

**CITY OF MIAMI
PLANNING & ZONING DEPARTMENT
OFFICE OF ZONING
MEMORANDUM**

TO: Melissa Tapanes Llahues, Esq.
FROM: Devin Cejas, Zoning Administrator
DATE: November 2, 2016
RE: Zoning Interpretation
2016-001

This Zoning Interpretation is issued to clarify the applicable boundaries and standards associated with the term “waterfront” as used in Article 3 Section 3.11, Waterfront Standards, of Miami 21.

Section 3.11 of Miami 21 states:

“In addition to the Miami City Charter requirements, the following Setback, walkways and waterfront standards shall apply to all waterfront properties within the City of Miami, except as modifications to these standards for all waterfront properties may be approved by the City Commission pursuant to the procedures established in the City Charter.”

The term “waterfront” is not explicitly defined in Miami 21 and it is argued that the application of the Waterfront Standards in Miami 21 to “all waterfront properties within the City of Miami” is overbroad and not what was intended as evidenced by the City Charter and the Miami Comprehensive Neighborhood Plan (“MCNP”).

Pursuant to Article 2 Section 2.1 of Miami 21, Miami 21’s primary purpose is to implement the MCNP. The MCNP sets forth the goals, objectives and policies of the City of Miami, promulgated by the City of Miami Charter (“Charter”). Therefore, in analyzing the intent of the Waterfront Standards in Miami 21, deference must be paid to the Charter.

The Charter provides in Section 3(mm)(iii):-

“In order to preserve the city's natural scenic beauty, to guarantee open spaces, and to protect the waterfront, anything in this Charter or the ordinances of the city to the contrary notwithstanding, neither the city nor any of its agencies shall issue building permits for any surface parking or enclosed structures located on Biscayne Bay or the Miami River from its mouth to the N.W. 5th Street Bridge,

(A) which are not set back at least 50 feet from the seawall (where the depth of the lot is less than 200 feet, the setback shall be at least 25 percent of the lot depth), and

(B) which do not have average side yards equal in aggregate to at least 25 percent of the water frontage of each lot based on average lot width.”

And in Section 3(mm)(iv):

“These requirements shall not apply to docks and appurtenant structures, single-family residences and appurtenant structures, and waterfront industrial uses along the Miami River and at the Port of Miami...”

Article 3 Section 3.11 of Miami 21 references this language as the “Miami City Charter requirements” and sets forth “Setback, walkways and waterfront standards” that should be applied “in addition to” the “Miami City Charter requirements”.

The Charter alone provides the geographic boundaries for applicability, “Biscayne Bay or the Miami River from its mouth to the N.W. 5th Street Bridge”. Because Waterfront Standards as provided in Article 3 Section 3.11 of Miami 21 are intended to be “in addition to” the “Miami City Charter requirements” and Miami 21 is silent as to the geographic boundaries, it stands to reason that the Waterfront Standards are applicable to only the geographic boundaries set forth in the Charter. Accordingly, the Miami City Charter requirements and the Miami 21 Waterfront Standards apply to “all waterfront properties” located on Biscayne Bay and the Miami River from its mouth to the N.W. 5th Street Bridge.

Furthermore, Miami 21 does introduce Waterfront Standards to additional properties located within the geographical boundaries outlined in the Charter that were non-applicable prior to Miami 21. Pursuant to Section 3.11(a)1 a twenty (20) foot (or twenty-five percent (25%) of a Lot depth for Lots having less than eighty (80) feet of depth) Waterfront Setback is now applicable to all T3 single-family residences and appurtenant structures, and to T4-R, D1, D2, D3 properties with non-Marine Industrial related Uses along the Miami River. Pursuant to Section 3.11(b)1 Waterfront Design Standards and the Waterfront Design Guidelines in Appendix B are now applicable to all D1, D2, and D3 properties with proposed new Commercial retail, Office or restaurant Uses.

Applicable waterfront Setbacks for enclosed structures and surface parking to all other waterfront properties within the City of Miami not located within the geographical boundaries outlined in the Miami City Charter shall be in line with the Secondary Frontage Setback requirement respective to Transect Zones.

This interpretation shall be final unless appealed to the Planning, Zoning and Appeals Board within 15 days of the date of its issuance.

Cc: Francisco J. Garcia, Senior Director of Planning and Zoning
Daniel J. Alfonso, City Manager
Victoria Méndez, City Attorney
Nzeribe Ihekweba, Assistant City Manager
Office of Zoning