MIAMI BEACH
PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: March 23, 2021

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: **PB21-0425. AFFORDABLE HOUSING LAND USE FEE WAIVERS.**

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 118, "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE I, "IN GENERAL," AT SECTION 118-7, "FEES FOR THE ADMINISTRATION OF LAND DEVELOPMENT REGULATIONS," TO WAIVE LAND DEVELOPMENT APPLICATION FEES FOR TO WAIVE CONCURRENCY AND MOBILITY FEES FOR NON-ELDERLY AND ELDERLY LOW AND MODERATE INCOME HOUSING; AND CHAPTER 122, "CONCURRENCY MANAGEMENT AND MOBILITY FEES," ARTICLE I, "PURPOSE AND GENERAL PROVISIONS," AT SECTION 122-5, "EXEMPTIONS FROM CONCURRENCY MITIGATION AND MOBILITY FEES," AND ARTICLE III, "MOBILITY FEES," AT SECTION 122-24, "CALCULATION OF MOBILITY FEE," TO WAIVE CONCURRENCY AND MOBILITY FEES FOR NON-ELDERLY AND ELDERLY LOW AND MODERATE INCOME HOUSING; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

RECOMMENDATION

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

BACKGROUND

On October 20, 2020 the Affordable Housing Committee adopted a motion supporting incentives for affordable housing. On November 18, 2020, at the request of Commissioner Michael Gongora, the City Commission referred an item to the Land Use and Sustainability Committee (C4E) regarding affordable housing incentives. On November 24, 2020 the LUSC discussed the item and continued it to the January 20, 2021 meeting, with direction to the Administration to prepare applicable ordinances and policy changes.

On January 20, 2021 the LUSC recommended that the attached draft Ordinance be referred to the Planning Board. On February 10, 2021, at the request of Commissioner Michael Gongora, the City Commission referred the item to the Planning Board (Item C4 A).

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.**

Consistent – The proposed amendment does not create an isolated district unrelated to adjacent or nearby districts.

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

Consistent - The proposed ordinance amendment does not modify the scale of development.

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

Consistent – The proposed ordinance will not affect the load on public facilities and infrastructure as the maximum FAR is not modified.

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 – Increased housing cost and the need to develop affordable housing makes passage of the proposed change necessary.

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

Consistent – The proposed ordinance amendment would not adversely affect living conditions in the neighborhood.

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 will not create or increase traffic congestion from what is currently permitted, as the FAR is not being modified.

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

Consistent – The proposed change would not 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.**

Partially 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 could improve the resiliency of the City with respect to sea level rise by allowing for new development of a new structures that are more resilient to the impacts of sea level rise.

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

Consistent – The proposal is compatible with the City's sea level rise mitigation and resiliency efforts.

ANALYSIS

The October 20, 2020 motion of the Affordable Housing Committee supported the following incentives for affordable housing:

1. Expedite the building permit process.
2. Waive city land use board fees.
3. Waive city mobility fees.

Regarding incentive number 1, a separate Resolution, setting forth a policy to prioritize and expedite the review of affordable housing permits, was approved by the City Commission on February 10, 2021. For incentives 2 and 3, an Ordinance amending the applicable sections of the Land Development Regulations (LDRs) was drafted.

The proposed Ordinance would modify section 118-7 of the LDR's to waive the application fee, per square foot fee, and per variance fee for the Design Review Board, Historic Preservation Board, and the Board of Adjustment for elderly and non-elderly low and moderate income housing (affordable housing) applications. An applicant would still be responsible for fees associated with public mail notice, public posting, advertisement, and couriers.

The modifications to Chapter 122 would waive applicable concurrency and mobility fees for affordable housing projects. Under the proposed modification, such projects would not be required to undergo a parks concurrency review and would be exempt from paying mobility fees.

These proposals are consistent with the Goals, Objectives, and Policies of the 2040 Miami Beach Comprehensive Plan that call for encouraging the development of affordable housing, including the following:

> *Guiding Principle 6: Prioritize Workforce Housing – The City shall encourage redevelopment that provides workforce and affordable housing.*
>
> *Goal HE 1: Equitable Community – Support vulnerable populations with attainable housing options that are proximate to transportation services and basic needs to improve economic mobility within the community.*
>
> *Objective HE 1.1: Creation and/or preservation of workforce and affordable housing – Have available a minimum of 6,800 housing units of workforce, affordable low and moderate income households and special needs populations during the period through 2030.*
>
> *Policy HE 1.1.3: Cooperate with affordable and workforce housing developers' efforts to leverage Miami-Dade Surtax funds and other financial incentives for the provision of housing affordable to workforce, very low to moderate-income households, including those with special needs, in Miami Beach.*

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.

AFFORDABLE HOUSING LAND USE FEE WAIVERS

ORDINANCE NO._____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 118, "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE I, "IN GENERAL," AT SECTION 118-7, "FEES FOR THE ADMINISTRATION OF LAND DEVELOPMENT REGULATIONS," TO WAIVE LAND DEVELOPMENT APPLICATION FEES FOR TO WAIVE CONCURRENCY AND MOBILITY FEES FOR NON-ELDERLY AND ELDERLY LOW AND MODERATE INCOME HOUSING; AND CHAPTER 122, "CONCURRENCY MANAGEMENT AND MOBILITY FEES," ARTICLE I, "PURPOSE AND GENERAL PROVISIONS," AT SECTION 122-5, "EXEMPTIONS FROM CONCURRENCY MITIGATION AND MOBILITY FEES," AND ARTICLE III, "MOBILITY FEES," AT SECTION 122-24, "CALCULATION OF MOBILITY FEE," TO WAIVE CONCURRENCY AND MOBILITY FEES FOR NON-ELDERLY AND ELDERLY LOW AND MODERATE INCOME HOUSING; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, The Miami Beach 2040 Comprehensive Plan, *Guiding Principle 6: Prioritize Workforce Housing* states that "*The City shall encourage redevelopment that provides workforce and affordable housing*"; and

WHEREAS, The Miami Beach 2040 Comprehensive Plan *Goal HE 1: Equitable Community* states that the City will *"Support vulnerable populations with attainable housing options that are proximate to transportation services and basic needs to improve economic mobility within the community"*; and

WHEREAS, The Miami Beach 2040 Comprehensive Plan *Objective HE 1.1: Creation and/or preservation of workforce and affordable housing* states that the City will *"Have available a minimum of 6,800 housing units of workforce, affordable low and moderate income households and special needs populations during the period through 2030"*; and

WHEREAS, The Miami Beach 2040 Comprehensive Plan *Policy HE 1.1.3* requires hat the City *"Cooperate with affordable and workforce housing developers' efforts to leverage Miami-Dade Surtax funds and other financial incentives for the provision of housing affordable to workforce, very low to moderate-income households, including those with special needs, in Miami Beach"*; and

WHEREAS, The City recognizes that incentives are necessary in order to foster the development of affordable housing; and

WHEREAS, the City of Miami Beach has the authority to enact laws which promote the public health, safety, general welfare, and morals of its citizens; and

WHEREAS, the amendments set forth below are necessary to accomplish all of the above objectives.

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

SECTION 1. Chapter 118, "Administration and Review Procedures," Article I, "In General," is hereby amended as follows:

Sec. 118-7. - Fees for the administration of land development regulations.

* * *

(e) *Design review.* Any applicant requesting a public hearing on any application for design review board approval, pursuant to sections 118-253 and 118-254, shall pay, upon submission, all applicable fees in subsection (1) through (12~~4~~) below:

* * *

(12) Application for public hearing and Application for design review approval fee per square foot of floor area shall be waived for non-elderly and elderly low and moderate income housing.

* * *

(g) *Variances.* Any applicant requesting a public hearing on any application pursuant to section 118 353 shall pay, upon submission, the applicable fees in subsection (1) through (12~~4~~) below:

* * *

(12) Application for public hearing and fee per variance requested shall be waived for non-elderly and elderly low and moderate income housing.

(h) *Certificate of appropriateness.* Any applicant requesting a public hearing on any application pursuant to sections 118-562 through 118-564, shall pay, upon submission, the applicable fees in subsection (1) through (13~~2~~), below:

* * *

(13) Application for public hearing and application for certificate of appropriateness fee per square foot of floor area shall be waived for non-elderly and elderly low and moderate income housing.

SECTION 2. Chapter 122, "Concurrency Management and Mobility Fees," Article I, "Purpose and General Provisions," is hereby amended as follows:

Sec. 122-5. - Exemptions from concurrency mitigation and mobility fees.

The following types of development are not required to undergo concurrency review or pay a mobility fee pursuant to this chapter:

* * *

(e) Non-elderly and elderly low and moderate income housing.

SECTION 3. Chapter 122, "Concurrency Management and Mobility Fees," Article III, "Mobility Fees," is hereby amended as follows:

Sec. 122-24. - Calculation of mobility fee.

(c) The adopted mobility fee for each land use category are set forth in "Schedule A," below:

Schedule A - Mobility Fee

Mobility Fee Schedule Category/Land Use Type	Unit of Measure	Mobility Fee
Residential		
* * *		
Affordable housing	Per unit	~~$3790~~.00

SECTION 4. REPEALER.

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

SECTION 5. 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 re-numbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 6. SEVERABILITY.

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

SECTION 7. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and **ADOPTED** this ___ day of _____, 2021.

_____
Dan Gelber, Mayor

ATTEST:

APPROVED AS TO FORM AND
LANGUAGE AND FOR EXECUTION

_____
Rafael E. Granado, City Clerk

_____ _____
City Attorney Date

First Reading: March __, 2021
Second Reading: April __, 2021

Verified By: _____

Thomas R. Mooney, AICP
Planning Director

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