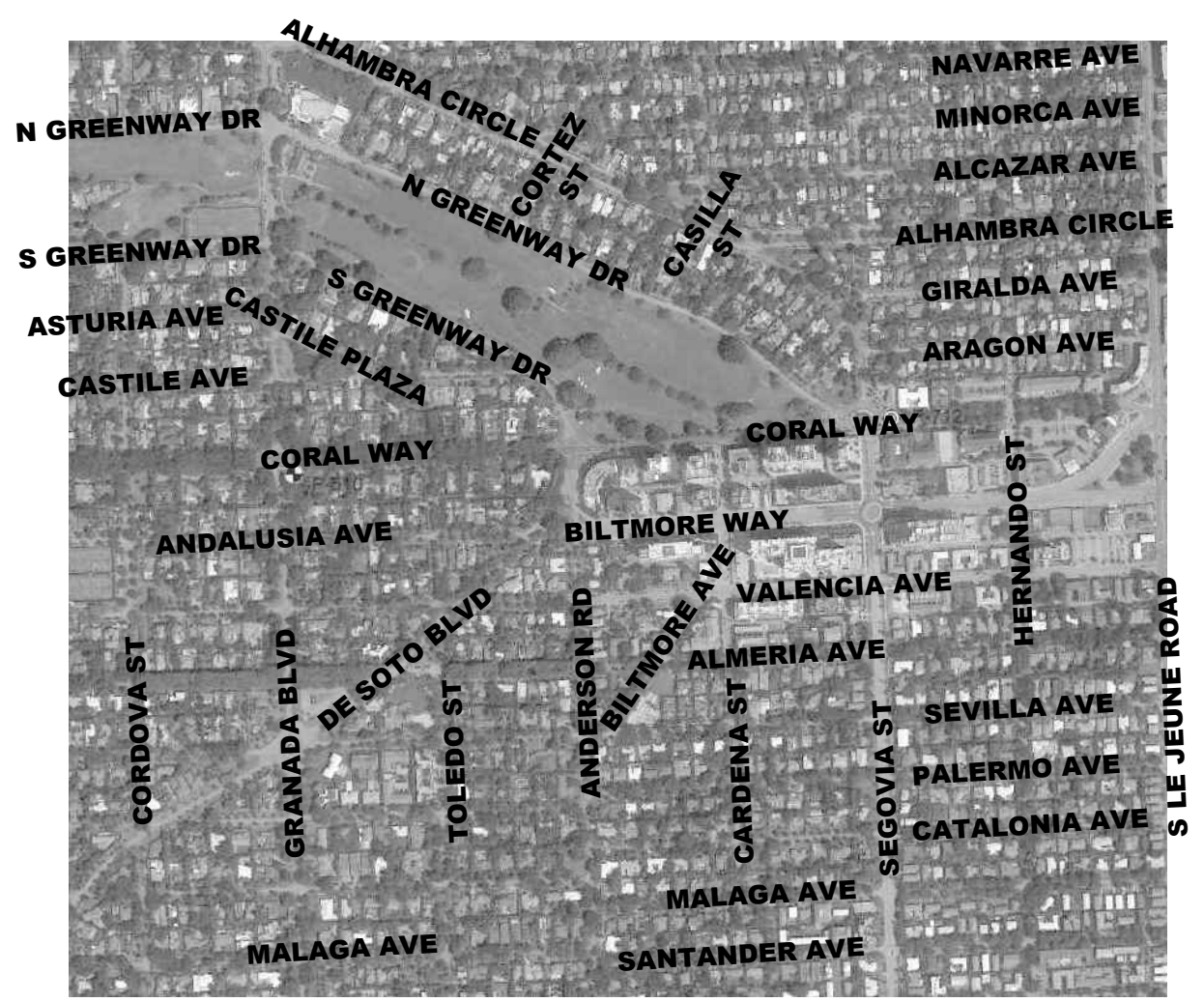
Date of Plat or Map: 03/10/1942

 Rene Aguiar Aiguesvives
 Florida PSM # 4327

ALTA/ACSM SURVEY.
 I HEREBY CERTIFY that this survey meets the minimum technical standards as set forth by the FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS in Chapter 5J-17 Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.

 RENE AGUIAR AIGUESVIVES 11/02/12
 PROFESSIONAL SURVEYOR AND MAPPER No. 4327. State of Florida.

Alvarez, Aiguesvives and Associates, Inc. Surveyors, Mappers and Land Planners 5701 S.W. 107th Avenue, Suite 204, Miami, FL 33173 Phone 305.220.2424 Fax 305.552.8181 L.B. No. 6867 / E-mail: aaasurvey@aol.com			
Field Date 11/01/12	Scale 1"=20'	Drawn by: J.G.	Drwg. No. 12-15804



LOCATION MAP
(N.T.S.)

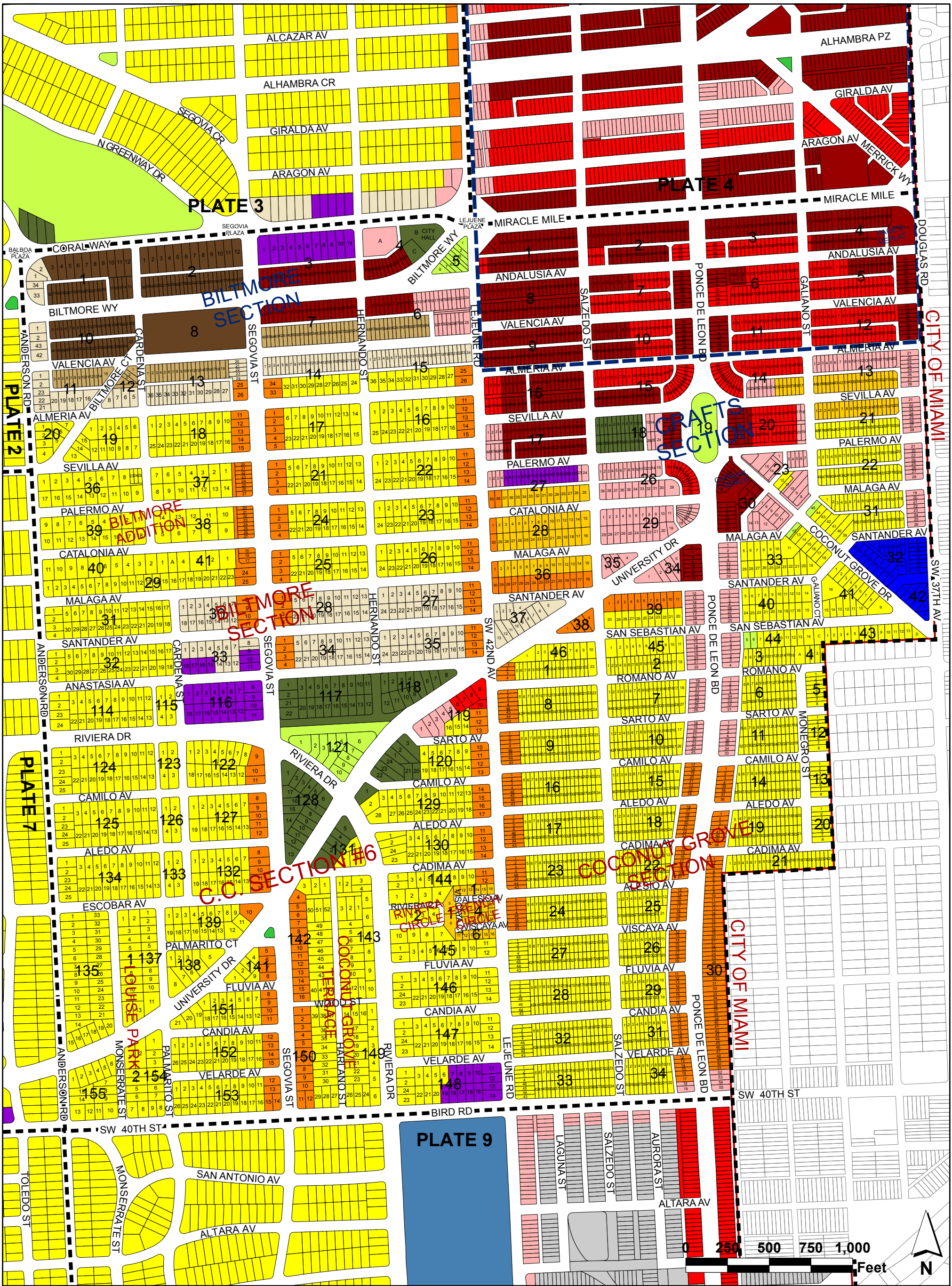
TITLE REVIEW NOTES:

With reference to Fidelity National Title Insurance Company Order No. 4126158, dated October 30, 2012 at 11:00 P.M., I hereby certify as follows:

Schedule B - Section 2:

- Item # 4: Any claim that any portion of the insured land is sovereign lands of the State of Florida, including submerged, filled or artificially exposed lands accreted to such land. **DOES NOT AFFECT THE PROPERTY.**
- Item # 5: Any lien provided by County Ordinance or by Chapter 159, Florida Statutes, in favor of any city, town, village or port authority for unpaid service charges for service by any water, sewer or gas system supplying the insured land. **NOT A MATTER OF SURVEY.**
- Item # 6: Terms and Conditions as set forth in Ninety-Nine (99) year lease between David Hershkowitz and Beckie Hershkowitz, as Lessors, and Lots O'Lots, Inc., recorded in Official Records Book 1121, Page 424, Public Records of Miami-Dade County, Florida; assigned by Assignment of Lease to John J. Manyak, as Assignee, recorded in Official Records Book 5560, Page 285. **NOT A MATTER OF SURVEY.**
- Item # 7: Resolution No. 3639 by Coral Gables, Inc., re: disclaiming interest in and vacating certain alleys, recorded in Official Records Book 13676, Page 3708, Public Records of Miami-Dade County, Florida. **DOES NOT AFFECT THE PROPERTY.**
- Item # 8: Multi Dwelling Unit Cable Television Wiring Agreement with Dynamic Cablevision of Florida, Inc., recorded in Official Records Book 13816, Page 778, Public Records of Miami-Dade County, Florida. **AFFECTS THE PROPERTY, NON-PLOTTABLE.**
- Item # 9: Laundry Space Lease with Wash-Bowl Vending, Inc., recorded in Official Records Book 13944, Page 3267, Public Records of Miami-Dade County, Florida. **AFFECTS THE PROPERTY, NON-PLOTTABLE.**
- Item # 10: Memorandum of Lease with Mac-Gray corporation, re: Laundry Space, recorded in Official Records Book 18558, Page 3476, Public Records of Miami-Dade County, Florida. **AFFECTS THE PROPERTY, NON-PLOTTABLE.**

Exhibit B



Future Land Use Map

Land Use Classifications

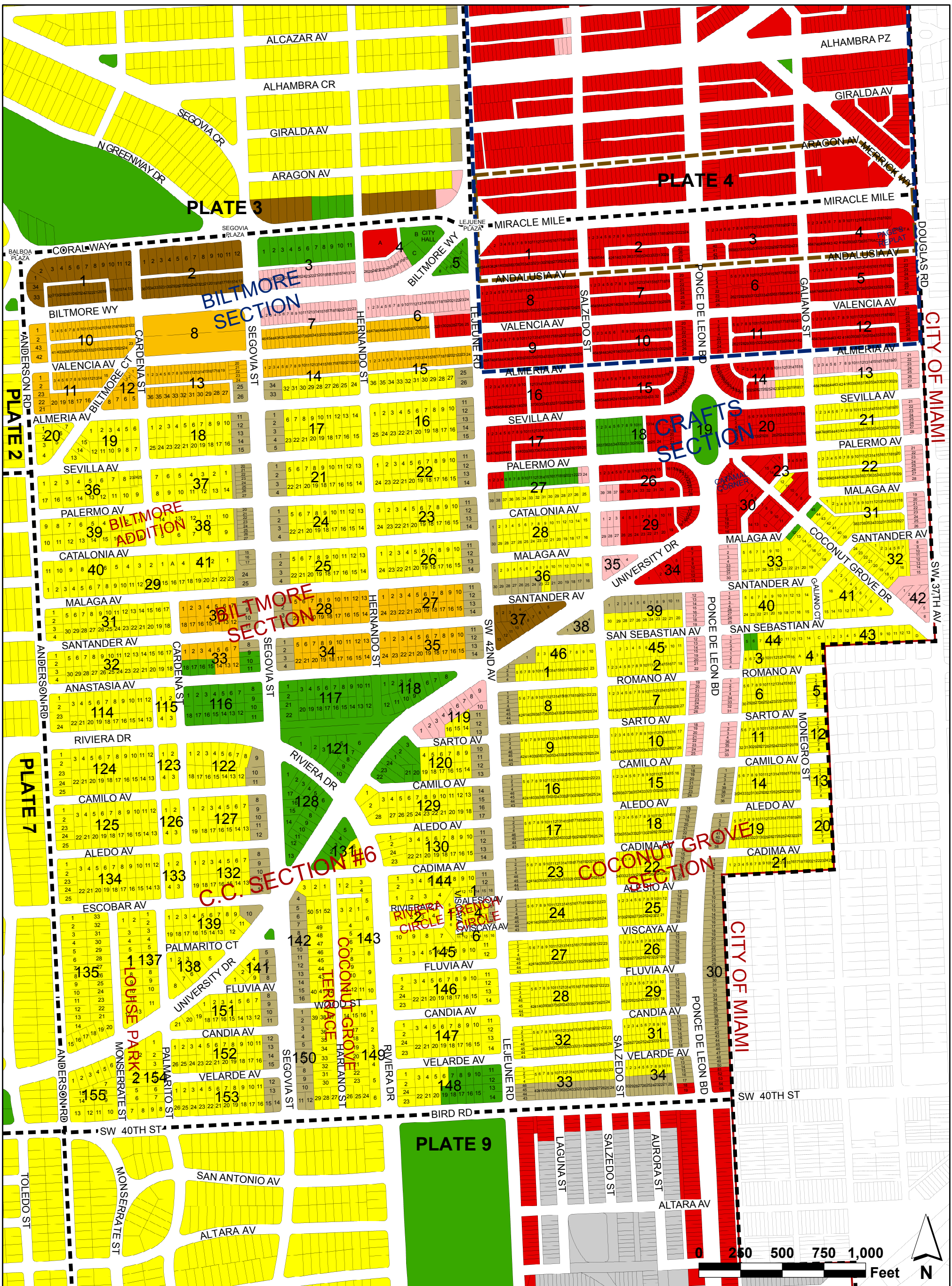
- | | |
|--|---|
| Residential Single-Family Low Density (6 Units/Acre) | Residential Multi-Family High Density (150 Feet; 60 Units/Acre) |
| Residential Single-Family High Density (9 Units/Acre) | Commercial Low-Rise Intensity (50 Feet; 3.0 F.A.R.) |
| Residential Multi-Family Duplex Density (9 Units/Acre) | Commercial Mid-Rise Intensity (70 Feet; 3.0 F.A.R.) |
| Residential Multi-Family Low Density (50 Feet; 20 Units/Acre) | Commercial High-Rise Intensity (150 Feet; 3.0 F.A.R.) |
| Residential Multi-Family Medium Density (70 Feet; 40 Units/Acre) | Industrial |

- | | |
|----------------------------------|-----------------------------------|
| University Campus | Conservation Areas |
| University Campus Multi-Use Area | Public Buildings and Grounds |
| Education | Hospital |
| Parks and Recreation | Religious/Institutional |
| Open Space | Community Services and Facilities |

- | |
|---------------------------------|
| (CBD) Central Business District |
|---------------------------------|

Plate 6 of 18
 City of Coral Gables
 Planning & Zoning Division
 July 2013

Exhibit C



Zoning Map

Zoning Districts

- (SFR) Single-Family Residential District
- (MF1) Multi-Family 1 Duplex District
- (MF2) Multi-Family 2 District
- (MFSA) Multi-Family Special Area District
- (UCD) University Campus District
- (S) Special Use District
- (P) Preservation District
- (CL) Commercial Limited District
- (C) Commercial District
- (I) Industrial District
- (DO) Downtown Overlay District
- (CBD) Central Business District

Plate 6 of 18

City of Coral Gables
 Planning & Zoning Division
 July 2013

ARTICLE 4 - ZONING DISTRICTS

6. Height of duplex buildings and accessory buildings. Maximum heights are as follows:
 - a. Two (2) floors;
 - b. Twenty-nine (29) feet for the first fifty (50) feet or half of the lot depth, whichever is less, abutting SFR properties, as measured from the SFR property line;
 - c. Thirty-four (34) feet for the remaining portions of the property; and
 - d. Maximum height includes ridgelines, domes, steeples, towers, cupolas, decorative features and such other similar structures, excluding chimneys having a maximum height of three (3) feet above the ridgeline and a maximum area of seventeen (17) square feet.
7. Height of single-family buildings. Single-family buildings and accessory buildings shall satisfy all applicable SFR requirements.
8. Ground area coverage. Buildings or structures designed and constructed shall not occupy more than thirty-five (35%) percent of the ground area of the building site upon which the building or structure is erected. The area utilized for calculating the maximum ground area coverage for the principal building shall be computed from the exterior face of exterior walls and the exterior face of exterior columns of the ground floor of the building. Cantilevered portions of the building above the ground floor or roof overhangs that are greater than five (5) feet shall be computed in the calculation of the ground area coverage of the principal building. Auxiliary buildings or structures, including swimming pools, may occupy additional ground coverage, but the total ground area occupied by the main building or structure and auxiliary structures shall not exceed forty-five (45%) percent of the site upon which the structures are located.
9. Minimum dwelling unit floor area. Each dwelling unit shall have a minimum floor area of five hundred seventy-five (575) square feet.
10. Architectural style. See Article 5, Division 6.

Section 4-103. Multi-Family 2 (MF2) District.

- A. Purpose and applicability. The purpose of the Multi-Family 2 (MF2) District is to accommodate various forms of multi-family housing to meet the housing needs of a diverse community, while ensuring that there is a transition to single-family and duplex neighborhoods which protects the integrity of those neighborhoods.
- B. Permitted principal uses and structures. The following uses are permitted:
 1. Accessory uses, buildings or structures as provided in Article 4, Table No. 2. Accessory uses, buildings or structures customarily associated with permitted uses within this Zoning District and not listed within the Table No. 2 may be permitted subject to Development Review Official review and approval.
 2. Duplex dwellings that conform to the performance standards for duplex buildings in an MF1 District.
 3. Family day care as required and defined pursuant to Florida Statutes.
 4. Multi-family dwellings.
 5. Parks, City.
 6. Single-family dwellings that conform to the standards for single-family residences in an SFR District.

ARTICLE 4 - ZONING DISTRICTS

7. Townhouse/row house dwellings. Minimum building/parcel width of twenty-two (22) feet.
 8. Utility infrastructure facilities.
- C. Conditional uses. The following uses are permitted in the MF2 District as conditional uses, if approved under the provisions of Article 3, Division 4, subject to the standards in this Section and other applicable regulations in Article 5:
1. Assisted living facilities (ALF).
 2. Bed and breakfast establishments.
 3. Private yacht basins.
- D. Performance standards. The following performance standards shall govern the general development of structures in the District. Where there are specific standards for properties that are specifically set forth in the Site Specific Zoning Regulations, the regulations in the Site Specific Zoning Regulations shall apply (see Appendix A).
1. Building sites. Buildings and structures constructed in this District shall be constructed or erected upon a building site containing at least one (1) platted lot, and such building site shall have a minimum street frontage of fifty (50) feet.
 2. Minimum parcel dimensions.
 - a. Buildings with a height of forty-five feet (45) feet or less shall be constructed on a parcel of land with a width of not less than fifty (50) feet or a depth of not less than one hundred (100) feet.
 - b. Buildings with a height of forty-five (45) feet or greater shall be constructed on a parcel of land with an area of not less than twenty-thousand (20,000) square feet and at least one-hundred (100) feet of frontage on a public street.
 3. Maximum density. The density provided in the Comprehensive Plan, with architectural incentives.
 4. Facing of lots and buildings. Every lot shall be deemed to face the street upon which it abuts; if a lot abuts upon more than one street, it shall be deemed to face the street upon which it has the shortest street line; and any building shall face the front of the lot, and be subject to the restrictions governing buildings on each street on which it is deemed to face. The facing of a building site shall be based on the platting of the lots that comprise the building site, except for specific deviations or exceptions prescribed in Section 3-905.
 5. Setback requirements. No building or structure, or any part thereof, including porches, projections or terraces, but not including uncovered steps, shall be erected at a lesser distance from the front, side or rear line of any building site than the front, side or rear setback distance, respectively, prescribed and established herein for such building site. Nothing herein shall prohibit a building or structure from having more than the minimum required setbacks.
 - a. Front setback.
 - i. Buildings with a height of forty-five (45) feet or less. Twenty (20) feet.
 - ii. Buildings with a height greater than forty-five (45) feet. Eight (8) feet for the first two (2) floors; provided that no parking areas (surface parking or parking garages) shall be located within twenty (20) feet from the front property line. Above the second floor the setback shall be twenty (20) feet.

ARTICLE 4 - ZONING DISTRICTS

- b. Side setbacks.
 - i. Interior side and abutting alley side setback. Ten (10) feet or five (5) feet if side property line abuts an alley.
 - ii. Abutting a side street.
 - (a) Buildings with a height of forty-five (45) feet or less. Fifteen (15) feet.
 - (b) Buildings with a height greater than forty-five (45) feet. Eight (8) feet for the first two (2) floors; provided that no parking areas (surface parking or parking garages) shall be located within twenty (20) feet from the side street property line. Above the second floor the setback shall be twenty (20) feet.
 - c. Rear setback. Ten (10) feet or five (5) feet if rear property line abuts an alley.
 - d. Setback from canal, waterway, lake or bay. On all building sites abutting upon a canal, waterway, lake or bay, the minimum setback from the waterway for all buildings, or portions thereof designed or used for occupancy for residential purposes shall be thirty-five (35) feet from the canal, waterway, lake or bay as platted.
6. Setback requirements of auxiliary and accessory buildings and/or structures. Except as provided for otherwise herein, auxiliary and accessory buildings or structures shall be governed by the same minimum setback requirements as provided for the main or principal building, provided that:
- a. No accessory or auxiliary building or structures may be located in the area between the street and the main residential building or any part thereof.
 - b. In no case shall an auxiliary building or structure be located closer to the front or side street of a lot or building site than the main or principal building.
 - c. No setbacks shall be required for parking structures and accessory decks which are constructed completely below grade.
 - d. Surface parking lots located in an interior side yard or rear yard area shall maintain a minimum landscaped setback of three (3) feet.
7. Ground area coverage for buildings with a height of forty-five (45) feet or less. Buildings or structures designed and constructed for MF2 Districts, shall not occupy more than thirty five (35) percent of the ground area of the building site upon which the building or structure is erected. The area utilized for calculating the maximum ground area coverage for the principal building shall be computed from the exterior face of exterior walls and the exterior face of exterior columns of the ground floor of the building. Cantilevered portions of the building above the ground floor or roof overhangs that are greater than five (5) feet shall be computed in the calculation of the ground area coverage of the principal building. Auxiliary buildings or structures, including swimming pools, may occupy additional ground coverage, but the total ground area occupied by the main building or structure and auxiliary structures shall not exceed forty-five (45%) percent of the site upon which the structures are located. In no case shall the main building or structure exceed thirty-five (35%) percent of the lots or lots composing the site.
8. Floor area ratio. Maximum floor area ratio (FAR) for buildings in MF2 District.
- a. Buildings with a height of forty-five (45) feet or less shall have a maximum FAR of 1.0.
 - b. The FAR for buildings with a height greater that forty five (45) feet but less than seventy (70) feet with a permitted density of up to forty (40) units per acre without bonuses and up to fifty (50) units per acre with bonuses shall be as follows:

ARTICLE 4 - ZONING DISTRICTS

<i>Height of building in feet</i>	<i>Maximum FAR</i>
Greater than 45' but less than 55'	1.40
55' or greater but less than 60'	1.35
60' or greater but less than 65'	1.30
65' or greater up to 70'	1.25

- c. The FAR for buildings with a height greater than seventy (70) feet with a permitted density of up to sixty (60) units per acre without bonuses and up to seventy-five (75) units per acre with bonuses shall be as follows:

<i>Height of building in feet</i>	<i>Maximum FAR</i>
Greater than 70' but less than 80'	1.90
80' or greater but less than 90'	2.00
90' or greater but less than 100'	1.85
100' or greater but less than 110'	1.75
110' or greater but less than 120'	1.70
120' or greater but less than 130'	1.65
130' or greater but less than 140'	1.60
140' or greater up to 150'	1.55

9. Determination of maximum square foot floor area or FAR: The total floor area of a building or buildings on a building site divided by the area of the site. The total floor area shall include the gross horizontal area of the several stories of any building or buildings on the site, as measured from the exterior face of exterior walls (not the windows or doors in the exterior walls), and shall include any building area not specifically excluded by this section as floor area excluded from computing the FAR of a building or buildings. The floor area of a building that is excluded from the determination of a buildings floor area ratio shall include the following:
- a. Unenclosed private balconies.
 - b. Off-street parking garages.
 - c. Lobbies and corridors on the ground floor of the building.
 - d. Corridors located above the ground floor that are at least fifty (50%) percent open and unenclosed.
 - e. Open stairwells.
10. Height. The maximum permitted height is as follows:
- a. Pursuant to the Comprehensive Plan Map designation and/or Site Specific Zoning regulations.
 - b. MF2 properties shall have a height limitation of three (3) floors or forty-five (45) feet, whichever is less, within one hundred (100) feet of adjacent, abutting or contiguous (including streets, waterways, or alleys) SFR and/or MF1 properties, as measured from the MF2 property line.
 - c. In no case shall a building in an MF2 District exceed sixteen (16) floors in height.
 - d. The maximum permitted height is measured from established grade to the flat roof deck and when there is no flat roof deck the height shall be to the tie-beam on the top floor of the building. Mechanical equipment areas and decorative roof structures may extend beyond the permitted height a total of ten (10) feet. When more than one (1) of the aforementioned conditions occurs for a specific property, the more restrictive condition shall apply.

ARTICLE 4 - ZONING DISTRICTS

11. Parking garages. In the event that structured parking is to be constructed above grade, the facades of the garage shall be designed and improved so that the use of the building as a garage is not readily apparent. That portion of the parking garage that is constructed at ground level shall be screened from street view with living units, portions of living units, or other usable building area, except for vehicular entrance and exit areas. Entrances and exits to garage areas shall have gates that at least partially conceal the interior of the garage from street view. The sides and if necessary the rear of parking structures shall be screened from view of the street with a combination of walls and landscaping as shall be approved by the Board of Architects.
12. Refuse and waste disposal facilities. Refuse and waste disposal facilities shall be enclosed within a building or structure which reflects the architectural character and exterior finishes of the building which is to be served by the facilities. An enclosure used exclusively for refuse and waste facilities may be located in a required front setback area.
13. Minimum dwelling unit floor area. Each dwelling unit shall have a minimum floor area of five-hundred-seventy-five (575) square feet.
14. Architectural style. See Article 5, Division 6.

Section 4-104. Multi-Family Special Area (MFSA) District.

- A. Purpose and applicability. The purpose of the Multi-Family Special Area (MFSA) District is to accommodate various forms of multi-family housing to meet the housing needs of a diverse community, while ensuring that there is a transition to single-family neighborhoods which protects the integrity of those neighborhoods.
- B. Permitted principal uses and structures. The following uses are permitted:
 1. Accessory uses, buildings or structures as provided in Article 4, Table No. 2. Accessory uses, buildings or structures customarily associated with permitted uses within this Zoning District and not listed within the Table No. 2 may be permitted subject to Development Review Official review and approval.
 2. Duplex dwellings that conform to the performance standards for duplex buildings in an MF1 District.
 3. Family day care as required and defined pursuant to Florida Statutes.
 4. Multi-family dwellings.
 5. Parks, City.
 6. Single-family dwellings that conform to the standards for single-family residences in an SFR District.
 7. Townhouse/row house dwellings.
 8. Utility infrastructure facilities.
- C. Conditional uses. The following uses are permitted in the MFSA District as conditional uses, if approved under the provisions of Article 3, Division 4, subject to the standards in this Section and other applicable regulations in Article 5:
 1. Assisted living facilities (ALF).
 2. Bed and breakfast establishments.

Exhibit D

APPENDIX A - SITE SPECIFIC ZONING REGULATIONS

Section A-9 - Banyan Tree.

- A. Facing of lots.
 - 1. Lot 1 and 2, Block 1 shall be deemed to face Old Cutler Road.
- B. Setbacks-Minimum front.
 - 1. Lots 1 and 2, Block 1-Thirty-five (35) feet.
- C. Setbacks-Minimum side.
 - 1. Lots 1 and 2, Block 1 shall provide a minimum setback from the inside lot line of fifteen (15) feet.
 - 2. Lots 1 and 2, Block 1 shall provide a minimum setback from the side street of twenty-five (25) feet.
- D. Setbacks-Minimum rear
 - 1. Lots 1 and 2, Block 1-Fifteen (15) feet.

Section A-10 - Bay Bluff.

- A. Facing of lots.
 - 1. Lots 1 and 2, Block 1 shall be deemed to face north on Davis Road.
 - 2. Lots 3, 4 and 5, Block 1 and Lots 1, 2, 3, and 4, Block 2 shall be deemed to face on Calatrava.
- B. Setbacks-Minimum side.
 - 1. Lots adjacent to Old Cutler Road-Twenty-five (25) feet.

Section A-11 - Biltmore Addition.

- A. Setbacks-Minimum front.
 - 1. Facing upon Avenue Catalonia in Block 39 of Resubdivision, P. B. 42, Page 50-Twenty (20) feet.

Section A-12 - Biltmore Section.

- A. Building sites.
 - 1. No building site facing upon Avenue Anastasia or Coral Way shall contain less than two (2) platted lots where such lots are less than sixty (60) feet in width.
 - 2. Lot 1, the north half of Lot 2, and Lot 5, Block 24, shall be considered two (2) building sites as follows: (3323)
 - a. One (1) building site to consist of Lot 1 and the north half of Lot 2.
 - b. One (1) building site to consist of Lot 5.
 - c. Lot 1 and the north half of Lot 2 shall include garage.
- B. Height of buildings.
 - 1. No apartment buildings and/or structures shall be erected or altered on the following described property to exceed six (6) stories or seventy (70) feet in height, whichever is less:
 - a. Lots 3 through 15, inclusive, Block 11.
 - b. Lots 1, 2, 3 and 4, Block 12.
 - c. Lots 1 through 19, inclusive, Block 13.
 - 2. No apartment buildings and/or structure shall be erected or altered on the following described property to exceed thirteen (13) stories or one-hundred-fifty (150) feet in height, whichever is less: (3465)
 - a. All lots and tracts in Blocks 2, 3, 6 and 7.
 - b. All of Block 8.
 - c. Lots 4 through 32, inclusive, Block 1.
 - d. Lots 19 through 32, inclusive, Block 1.
 - e. Lots 3 through 41, inclusive Block 10.
 - 3. No commercial buildings and/or structures shall be erected or altered on the following described property to exceed thirteen (13) stories or one-hundred-fifty (150) feet in height, whichever is less:
 - a. Lots 12 through 34, inclusive, Block 3.
 - b. Lots 15 through 26, inclusive, Block 4.
 - c. Lots 1 through 24, inclusive, Block 6.
 - d. Lots 1 through 23, inclusive, Block 7.

APPENDIX A - SITE SPECIFIC ZONING REGULATIONS

4. No commercial buildings and/or structures shall be erected or altered on the following described property to exceed one hundred and sixty-two (162) feet in height: (2677)
 - a. Lots 1 through 15, inclusive, Block 7.
5. Lot 5, Block 24 shall be limited to a one (1) story structure with architectural character and massing similar to the surrounding neighborhood. (3323)
6. All of Block 4 shall be limited to commercial buildings not to exceed four (4) stories in height and six (6) stories with Mediterranean design bonuses. (3465)
7. Height of townhouses on the following described properties (“Properties”) shall have a height limitation of forty-five (45) feet and three (3) stories:
 - a. Coral Gables Biltmore Section, Plat Book 20, Page 28, Lots 1, 2, 42² and 43, Block 10;
 - b. Coral Gables Biltmore Section, Plat Book 20, Page 28, Lots 1, 2, 18, 19, 20, 21, 22, 23, Block 11.

Height shall be defined as per Section 4-104(D)(8)(i): The maximum permitted height is measured from established grade to the flat roof deck and when there is no flat roof deck, the height shall be to the tie-beam on the top floor of the building. Mechanical equipment areas and decorative roof structures may extend beyond the permitted height a total of ten (10) feet.

In the event that less restrictive conditions are adopted regarding the Properties, the less restrictive conditions shall apply.

- C. Setbacks-minimum front. (Including Resubdivision Block 4) (3465)
 1. Facing upon Coral Way in Blocks 1 and 2-Twenty-five (25) feet.
 2. Facing upon Coral Way in Lots 2 through 11, inclusive Block 3-Fifteen (15) feet.
 3. Facing upon Coral Way in Block 4-Ten (10) feet.
 4. Facing upon Biltmore Way in Blocks 3 and 7; Lots 1 through 16, inclusive, Block 6; Lots 15 through 26, inclusive-Ten (10) feet.
 5. Facing upon Biltmore Way in Block 4-Five (5) feet.
 6. Facing upon Hernando Street in Block 4-Five (5) feet.
 7. Facing upon Avenue Andalusia Lots 17 through 24, inclusive, Block 6-Ten (10) feet.
- D. Setbacks-Minimum side.
 1. Lot 1, Block 3-Four (4) feet from Segovia Street.
- E. Setbacks-Minimum interior side and rear alleyway.
 1. All of Block 4-Zero (0) feet.
- F. Minimum Residential Dwelling Unit Sizes
 1. The minimum residential dwelling unit size shall be four hundred (400) square feet.
 2. The minimum residential dwelling unit size of four hundred (400) square feet shall not pertain to cabanas.
 3. Seven (7) efficiency apartments, as defined and approved pursuant to Resolution No. 10436, adopted on 02.25.1964, are exempt from the these provisions. These units may be less than four hundred (400) square feet.
 4. All minimum residential dwelling unit size requirements previously adopted in Ordinance and Resolution form, with the exception of above item 3, is hereby repealed.

Section A-12-1 - Biltmore View.

- A. Minimum Setbacks. All four (4) building sites shall have the following setbacks:
 1. Front setback-Twenty-five (25) feet.
 2. Rear setback-Ten (10) feet.
 3. Side setback-Ten (10) feet.
- B. Facing lots. Lots 1 through 4 shall be deemed to face Mariola Way.

² Property Appraiser website information showing Lot 42 less N4 ½ feet is incorrect; Warranty Deed at OR 19474 Page 4579 includes Lot 42 in its entirety. (2009)

Exhibit E



To: Ramon Trias, Planning & Zoning Director for the City of Coral Gables

From: Cristina M. Suárez, Deputy City Attorney & City Prosecutor for the City of Coral Gables

Approved: Miriam Soler Ramos, City Attorney for the City of Coral Gables *MSR*

RE: Legal Opinion Regarding 235 Majorca Avenue

Date: July 25, 2018

We have received an inquiry as to the maximum height of development at the property located at 235 Majorca Avenue (the "Property"). As you know, the Property has a Comprehensive Plan Future Land Use Map designation of Residential Multi-Family Medium Density, which allows for development up to 70 feet in height, but up to 97 feet with applicable bonuses under section 5-604 of the Zoning Code. Moreover, the Property is zoned Multi-Family 2 District ("MF2"), which provides for a maximum height of 45 feet for a property with lot area that is less than 20,000 square feet. However, there are site specific standards for the Property set forth in Section A-63 which provide for a maximum height of development of up to 150 feet.

This office has previously issued opinions providing that in the MFSA District, the height of development for properties for which there are site specific regulations is governed by such site specific regulations. See CAO 2017-13; CAO 2013-33. Those opinions relied on, inter alia, section 4-104(D) of the Zoning Code, which specifically addresses the MFSA District and provides that the site specific standards apply. With respect to the MF2 District, section 4-103 of the Zoning Code also states in the performance standards (section 4-103(D)), that "[w]here there are specific standards for properties that are specifically set forth in the Site Specific Zoning Regulations, the regulations in the Site Specific Zoning Regulations shall apply (see Appendix A). Thus, for this reason and consistent with CAO 2017-13 and CAO 2013-33, it is my conclusion that the height of development on the Property is governed by the site specific regulations, such that a height of 97 feet, which is also consistent with the comprehensive plan, is permitted, provided that the development complies with the requirements for bonuses pursuant to section 5-604 of the Zoning Code.

This opinion is issued pursuant to section 2-252(e)(1) and (8) of the City Code, as well as section 2-702 of the Zoning Code.

From: [Suarez, Cristina](#)
To: [Paulk, Enga](#)
Cc: [Ramos, Miriam](#)
Subject: FW: 235 Majorca Avenue
Date: Wednesday, July 25, 2018 5:36:41 PM
Attachments: [image001.png](#)

Enga:

Please publish.

Thanks,
Cristina

Cristina M. Suárez
Deputy City Attorney & City Prosecutor

City of Coral Gables
405 Biltmore Way, 3rd Floor
Coral Gables, Florida 33134
Main Phone: (305) 460-5218
Direct Dial: (305) 476-7231
Email: csuarez@coralgables.com



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From: Suarez, Cristina
Sent: Wednesday, July 25, 2018 5:35 PM
To: Trias, Ramon
Cc: Ramos, Miriam
Subject: 235 Majorca Avenue

Dear Ramon:

We have received an inquiry as to the maximum height of development at the property located at

235 Majorca Avenue (the “Property”). As you know, the Property has a Comprehensive Plan Future Land Use Map designation of Residential Multi-Family Medium Density, which allows for development up to 70 feet in height, but up to 97 feet with applicable bonuses under section 5-604 of the Zoning Code. Moreover, the Property is zoned Multi-Family 2 District (“MF2”), which provides for a maximum height of 45 feet for a property with lot area that is less than 20,000 square feet. However, there are site specific standards for the Property set forth in Section A-63 which provide for a maximum height of development of up to 150 feet.

This office has previously issued opinions providing that in the MFSA District, the height of development for properties for which there are site specific regulations is governed by such site specific regulations. See CAO 2017-13; CAO 2013-33. Those opinions relied on, *inter alia*, section 4-104(D) of the Zoning Code, which specifically addresses the MFSA District and provides that the site specific standards apply. With respect to the MF2 District, section 4-103 of the Zoning Code also states in the performance standards (section 4-103(D)), that “[w]here there are specific standards for properties that are specifically set forth in the Site Specific Zoning Regulations, the regulations in the Site Specific Zoning Regulations shall apply (see Appendix A). Thus, for this reason and consistent with CAO 2017-13 and CAO 2013-33, it is my conclusion that the height of development on the Property is governed by the site specific regulations, such that a height of 97 feet, which is also consistent with the comprehensive plan, is permitted, provided that the development complies with the requirements for bonuses pursuant to section 5-604 of the Zoning Code.

This opinion is issued pursuant to section 2-252(e)(1) and (8) of the City Code, as well as section 2-702 of the Zoning Code.

Cristina M. Suárez

Deputy City Attorney & City Prosecutor

City of Coral Gables

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Coral Gables, Florida 33134

Main Phone: (305) 460-5218

Direct Dial: (305) 476-7231

Email: csuarez@coralgables.com



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Exhibit F

Garcia-Serra, Mario

From: Leen, Craig <cleen@coralgables.com>
Sent: Thursday, March 31, 2016 12:10 AM
To: Garcia-Serra, Mario
Cc: Trias, Ramon; Craig Coller
Subject: Re: Villa Madeira / Applicability of Site Specific Zoning Regulations

My office continues to adhere to the opinion and interpretation issued on behalf of the City in CAO 2013-033. Ramon and I have also conferred on this issue before and agree that the site specifics govern over the more general provisions in the Zoning Code (indeed, the Zoning Code expressly indicates that the site specifics control in section 1-108(C)). Ramon, please handle and let me know if you need anything further from me.

Craig E. Leen
City Attorney

Sent from my iPhone

On Mar 29, 2016, at 4:55 PM, Garcia-Serra, Mario <MGarcia-Serra@gunster.com> wrote:

Dear Craig,

Hope that you are doing well and getting through the week just fine. The issue of the applicability of the site specific height regulations has also arisen with regards to the Villa Madeira project proposed to be located at 335 and 341 Madeira Avenue. As you can see from the attached Zoning Analysis issued as part of the DRC review process, the Planning Division has taken the position that, due to the MF2 Zoning District's minimum lot area requirements for buildings of a height great than 45 feet, that this building could not realize its maximum permitted height of 6 stories and 70 feet which is permitted pursuant to the site specific regulations. This interpretation would also affect the maximum FAR permitted for the property since FAR in the MF2 district is directly correlated to height. Scot Bolyard prepared the analysis and, when I inquired of him as to why the 6 story / 70 foot height would not be permitted, he cited the Zoning Code's general rule that the more restrictive provision should govern. This case is very similar to the case that was under consideration in CAO 2013-033 (copy attached). While the property under consideration in CAO 2014-033 was zoned MFSA and the Villa Madeira site is zoned MF2, the relevant provisions in each zoning district are identical in language and give precedence to the site specific regulations in the event of conflict. In CAO 2013-033, you concluded that the specific regulation, because of their specificity, will govern over the more general regulation and that it was not necessary to defer to the more restrictive interpretation because the Code clearly resolves any conflict in favor of the site specific regulations. It is important to note in the Villa Madeira case, as in the case of CAO 2013-033, the proposed height is consistent with the property's Comprehensive Plan designation of Residential Medium Density which permits a maximum height, with bonuses, of 97 feet. I'm thinking that we can discuss this matter at the same meeting that we discuss the other site specific height issue with regards to the Villa Valencia project. Please advise if you, Craig C, and Ramon will be ready and available to meet this week. Thanks.

Best regards,

Mario



GUNSTER
FLORIDA'S LAW FIRM FOR BUSINESS

Mario Garcia-Serra | Shareholder
600 Brickell Avenue
Brickell World Plaza
Suite 3500
Miami, Florida 33131

P 305-376-6061 F 786-425-4104
gunster.com

<03 25 16 DRC Meeting Staff Comments - Villa Madeira (335 - 341 Madeira A....pdf>

<showdocument.pdf>

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To: Martha Salazar-Blanco

From: Craig E. Leen, City Attorney for the City of Coral Gables

A handwritten signature in black ink, appearing to be "CL", is written over the name "Craig E. Leen".

RE: Legal Opinion Regarding Coral Gables MFSA Standards

Date: August 06, 2013

You have inquired about the interpretation of the above-referenced sections of Code as they apply to the height of development at the property at lots 29-41 of Block 10, 717 through 741 Valencia Avenue. I have attached the relevant sections of the Code, referenced above, and a zoning verification letter that the City previously issued for this property in 2007. The relevant provisions have not been revised since the 2007 letter was issued, so the same regulations are being interpreted. Please note, this opinion and interpretation is being provided by the City Attorney pursuant to the authority granted in sections 2-201(e)(1) and (8) of the City Code, which is also consistent with the City Attorney's authority under section 2-702 of the Zoning Code.

The 2007 letter clearly opines that Section 4-104.D.8.a. governs, and the site specific regulations therefore determine the permissible height on the property. The 2007 letter states that: "As a point of clarification Sections 4-104D.8.b. through g. of the "Zoning Code" provides for the permitted height of properties that do not have Site Specific Zoning Regulations in the MFSA Zoning District." You have inquired whether this is a correct interpretation of the Code, or whether the proper interpretation is to apply the strictest of the applicable height limits listed in Section 4-104.0.8.

I have reviewed Section 4-104 in its entirety, Section A-12 of the site specific regulations (the section applicable to these lots), and Section 1-108C (relating to Site Specific regulations), all in the City Zoning Code, and conferred with outside counsel (who conferred with the attorney who drafted the regulations at issue for the City). It is my opinion that the Site Specific regulations govern over more general regulations. This basic principle, that the specific takes precedence over the general, is followed by appellate courts, including the Florida Supreme Court. See, e.g., *Mendenhall v. State of Florida*, 48 So. 3d 740, 748 (Fla. 2010); see also *Palm Harbor Special Control District v. Kelly*, 500 So. 2d 1382, 1385-86 (Fla. 2d DCA 1987). Thus, the specific parts of the law control the more general provisions. Here, the site specific regulations for this property take precedence because they specifically reference this property by lot and block number.

You have also asked whether section 1-109(E) --which provides a rule of construction that in the event of a conflict between provisions in the Zoning Code, the more restrictive provision applies - would change this analysis. It is my opinion that this section does not change the analysis. As an initial matter, section 4-104, which specifically addresses the MFSA District, states in the performance standards (section 4-104(D)) that the site specific standard applies, and then emphasizes that the site specific applies again when expressly addressing height (section 4-104.D.8.a). In such circumstances, there is no need to address section 1-109(E), as there is no conflict present here, since the MFSA standard itself states on its face that the site specific standard will apply. In other words, the plain meaning of section 4-104 governs, which specifically addresses and resolves the situation at issue, so there is no need to resort to a more general rule of construction. In addition, I would also note that Section 1-105(C), which directly addresses the application of site specific standards, indicates that the site specifics control over other provisions in the Zoning Code (with a limited exception that is not applicable to the issue we are discussing). This rule also supports application of the site specifics here.

Finally, please consider that any other interpretation would negate the inclusion of the site specific regulations in subsection 4-104.D.8.a. There is another basic rule of construction that every word in a legislative enactment should be given meaning, if at all possible. This rule ensures that legislative intent is followed. Here, I believe this rule supports applying the site specific regulations as well, as referenced in 8.a.

For these reasons, my conclusion (and that of the other attorneys consulted) is that the 2007 letter is correct, and the height of development on the property is governed by the site specific regulations. Please advise if you have any questions or need further assistance with this matter.

Osle, Zilma

From: Leen, Craig
Sent: Tuesday, August 06, 2013 3:37 PM
To: Hernandez, Cristina; Osle, Zilma
Cc: Thornton Richard, Bridgette; Figueroa, Yanneris; Franqui, Susan
Subject: FW: City Attorney Opinion - Coral Gables MFSA standards Section 4-104 and Site Specifics Section A-13
Attachments: Zoning.Letter.715-741 Valencia.5.18.07.pdf; Zoning Code, Section 4-104 and Appx. A, Section A-12.pdf

Please place in the Opinion Folder.

Craig E. Leen
City Attorney

From: Leen, Craig
Sent: Tuesday, August 06, 2013 3:13 PM
To: Salazar-Blanco, Martha
Cc: Tompkins, Jane; Trias, Ramon; Thornton Richard, Bridgette; 'Susan L. Trevarthen'
Subject: City Attorney Opinion - Coral Gables MFSA standards Section 4-104 and Site Specifics Section A-13

Ms. Salazar-Blanco,

You have inquired about the interpretation of the above-referenced sections of Code as they apply to the height of development at the property at Lots 29-41 of Block 10, 717 through 741 Valencia Avenue. I have attached the relevant sections of the Code, referenced above, and a zoning verification letter that the City previously issued for this property in 2007. The relevant provisions have not been revised since the 2007 letter was issued, so the same regulations are being interpreted. Please note, this opinion and interpretation is being provided by the City Attorney pursuant to the authority granted in sections 2-201(e)(1) and (8) of the City Code, which is also consistent with the City Attorney's authority under section 2-702 of the Zoning Code.

The 2007 letter clearly opines that Section 4-104.D.8.a. governs, and the site specific regulations therefore determine the permissible height on the property. The 2007 letter states that: "As a point of clarification Sections 4-104D.8.b. through g. of the "Zoning Code" provides for the permitted height of properties that do not have Site Specific Zoning Regulations in the MFSA Zoning District." You have inquired whether this is a correct interpretation of the Code, or whether the proper interpretation is to apply the strictest of the applicable height limits listed in Section 4-104.D.8.

I have reviewed Section 4-104 in its entirety, Section A-12 of the site specific regulations (the section applicable to these lots), and Section 1-108C (relating to Site Specific regulations), all in the City Zoning Code, and conferred with outside counsel (who conferred with the attorney who drafted the regulations at issue for the City). It is my opinion that the Site Specific regulations govern over more general regulations. This basic principle, that the specific takes precedence over the general, is followed by appellate courts, including the Florida Supreme Court. *See, e.g., Mendenhall v. State of Florida*, 48 So. 3d 740, 748 (Fla. 2010); *see also Palm Harbor Special Control District v. Kelly*, 500 So. 2d 1382, 1385-86 (Fla. 2d DCA 1987). Thus, the specific parts of the law control the more general provisions. Here, the site specific regulations for this property take precedence because they specifically reference this property by lot and block number.

You have also asked whether section 1-109(E) -- which provides a rule of construction that in the event of a conflict between provisions in the Zoning Code, the more restrictive provision applies -- would change this analysis. It is my opinion that this section does not change the analysis. As an initial matter, section 4-104, which specifically addresses the MFSA District, states in the performance standards (section 4-104(D)) that the site specific standard applies, and

then emphasizes that the site specific applies again when expressly addressing height (section 4-104.D.8.a). In such circumstances, there is no need to address section 1-109(E), as there is no conflict present here, since the MFSA standard itself states on its face that the site specific standard will apply. In other words, the plain meaning of section 4-104 governs, which specifically addresses and resolves the situation at issue, so there is no need to resort to a more general rule of construction. In addition, I would also note that Section 1-108(C), which directly addresses the application of site specific standards, indicates that the site specifics control over other provisions in the Zoning Code (with a limited exception that is not applicable to the issue we are discussing). This rule also supports application of the site specifics here.

Finally, please consider that any other interpretation would negate the inclusion of the site specific regulations in subsection 4-104.D.8.a. There is another basic rule of construction that every word in a legislative enactment should be given meaning, if at all possible. This rule ensures that legislative intent is followed. Here, I believe this rule supports applying the site specific regulations as well, as referenced in 8.a.

For these reasons, my conclusion (and that of the other attorneys consulted) is that the 2007 letter is correct, and the height of development on the property is governed by the site specific regulations. Please advise if you have any questions or need further assistance with this matter.

Sincerely,



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