

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: June 23, 2020

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB20-0375. Modifications to FAR Exceptions.**

PB20-0375. Modifications to FAR Exceptions. An Ordinance of the Mayor and City Commission of the City of Miami Beach, Florida, amending the Code of the City of Miami Beach, at Subpart B, entitled "Land Development Regulations," by amending Chapter 114, entitled "General Provisions," at Section 114-1, entitled "Definitions," to amend the definition of Floor Area by amending the list of areas excluded from the definition of Floor Area; and providing for codification, repealer, severability, and an effective date.

RECOMMENDATION

Transmit the proposed ordinance amendment to the City Commission with a favorable recommendation.

HISTORY

On January 15, 2020, at the request of Mayor Dan Gelber, the City Commission referred a discussion item to the Land Use and Sustainability Committee (LUSC) regarding strategic increases in FAR citywide. The item was discussed briefly at the January 21, 2020 LUSC meeting and continued to the February 18, 2020 meeting.

On February 18, 2020, the LUSC discussed the options provided and recommended continuance of the discussion in order to further develop the following FAR options:

1. Resiliency bonuses
2. Workforce/Affordable housing
3. FAR bonus pool (monetary contribution for added FAR)

At the May 6, 2020 Land Use and Sustainability Committee meeting, the administration presented a draft Public Benefits Ordinance, which included resiliency bonuses, workforce/affordable housing bonuses, and a FAR bonus pool (monetary contribution). Additionally, the administration presented the subject ordinance for new exclusions from the calculation of floor area to address evolving City Code, Florida Building Code, and Life Safety Code requirements.

The LUSC discussed the proposal on May 6, 2020, via the zoom platform, and recommended the following:

1. The City Commission refer the subject ordinance to the Planning Board.
2. The City Commission discuss a more comprehensive strategy for FAR increases city wide.

On May 13, 2020, at the request of Mayor Dan Gelber, the City Commission referred the subject ordinance to the Planning Board (Items R9O and R9D). The City Commission also referred a discussion regarding comprehensive changes to FAR to the Planning Board as a discussion item and for an advisory recommendation. Staff anticipates bringing this discussion to the Planning Board in either July or August, depending upon the length of the upcoming Board agendas.

REVIEW CRITERIA

Pursuant to Section 118-163 of the City Code, in reviewing a request for an amendment to these land development regulations, the board shall consider the following when applicable:

1. **Whether the proposed change is consistent and compatible with the comprehensive plan and any applicable neighborhood or redevelopment plans.**

Consistent – The proposed ordinance is consistent with the goals, objectives, and policies of the Comprehensive Plan.

2. **Whether the proposed change would create an isolated district unrelated to adjacent or nearby districts.**

Not applicable – The proposed amendment does not modify district boundaries.

3. **Whether the change suggested is out of scale with the needs of the neighborhood or the city.**

Consistent - The proposed ordinance amendment is not out of scale with the needs of the city.

4. **Whether the proposed change would tax the existing load on public facilities and infrastructure.**

Consistent – The proposed ordinance should not affect the load on public facilities and infrastructure.

5. **Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.**

Not applicable. – The proposed amendment does not modify district boundaries.

6. **Whether changed or changing conditions make the passage of the proposed change necessary.**

Consistent – Changes over time due to life-safety requirements and the benefits and requirements of providing alternative modes of transportation make the passage of the proposed changes necessary.

7. **Whether the proposed change will adversely influence living conditions in the neighborhood.**

Consistent – The proposed ordinance amendment will not adversely affect living conditions in the city.

8. **Whether the proposed change will create or excessively increase traffic congestion beyond the levels of service as set forth in the comprehensive plan or otherwise affect public safety.**

Consistent – The proposed change should not excessively increase traffic congestion from what is currently permitted, as density limitations remain unchanged.

9. **Whether the proposed change will seriously reduce light and air to adjacent areas.**

Consistent – The proposed change will not seriously reduce light and air to adjacent areas.

10. **Whether the proposed change will adversely affect property values in the adjacent area.**

Consistent – The proposed change should not adversely affect property values in the adjacent areas.

11. **Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.**

Consistent – The proposed change should not be a deterrent to the improvement or development of properties in the City.

12. **Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.**

Not applicable.

13. **Whether it is impossible to find other adequate sites in the city for the proposed use in a district already permitting such use.**

Not applicable.

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 133-50(b) of the Land Development Regulations establishes the following review criteria when considering ordinances, adopting resolutions, or making recommendations:

- (1) **Whether the proposal affects an area that is vulnerable to the impacts of sea level rise, pursuant to adopted projections.**

Consistent – The proposal does affect areas that are vulnerable to the impacts of sea level rise in the long term.

- (2) **Whether the proposal will increase the resiliency of the City with respect to sea level rise.**

Consistent – The proposal will not affect the resiliency of the City with respect to sea level rise.

(3) Whether the proposal is compatible with the City's sea level rise mitigation and resiliency efforts.

Consistent – The proposal does not diminish and is compatible with the City's sea level rise mitigation and resiliency efforts.

BACKGROUND

The maximum square footage (intensity) of a building is regulated by the Floor Area Ratio (FAR), which applies to all zoning districts except for single-family districts. FAR is a defined term in Section 114-1 of the Land Development Regulations (LDRs) and is essentially a multiplier used to regulate the maximum size of a building based on the lot size. For example, a 10,000 square foot lot with an FAR of 2.0 would be allowed to build up to a 20,000 square foot building.

Floor area is also a defined term in Section 114-1 of the LDRs and provides the specific requirements for the calculation of floor area. Under section 114-1, floor area consists of the gross horizontal areas of the floors of a building, unless such areas are specifically exempted. The only exceptions to the definition of floor area are expressly listed in Section 114-1.

The purpose of the regulation of floor area, including FAR, both in the City of Miami Beach and in other municipalities, is to provide a quantifiable mechanism to control both the size and intensity, as well as the overall exterior mass, of a building. That is why floor area is measured to the exterior face of exterior walls or from the exterior face of an architectural projection. Under the Miami Beach City Code, it is from this total floor area volume that certain areas are excluded.

The current requirements for FAR and floor area have been in place since 1989 (Ordinance 89-2665), and the only amendments subsequent to 1989 have been to the exceptions from floor area.

ANALYSIS

Any increase in FAR, either through a bonus/incentive provision, percent increase, or additional exclusions, must be effectuated in a deliberate and thoughtful manner, and needs to be supported by a thorough planning analysis. This will promote thoughtful development incentives, prevent unintended consequences related to FAR increases, as well as ensure the continuation of a predictable method of plan review.

The following is a summary of the draft ordinance for new exclusions from the calculation of floor area to address evolving City Code, Florida Building Code, and Life Safety Code requirements:

1. **Bicycle Parking.** Currently required automotive parking is exempt from inclusion as floor area, and up to two vehicular parking spaces may be provided per apartment unit, without counting as floor area. Further, in most districts where the City has reduced the vehicular parking requirements, parking may still be provided in most cases in accordance with Parking District No. 1, which generally has the highest parking requirements. A typical parking space, including half of the abutting drive occupies an area of approximately 250 square feet, whereas the same area could easily accommodate more than 10 bicycles.
2. **Stairwells and elevators above main roof decks.** The area of two typical stairwells and a typical elevator at one level is approximately 500 square feet. While such area is minimal, its exception from inclusion as floor area would be especially beneficial to existing

buildings that are currently over their maximum FAR. While many older buildings may have one stair to the roof, in order to add a rooftop deck or pool, building code and life-safety requirements must be satisfied, which usually requires two stairs as well as an accessible means of vertical access (an elevator). Such an exception would allow these non-conforming buildings to add desirable roof-top amenities.

3. **FPL Transformer vaults.** These vault rooms, when required, have become increasingly larger, and often include additional infrastructure required by FPL to also help serve neighboring properties. Their location within an enclosed building is preferable to any exterior pad-mounted option. The typical area occupied by such use is generally around 300-500 square feet depending on the size of the project. Such exemption again would be especially helpful for existing buildings undergoing renovations, which may need to remove a hotel room or other space to accommodate for the required area for the FPL vault.
4. **Fire control rooms and related public safety spaces, not accessible to the general public.** Such control rooms are important life-safety requirements for larger projects and were not standard requirements decades ago. The typical area occupied by these rooms is 300-500 square feet.

CITY CHARTER

In order to amend the Land Development Regulations of the City Code to allow an increase in zoned floor area, pursuant to City Charter Section 1.03(c), approval of the City's voters will be required. The following is the language in Section 1.03(c):

The floor area ratio of any property or street end within the City of Miami Beach shall not be increased by zoning, transfer, or any other means from its current zoned floor area ratio, unless any such increase in zoned floor area ratio for any such property shall first be approved by a vote of the electors of the City of Miami Beach.

An increase in zoned FAR includes, but is not limited to, modifications of the definition of floor area, amendments to the exclusions of floor area and a direct increase in the FAR number. The proposed ordinance requires a ballot question as it would result in an increase in zoned FAR "by zoning, transfer, or any other means" pursuant to City Charter Section 1.03(c).

July 31, 2020 is the deadline for adopting a resolution to place a ballot question(s) on the City's November 3, 2020 ballot.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the Planning Board transmit the proposed ordinance amendment to the City Commission with a favorable recommendation.

Modifications to FAR exemptions

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, AT SUBPART B, ENTITLED "LAND DEVELOPMENT REGULATIONS," BY AMENDING CHAPTER 114, ENTITLED "GENERAL PROVISIONS," AT SECTION 114-1, ENTITLED "DEFINITIONS," TO AMEND THE DEFINITION OF FLOOR AREA BY AMENDING THE LIST OF AREAS EXCLUDED FROM THE DEFINITION OF FLOOR AREA; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, on January 15, 2020 the City Commission referred a discussion items to the Land Use and Sustainability Committee (LUSC) regarding strategic increases in FAR citywide; and

WHEREAS, on May 6, 2020 the LUSC discussed options for strategic increases in FAR and recommended that the City Commission refer an Ordinance to the Planning Board; and

WHEREAS, City Code Section 114-1 sets forth explicit definitions of the technical terms "floor area" and "floor area ratio," and provides specific requirements for the measurement and calculation of floor area; and

WHEREAS, Section 114-1 enumerates ten elements of a building that are excluded from the definition of "floor area"; and

WHEREAS, currently required automotive parking is exempt from inclusion as floor area, and up to two vehicular parking spaces may be provided per apartment unit, without counting as floor area; and

WHEREAS, in most districts where the City has reduced the vehicular parking requirements, parking may still be provided in most cases in accordance with Parking District No. 1, which generally has the highest parking requirements; and

WHEREAS, a typical parking space, including half of the abutting drive occupies an area of approximately 250 square feet, whereas the same area could easily accommodate more than 10 bicycles; and

WHEREAS, the area of two typical stairwells and a typical elevator at one level is approximately 500 square feet, and its exception from inclusion as floor area would be especially beneficial to existing buildings that are currently over their maximum FAR; and

WHEREAS, while many older buildings may have one stair to the roof, in order to add a rooftop deck or pool, building code and life-safety requirements must be satisfied, which usually requires two stairs as well as an accessible means of vertical access (an elevator); and

WHEREAS, such an exception would allow these non-conforming buildings to add desirable roof-top amenities; and

WHEREAS, required FPL Transformer vaults have become increasingly larger, and often include additional infrastructure required by FPL to also help serve neighboring properties; and

WHEREAS, their location within an enclosed building is preferable to any exterior pad-mounted option; and

WHEREAS, an FPL transformer vault exemption would be especially helpful for existing buildings undergoing renovations, which may need to remove a hotel room or other space to accommodate for the required area for the FPL vault; and

WHEREAS, fire control rooms and related public safety spaces, not accessible to the general public are important life-safety requirements for larger projects and were not standard requirements decades ago; and

WHEREAS, changes over time due to increased life-safety requirements and the benefits and requirements of providing alternative modes of transportation, including bicycle parking, make the passage of the proposed changes necessary.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

SECTION 1. Chapter of 114 the City Code, entitled "General Provisions," is hereby amended as follows:

Chapter 114 – GENERAL PROVISIONS

Sec. 114-1. - Definitions.

The following words, terms and phrases when used in this subpart B, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

* * *

Floor area means the sum of the gross horizontal areas of the floors of a building or buildings, measured from the exterior faces of exterior walls or from the exterior face of an architectural projection, from the centerline of walls separating two attached buildings. However, the floor area of a building shall not include the following unless otherwise provided for in these land development regulations.

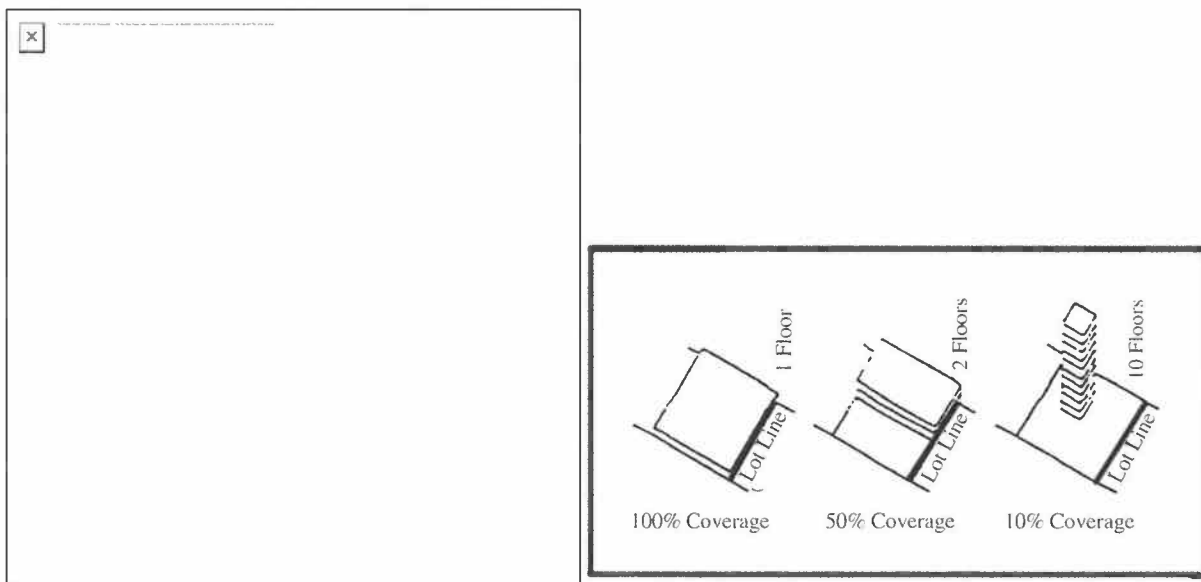
- (1) Accessory water tanks or cooling towers.
- (2) Uncovered steps.
- (3) Attic space, whether or not a floor actually has been laid, providing structural headroom of less than seven feet six inches.
- (4) Terraces, breezeways, or open porches.
- (5) Floor space used for required accessory off-street parking spaces. However, up to a maximum of two spaces per residential unit may be provided without being included in the calculation of the floor area ratio.
- (6) Commercial parking garages and noncommercial parking garages when such structures are the main use on a site.
- (7) Mechanical equipment rooms located above main roof deck.

- (8) Exterior unenclosed private balconies.
- (9) Floor area located below grade when the top of the slab of the ceiling is located at or below grade. However, if any portion of the top of the slab of the ceiling is above grade, the floor area that is below grade shall be included in the floor area ratio calculation. Despite the foregoing, for existing contributing structures that are located within a local historic district, national register historic district, or local historic site, when the top of the slab of an existing ceiling of a partial basement is located above grade, one-half of the floor area of the corresponding floor that is located below grade shall be included in the floor area ratio calculation.
- (10) Enclosed garbage rooms, enclosed within the building on the ground floor level.
- (11) Stairwells and elevators located above the main roof deck.
- (12) Transformer vault rooms.
- (13) Fire control rooms and related command centers for life-safety purposes.
- (14) Bicycle parking (secured).

Volumetric buildings, used for storage, where there are no interior floors, the floor area shall be calculated as if there was a floor for every eight feet of height.

When transfer of development rights are involved, see chapter 118, article V for additional regulations that address floor area.

Floor area ratio means the floor area of the building or buildings on any lot divided by the area of the lot.



Each example illustrated above has a floor area ratio of 1.0.

* * *

SECTION 2. CODIFICATION.

It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 3. REPEALER.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith be and the same are hereby repealed.

SECTION 5. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and **ADOPTED** this ____ day of _____, 20____.

Dan Gelber
Mayor

ATTEST:

Rafael E. Granado
City Clerk

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

City Attorney

Date

First Reading: July 29, 2020
Second Reading: November ____, 2020

Verified by: _____
Thomas Mooney, AICP
Planning Director

Underscore denotes new language