NORTH MIAMI
FLORIDA
776 N.E. 125 Street, North Miami, Florida 33161

City Council Report

Date: ~~March 25, 2014~~ April 8, 2014 (Second Reading)

To: The Honorable Mayor and City Council

From: Tanya Wilson-Sejour, Planning Manager, Community Planning & Development Department

Re: Amendment to Article 5, to create Division 22, Section 5-2201 - Distance Requirement in the C-3 District

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, ENTITLED "LAND DEVELOPMENT REGULATIONS", SPECIFICALLY AT ARTICLE 5 ENTITLED "DEVELOPMENT STANDARDS", TO INCLUDE A NEW DIVISION 22 ENTITLED "DISTANCE REQUIREMENT FOR CERTAIN RETAIL USES", TO MITIGATE THE PROLIFERATION OF SPECIFIC RETAIL USES, SPECIFICALLY AS IT APPLIES TO THE DOWNTOWN COMMERCIAL CORRIDOR, AND TO ENCOURAGE A MORE DIVERSE AND PRODUCTIVE BUSINESS ENVIRONMENT AS ENVISIONED IN THE CITY OF NORTH MIAMI DOWNTOWN MASTER DEVELOPMENT AND MAJOR CORRIDOR PLAN; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND FOR AN EFFECTIVE DATE.

RECOMMENDATION

That the Mayor and Council approve the proposed ordinance to amend Article 5 of the City's Land Development Regulations (LDRs) to create Division 22, Section 5-2201 to establish a distance requirement for certain retail uses in the C-3 District.

PLANNING COMMISSION RECOMMENDATION

At its meeting on March 4, 2014, the Planning Commission (attended by Commissioners James, Each, Ernst, Castor and Seifried) reviewed and discussed the proposed ordinance to amend Article 5 of the City's Land Development Regulations (LDRs) to create a new Division 22, Section 5-2201 to establish a distance requirement for certain retail uses in the C-3 District. Staff provided a report and shared data from a recent market study finding concerning the demand and supply of certain uses within the downtown. The proposed text amendment to establish a distance separation is intended to limit certain excessive uses within the downtown and promote a business environment that will facilitate a boarder composition of more desirable uses. Based on the information provided, the Planning Commission agreed that the text amendment would be beneficial to the local businesses and support the City's redevelopment efforts that are underway. As such the Planning Commission rendered a unanimous approval of 5-0. The motion to approve was made by Commissioner Castor and seconded by Commissioner Each.

BACKGROUND INFORMATION

On May 28, 2013, the Mayor and City Council approved Resolution R-2013-55, adopting the City's Downtown Master Development and Major Corridor Plan ("Master Plan") to serve as an urban design and architectural guide for future development and redevelopment within the City's Downtown (defined in Article 7 of the City's LDR as all C-3 zoned areas). As part of the process, a retail gap analysis was conducted to determine the demand and supply of certain retail uses within a one (1), three (3) and five (5) mile radii within the downtown core. The results revealed a demand for certain retail uses within the downtown such as clothing, books, and home furnishing stores, to name a few. However the results also revealed the excess supply or proliferation of certain retail uses located within the downtown. Exhibit 1 (attached) includes a detailed Geographic Information System (GIS) map of the downtown and shows the distribution of certain uses such as beauty salons, and tax preparation services within the City's downtown area. The map shows over 34 beauty salons and 15 tax preparation businesses being located within the City's downtown. It should be noted that the proliferation of such uses may stagnate the market and hinder the creation of other viable retail uses that are in higher demand within the City's Downtown.

The Master Plan recommends that the City review its current land use and zoning regulations to identify limitations in order to encourage a more diverse supply of uses that are in demand, and able to attract a more regional customer base to the City's downtown area. The proposed ordinance seeks to regulate the location of hair salons, barber shops, convenience stores, and tax preparation businesses in order to prevent the saturation and proliferation of such uses within the C-3 zoned downtown area, and to create a more balanced use of limited commercial zoning area within the central core of the city. If approved the proposed regulation would establish a distance separation of at least 1500 feet between the aforementioned uses in order to limit the presence of such overabundant uses in the downtown area and to foster an environment where people can live, work, shop and invest.

ANALYSIS

Section 3-1004 of the City's Land Development Regulations requires that all text amendments to the LDR must meet the following minimum criteria:

1. **Promotes the public health, safety and welfare;**

   The proposed text amendment to establish a 1500 feet distance requirement for certain retail uses within the Downtown Area/C-3 Zoning District is in keeping with the spirit and intent of the City's Comprehensive Plan which, further requires that the City introduce employment generating uses along major transportation corridors, ensuring that employment generating uses are compatible with the character of the neighborhood through revisions in development regulations and permit review process proposed use is anticipated to create new employment, and enhance the overall quality of life within the City. If approved the proposed amendment is anticipated to limit the current proliferation of certain uses with the downtown, promote and environment that encourages a variety of other permitted uses and help to improve the City's public image, health, safety and welfare.

2. **Does not permit uses the Comprehensive Land Use Plan prohibits in the area affected by the zoning map change or text amendment**

   The proposed text amendment does not permit uses that are prohibited by the underlying Commercial Land Use designation.

3. **Does not allow densities or intensities in excess of the densities and intensities which are permitted by the future land use categories of the affected property;**

   Policy 1.1. of the City's Comprehensive Plan (Future Land Use Element) establishes maximum densities and intensities in each land use category which restricts proposed developments throughout the City to certain minimum development standards. Also Section 4-303 of the LDR provides maximum density and intensity standards for proposed developments in all non-residential zoning districts. As such, all future uses must comply with the maximum densities and intensities permitted in the City's Comprehensive Plan and Section 4-303 of the LDR.

4. **Will not cause a decline in the level of service for public infrastructure which is the subject of a concurrency requirement to a level of service which is less than the minimum requirements of the Comprehensive Land Use Plan;**

   The proposed ordinance will not cause a decline in the level of service.

5. **Does not directly conflict with any goal, objective or policy of the Comprehensive Land Use Plan; and**

   The proposed text amendment is consistent with the goals, policies and objectives of the City's Comprehensive Plan. Specifically. Goal 9 also requires that the City create an environment that will enhance the economic prosperity of local businesses and attract new business while improving the quality of life for all citizens.

6. **The proposed amendment furthers the orderly development of the City of North Miami.**

   The proposed amendment furthers the orderly development within the City's C-3 zoning district/Downtown Area in that it limits the excess supply of hair salons, barber shops, convenience stores, and tax preparation businesses in the City's downtown that may stifle other viable uses and hinder economic growth. The 1500 ft distance separation allows said uses to be more evenly distributed within the C-3 district and makes way for uses in higher demand, particularly along major corridors where there has been a high number of vacancies in the last few years.

CONCLUSION

Staffs analysis revealed the downtown currently contains an excessive number of hair salons, barber shops, convenience stores, and tax preparation businesses. The proposed ordinance seeks to reduce the adverse effects such proliferation may have on the image and prosperity of the downtown area by preventing or limiting the

concentration of such businesses. As such the proposed ordinance establishes minimum distances between such businesses and encourages hair salons, barber shops and tax preparation businesses to locate in other areas throughout the City.

In an effort to aid in the revitalization of the City's Downtown area, Staff recognizes the importance of maintaining a viable business district with a mixture of anchor tenants that can attract a regional clientele. Given the foregoing, staff believes the proposed amendment will help raise the aesthetics of the downtown area and make the major corridors more attractive to potential investors. As such, staff believes the proposed amendment is in keeping with the goals, policies and objectives of the City's Comprehensive Plan and would promote economic growth within the City. **Therefore, staff requests that the City Council approve the proposed ordinance.**

TWS

Attachments

1. Ordinance
2. Distance Separation Map

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, ENTITLED "LAND DEVELOPMENT REGULATIONS", SPECIFICALLY AT ARTICLE 5, ENTITLED "DEVELOPMENT STANDARDS", TO INCLUDE A NEW DIVISION 22, ENTITLED "DISTANCE REQUIREMENT FOR CERTAIN RETAIL USES", TO MITIGATE THE PROLIFERATION OF SPECIFIC RETAIL USES, SPECIFICALLY AS IT APPLIES TO THE DOWNTOWN COMMERCIAL CORRIDOR, AND TO ENCOURAGE A MORE DIVERSE AND PRODUCTIVE BUSINESS ENVIRONMENT AS ENVISIONED IN THE CITY OF NORTH MIAMI DOWNTOWN MASTER DEVELOPMENT AND MAJOR CORRIDOR PLAN; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, on May 28, 2013, the Mayor and City Council of the City of North Miami ("City") passed Resolution Number R-2013-55, adopting the Downtown Master Development and Major Corridor Plan ("Master Plan") to serve as a design guide for future development and redevelopment; and

WHEREAS, a retail gap analysis conducted as part of the assessment for the Master Plan ("Gap Analysis"), revealed an excess supply of certain retail uses saturating the downtown commercial corridor, and stagnating the creation of other desirable retail uses that are in higher demand; and

WHEREAS, the Master Plan provides that the City should review the current land use and zoning district designation limitations for potential revisions in order to encourage a more diverse supply of uses that are in demand in order to attract new regional businesses and customers to the City's downtown area; and

WHEREAS, Policy 9.4.2 of the City Comprehensive Plan, further requires that the City introduce employment generating uses along major transportation corridors, ensuring that employment generating uses are compatible with the character of the neighboring area through revisions in development regulations and permit review process; and

WHEREAS, a detailed map based on the information provided in the Gap Analysis,

confirms a proliferation of certain uses such as beauty salons, barber shops, convenience stores, and tax preparation services within the City's downtown area; and

WHEREAS, the City is desirous of amending the Land Development Regulations in order to limit the number of such overabundant uses in the downtown area, so as to create a diverse and more productive business environment where people can work, shop and invest.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, THAT:

Section 1. Amendment to Land Development Regulations. The Mayor and City Council of the City of North Miami, Florida, hereby amend Chapter 29 of the City of North Miami Code of Ordinances, entitled "Land Development Regulations", specifically at Article 5 entitled "Development Standards", to include a new Division 22 entitled "Distance Requirement for Certain Retail Uses", to mitigate the proliferation of specific retail uses, specifically as it applies to the downtown commercial corridor, and to encourage a more diverse and productive business environment as envisioned in the City of North Miami Downtown Master Development and Major Corridor Plan, as follows:

CHAPTER 29. LAND DEVELOPMENT REGULATIONS

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ARTICLE 5. DEVELOPMENT STANDARDS

* * * * * * * * *

DIVISION 22. DISTANCE LIMITATION FOR CERTAIN USES

Sec. 5-2201. Purpose, legislative intent.

The purpose of this division is to regulate the location of hair salons, barber shops, convenience stores, and tax preparation businesses so as to prevent the saturation and proliferation of such uses within a specific and limited commercial area, in order to obtain a more balanced use of limited commercial zoning area within the central core of the city. This section is designed to eliminate or lessen such adverse effects by preventing or lessening the concentration of such businesses by maintaining minimum distances between such businesses and between certain other uses, and allowing hair salons, barber shops and tax preparation businesses to be located in appropriate areas only. The sole purpose of the legislative body of the city in enacting this section is the desire to preserve and protect the quality of life, public health, safety, and general welfare of the citizens of the city.

Sec. 5-2202. Definitions.

For the purposes of this division, the following words and terms have the meaning so specified:

Barber shop means any place of business wherein the practice of barbering is carried on, including, but not limited to, shaving, cutting trimming, coloring, shampooing, arranging, dressing, curling, or weaving the hair or beard or applying oils, creams, lotions, or other preparations to the face, scalp, or neck, either by hand or by mechanical device.

Convenience store means a use consisting of the sale of goods, products, materials, or services directly to the consumer from within an enclosed building, including, but not limited to, bill paying services, phone card sales, money transfer services, immigration consulting, notary public, tax preparation services, dollar stores, and laundry or dry cleaning establishments.

Hair salon means any place of business wherein the practice of cosmetology is carried on for the treatment of the head, face, and scalp for aesthetic rather than medical purposes, including, but not limited to, hair shampooing, hair cutting, hair arranging, hair coloring, permanent waving, and hair relaxing. This term also includes performing hair removal, including wax treatments, manicures, pedicures, and skin care services.

Sec. 5-2203. Location and distance restriction within the C-3 zoning district.

A. Hair salons, barber shops, convenience stores, and businesses devoted to tax preparation services shall be allowed within the C-3 commercial zoning district, subject to the distance requirement provided herein.

B. No hair salon, barber shop, convenience store, or tax preparation business shall be located within one thousand five hundred (1,500) feet of an identical or similar use of:

1. Any lawfully pre-existing hair salon, barber shop, convenience store, or tax preparation business that is located within the C-3 commercial zoning district; or

2. Any pre-existing zoning district within the city that is zoned for residential use.

C. The distances provided for in this subsection shall be measured in a straight line, without regard to intervening structures or objects, from the nearest property line of the parcel upon which the hair salon business or tax preparation business is located to the nearest property line of a parcel:

1. Upon which such a lawfully pre-existing hair salon, barber shop, convenience store, or tax preparation business, is located; or

2. Within a district zoned for residential use.

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Section 2. **Conflicts.** All ordinances or parts of ordinances in conflict or inconsistent with the provisions of this Ordinance are hereby repealed.

Section 3. **Severability.** The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. **Codification.** The provisions of this Ordinance may become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article" or any other appropriate word.

Section 5. **Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading.

PASSED AND ADOPTED by a 4-0 vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this 25 day of March, 2014.

PASSED AND ADOPTED by a _____ vote of the Mayor and City Council of the City of North Miami, Florida, on second reading this _____ day of _____, 2014.

_____
LUCIE M. TONDREAU
MAYOR

ATTEST:

_____
MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

_____
REGINE M. MONESTIME
CITY ATTORNEY

SPONSORED BY: MAYOR LUCIE M. TONDREAU

Moved by: _____

Seconded by: _____

Vote:

Mayor Lucie M. Tondreau	_____ (Yes)	_____ (No)
Vice Mayor Philippe Bien-Aime	_____ (Yes)	_____ (No)
Councilperson Scott Galvin	_____ (Yes)	_____ (No)
Councilperson Carol Keys, Esq.	_____ (Yes)	_____ (No)
Councilperson Marie Erlande Steril	_____ (Yes)	_____ (No)

Additions shown by underlining. Deletions shown by ~~overstriking~~.

Beauty Salon within City of North Miami 2013

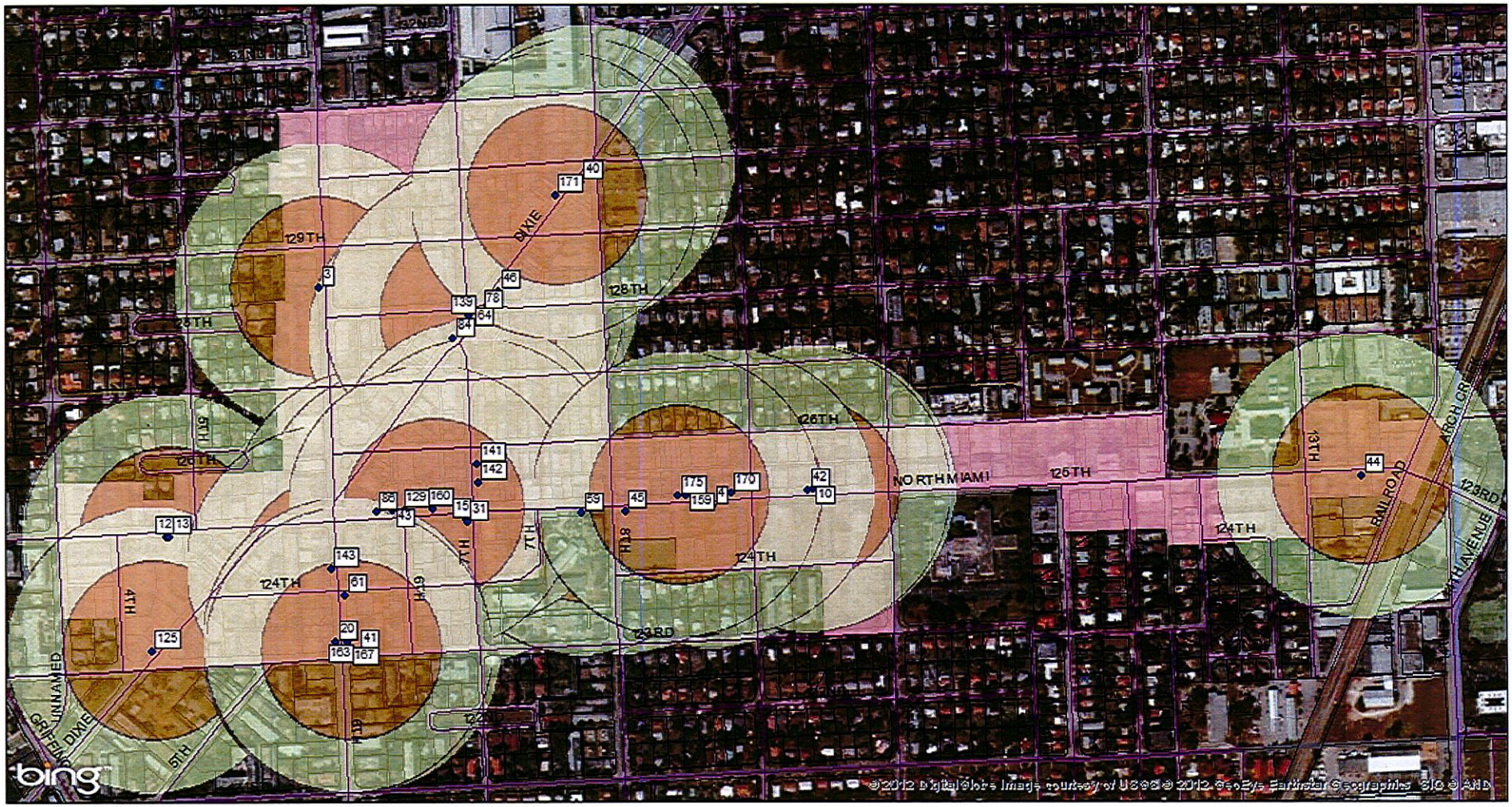
Legend

- *Beauty Salon*
- *Streets*
- *500 Ft Radius = 1000 Ft Diameter*
- *800 Ft Radius = 1600 Ft Diameter*

Zoning Categories

- *C-3*

Map Created By Alexis Pena, City of North Miami



0 0.1 0.2 0.4 0.6 Miles

N W E S

Tax Preparation within City of North Miami 2013

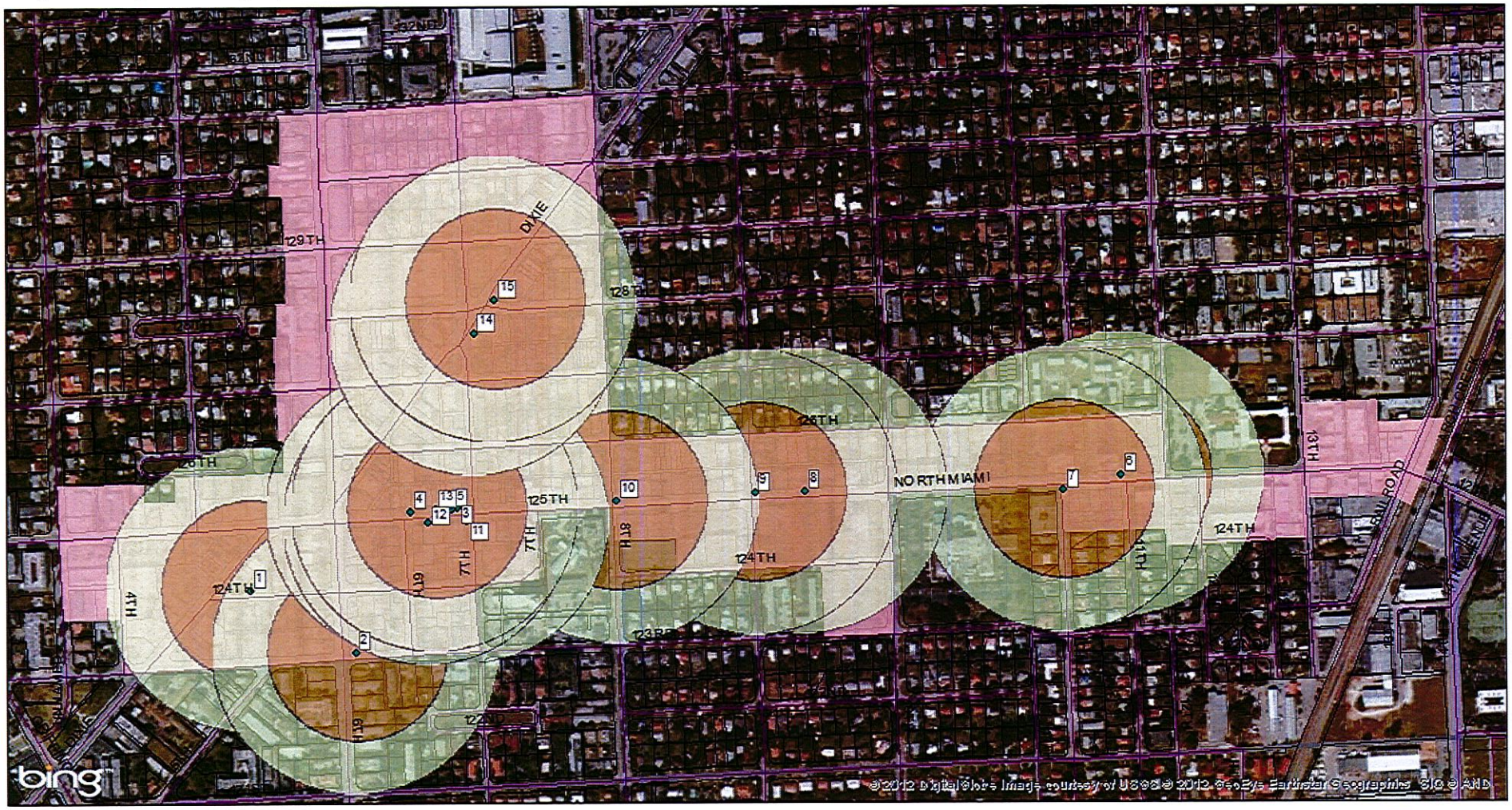
Legend

- *Tax Preparation*
- *Streets*
- *500 Ft Radius = 1000 Ft Diameter*
- *800 Ft Radius = 1600 Ft Diameter*

Zoning Categories

- *C-3*

Map Created By Alexis Pena, City of North Miami



0 0.1 0.2 0.4 0.6 Miles

N W E S