



# **City of North Miami Beach, Florida**

**Community Development Department**

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## **CITY COMMISSION STAFF REPORT**

**TO:** Mayor and City Commission  
**THROUGH:** Esmond K. Scott, City Manager  
**Via:** Justin Proffitt, AICP, Community Development Director  
**FROM:** Sharon Cino, Planning & Zoning Manager  
**DATE:** September 24, 2020  
**RE:** Mixed Use Waterfront District (MU/EWF) and Mixed -Use (MU) District Zoning Code Text Amendments

**P&Z ITEM # 20-7 (MU/EWF) / (MU) Zoning Code Amendments for Intracoastal**

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**REQUEST:**

The applicant for the proposed development agreement on this agenda, Dezer Intracoastal Mall, LLC requests the City of North Miami Beach to amend two sections of the Zoning and Land Development Code by amending Chapter 24, Article V “Zoning Use Districts” Section 24-58 “Mixed Use (MU) District” and Section 24-58.7 “Eastern Mixed-Use Waterfront District.

### **COMMUNITY DEVELOPMENT ANALYSIS**

The applicant is requesting these amendments to provide consistency with the proposed Conceptual Master Development Plan. The proposed conceptual master plan provides improvements and features that are different than what was adopted by the City Commission in 2015. It is important to note that none of these amendments propose to increase the residential density or nonresidential space adopted by the City Commission in 2015.

The proposed zoning code amendments relate to the following issues, which will also be summarized more in depth below:

### **Amendments that apply only to the applicant’s property and the MU/EWF District (Section 24-58.7 – Mixed Use Eastern Waterfront District)**

- Regulating Plan adjustments to sub-area boundaries, street network, open space, building height configuration;
- Ground floor active use requirements for a portion of the building façade along NE 35<sup>th</sup> Avenue;
- Changing Hotels from Conditional to Permitted Use;
- Increasing maximum parking limitation for 3 bedroom residential units;
- Removing duplicative language and scrivener’s errors in the existing code;
- Increasing the maximum building length;

- Increasing the maximum block size for the MU/EWF District.

**Amendments that apply to ALL mixed-use districts Citywide (Sec. 24-58, Mixed Use Districts)**

- Defining building story height limitations;
- Removing duplicative language and scrivener’s errors in the existing code.

The applicant states that these amendments are necessary to:

*“Together, the .. proposed amendments to Section 24-58 will allow for the effective design and creation of an active, distinctive, and pedestrian-friendly urban environment. Increasing the allowable building horizontal dimension and block length will allow for maximization of water views and green areas/open space on the Property, creating a continuous pedestrian experience with minimal vehicular conflicts. In addition, these text amendments allow for the significant physical and functional integration of uses and project components necessary to achieve the desired synergies and sense of place that are the hallmarks of quality mixed-use developments.*

*The .. proposed amendments to Section 24-58.7 will enable the Applicant to design and redevelop the Property in a manner that is thoughtful, innovative, and consistent with the spirit of the district regulations. Specifically, these amendments are necessary to achieve improved site configuration, and pedestrian and vehicular circulation and orientation, as well as the creation of the canal, which bifurcates the majority of the Property. The canal was not envisioned in the current regulating plan or diagrams, is the focal point of the proposed development. Not only will this new landmark contribute to the sense of place and identity of the project, but it will also serve as a natural and attractive component that will dramatically enhance the experience of visitors and residents alike. As such, the proposed text amendments are needed to amend the regulating plan and provide consistency for the project with the associated MU/EWF district regulations.”*

**Purpose & Intent of the MU/EWF District [Sec. 24-58.7(A)]**

When considering the proposed zoning code amendments, city staff and the City’s architectural and urban design consultant, Bermello Ajamil, reviewed the amendments against the following:

- Purpose and intent of the MU/EWF District, Section 24-58.7(A).
- Development standards in the Mixed-Use regulations Section 24-58.
- Comprehensive Plan Mixed Use District Policies relating to 1.8.2 - Land Use, Densities, Intensities, and Approach for each Zoning District; 1.8.6 - Mixed-Use District Regulatory Framework; 1.8.8 - Design Principles and Procedures.

The intent of the EASTERN MU/WF district is to establish a Mixed-use area that serves as the center of activity for the entire Eastern Shores neighborhood. The district shall provide for multi-family housing that enables residents to live on the waterfront. Providing new publicly accessible open spaces as well as public access to and beautification of the waterfront are primary principals of the EASTERN MU/WF district. The district shall also improve the fire rescue station and provide a police sub-station to enhance the public services in the Eastern Shores neighborhood. Development patterns shall generally reflect planning and design principles that reduce traffic by

designing a walkable neighborhood oriented around the five-minute walk. Additionally, there shall be primary orientation towards the waterfront, integration of housing, employment, shopping and recreation at the neighborhood level. This purpose will be fulfilled by:

1. Ensuring high quality, architecturally compatible, consistently landscaped development throughout the District;
2. Ensuring that new development or redevelopment projects enhance the visual character of the District and does not create incompatibility with the adjacent single-family properties in terms of massing and scale;
3. Encouraging the development of a neighborhood main street with pleasant shopping areas and attractive pedestrian spaces;
4. Stimulating neighborhood commercial and retail activities;
5. Encouraging people to reside in the District;
6. Ensuring the mitigation of traffic issues such as providing additional access points into the site, where feasible;
7. Ensuring public access to and the beautification of the waterfront;
8. Ensuring the development and maintenance of new publicly accessible open space; and
9. Retaining and enhancing the existing rescue station and addition of a police substation.

**MU/EFW (ENTITLEMENTS /BASKET OF RIGHTS)**

The MU/EFW district (Policy 1.8.2) is capped at 2,000 residential units and 2,500,000 square feet of non-residential development. The chart below outlines compliance with this policy and shows the remaining amount of development potential for the MU/EFW district:

MU/EFW Development	Residential Units	Non-Residential in Square Feet
Maximum	2000	2,500,000
Pre-existing Development	0	300,000
<b>Subtotal</b>	<b>0</b>	<b>300,000</b>
<b>Remainder</b>	<b>2000</b>	<b>2,200,000</b>

\*Per Policy 1.8.2. Maximum Development Densities, Intensities for Eastern MU/WF, Mixed-Use Waterfront

As previously stated above the proposed development does not exceed the maximum development density or intensity as permitted in the MU/EFW district. The existing development for MU/EFW district does not include any residential units. It does include 300,000 square feet of existing nonresidential development (shopping center and supermarket). The proposed development intends on using the available 2,000 residential units, and 575,000 square feet of the available non-residential area plus a 250 key hotel (commercial/retail/office space).

**Summary & Staff Analysis**

The following is a summary and staff analysis of the proposed zoning code amendments:

**Section 24-58 Mixed Use District Text Amendments (Amendments that apply to all mixed use)**

- **Floor/Story Heights.** The proposed changes in **Section 24-58 (R)(2)** are provided below:
  - a. Ground level stories shall be a maximum height of twenty (20) feet.
  - b. Second level stories shall be a maximum height of twenty (20) feet.
  - c. Each story above the second story shall be a maximum height of fourteen (14) feet.
  - d. Every building shall permit a single (1) specialty amenity story above the third story and above the fourteen (14) foot limit, for a maximum of twenty (20) feet.
  - e. For portions of interior spaces in buildings in mixed use districts that permit land uses that typically have higher story heights, such as movie theaters, auditoriums, television or other types of media studios, penthouse residential units, and similar land uses. The Community Development Director may waive the maximum story height.

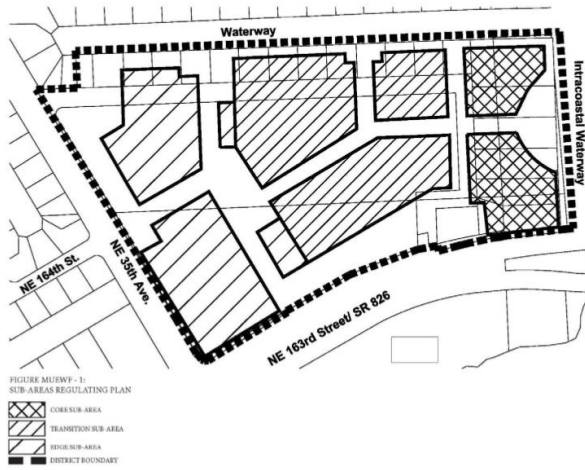
The proposed change would incorporate special uses such as movie theaters and was recommended by Bermello and Ajamil to allow flexibility for unique amenities to be built such as movie theaters, auditoriums, media studios, and penthouse residential units. The proposed change will increase the maximum story height in a building from twelve (12) feet to fourteen (14) feet for added flexibility in building design and based on an evaluation of the existing mixed use ordinances. Additional height is recommended to allow for additional space for mechanical equipment as well. Each building will be allowed to have a unique amenity story built above the third story for a maximum of (20) feet. This change responds to multiple variances the city has approved for development projects featuring amenity decks with pools. The Second level retail requires higher floor heights to improve the quality of the development when two story retail is proposed in a project. These proposed changes are consistent with the recommended code changes in the upcoming Mixed-Use Phase II zoning code amendments.

**Amendments that apply only to the applicant’s property and the MU/EFW District (Section 24-58.7 – Mixed Use Eastern Waterfront District):**

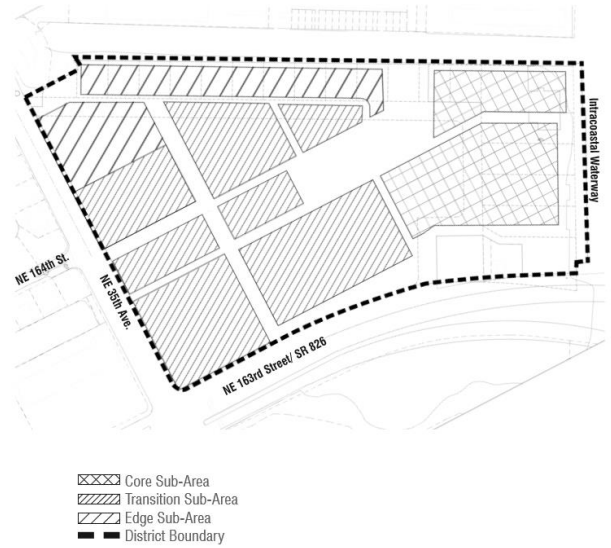
- **Sub Areas Regulating Plan - Section 24-58.7(E) Figure MU/EFW 1.**

The diagrams below describe the previously adopted plan and proposed Core, Transition and Edge Sub Areas Regulating Plan: The proposed building height in the Core Sub-Area would be designated toward the waterfront, greenways and park vistas to promote a walkable neighborhood. These changes are requested in order to accommodate the conceptual master plan designed by the developer. As one regulating plan changes the others must be updated as well.

**Regulating Plan**

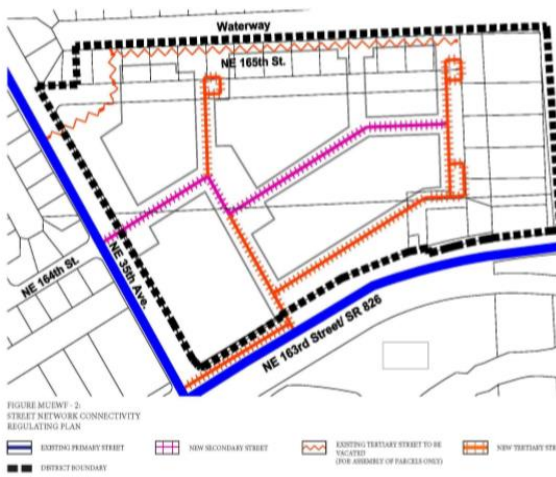


**Proposed**



- **Street Network Connectivity Regulating Plan - Section 24-58.7(E) Figure MU/EWF 2**, the diagrams below describe the previously adopted plan and proposed plan.

**Regulating Plan**



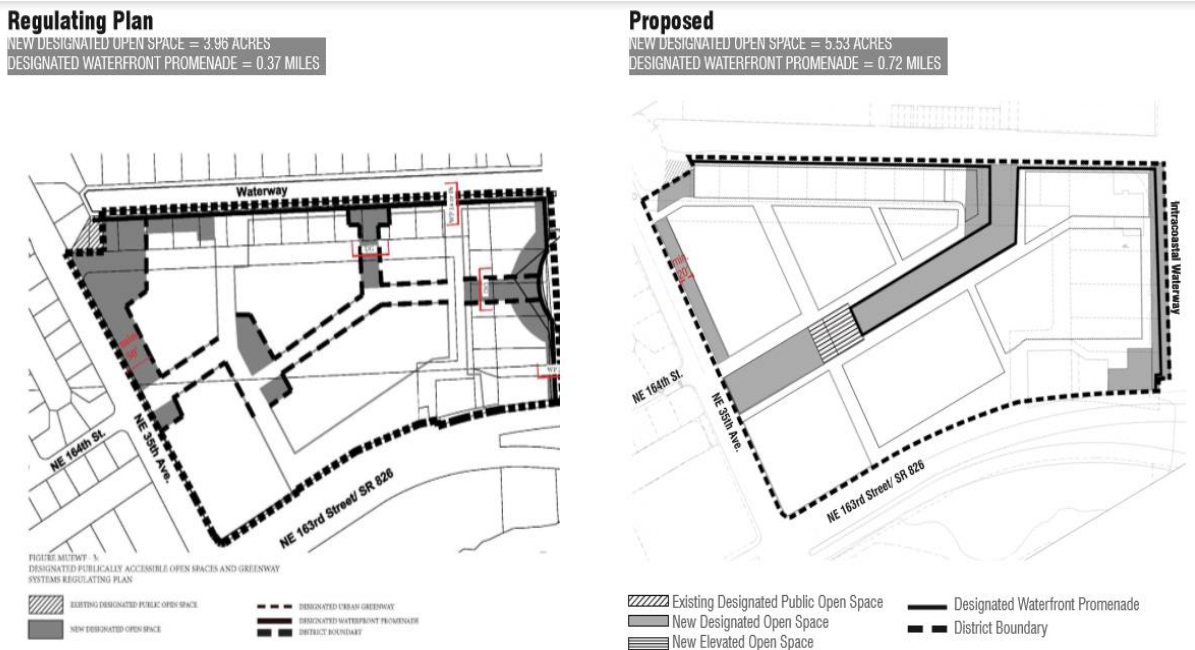
**Proposed**



In the adopted plan, three streets are identified along NE 35 Avenue; a tertiary street at the northwest corner of the property, one at NE 164<sup>th</sup> Street, and a frontage road with a connection to SR 826 at NE 36 Avenue/Intracoastal Mall Driveway. In the proposed plan, three streets are identified at different locations along NE 35<sup>th</sup> Avenue: one at the northwest corner of the property; two at NE 164<sup>th</sup> Street (with the southern one of these being a one way eastbound only). In both plans, the direct east and west access to and from SR 826 is shown as NE 36

Avenue/Intracoastal Mall Driveway. The proposed development will also include a signal at the intersection of SR 826 and NE 36 Avenue/Intracoastal Mall Driveway. The requirement in Section 24-58.7(O)(2)(e) states that street network connections associated with the proposed development shall not overburden NE 35 Avenue and shall provide multiple access points providing direct east and west access to and from 826/NE 163<sup>rd</sup> Street.

- Designated Publicly Accessible Open Spaces and Greenway Systems Regulating Plan - Section 24-58.7(E) Figure MU/EFW 3:** The diagrams below describe the previously adopted plan and proposed:



The existing regulating plan amounted to approximately 4.1 acres of designated public open space. The proposed master plan includes (6) acres of publicly accessible open space for residents to access public amenities, greenways, waterfront promenade around the north and east perimeters of the property, streetscape improvements on the ground level connecting to the existing neighborhood along NE 35<sup>th</sup> Avenue. The proposed development includes public open space that includes the main park, community center, playground, mangroves and dog park. The private open space being provided includes the canal, waterfront promenade and the temporary event space.

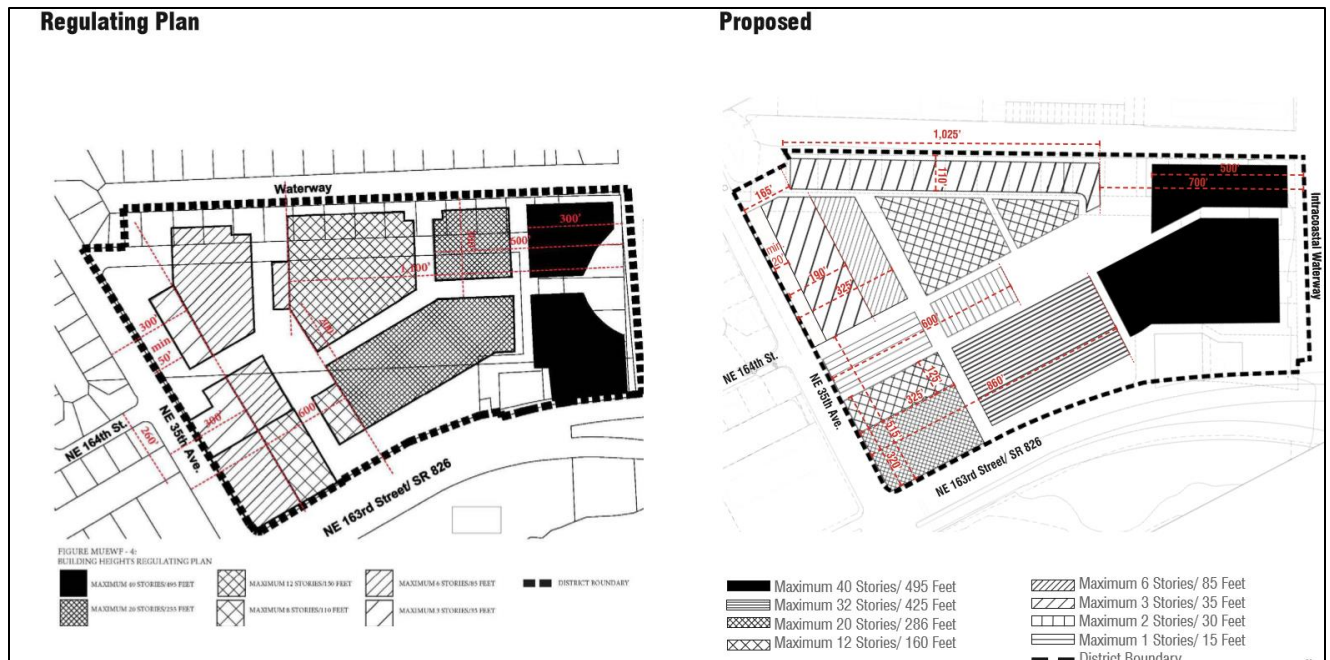
- **Building Heights Regulating Plan & Maximum Permitted Height – Sections 24-58.7(E) and (J) Figure MU/EWF-4 and Table MU/EWF-2:** The diagrams below describe the previously adopted plan and proposed.

The proposed change redistributes the building heights in the MU/EWF district. The applicant states that redistributing the building heights is necessary:

“..to design and redevelop the Property in a manner that is thoughtful, innovative, and consistent with the spirit of the district regulations. Specifically, these amendments are necessary to achieve improved site configuration, and pedestrian and vehicular circulation and orientation, as well as the creation of the canal, which bifurcates the majority of the Property. The canal was not envisioned in the current regulating plan or diagrams, is the focal point of the proposed development. Not only will this new landmark contribute to the sense of place and identity of the project, but it will also serve as a natural and attractive component that will dramatically enhance the experience of visitors and residents alike.”

Below is a graphic from Sheet A1-15 of the Master Concept Development Plan. The left side of the graphic shows the current Building Heights Regulating Plan adopted by the City Commission in 2015. The right side shows the proposed regulating plan. The main difference between the two regulating plans is the general redistribution of the building heights and massing from the northern side of the district to the southern side of the district. In the adopted plan, the building heights increase from west to east starting with 3 stories along NE 35<sup>th</sup> Avenue and ending with the Core Sub-Area (Dark Black) at 40 Stories along the intracoastal waterway. The proposed plan redistributes building height by increasing from the north/northwest to the southern side of the district and property line along NE 163<sup>rd</sup> Street.

Table MU/EWF-2 below provides a summary of the heights per sub-area. The proposed changes to Table MU/EWF-2 reflect the redistribution of heights in the Building Heights Regulating Plan and further define the third note in the table. The third note in the table permits flexibility in the number stories in a building as long it does not exceed the overall height maximum measured in feet. Developers must demonstrate that although the building has more stories than what the code permits, the resulting density and intensity does not exceed the density and intensity that would otherwise be accommodated in the maximum number of stories permitted. Adding the word “density” clarifies that even if the building has more stories than the maximum permitted, the same number of residential units exist in the building. Currently, the code does not define how many additional stories can be requested by a developer. City staff recommend capping the number of stories that can be requested under this provision.



**Table MU/EF-2 Maximum Permitted Height (1)**

Area	Maximum Permitted Height
Core Sub-Area	40 stories/495 feet (2), (3)
Transition Sub-Area	<del>20 stories/255 feet</del> <b>32 Stories/425 feet</b> (2) (3)
	<del>12 stories/160 feet</del> <b>20 Stories/286 feet</b> (2), (3)
	<b>12 stories/160 feet (2) (3)</b>
Edge Sub-Area	<del>8 stories/110 feet</del> (3)
	6 stories/85 feet (3)
	3 stories/35 feet (3)

**Notes:**

(1) Height has been rounded up to allow for additional space for mechanical equipment and the measurement of the roof. Measurement of stories is regulated in Section 24-58 Mixed-use District.

(2) Buildings higher than 8 stories shall only be developed per the Tower building Type standards.

(3) The number of stories may be increased provided the overall building height is not exceeded. The Applicant shall demonstrate that the resulting **density and** intensity does not exceed the **density and** intensity that would otherwise be accommodated in the maximum number of stories permitted. **In the Edge and Transition sub-areas, no building may equal or exceed the number of stories in the next higher sub-area. In the Core sub-area, no more than eight (8) additional stories will be permitted.**



Additional staff discussions were held with the applicant to include additional building height limitations to the proposed building height regulating plan. Specifically, building heights at the intersection of 163<sup>rd</sup> Street and NE 35<sup>th</sup> Avenue would transition from a maximum height of 20 stories and then stepdown to a maximum height of 12 stories, then a maximum height of 1 story for the park/open space. The proposed building heights along the park area on the east side of 36<sup>th</sup> Avenue would transition to a maximum height of 3 stories. Both of these park/open space areas would be limited to buildings associated with recreation only. The proposed building heights near the north property line along the waterfront would be limited to 3 stories instead of the 12 stories shown on the applicant's plan. City staff is recommending this change to allow a transition of building heights to occur given the proximity to the adjacent residential neighborhood and to concentrate building heights generally to the south.

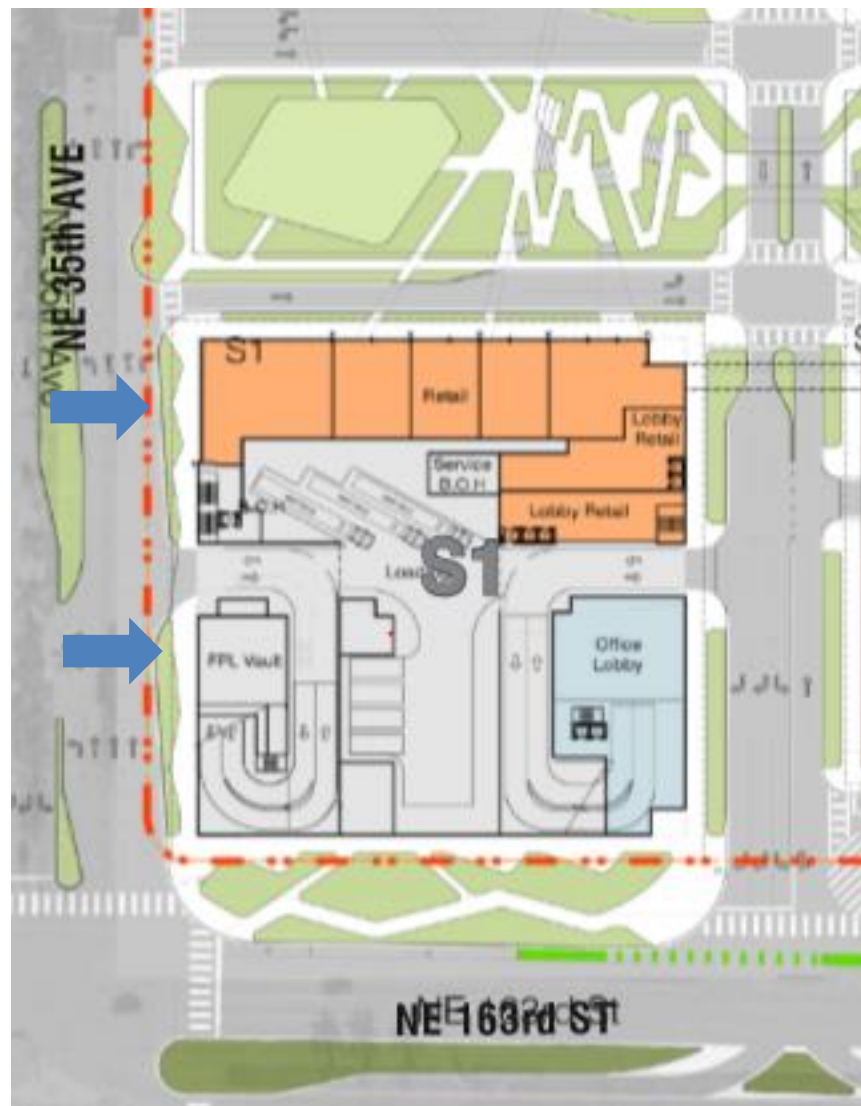
- **Ground Floor Active Use Requirement for NE 35<sup>th</sup> Avenue South of NE 164<sup>th</sup> Street.** The proposed changes in **Section 24-58-7 (G)(1)(e)** are provided below:

*Buildings fronting NE 35th Avenue, south of NE 164th Street, shall contain active use for a minimum of twenty-five (25%) of the building frontage along the ground floor only fronting NE 35th Avenue.*

The proposed change is necessary for the proposed building on Sheet A1-16 of the conceptual master plan to accommodate the entrance to the parking garage and interior service areas.

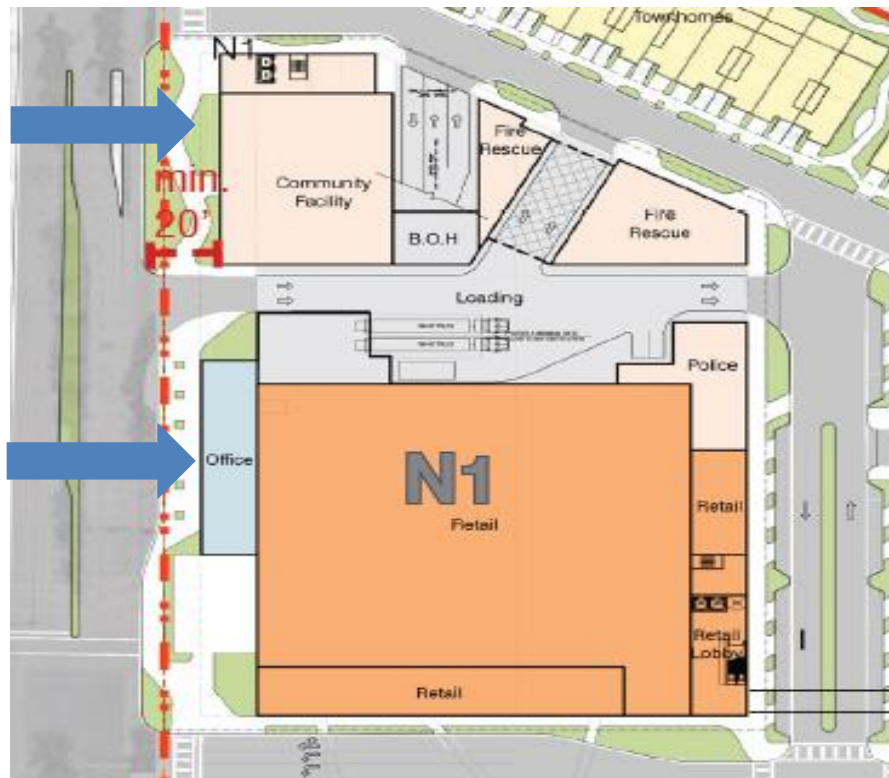
25% building ground floor frontage to include retail storefronts

Rest of ground floor façade devoted to parking garage structure, driveway to interior space with architectural screening.



- **Development Adjacent to NE 35th Avenue..** The proposed changes in **Section 24-58-7 (G) (1) (i)** and **Section 24-58-7 (G) (1) (h)** are provided below:

*i. Create a fifty-foot-wide landscaped buffer within the proposed project property along the property line, between the proposed development and that portion of NE 35th Avenue as specified in the Designated ~~Publically~~ Publicly Accessible Open Space and Greenways Systems Regulating Plan Figure MU/EFW-3. The landscaped buffer shall not contain any structures, ~~driveways, or roads~~, except connecting driveways or roads to the development, liner buildings, sidewalks, bike paths, transit shelters or similar;*



The proposed change would permit connecting driveways or roads into the development and liner buildings within the fifty foot landscape buffer area along NE 35<sup>th</sup> Avenue. The developer’s concept master development plan shows a one way parking garage entrance for access to the retail/tenant service bay, new fire station with two fire truck spaces, and a police substation. All of these facilities would be interior to building N1 on sheet A1-16 of the concept master development plan. There is also a proposed two way street into the project north of building N1 to provide traffic circulation in and around the site. To screen building N1’s parking garage with occupiable space rather than typical parking garage screening materials, this change also proposes to permit a liner building along the parking garage façade. In the mixed use zoning, liner buildings screening parking garage spaces are preferred over the typical metal/landscape wall screening devices. They soften the views of buildings and create a better pedestrian environment from the sidewalk. The developer shows that this space would be used for the community center facility and office uses no higher than three stories.

- **Section 24-58.7(G)(1)(h) Maximum Horizontal Dimension.**

The maximum horizontal dimension of a building shall be four hundred sixty-five (465) feet.

The proposed change would increase the maximum horizontal dimension of a building from 300 feet to 465 feet. This change is requested to be consistent with the proposed concept master development plan proposed by the developer. The applicant states that “increasing the allowable building horizontal dimension and block length will allow them to maximize water views, green areas and open space on the Property, creating a continuous pedestrian experience with minimal vehicular conflicts.”

- **Block Requirements.** The proposed change in **Section 24-58 (S) (2) (a)** are provided below:

- a. *In the Mixed-Use Town Center (MU/TC), Mixed-Use Employment Center (MU/EC), Mixed-Use Neighborhood Center (MU/NC), Eastern Mixed-Use Waterfront (Eastern MU/WF), and Arch Creek Mixed-Use Corridor (MU/C) the maximum length of a block shall be six hundred (600) feet and the maximum perimeter shall be one thousand nine hundred (1,900) feet. The perimeter of a block is the sum of the sides of the block.*
- b. *b. In the South Mixed-Use Waterfront (South MU/WF), ~~Eastern Mixed-Use Waterfront (Eastern MU/WF)~~ and Northern Mixed-Use Waterfront (Northern MU/WF) the maximum length of a block shall be four hundred (400) feet and the maximum perimeter shall be one thousand four hundred (1,400) feet. The perimeter of a block is the sum of the sides of the block.*

The proposed change increases the maximum overall block dimension from 400 feet to 600 feet for the MU/EWF zoning district. The applicant states that “increasing the allowable building horizontal dimension and block length will allow them to maximize water views, green areas and open space on the Property, creating a continuous pedestrian experience with minimal vehicular conflicts.”

- **Hotel Permitted Use from Conditional Use (Section 24-58.7 (2))**

Table MU/EFW-1			
PERMITTED USES IN THE EASTERN MIXED-USE WATERFRONT (MU/WF) DISTRICT			
P= PERMITTED BY RIGHT    C = CONDITIONAL USES    NP= NOT PERMITTED			
Uses	Use Areas		
	Core	<del>Center</del> <u>Transition</u>	Edge
<b>Lodging Accommodations</b>			
Hotels	€ <u>P</u>	€ <u>P</u>	NP

The proposed change would not require a Conditional Use for a hotel. Hotels would be permitted in the Core and Transition sub area as a permitted use. This change is consistent with how hotels are permitted in the mixed-use employment center district (MU/EC). Although the scrutiny of review would not be the same as a conditional use, the hotel would be subject to the City’s site plan review criteria. The process for both a site plan and conditional use are the same in that they require TRAD, Planning and Zoning Board, and City Commission approvals. Conditions of approval may also be placed on site plans as with conditional uses. The site plan review criteria and process would maintain an adequate level of review of a proposed hotel in this district.

- **Parking Requirements for Residential Units - Section 24-58.7 (L).** This change would increase the maximum number of parking spaces from two (2) to three (3) for a three bedroom residential unit. The City Commission has expressed support for increasing parking for 3 bedroom residential units in a mixed-use multi-family development. This change responds to the City Commission’s desire to increase this parking requirement and will be made throughout all mixed use zoning districts.

Below is a summary of the proposed text amendments for **Minimum and Maximum Parking Requirements in the MU/EFW District.**

Table MU/EWF-5 Minimum and Maximum Parking Requirements by use		
	Min	Max
Retail, restaurant or commercial	2 per 1,000 sf	4 per 1,000 sf
Office	2.5 per 1,000 sf	4 per 1,000 sf
Hotel and motel; hotel and motel, limited	1 per 4 rooms plus 1 per 800 sf for restaurant, public meeting areas; 1 per 15 rooms for staff	1 per 4 rooms plus 1 per 800sf for restaurant, public meeting areas; 1 per 15 rooms for staff
Residential	<del>1 per unit plus 1 per 20 units for guest parking</del> <b>1 / 1BR and 2BR unit;</b> <b>1.5 / 3BR unit</b> <b>1 / 20 units (guest parking)</b>	<del>2 per unit plus 1 per 20 units for guest parking</del> <b>2 / 1BR and 2 BR unit;</b> <b>3 / 3BR unit</b> <b>1 / 20 units (guest parking)</b>
Microbrewery, winery or distillery	Retail/tasting room: 2 spaces per 1,000 sq. ft. <del>gfa</del> ; Manufacturing/processing: 1 per 1,000 sq. ft. <del>gfa</del>	Retail/tasting room: 4 spaces per 1,000 sq. ft. <del>gfa</del> ; Manufacturing/processing: 1.5 per 1,000 sq. ft. <del>gfa</del>

**PLANNING AND ZONING BOARD RECOMMENDATION:**

The Planning and Zoning Board met on July 13, 2020 and recommended **APPROVAL** of the Mixed-Use Waterfront District (MU/EWF) and Mixed-Use (MU) District Zoning Code Text Amendments by a vote of 5-2.

**COMMUNITY DEVELOPMENT RECOMMENDATION:**

The Community Development Department recommends **APPROVAL** of the Mixed-Use Waterfront District (MU/EWF) and Mixed -Use (MU) District Zoning Code Text Amendments subject to approval of the Development Agreement and Concept Master Plan requested by the applicant.

**Attachment(s):**

- Applicant Zoning Code Amendment Justification Letter.
- Draft Ordinance for Amendments to Article V. – Zoning Use Districts Sec. 24-58 – Mixed Use (MU) and Amendments to Sec. 24-58.7 – Eastern Mixed-Use Waterfront District (MU/EWF).
- Existing Ordinance Section 24-58 For Reference.
- Existing Ordinance Section 24-58.7 For Reference.