

One Ocean Drive: Pier Park

DRB25-1146



PIER PARK - MIAMI BEACH, FL

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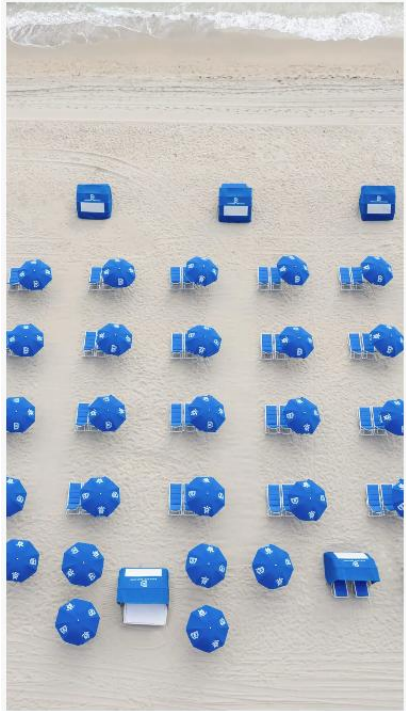
Team Members



MIAMI BEACH



Concession Agreement Parties: Boucher Brothers



Concession Agreement Parties: Major Food Group



CARBONE



**DIRTY FRENCH
STEAKHOUSE**



CONTESSA



ZZ'S CLUB



SADELLE'S



CHATEAU ZZ'S



Property History: Hardies Casino and Bath (1913)



Property History: 1926-1980s



Circa 1961

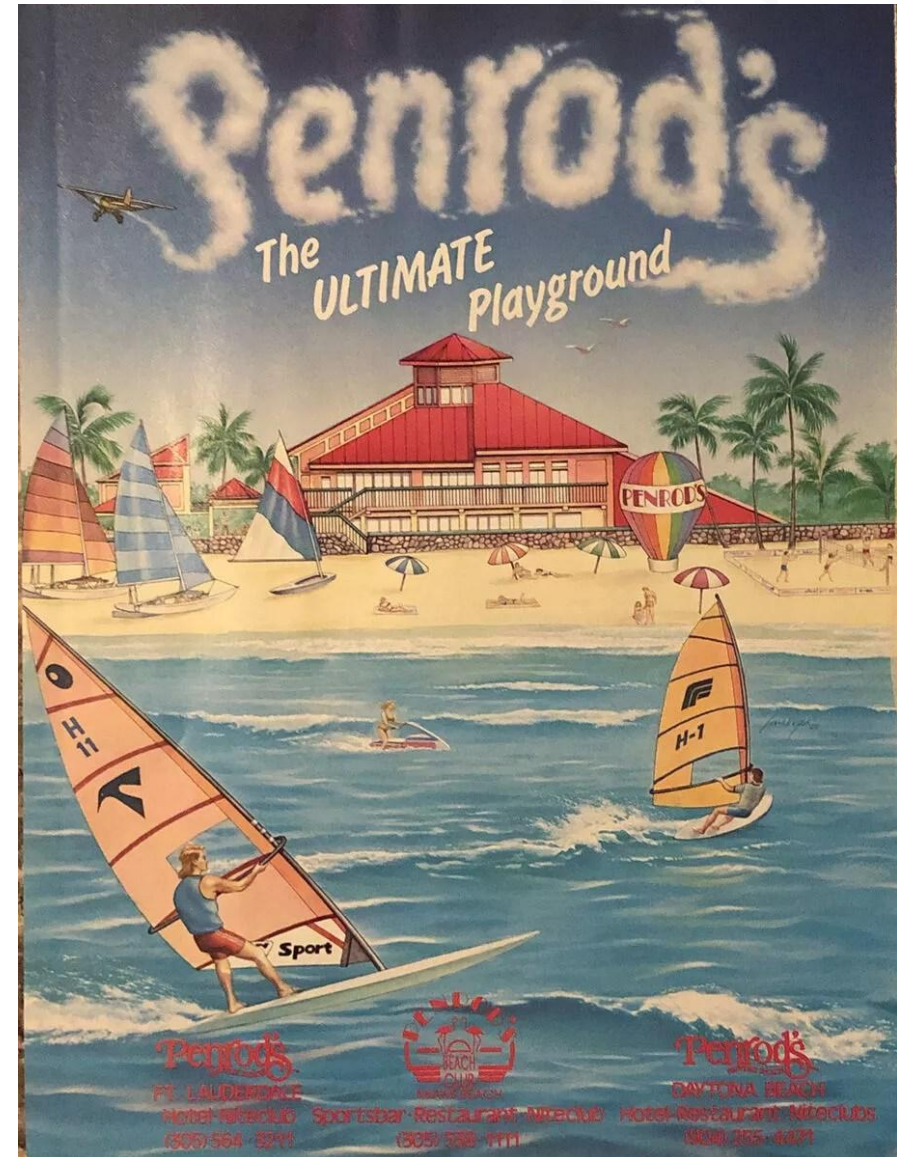
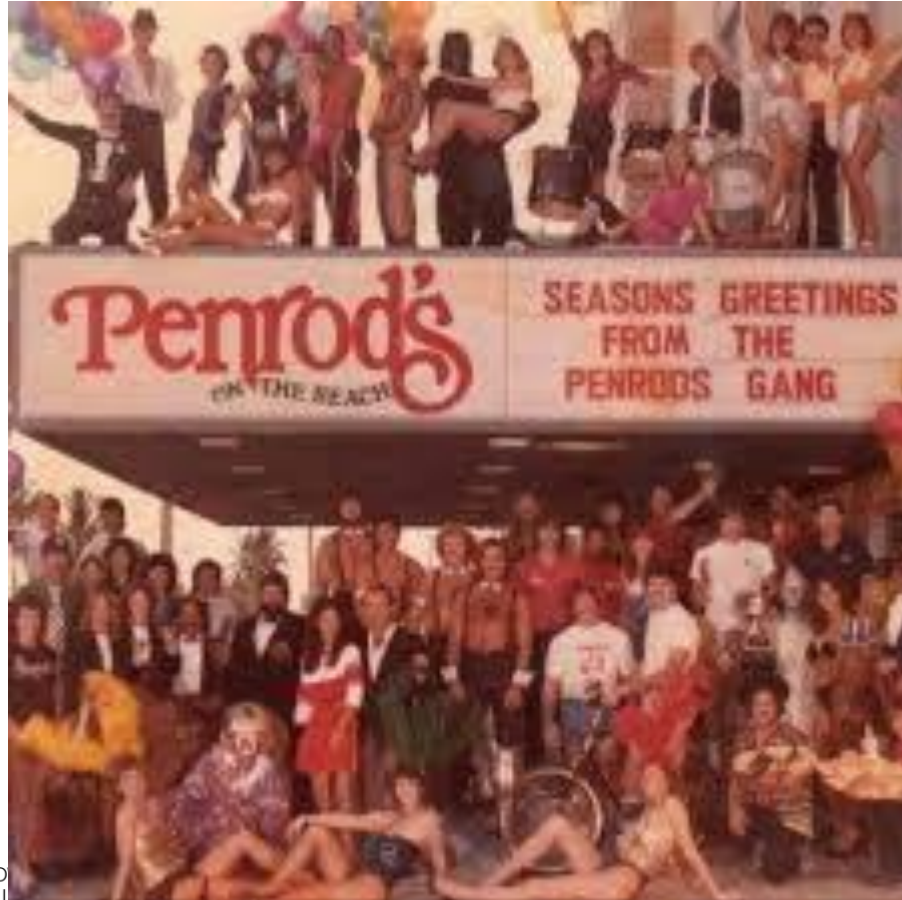


Circa 1986



Circa 1995

Property History: Penrod's Beach Club (1989)



Property History: Nikki Beach (1998)



Existing Conditions: Lease Expiring

- Existing Lease and Concession Agreement Expiring



① ONE OCEAN DR - NIKKI BEACH CLUB
AERIAL VIEW



② ONE OCEAN DR - NIKKI BEACH CLUB
MAIN ENTRANCE



Property – Aerial



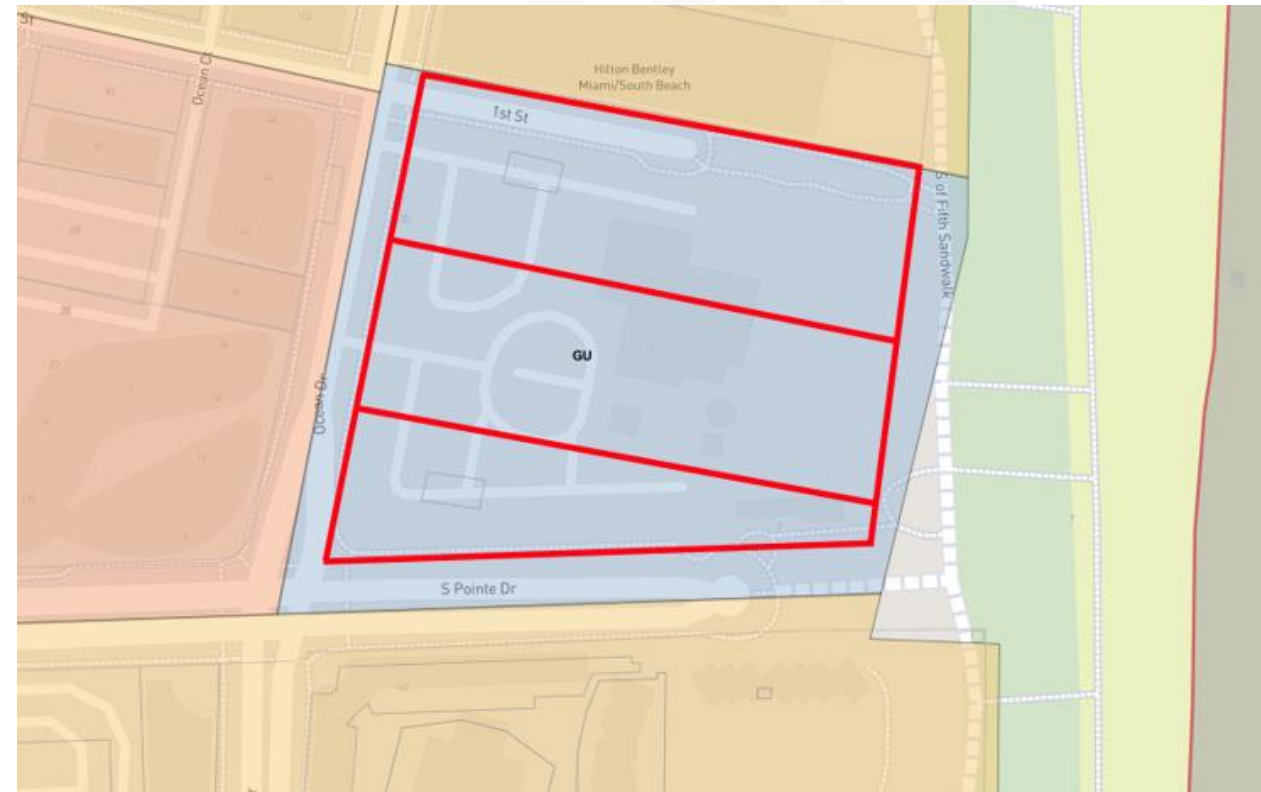
Property – Land Use and Zoning



**FLUM: Recreation and
Open Space Including
Waterways (ROS)**



Zoning: Government Use (GU)



Favorable Recommendation

+ MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: January 8, 2026

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **DRB25-1146**
1 Ocean Drive

An application has been filed requesting Design Review Approval for the construction of new two-story building including restaurants, café, children's center, health and wellness center, retail areas, swimming pool and beach club concession facility and adjacent public restrooms and requesting variances to exceed the minimum and maximum pedestal setback for the required front and side facing the street backs, including one or more waivers, to replace the existing restaurant and concession facility.

RECOMMENDATION:

Approval of the design

Approval of the variances 1,2 and 3

Probative Value of Staff's Recommendation

“Staff Recommendations for Approval constitute competent substantial evidence supporting a commission’s decision, and courts must defer to such findings when determining the legality or that decision.”

See Metro. Dade Cnty. v. Fuller, 515 So. 2d 1312, 1313-14 (Fla. 3d DCA 1987).

Project: Pier Park



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Project: Pier Park



Project: Entrance Looking West



Project: Pool Area



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Project: Pier Park



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Project: Pier Park



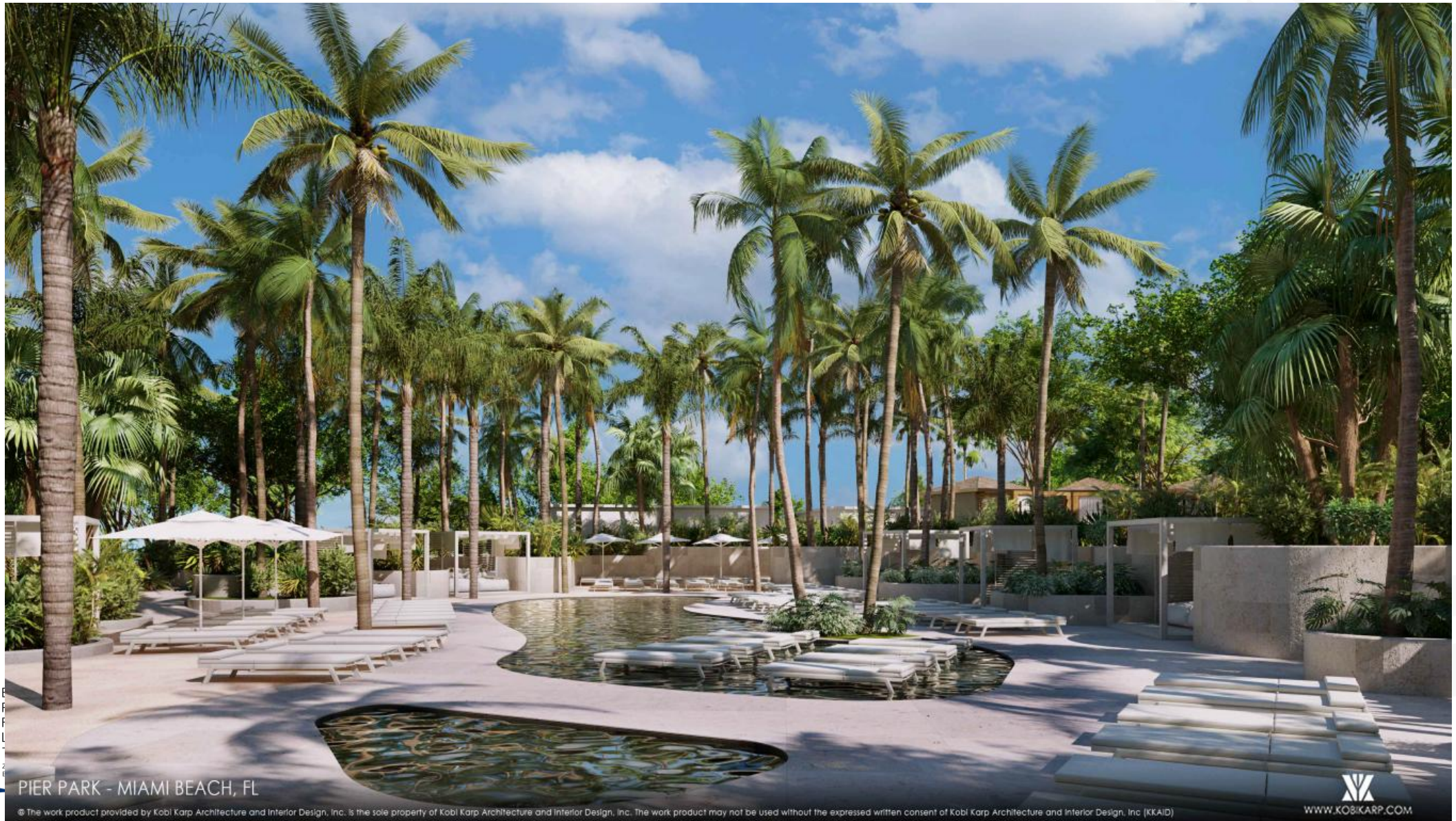
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Project: Pool Area



Project: Cabanas



Project: Lush Landscaping



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Project: Northeast View



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Project: West View



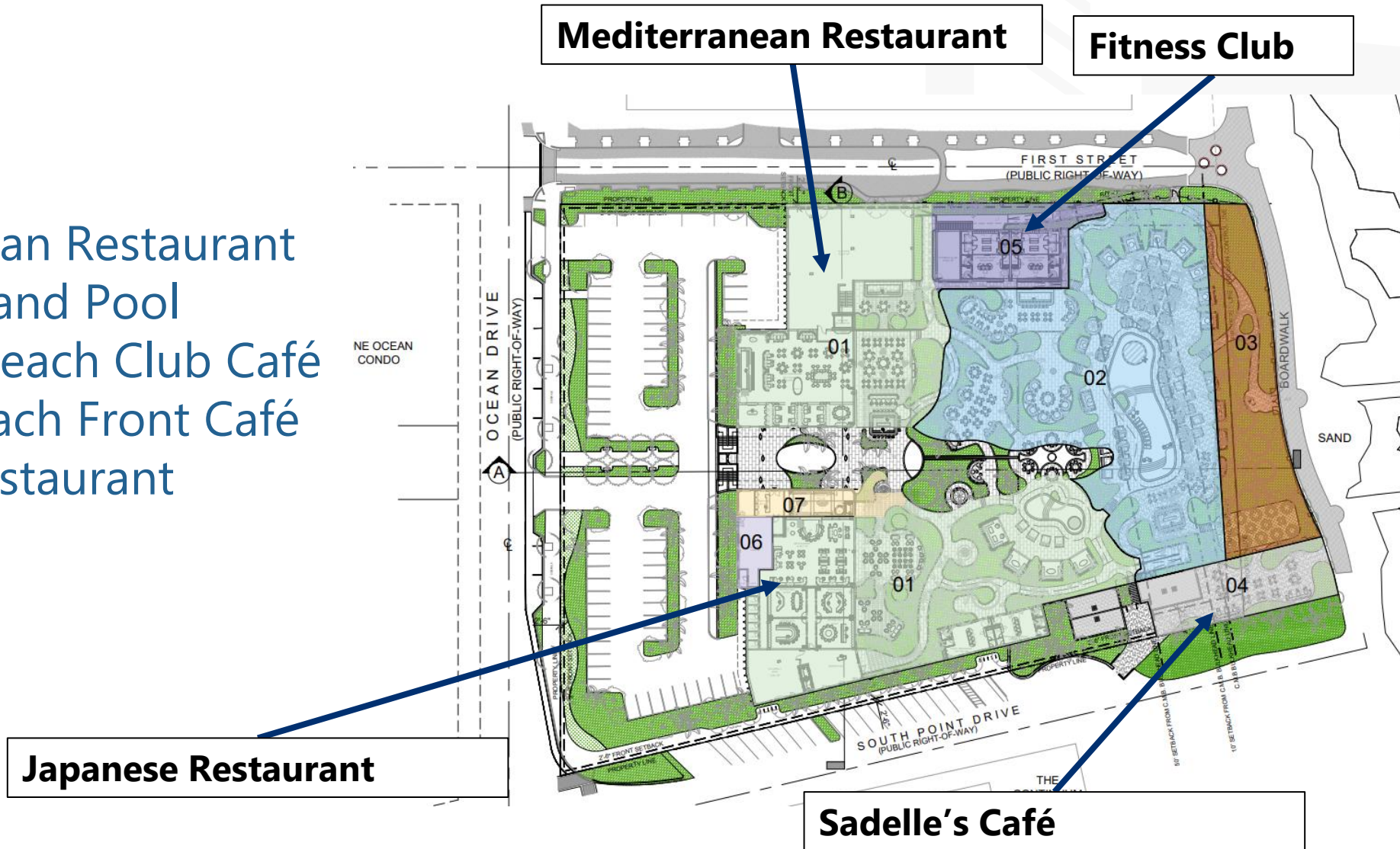
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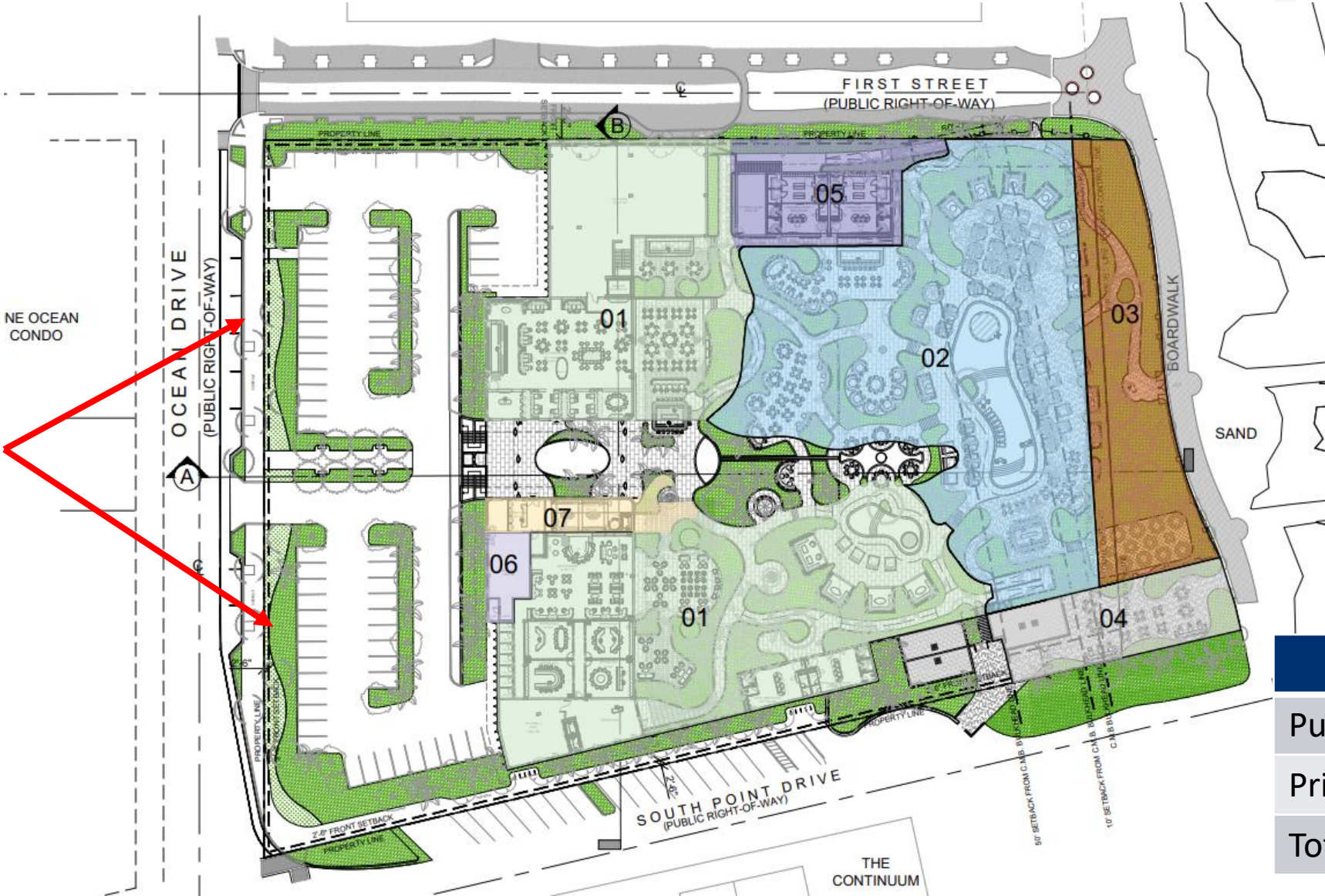
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Proposed Uses

- Beach Area
- Cabanas
- Mediterranean Restaurant
- Beach Club and Pool
- Lawn Area Beach Club Café
- Sadelle's Beach Front Café
- Japanese Restaurant
- Fitness Club
- Kids' Club
- Retail



Public Parking: 72 Spaces



Reserved City
Public
Parking

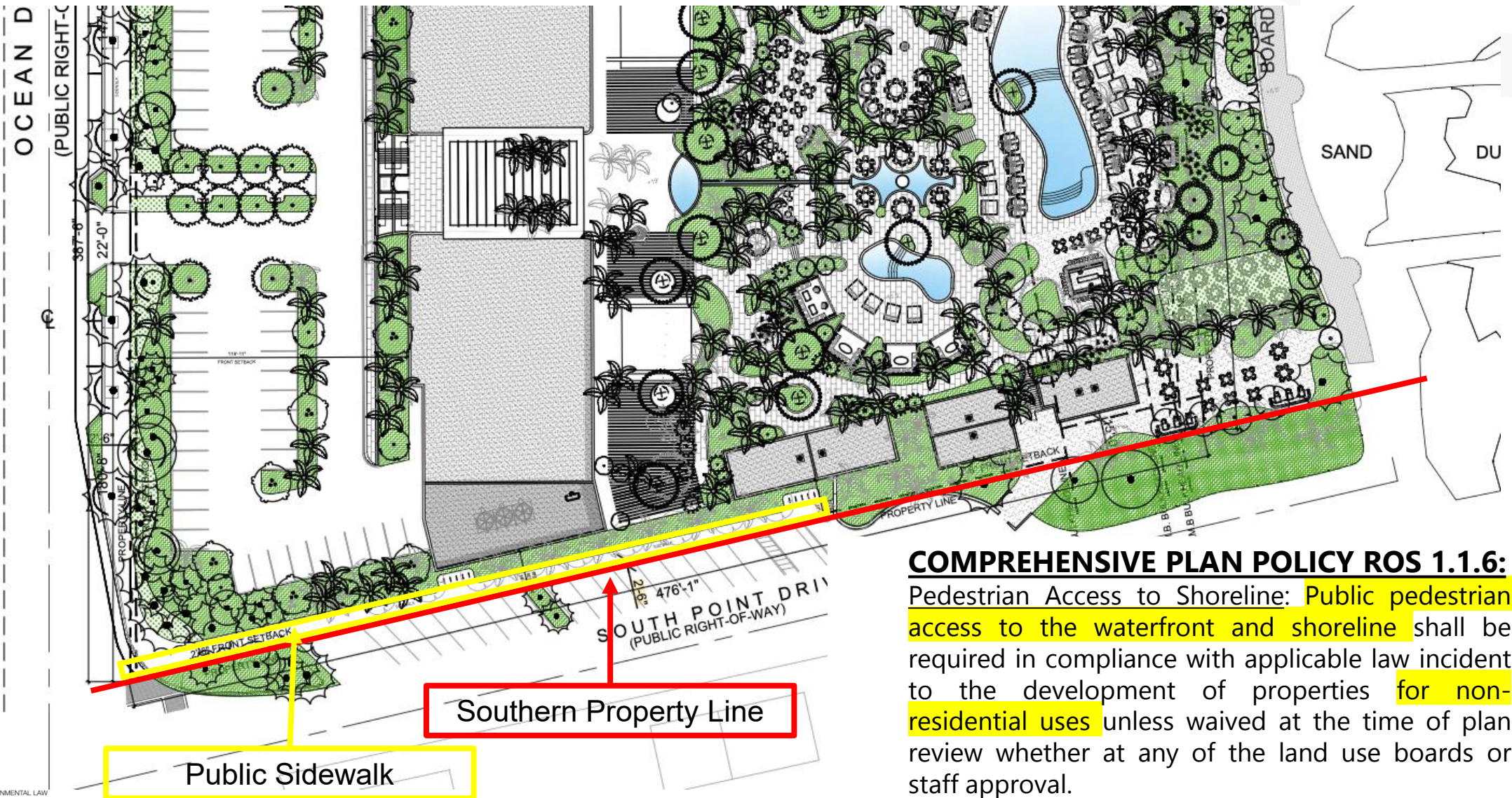
Public Spaces	72
Private Spaces	96
Total	168

Requests

Approval of the project design, including:

1. Variance to permit Pedestal Side Yard Facing a Street setback of 9'-11" through 16'-10" from South Pointe Drive where 2'-6" is required;
2. Variance to permit Front Setback of 117'-5" for a portion of frontage where 2'-6" is required (not including required open court area);
3. Variance to permit Pedestal Side Yard Facing a Street setback of 85'-1" from 1st Street where 2'-6" is required for a portion of the northern elevation.

Practical Difficulty: South Side Setback



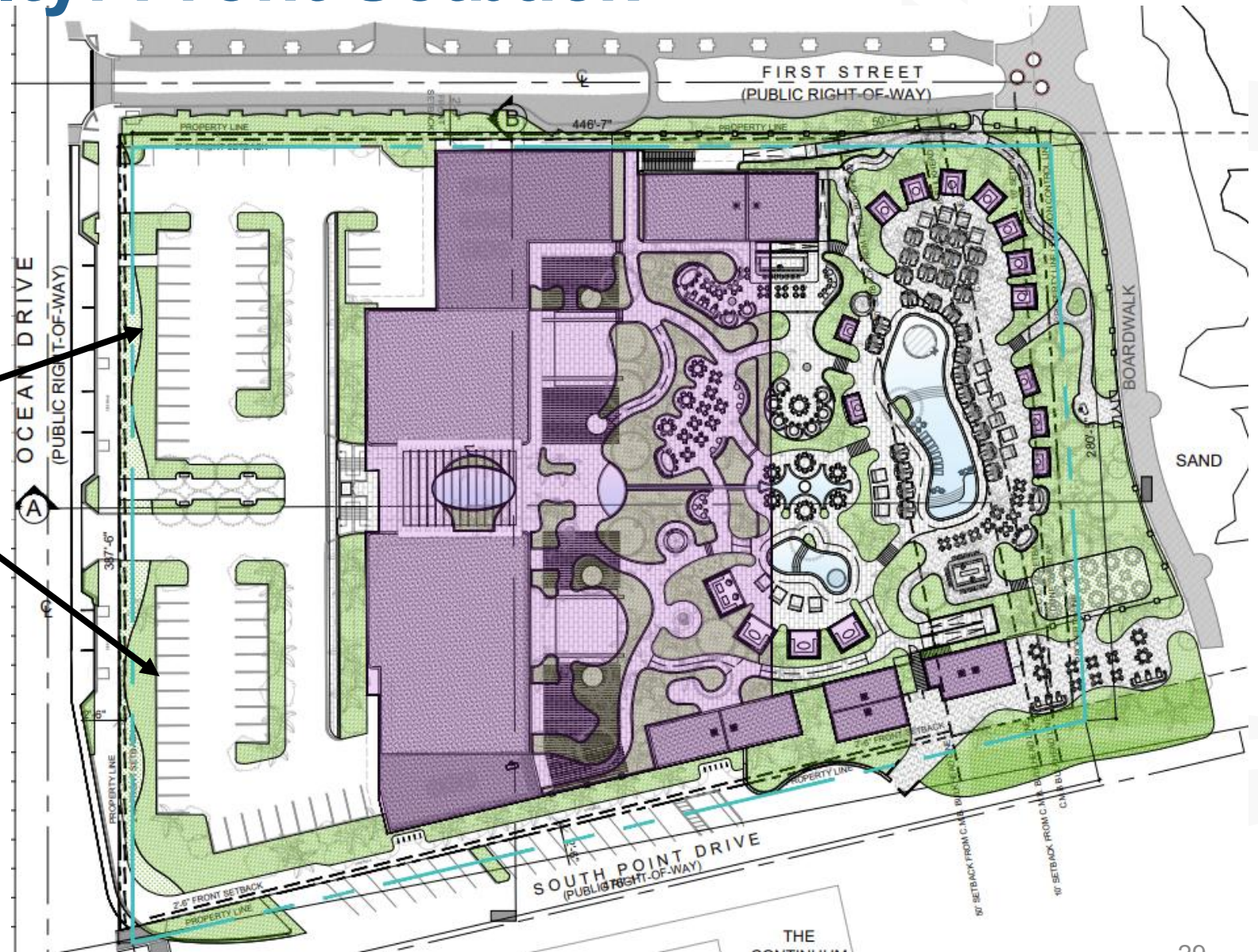
Practical Difficulty: South Side Setback



Practical Difficulty: Front Setback

72 public parking spaces required by Concession Agreement

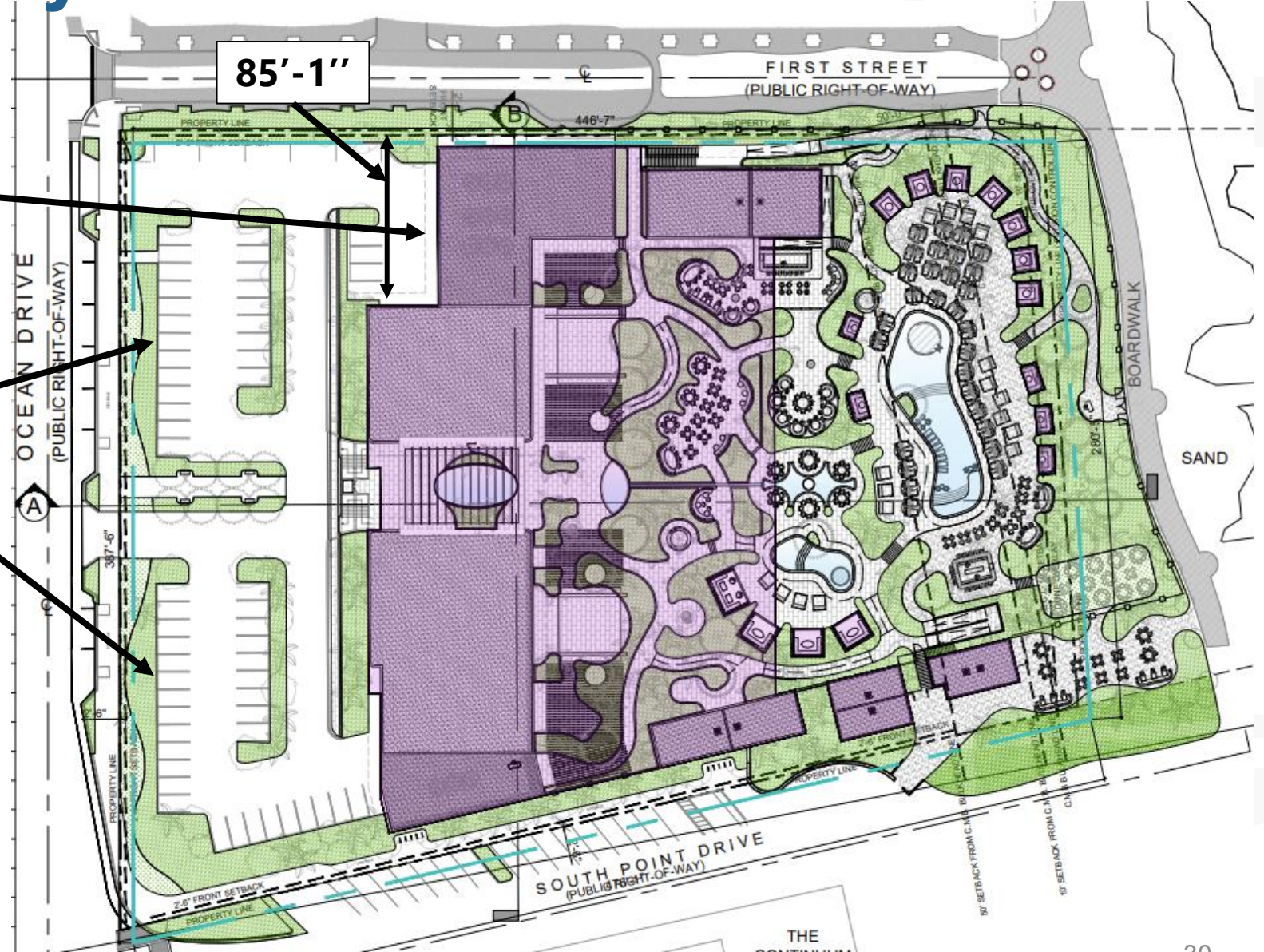
7.2 The City hereby grants to Concessionaire the right, from and after the Occupancy Date, to undertake the Work, subject to compliance with the provisions of Section 7.1. The Work shall include converting the asphalt parking lots to permeable pavers and an expanded tree canopy for the parking lot and shall otherwise substantially conform to the RFP Conceptual Designs. The Work shall include a public parking component consisting of at seventy-two (72) public parking spaces, all of which spaces shall be located in the rows closest to entrance(s) on Ocean Drive or in such other location as the City shall approve in connection with its approvals of the Plans and Specifications (the "Public Parking Area"). The renovations and improvements shall be designed to meet LEED Gold or Living Building Challenge certification requirements and compliance with the Sustainability Fee program in accordance with Chapter 133 of the City Code. Subject to Unavoidable Delays, the Work shall be completed substantially in accordance with the projected timeline set forth in **Exhibit 7.2**.



Practical Difficulty: North Setback

Understory Parking
Entrance and required
circulation area

72 public parking spaces
required by Concession
Agreement



7.2 The City hereby grants to Concessionaire the right, from and after the Occupancy Date, to undertake the Work, subject to compliance with the provisions of Section 7.1. The Work shall include converting the asphalt parking lots to permeable pavers and an expanded tree canopy for the parking lot and shall otherwise substantially conform to the RFP Conceptual Designs. The Work shall include a public parking component consisting of at seventy-two (72) public parking spaces, all of which spaces shall be located in the rows closest to entrance(s) on Ocean Drive or in such other location as the City shall approve in connection with its approvals of the Plans and Specifications (the "Public Parking Area"). The renovations and improvements shall be designed to meet LEED Gold or Living Building Challenge certification requirements and compliance with the Sustainability Fee program in accordance with Chapter 133 of the City Code. Subject to Unavoidable Delays, the Work shall be completed substantially in accordance with the projected timeline set forth in **Exhibit 7.2**.

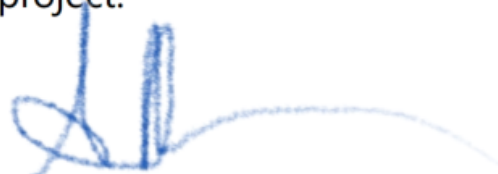
Neighbor Support: SOFNA

BOARD RESOLUTION
SOUTH OF FIFTH NEIGHBORHOOD ASSOCIATION
December 10, 2025

Dear Planning Board and Design Review Board Members,

At a public meeting of the South of Fifth Neighborhood Association (SOFNA) held on December 10, 2025, the SOFNA board **voted to support** the Design Review Board and Planning Board applications for Pier Park's new building and operations under Boucher Brothers/Major Food Group starting in 2026. SOFNA's position is based on the attractive architectural plans and impressive experience of the concessionaires that will be operating the proposed project.

Sincerely,



SOFNA Board of Directors

Keith Marks – President
Alyson Herman – Vice President
Ron Starkman – Secretary
Jordy Levy – Treasurer
John Caprio – Director
David Podein – Director
Mark Haskins – Director



Thank You

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Suite 300, Miami, FL 33131

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305.374.5300 office
305.377.6222 fax
Info@brzoninglaw.com

Standing: Common Law

Two types of Common Law Standing:

1. Substantive Decision Challenge: nonapplicant must have suffered special injuries from the decision that differ in kind, rather than degree, from the rest of the community have a legally recognizable interest to support standing. Renard v. Dade County, 261 So. 2d 832, 836–7 (Fla. 1972).
2. Procedural Challenge: the nonapplicant must be an affected resident, citizen, or property owner in the governmental unit in question. Renard, 261 So. 2d at 838.

Standing: City Code (Section 2.2.4.8)

Eligible Parties for appeals of DRB and HPB approvals to City Commission:

1. Original Applicant to Application
2. City Manager on behalf of City administration
3. Affected person:
 1. Person owning property within 375 feet of the Project; or
 2. A person that appeared before the board and whose appearance is confirmed in the record

*Eligible parties does not include petitions for writ of certiorari to Circuit Court, as required for appeals from the following approvals: Planning Board, BOA, DRB variance decisions and administrative appeals, HPB variance decisions and administrative appeals, and Historic Preservation special master

Standing to File Bid Protest

“A non-bidder is correctly denied standing to protest the process by which a bid was awarded.” See Brasfield & Gorrie General Contractor, Inc. v. Ajax Const. Co., Inc. of Tallahassee, 627 So.2d 1200 (Fla 1st DCA 1993) *citing* Ft. Howard Co. v. Department of Management Services, 624 So.2d 783 (Fla. 1st DCA 1993).

Brasfield v. Ajax:

“Here, although Ajax “pre-qualified” to bid on the contract, it alone never entered a bid thereon. Therefore . . . Ajax would not have standing under *Ft. Howard* to protest the award of the bid.

The injunctive suit herein, virtually identical to the bid protest in its grounds and relief sought, was in our view an attempt by Ajax to accomplish that which it would not have had standing to accomplish as a bid protester.”

RFP Deadline Missed: Nikki Beach

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80°F

MIAMI BEACH

City rejects Nikki Beach bid to remain in South Beach due to missed proposal deadline

By Aaron Leibowitz

Updated September 2, 2023 9:41 AM | Gift Article



Nikki Beach has a lease agreement with the city of Miami Beach that expires in 2026. Bids to take over the site were due Thursday, Aug. 31. *PIERRE GIRAUD; COURTESY OF NIKKI BEACH*

GU Section 7.2.16.3.F

f. The following regulations shall apply to the use or development of GU property by entities other than the City:

1. In all cases involving the use of GU property by the private sector, or joint government/private use, development shall conform to all development regulations in addition to all applicable sections contained in these land development regulations and shall be reviewed by the planning board prior to approval by the city commission. All such private or joint government/private uses are allowed to apply for any permitted variances but shall not be eligible for a waiver of any regulations as described in this paragraph. However, not-for-profit, educational, or cultural organizations as forth herein, shall be eligible for a city commission waiver of development regulations as described in this paragraph, except for the historic preservation and design review processes.
2. In cases involving the use of GU property by the private sector, for developments incorporating public parking spaces within the structure(s), owned by and/or operated by or for the benefit of the City, the permitted building height shall be 100 feet for those sites located within the area bounded by 17t Street on the north, North Lincoln Lane on the south, Alton Road on the west, and Washington Avenue on the east.
3. Private uses on the GU lots fronting Collins Avenue between 79th and 87th Streets approved by the city commission for a period of less than ten (10) years shall be eligible for a city commission waiver of the development regulations, as described in this paragraph, for temporary structures only. Such waivers applicable to GU lots fronting Collins Avenue between 79th and 87th Streets may include, but not be limited to, the design review process, provided the city commission, as part of the waiver process, evaluates and considers all applicable design review requirements and criteria in section 2.5.3.

Proposed Operations: Hours

1. Beach Concessions: Open 1 hour after sunrise and close 1 hour prior to sunset
2. Mediterranean Restaurant: 11:00 am to 11:00 pm
3. Japanese Steakhouse: 5:00 pm to 11:00 pm
4. Sadelle's Boardwalk Café: 9:00 am to 9:00 pm
5. Outdoor lounge, pool, kids club, wellness, retail: 11:00 am to 7:00 pm

Trip Generation

Table 3 - Trip Generation Estimates*

Use	Size	Friday Morning Peak Hour			Friday Afternoon Peak Hour			Saturday Afternoon Peak Hour		
		In	Out	Total	In	Out	Total	In	Out	Total
<u>Existing Uses</u>										
Beach Club	23,243 SF	3	1	4	14	38	51	21	41	61
<u>Proposed Uses</u>										
Beach Club	84,297 SF	12	3	15	50	136	187	76	147	223
Net New Trips		9	2	11	36	98	135	55	106	161

* Based on collected data at Nikki Beach Club

The NFIP defines SI/SD as follows:

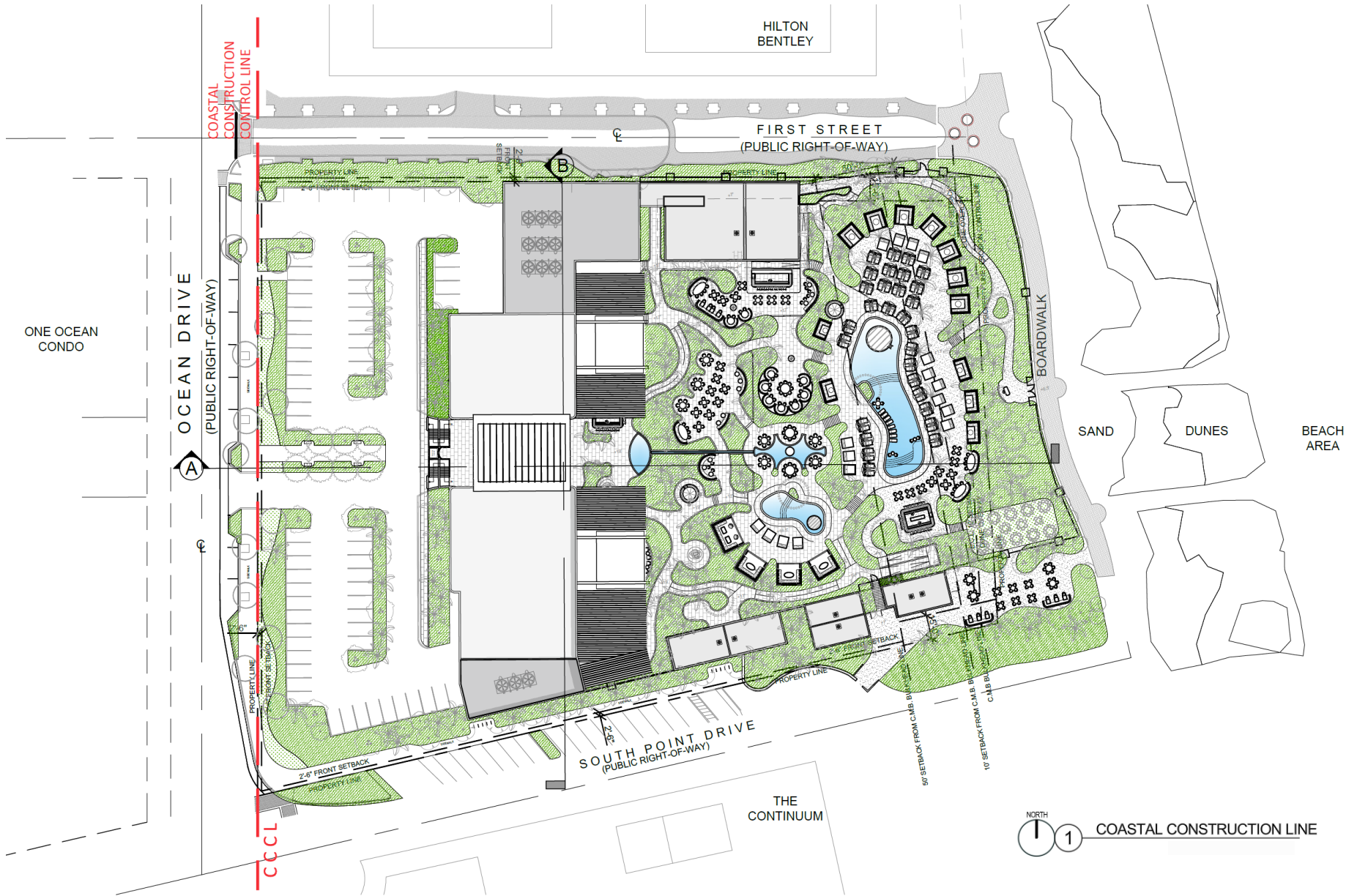
- **Substantial improvement (SI)** means any **reconstruction, rehabilitation, addition, or other improvement** of a structure, the cost of which equals or exceeds **50 percent of the market value** of the structure (or smaller percentage if established by the community) before the “start of construction” of the improvement.

What Substantial Improvement/Substantial Damage Means for Homeowners

If a building in an SFHA is determined by local officials to be SI/SD, it must be brought into compliance with current local floodplain management ordinance. This may involve:

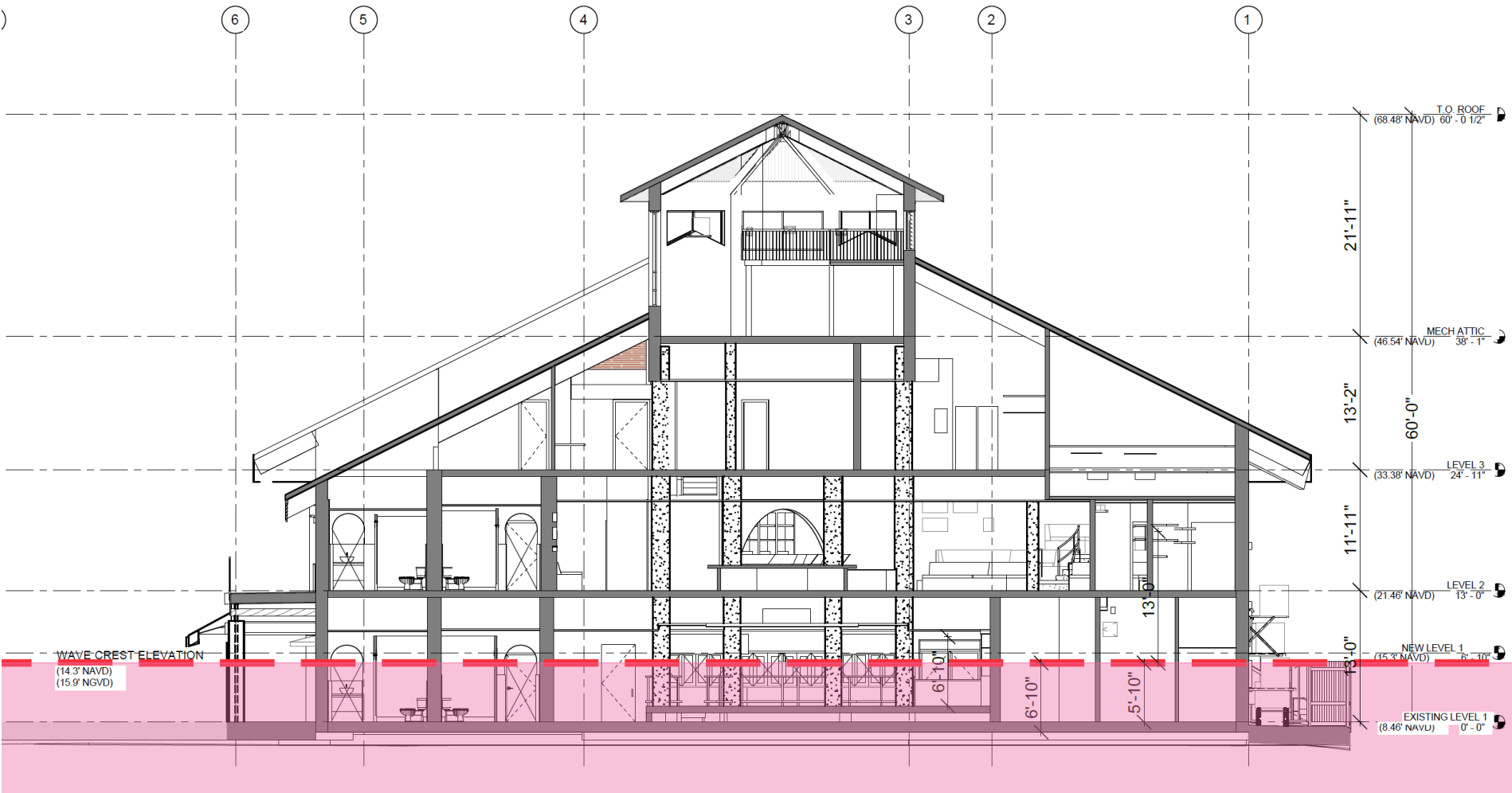
- Elevating or modifying a structure to meet floodplain standards.
- Relocating or demolishing a structure.

CCCL – SPECIAL FLOOD HAZARD AREA



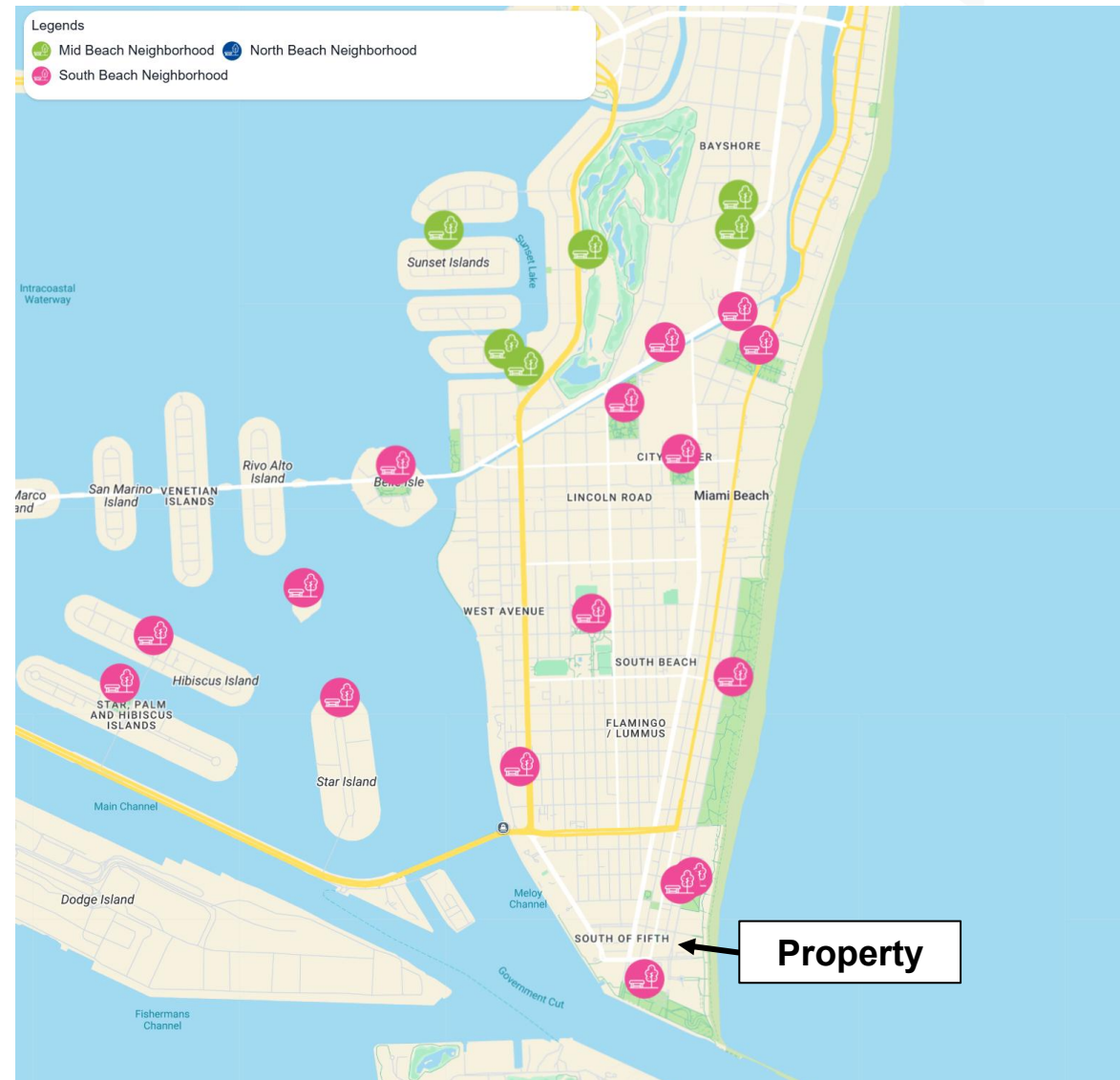
WAVE CREST - 20.4

NORTH
1 WAVE CREST ELEVATION



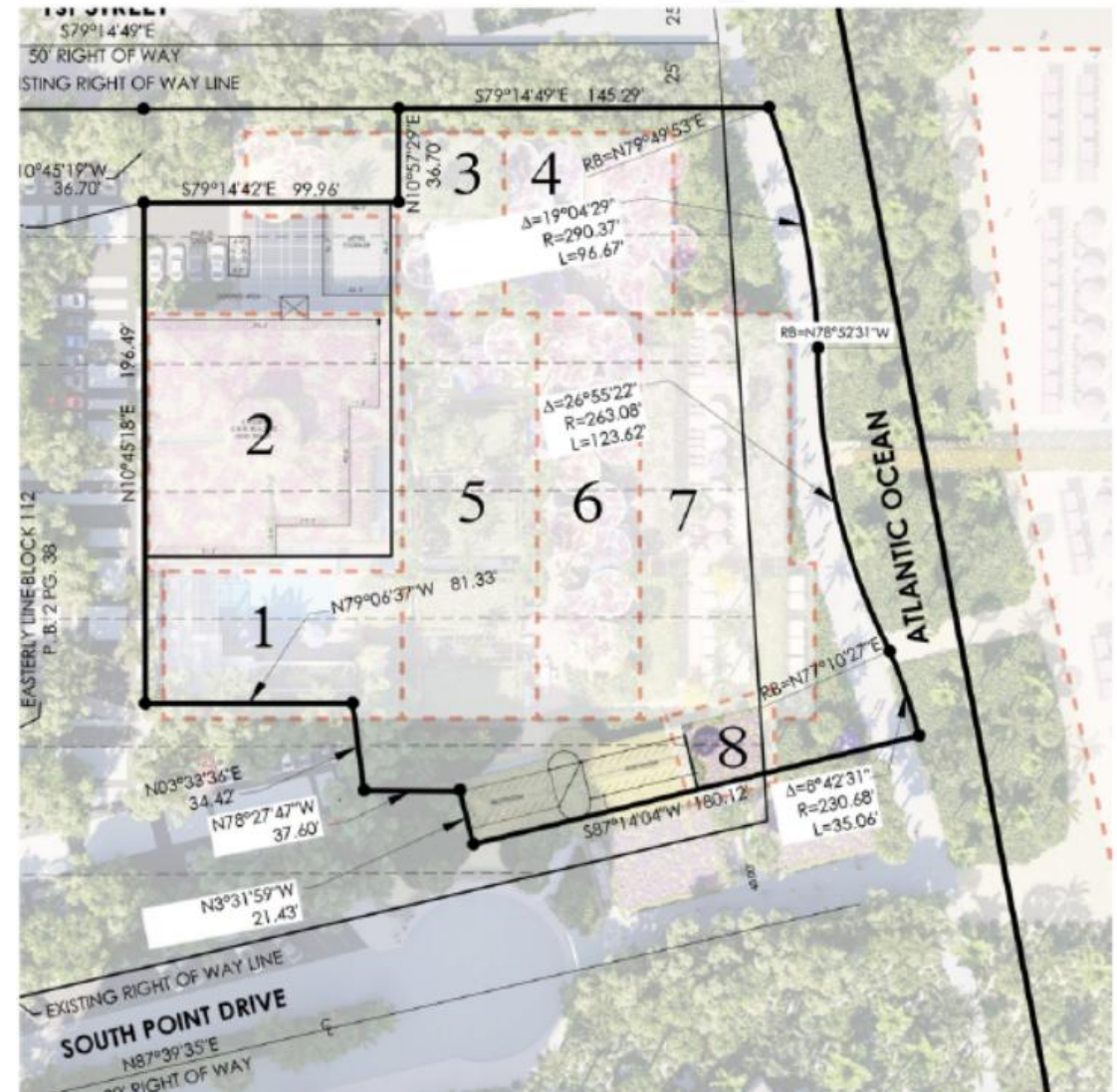
Property Not Designated as Public Park

- Property not listed in City Parks & Facilities Directory or Parks and Facilities Map (shown here)
- Property not listed in County Parks and Marina Directory



Concession Agreement Flexibility

“Although the Site Plan reflects the anticipated approximate location for the various Concession Operations, without limiting any other approval rights the City has pursuant to this Agreement, the City reserves the right to clarify the exact location and size of the areas designed for specific Concession Operations and the location and size of any improvements proposed to be made by Concessionaire as the City determines in its sole discretion will allow for the most desirable use of the Concession Areas for the benefit of the public.”
§2.2



Concession Agreement Tolling

Section 7.2: “Subject to Unavoidable Delays, the Work shall be completed substantially in accordance with the projected timeline set forth in Exhibit 7.2”

Section 1.4.27: “‘Unavoidable Delays’ means a delay arising out of (a) a Force Majeure Event, (b) Unanticipated Site Conditions, (c) any lawsuit is filed and pending which prevents or restricts Concessionaire from using and occupying the Concession Area or commencing construction of the Work, and/or (d) a Project Approvals Delay, in each case, which actually prevents or delays performance and that (i) is beyond the reasonable control of Concessionaire, (ii) is not due to the negligent or intention act, error, or omission of the Concessionaire, and (iii) if occurring after the commencement of any construction work, directly impacts the progress of such construction work.”

Alcoholic Beverage Establishments and Civic Uses Authorized in GU

USES TABLE (GU)	
LODGING	
OFFICE	
COMMERCIAL	
Alcoholic Beverage Establishment	P*
Gambling and Casinos pursuant to section 7.1.8	Pro
Rentals or leases of mopeds, motorcycles, and motorized bicycles pursuant to section 7.1.8	Pro
Neighborhood and Retail Fulfillment Centers pursuant to section 7.1.8	Pro
CIVIC	
Parks and associated parking	P
Performing arts and cultural facilities	P
Monuments and memorials	P

* See Supplemental use regulations below

§7.2.16.2, GU Uses Table, Resiliency Code.

Alcoholic Beverage Establishments and Private Uses Authorized in GU

a. **Supplemental Main permitted uses** regulations (GU).

The supplemental main permitted uses are as follows:

1. *Alcoholic beverage establishments* shall require approval from **the city commission**.
2. Any use not listed above shall only be approved after the **city commission** holds a public hearing. See section 7.2.16.3.h for public notice requirements.

* * * *

e. Supplemental Private or joint government/private uses regulations (GU)

Private or joint government/private uses in the GU government use district, including air rights, ***shall be reviewed by the planning board prior to approval by the city commission.***

§7.2.16.2(a) & (e), Resiliency Code (emphasis added).

Procedural Track for GU Uses:

- **Private or Joint Government/Private Uses**



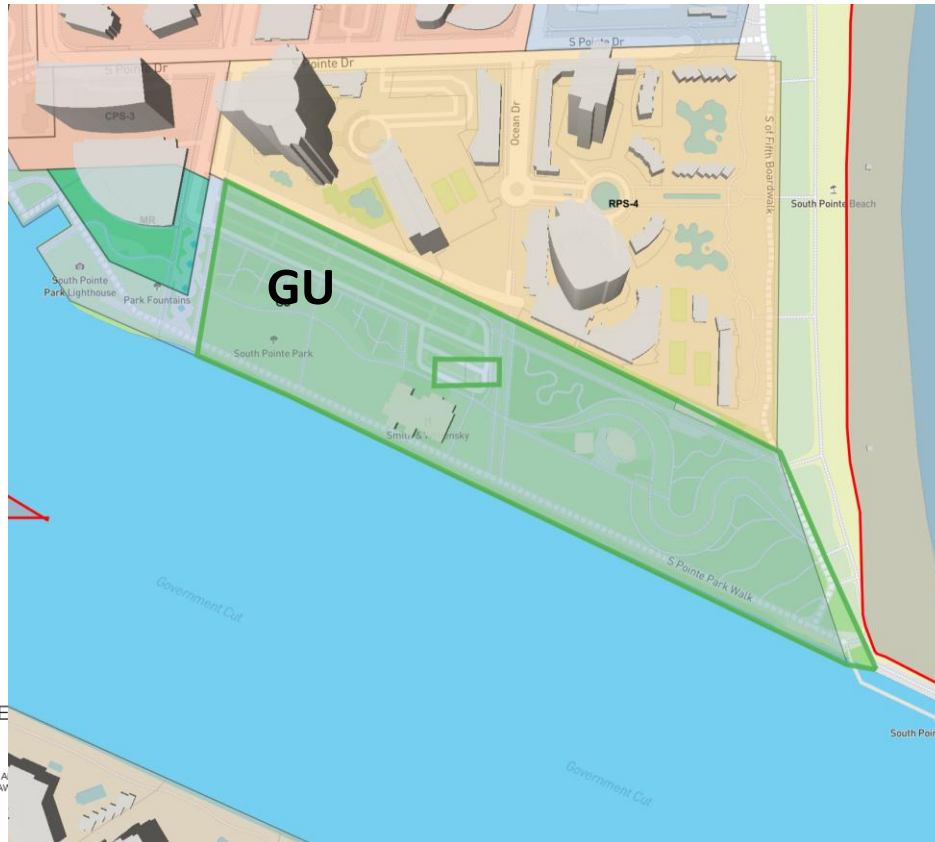
City Commission:
Review and Approval
of Proposed Use. See
§7.2.16.2(e)

**Planning Board: Review
and Recommendation to**
the City Commission. See
§7.2.16.2(e)

GU Permitted Use Example: Smith and Wollensky

1 Washington Avenue:

- **Owner: City of Miami Beach**
- **Zoning: Government Use (GU)**
- **Use: Smith and Wollensky (Public/Private partnership; Long-term lease between City and Operator)**



Property Address

1 WASHINGTON AVE
5 S WASHINGTON AVE
3 S WASHINGTON AVE

Owner

CITY OF MIAMI BEACH
CITY HALL

Hardship Criteria: North Setback

1. **Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;**
2. **The special conditions and circumstances do not result from the action of the applicant;**
3. **Granting the variance requested will not confer on the applicant any special privilege that is denied by these land development regulations to other lands, buildings, or structures in the same zoning district;**
4. **Literal interpretation of the provisions of these land development regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these land development regulations and would work unnecessary and undue hardship on the applicant;**
5. **The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;**
6. **The granting of the variance will be in harmony with the general intent and purpose of these land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and**
7. **The granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan. The planning and zoning director may require applicants to submit documentation to support this requirement prior to the scheduling of a public hearing or any time prior to the board of adjustment voting on the applicant's request.**

One Ocean Drive Concession Agreement:

**Project
Specifications
May Deviate
Via the Land
Development
Boards and
City Manager**



Specifications to substantially deviate from the RFP Concept Plans shall be subject to approval by the City Manager in his or her reasonable discretion. The Preliminary Plans and Specifications for each Phase of the Project, as revised to conform to conditions to the issuance of the Project Approvals and, if applicable, any such revisions have been approved by the City Manager to the extent required herein, are referred to in this Agreement as the "Approved Preliminary Plans".

One Ocean Drive: GU Development Regulations Rely on Adjacent Zoning Districts

City of Miami Beach Resiliency Code Sec. 7.2.16.3(a)

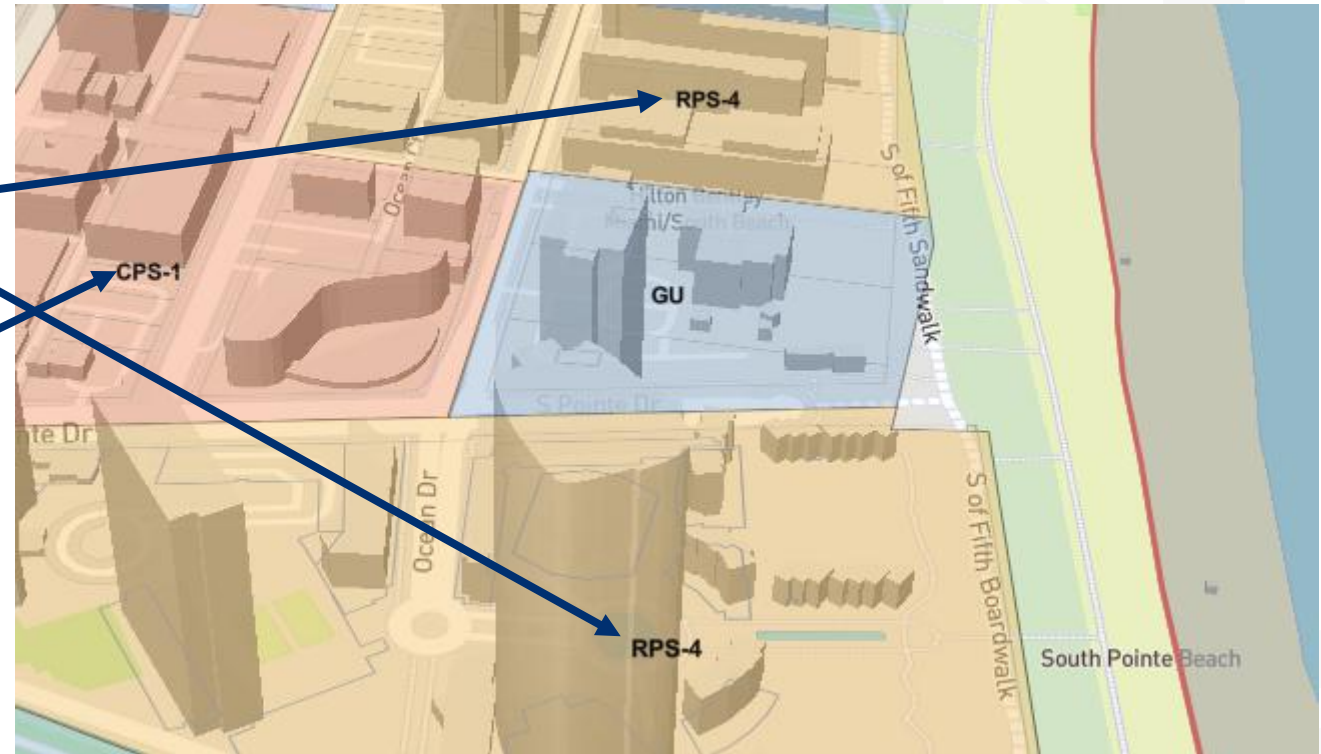
SEC. 142-425. DEVELOPMENT REGULATIONS.

- (a) The development regulations (setbacks, floor area ratio, signs, parking, etc.) in the GU government use district shall be the average of the requirements contained in the surrounding zoning districts as determined by the planning and zoning director, which shall be approved by the city commission.

Development Approval: Adjacent Zoning

Two Surrounding Zoning Districts:

- **RPS-4 (Residential High Density)**
- **CPS-1 (Commercial Performance Standard, Limited Mixed Use)**



Development Regulations: Setbacks

Side Setbacks

If Property is Considered to be "Facing a Street" on the North (First Street) and South (South Pointe Drive) sides.

RPS-4 Setback: Side, Facing a Street; Subterranean, Pedestal (1)	CPS-1 Setback: Side, Facing a Street; Subterranean, Pedestal	Average	Oceanfront Overlay Side Yard to Lot Line (§7.3.1.2(b)(3))	In Dune Preservation Area Side Yard (§7.3.1.1(d)(4))	Notes
5 Feet	0.0 Feet	2.5 Feet	15 Feet	15 Feet	
(1) If side setback, facing a street, pedestal setback is minimum & maximum					