

Exhibit U

February 8, 2022

VIA ELECTRONIC DELIVERY

Thomas Mooney, Planning Director
City of Miami Beach Planning Department
1700 Convention Center Drive, 2nd Floor
Miami Beach, Florida 33139

Re: Letter in Connection the Formal Request for Decisions or Determinations from the Planning Director in regards with Ritz-Sagamore Project | Properties located at 1669 Collins Avenue aka 1 Lincoln Road (the “Ritz Property”) and 1671 Collins Avenue the (“Sagamore Property”), Miami Beach, Florida (collectively, the “Overall Property”)

Dear Mr. Mooney:

Our firm represents Di Lido Beach Hotel Corp, EBJ Sagamore LLC, Lionstone Di Lido Retail Lessor LLC, Di Lido Beach Resort LLC, and Sobe Sky Development LLC, as the owners of the Overall Property (collectively, the “**Applicant**”) for the redevelopment before the Historic Preservation Board (the “**Application**” or “**Project**”). On behalf of the Applicant, we are writing to Formally Request Decisions or Determinations from the Planning Director on the following assertions as they relate to the Project¹:

1. The Ritz Property and Sagamore Property may be combined as one unified development site (Overall Property), in accordance with the regulations within City Code;
2. The Overall Property, as a unified development site, exceeds 115,000 s.f. lot size, making the site eligible for a 200 feet Ground Floor Addition under Ordinance 2019-4285 (codified at Section 142-246 (f) of the City Code);
3. The Ritz Property and Sagamore Property located within the same zoning district (“RM-3”) as a unified development site may use total available FAR within the unified development site even in the case there are separate FAR

¹ These questions are being asserted in light of the Request for Decisions or Determinations of Planning Director Letter authored by Paul Savage and dated November 22, 2021 (the “Determinations Request Letter”), that has since been withdrawn. A copy this letter is attached as **Exhibit “A”** for your convenience.

allocations for each independent site, except the 20,000 square feet FAR for hotel amenities bonus under Section 142-246 of the Code shall only apply to hotel amenities.

I. The Application includes the Aggregation of Ritz Property and Sagamore Property as a Unified Development Site

The Project includes the proposed aggregation of the Ritz Property and Sagamore Property, as a unified development site, for the development of the proposed residential tower at the Overall Property.

Section 1.03(c) of the City Charter explicitly prohibits the FAR increase of any property by zoning, transfer, or any other means from its current zoned FAR, without being approved by a public referendum. The City Charter does include an exception for the “aggregation of development rights on unified abutting parcels, **as may be permitted by ordinance.**” As provided on Page 1 of the FAR Ordinance Staff Report (defined herein)², the ordinance referenced as an exception is actually Section 118-5 of the City Code – **not** Section 114-4(7) as the Determinations Request Letter incorrectly presumes.

Section 118-5 expressly allows for the aggregation of multiple lots as a “unified development site”, defined as the following:

“a site where a development is proposed and consists of multiple lots, all lots touching and not separated by a lot under different ownership, or a public right-of-way. A “unified development site” does not include any lots separated by a public right-of-way or any non-adjacent, non-contiguous parcels.”

Section 118-5 goes on to require a Unity of Title or a Covenant in Lieu of Unity of Title in order to combine the lots or buildings as unified development site for zoning purposes. In this case, the Application includes the proposed aggregation of the Ritz Property and Sagamore Property as a unified development site that consists of abutting lots, or in other words, **“multiple lots, all lots touching and not separated by a lot under different ownership, or a public right-of-way.”** The abutting nature of the Overall Property is further confirmed by the survey prepared by E.R. Brownell & Associates, Inc. and dated September 9, 2021, as provided in the Application documents. Additionally, the execution and recordation of a Unity of Title or Covenant in Lieu of Title is included as a condition to the Project, as provided in the Staff Report for the Application.

It is clear that the Ritz Property and Sagamore Property may be combined as a unified development for the aggregation of development rights at the Overall Property. The unification of the Overall Property does not just apply to the physical boundaries of the combined lots, but also “aggregates the development rights” permitted under the existing zoning district applicable to the unified development (i.e. FAR and height). As such, the Overall Property shall not be treated as two separate properties but rather one unified development site for zoning purposes.

² Please refer to Page 1 of the staff report, dated May 11, 2016, attached with Ordinance 2016-4011 (“**FAR Ordinance Staff Report**”), enclosed as **Exhibit “B”**.

II. 200-Foot Residential Tower Height Applicable to the Overall Property as Unified Development Site

On July 31, 2019, the City Commission adopted Ordinance 2019-4285, as codified in Section 142-246 of the City Code, generally allowing ground floor additions up to 200 feet in height on oceanfront lots located in the architectural district with greater than 115,000 square feet (the “**Height Ordinance**”). The Height Ordinance was reviewed by the City Planning Department and staff who prepared a detailed report, dated July 31, 2019, regarding the then-proposed text amendment with a detailed history of the evolution of height in the RM-3 and Architectural District as well as the impact of the then-proposed text amendment (the “**Height Ordinance Staff Report**”), specifically the areas between 16th Street and 21st Street, which includes the Overall Property.

Based on the clear text of the Height Ordinance taken together with the legislative intent and analysis provided in the Height Ordinance Staff Report, it is clear that the City Commission intended that the Height Ordinance apply to oceanfront properties with a total lot area greater than 115,000 sq. ft., including properties in the future that consisted of aggregated oceanfront lots in order to meet the lot size threshold requirement. Specifically, the Height Ordinance was submitted for review and approved with the future aggregation of the Raleigh, Richmond and South Seas Hotels in mind, as evidenced on Page 2 of the Height Ordinance Staff Report, as provided below.

The proposal to increase the overall height of additions within the above noted boundaries of the Architectural District would only apply to development sites that are at least 115,000 square feet. Based upon current available FAR and site ownership, as of now, this threshold would apply to two development sites:

1. The proposer's site, which contains the Raleigh, Richmond and South Seas Hotels.

But for the unification of the Raleigh, Richmond and South Seas properties as one unified development site, the Height Ordinance and permissible 200 ft. height addition would not be applicable since the lot size for each individual hotel property was well under the 115,000 square foot requirement.

Furthermore, the Height Ordinance Staff Report anticipated and analyzed the future aggregation of other oceanfront properties located within the RM-3 zoning district to meet the lot size threshold requirement. As such, Page 2 of the Height Ordinance Staff Report provides that in addition to the Raleigh unified property, “[o]ther properties within the RM-3 zoning district from 16th to 21st Streets could, potentially, be aggregated in the future and meet this 115,000 square foot threshold; **this would allow such sites to be eligible for up to 200 feet of height.**” (emphasis added).

Similar to the unified development of the Raleigh, Richmond and South Seas properties, the Ritz Property and Sagamore Property would be unified as one development site via a Unity of Title or Covenant in Lieu of Unity of Title for zoning purposes in compliance with Section 118-5 of the City Code. Therefore, the Height Ordinance and the 200-foot permissible height for new

additions is applicable to the Ritz Property and Sagamore Property as a unified development site and does not require any height transfer.

III. Applicable Floor Area Ratio for the Overall Property as a Unified Development Site

To this point, the City has confirmed the applicable FAR calculations to the Overall Property, as a unified development site. Based on electronic correspondence from Thomas Mooney dated April 29, 2020 (attached as **Exhibit “C”**), there are two (2) applicable FAR designations for the Ritz Property and Sagamore Property, as a combined site, under Section 142-246(a) of the City Code which reads as follows:

Sec. 142-246. - Development regulations and area requirements.

- (a) The development regulations in the RM-3 residential multifamily, high intensity district are as follows:
 - (1) Max. FAR: Lot area equal to or less than 45,000 sq. ft.—2.25; lot area greater than 45,000 sq. ft.—2.75; oceanfront lots with lot area greater than 45,000 sq. ft.—3.0.
 - (2) **Notwithstanding the above, oceanfront lots in architectural district shall have a maximum FAR of 2.0.**
 - (3) **Notwithstanding the above, lots which, as of the effective date of this ordinance (November 14, 1998), are oceanfront lots with a lot area greater than 100,000 sq. ft. with an existing building, shall have a maximum FAR of 3.0; however, additional FAR shall be available for the sole purpose of providing hotel amenities as follows: the lesser of 0.15 FAR or 20,000 sq. ft. (emphasis added)**

As Mr. Mooney’s email correspondence confirms, the Overall Property may be combined (as a unified development site) with the allocated FAR of 2.0 at the Sagamore Property and 3.0 at the Ritz Property (in addition to 0.15 FAR or 20,000 square feet for hotel amenities) in compliance with Section 142-246(a) of the City Code. As reflected on Sheet A0.03 of the architectural plans provided in the Application, the FAR summary accurately reflects the aggregated 2.0 FAR and 3.0 FAR (in addition to the 20,000 sq. ft. provided for the hotel amenities) allocations at the Overall Property.

EXISTING FAR TO REMAIN RITZ AND SAGAMORE BLDG				
RITZ HOTEL		Sagamore		
	FAR AREA			FAR AREA
Basement	8,785 **			0 **
Ground	66,541			10,620
2nd Floor	65,856			11,726
3rd Floor	60,169			11,726
4th Floor	44,244			11,726
5th Floor	26,639			11,275
6th Floor	24,397			4,218
7th Floor	24,393			
8th Floor	24,397			
9th Floor	24,327			
10th Floor	24,387			
11th Floor	24,383			
Totals	418,518		Total FAR to remain	479,809
RITZ	LOT AREA	FAR RATIO	MAX FAR	FAR AVAILABLE
PER SURVEY	163,813	3	511,439	92,922 *
SAGAMORE	LOT AREA	FAR RATIO	MAX FAR	FAR AVAILABLE
Lot AREA	44,848	2	89,696	28,405
FAR SUMMARY				
Ritz FAR		Sagamore FAR	Total FAR Available	
92,922 *		28,405	121,327	

* Includes 20,000 SF per Sec.142-246 (a)(3)

** 1/2 of the basement included in the calculation

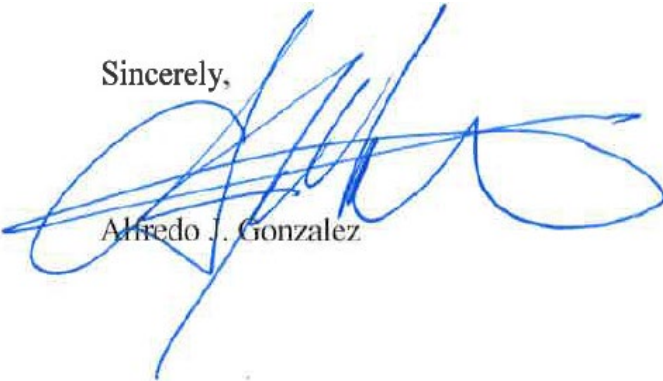
In order to determine the total FAR for any property, one must multiply the applicable FAR coefficient with the total lot area of said property (Lot Area x FAR Coefficient). In this instance, Mr. Mooney's email correspondence confirmed that, notwithstanding the aggregation of the Overall Property, an FAR of 2.0 would be applied to the Sagamore Property and 3.0 would be applied to the Ritz Property, in compliance with Section 142-246(a) of the City Code. For your convenience, the FAR calculations for the Overall Property is as follows:

- Sagamore Property (Lot Area x FAR) = 44,848 x 2.0 = **89,696 square feet**
- Ritz Hotel (Lot Area x FAR) = 163,813 x 3.0 (+ 20,000 square feet for hotel amenities) = **511,439 square feet**

As a unified development site, the FAR calculations for the Ritz Property and Sagamore Property taken together equal a total of **601,135** square feet of allowable FAR at the Overall Property. As provided on the FAR summary, when taking into consideration the existing FAR at the Overall Property, the total available FAR amounts to 121,327 square feet.

We thank you in advance for your review and issuance of this Formal Request for Decisions or Determinations from the Planning Director in regards with Ritz-Sagamore Project. Please do not hesitate to contact me if you have any questions or concerns.

Sincerely,

A handwritten signature in blue ink, appearing to be 'Alfredo J. Gonzalez', written over the printed name.

Alfredo J. Gonzalez

EXHIBIT “A”

RASCO | KLOCK

ATTORNEYS

RASCO | KLOCK | PEREZ | NIETO

Paul C. Savage*
Tel. 305.476.7100
Fax 305.476.7102
psavage@rascoklock.com

*FLORIDA BAR BOARD CERTIFIED IN CITY, COUNTY AND LOCAL GOVERNMENT LAW

November 22, 2021

VIA EMAIL (ThomasMooney@miamibeachfl.gov)

Thomas Mooney, Planning Director
Planning Department
1700 Convention Center Drive, 2nd Floor
Miami Beach, Florida 33139

RE: Request for Decisions or Determinations of the Planning Director in Connection with the Ritz-Sagamore Application No. HPB21-0457 for Property Located at 1 Lincoln Road and 1671 Collins Ave. (the “Application” or “Project”)

Dear Director Mooney:

I am writing on behalf of Beach Hotel Associates, LLC, the owner of the property located at 1685 Collins Avenue, which is a contributing historic structure in the Ocean Drive/Collins Avenue Historic District and the Miami Beach Architectural District (the “Delano Hotel”).¹ The substantive positions and requests in this letter are also adopted and submitted by New National, LLC, the owner of the National Hotel located at 1671 Collins Avenue that abuts the Project referred to above. The purpose of this letter is to formally request Decisions or Determinations of the Planning Director on three distinct issues pertaining to the proposed development entitlements, and development capacity allocation as between the Ritz-Carlton lot and the Sagamore lot, as follows:

(1) the proposed transfer or sharing of the height entitlement from the Ritz-Carlton lot onto the Sagamore lot under Ordinance 2019-4285 (codified at Section 142-246(f) of the City Code);

(2) the proposed transfer or allocation of proposed Floor Area Ratio (“FAR”) square footage from the Ritz-Carlton lot onto the Sagamore lot; and

(3) the Application’s reliance upon the bonus FAR of 20,000 square feet “solely” for new “hotel amenities” under Section 142-246 of the Code.

¹ The use of “Delano Hotel” herein is for ease of reference, and does not signal any affiliation with the DELANO Brand of luxury and lifestyle hotels. The historic “Delano Hotel” signage is maintained by the owner as a contributing feature of the building, as required by the City of Miami Beach Historic Preservation Board. The Delano Hotel is located approximately 120 feet to the north of the Project site.

To: Thomas Mooney, Planning Director
Re: HPB21-0457

Each of these issues and requests are explained below, in turn.

I. Proposed Condominium Tower Height of 200 Feet Under Ordinance No. 2019-4285.

The Application proposes a new 200-foot tower with its base on the Sagamore lot that will cantilever over the Ritz-Carlton lot. The Application relies upon Ordinance No. 2019-4285 in support of its entitlement of the 200-foot height. *See* Updated Application Letter of Intent at page 7. The Ordinance is codified in Section 142-246, and provides in pertinent part:

(f) Notwithstanding the above, for oceanfront lots located in the architectural district, with an area greater than 115,000 square feet, a ground floor addition, whether attached or detached, may exceed 50 feet in height, but shall not exceed 200 feet in height, in accordance with the following provisions:

(1) Placement of the structure. The ground floor addition shall be located internal to the site, and shall be set back a minimum of 100 feet from the front property line, 75 feet from the street side property lines, and 100 feet from the rear (oceanfront) property line.

§142-246, City of Miami Beach Code of Ordinances (or “City Code”).

The Ritz-Carlton lot is listed as being 163,813 square feet in size by the Applicant’s Zoning Data Sheet, thus bringing the Ritz-Carlton lot potentially under Ordinance No. 2019-4285 (and its 200-foot height limit). The Sagamore lot, however, is listed as being 44,848 square feet in size, which is less than the 115,000 square foot threshold for the additional height permitted by Ordinance No. 2019-4285.

The Code is clear that no “building shall be erected ...” that will “exceed the height limit herein established” §114-4(4), City Code. The applicable height limitation for the Sagamore lot is listed as 50 feet for new ground floor additions, whether attached or detached. §142-246(d), City Code. Section 114-4 does not provide or contemplate exceptions to this requirement.

Finally, while the Code contemplates “unified development sites,” nothing in the Code expressly authorizes the sharing of a height entitlement onto a lot that would not otherwise qualify, thus essentially granting a height variance to the receiving lot (in this case an additional 150 feet beyond the applicable 50 foot limit). *See* §§114-4; 118-5; §142-1164, City Code. It is noted that Ordinance No. 2019-4285 added the new text for those lots in excess of 115,000 square feet in the Architectural and RM-3 District, but changed no text in other sections concerning height regulations or unified development sites. *See Exhibit A* (Resolution No. 2019-4295, as adopted). We respectfully request a Determination or Decision of the Planning Director on the applicability of these provisions and other Code provisions to this Application, and specifically whether the Code authorizes the transfer of a height entitlement from the Ritz-Carlton lot to authorize a 200-foot structure on the Sagamore lot.

To: Thomas Mooney, Planning Director
 Re: HPB21-0457

II. Floor Area Ratio Allocations.

The Ritz-Sagamore Zoning Data Sheet also recites that the Sagamore lot has 28,405 square feet of FAR available, as follows:

EXISTING FAR TO REMAIN RITZ AND SAGAMORE BLDG				
RITZ HOTEL			Sagamore	
	FAR AREA			FAR AREA
Basement	8,785 **		Basement	0 **
Ground	66,541		Ground	10,620
2nd Floor	65,856		2nd Floor	11,726
3rd Floor	60,169		3rd Floor	11,726
4th Floor	44,244		4th Floor	11,726
5th Floor	26,639		5th Floor	11,275
6th Floor	24,397		6th Floor	4,218
7th Floor	24,393		Totals	61,291
8th Floor	24,397			
9th Floor	24,327			
10th Floor	24,387			
11th Floor	24,383			
Totals	418,518		Total FAR to remain	479,809
RITZ	LOT AREA	FAR RATIO	MAX FAR	FAR AVAILABLE
PER SURVEY	163,813	3	511,439	92,922 *
SAGAMORE	LOT AREA	FAR RATIO	MAX FAR	FAR AVAILABLE
Lot AREA	44,848	2	89,696	28,405
FAR SUMMARY				
Ritz FAR	Sagamore FAR	Total FAR Available		
92,922 *	28,405	121,327		

* Includes 20,000 SF per Sec.142-246 (a)(3)

** 1/2 of the basement included in the calculation

Exhibit B (Pull out of the Data Zoning Sheet from latest Application Plans). The Project's FAR worksheet goes on to also reflect that the total square footage of the proposed new residential tower is 121,326 square feet, as follows:

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PROPOSED AREAS - NEW TOWER						
LEVELS	UNITS	COMMON AREA+BOH	AMENITIES	NEW BRIDGE CONNECTION	NEW RESIDENTIAL UNITS	FAR
ROOF		1,380 SQ.FT.				
LEVEL 17	6,688 SQ.FT.	1,395 SQ.FT.			4	8,083 SQ.FT.
LEVEL 16	6,688 SQ.FT.	1,395 SQ.FT.			4	8,083 SQ.FT.
LEVEL 15	6,688 SQ.FT.	1,395 SQ.FT.			4	8,083 SQ.FT.
LEVEL 14	6,688 SQ.FT.	1,395 SQ.FT.			4	8,083 SQ.FT.
LEVEL 13	6,688 SQ.FT.	1,395 SQ.FT.			4	8,083 SQ.FT.
LEVEL 12	6,688 SQ.FT.	1,395 SQ.FT.			4	8,083 SQ.FT.
LEVEL 11	6,653 SQ.FT.	1,430 SQ.FT.			4	8,083 SQ.FT.
LEVEL 10	6,653 SQ.FT.	1,430 SQ.FT.			4	8,083 SQ.FT.
LEVEL 9	6,653 SQ.FT.	1,430 SQ.FT.			4	8,083 SQ.FT.
LEVEL 8	6,653 SQ.FT.	1,430 SQ.FT.			4	8,083 SQ.FT.
LEVEL 7	6,653 SQ.FT.	1,430 SQ.FT.			4	8,083 SQ.FT.
LEVEL 6	6,487 SQ.FT.	1,596 SQ.FT.			4	8,083 SQ.FT.
LEVEL 5	-	1,596 SQ.FT.	8,224 SQ.FT.			9,820 SQ.FT.
LEVEL 4	3,387 SQ.FT.	1,430 SQ.FT.			1	4,817 SQ.FT.
LEVEL 3	3,407 SQ.FT.	1,670 SQ.FT.		378 SQ.FT.	1	5,455 SQ.FT.
LEVEL 2	-	-		378 SQ.FT.		378 SQ.FT.
LEVEL 1	-	3,860 SQ.FT.				3,860 SQ.FT.
	86,674 SQ.FT.	27,052 SQ.FT.	8,224 SQ.FT.	756 SQ.FT.	50	121,326 SQ.FT.

While the Project's exact allocation of FAR upon the Sagamore lot is unclear, the proposed configuration has the tower straddling over the two lots — half on one and half over the other — thus resulting in approximately half of the proposed tower, or approximately 60,000 square feet of the proposed residential tower over the Sagamore lot. As noted earlier, only 28,405 square feet of remaining FAR is authorized for the Sagamore lot, according to the Applicant's Zoning Data Sheet.

The City Charter prohibits increase to a property's FAR without prior submission to the electors. §1.03(c), City Charter. There is an exception for the aggregation of development rights on unified abutting parcels if "permitted by ordinance." *Id.* The Code expressly prohibits buildings not in conformity with the applicable FAR. *See* §114-4(7), City Code. The only exception contemplated is when a unified development site is located "over multiple zoning districts." *Id.* Section 118-5 similarly discusses unified development sites that span across different "districts." §118-5, City Code. In this Project, however, both the Ritz-Carlton and Sagamore lots are within the RM-3 Zoning District, and the subject lots have different FAR. No Code provision expressly authorizes the increase of a receiving parcel's FAR under a unified development site comprised of parcels with different FAR. It is noted that the Zoning Data Sheet for the Raleigh project reflects parcels with the same FAR.

We respectfully request a Determination or Decision of the Planning Director on the applicability of these provisions and other Code provisions to the Application, and whether the Code truly authorizes the transfer or use of approximately 30,000 square feet above and beyond

To: Thomas Mooney, Planning Director
Re: HPB21-0457

what is authorized for the Sagamore lot FAR. Specifically, we request a Determination or confirmation of:

(a) whether the City Charter and Code authorizes the transfer of additional FAR from the Ritz-Carlton site to be transferred and used on the Sagamore lot;

(b) whether the City Charter and Code authorizes the Sagamore Site to accommodate and use FAR that it is not presently zoned for; and

(c) how much FAR as described in square feet is proposed to be used by the Project's tower on the Ritz-Carlton lot, and how much FAR as described in square feet is proposed to be used by the Project's tower on the Sagamore lot.

III. Bonus FAR for New Hotel Amenities.

The Applicant's updated Zoning Data Sheet also reflects reliance on 20,000 square feet of additional FAR under Section 142-246(3) of the City Code. *See Exhibit B.* This provision provides: "Notwithstanding the above, lots which, *as of the effective date of this ordinance* (November 14, 1998), are oceanfront lots with a lot area greater than 100,000 square feet with an existing building, shall have a maximum FAR of 3.0; however, additional FAR shall be available for the sole purpose of providing hotel amenities as follows: the lesser of 0.15 FAR or 20,000 square feet." §142-246(3) City Code (emphasis added).

Bonus FAR Authorization. The Code section authorizing the bonus FAR is limited by its text to those lots with 100,000 square feet as of November 14, 1998. The Sagamore site was not and is not 100,000 square feet in size. Moreover, as explained in the prior section, the Code does not expressly authorize the transfer of FAR from one lot to another. Finally, the Application does not reflect where precisely this proposed bonus FAR is going to be used in the Project, although indicates it is going to be used for the new residential tower.

Use Restriction of Bonus FAR. The subject provision authorizes the bonus FAR for the use of "the sole purpose of providing hotel amenities." §142-246(3) City Code. The Zoning Data Sheet reflects that all of the existing FAR is being used for the existing Ritz-Carlton and Sagamore Hotels, respectively, and that all of the proposed available FAR of 121,326 square feet is going into the proposed new Tower:

PROPOSED PROJECT FAR		
RITZ		418,518 SQ.FT.
SAGAMORE		61,291 SQ.FT.
TOWER		121,326 SQ.FT.
GRAND TOTAL		601,135 SQ.FT.

Exhibit B (Application Zoning Data Sheet).

To: Thomas Mooney, Planning Director
Re: HPB21-0457

If all of the proposed new FAR — including the bonus FAR — is allocated to the proposed residential condominium tower, then this bonus FAR is *not* being used for new hotel amenities as required by the Code. Finally, the firm position of the City on other applications seeking to obtain this hotel amenity bonus FAR is that this provision authorizes the provision of *new* hotel amenities, and not the refurbishment of existing amenities.

We respectfully request a Determination or Decision of the Planning Director on the applicability of this Code provision to the Application, and whether the Code authorizes 20,000 square feet of new hotel amenity bonus FAR, when one of the lots cannot qualify for the bonus, and the Application proposes to use all of the available FAR on the proposed residential tower. More specifically, we request a Determination or confirmation of:

(a) whether the City Code authorizes the new hotel amenity bonus FAR to be used on a lot that was less than 100,000 square feet as of November 14, 1998; and

(b) whether the City Code authorizes use of the new hotel amenity bonus FAR for use in a proposed residential condominium tower; and

(c) how much of the new hotel amenity bonus FAR as described in square feet is proposed to be used by the Project's tower on the Ritz-Carlton lot, and how much new hotel amenity bonus FAR as described in square feet is proposed to be used by the Project's tower on the Sagamore lot.

We thank you in advance for your careful consideration of our concerns with the Application and the requirements of the City Code. Please do not hesitate to contact me concerning the proposed Project and the issues raised herein.

To: Thomas Mooney, Planning Director
Re: HPB21-0457

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul C. Savage".

Paul C. Savage, Esq.
on behalf of Beach Hotel Associates, LLC

and

A handwritten signature in blue ink, appearing to read "W. Tucker Gibbs".

W. Tucker Gibbs, Esq.
on behalf of New National, LLC

cc. Nick Kallergis, Esq., Assistant City Attorney
Beach Hotel Associates, LLC
New National, LLC

To: Thomas Mooney, Planning Director
Re: HPB21-0457

EXHIBIT A

Ordinance No. 2019-4285

**Height Increase for Ground Level Additions
on Oceanfront Lots in the Architectural District**

ORDINANCE NO. 2019-4285

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, SUBPART B, ENTITLED "LAND DEVELOPMENT REGULATIONS," BY AMENDING CHAPTER 142, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, ENTITLED "DISTRICT REGULATIONS," DIVISION 3, ENTITLED "RESIDENTIAL MULTIFAMILY DISTRICTS," SUBDIVISION V, ENTITLED "RM-3 RESIDENTIAL MULTIFAMILY, HIGH INTENSITY," BY AMENDING SECTION 142-246, ENTITLED "DEVELOPMENT REGULATIONS AND AREA REQUIREMENTS," TO INCREASE THE HEIGHT LIMIT FOR GROUND FLOOR ADDITIONS MEETING CERTAIN REQUIREMENTS; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

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

WHEREAS, the City's Land Development Regulations ("LDRs") provide for the regulation of land within the City; and

WHEREAS, this Ordinance provides for a height increase for ground floor additions on oceanfront lots in the Architectural District, with a lot area greater than 115,000 square feet, subject to the requirements set forth herein.

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

SECTION 1. Chapter 142, "Zoning Districts and Regulations," Article II, "District Regulations," Division 3, "Residential Multifamily Districts," Subdivision V, "RM-3 Residential multifamily, high intensity," is hereby amended as follows:

CHAPTER 142 – ZONING DISTRICTS AND REGULATIONS

* * *

ARTICLE II. – DISTRICT REGULATIONS

* * *

DIVISION 3. - RESIDENTIAL MULTIFAMILY DISTRICTS

* * *

SUBDIVISION V.- RM-3 RESIDENTIAL MULTIFAMILY, HIGH INTENSITY

* * *

Sec. 142-246. - Development regulations and area requirements.

(a) The development regulations in the RM-3 residential multifamily, high intensity district are as follows:

- (1) Max. FAR: Lot area equal to or less than 45,000 sq. ft.—2.25; lot area greater than 45,000 sq. ft.—2.75; oceanfront lots with lot area greater than 45,000 sq. ft.—3.0.
- (2) Notwithstanding the above, oceanfront lots in architectural district shall have a maximum FAR of 2.0.
- (3) Notwithstanding the above, lots which, as of the effective date of this ordinance (November 14, 1998), are oceanfront lots with a lot area greater than 100,000 sq. ft. with an existing building, shall have a maximum FAR of 3.0; however, additional FAR shall be available for the sole purpose of providing hotel amenities as follows: the lesser of 0.15 FAR or 20,000 sq. ft.

(b) The lot area, lot width, unit size and building height requirements for the RM-3 residential multifamily, high intensity district are as follows:

Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)	Minimum Unit Size (Square Feet)	Average Unit Size (Square Feet)	Maximum Building Height (Feet)
7,000	50	<p>New construction—550 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Rehabilitated buildings—400 Hotel units: 15%: 300—335 85%: 335+ For contributing hotel structures, located within an individual historic site, a local historic district or a national register district, which are renovated in accordance with the Secretary of the Interior Standards and Guidelines for the Rehabilitation of Historic Structures as amended, retaining the existing room configuration and sizes of at least 200 square feet shall be permitted. Additionally, the</p>	<p>New construction—800 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Rehabilitated buildings—550 Hotel units—N/A</p>	<p>150 Oceanfront lots—200 Architectural dist.: New construction—120; ground floor additions (whether attached or detached) to existing structures on oceanfront lots—50 (except as provided in section 142-1161)</p>

		existing room configurations for the above described hotel structures may be modified to address applicable life-safety and accessibility regulations, provided the 200 square feet minimum unit size is maintained, and provided the maximum occupancy per hotel room does not exceed 4 persons.		
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(c) Notwithstanding the above, for oceanfront lots located within a locally designated historic district or site, but not within the architectural district, with less than 400 feet of lineal frontage along Collins Avenue and containing at least one contributing structure, the maximum building height for ground floor additions to existing structures, whether attached or detached, shall be as follows:

- (1) For existing structures greater than five stories in height, the maximum height shall be limited to ten stories or the height of the roof line of the main structure on site, whichever is less. At the discretion of the historic preservation board, the maximum height of the ground floor addition may exceed ten stories if the existing and surrounding structures are greater than five stories in height, provided the addition is consistent with the scale and massing of the existing structure.
- (2) For existing structures five stories or less in height, the maximum height shall be limited to five stories.

Additionally, the proposed addition shall not substantially reduce existing or established view corridors, nor impede the appearance or visibility of architecturally significant portions of an existing structure, as determined by the historic preservation board.

(d) Notwithstanding the above, for oceanfront lots located in the architectural district, the overall height of an attached addition may exceed five stories and 50 feet, but shall not exceed the height of the roof line of the structure attached to, provided all of the following conditions are satisfied:

- (1) The proposed addition shall consist of the expansion of existing hotel units only and shall not result in an increased number of units.
- (2) The proposed addition shall be for hotel units only. A restrictive covenant, running with the land, or other similar instrument enforceable against the owner(s), acceptable to and approved as to form by the city attorney, shall be required to ensure that the units remain as hotel units for a minimum of 30 years. If the applicant is unable to provide such a covenant, this requirement may be waived by the city manager if it is demonstrated that the project provides an extraordinary public benefit to the surrounding area.

- (3) The proposed addition shall not be attached to front, street side or oceanfront elevations, nor along any other principal elevations or facades, as determined by the historic preservation board.
- (4) The proposed addition shall not substantially reduce existing or established view corridors, nor impede the appearance or visibility of architecturally significant portions of an existing structure, as determined by the historic preservation board.
- (e) A ground floor addition relocating existing hotel units shall also meet the following conditions, in addition to subsection (d)(2)—(4) above:
 - (1) There shall be no neighborhood impact establishment, dancehall or entertainment use in the area of the proposed addition;
 - (2) No new outdoor or open air entertainment establishment shall be created on the property. Outdoor or open air entertainment establishments existing as of the effective date of this subsection (November 24, 2012) may continue but shall not be expanded if a property avails itself of this provision.
 - (3) Upon approval of the proposed addition by the historic preservation board, no building greater than two stories or 25 feet in height shall be constructed between the rear of the building and westward line of the dune overlay district. This provision shall not be subject to variance.
 - (4) Notwithstanding the provisions in subsection 142-1161(d), if the building presently contains unoccupied but built spaces enclosed on at least three sides by existing walls of a height that would conceal a new roof, such as false parapets or storage rooms, those spaces may be further enclosed as habitable floor area, up to the permitted floor area; and
 - (5) No new commercial uses shall be permitted on the rooftop or any open air decks of the existing structure or proposed addition.
- (f) Notwithstanding the above, for oceanfront lots located in the architectural district, with a lot area greater than 115,000 square feet, a ground floor addition, whether attached or detached, may exceed 50 feet in height, but shall not exceed 200 feet in height, in accordance with the following provisions:
 - (1) Placement of the structure. The ground floor addition shall be located internal to the site, and shall be set back a minimum of 100 feet from the front property line, 75 feet from the street side property lines, and 100 feet from the rear (oceanfront) property line.
 - (2) Limits on the floorplate of additions exceeding 50 feet in height. The maximum floor plate size for the portion of an addition that exceeds 50 feet in building height is 15,000 square feet per floor, excluding projecting balconies. The historic preservation board may approve an increase in this overall floor plate, up to a maximum of 20,000 square feet per floor, excluding balconies, in accordance with the certificate of appropriateness criteria in chapter 118, article X of these land development regulations.

SECTION 2. REPEALER.

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

SECTION 3. 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 4. 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 31. day of July, 2019.

ATTEST:



Dan Gelber, Mayor



Rafael E. Granado, City Clerk

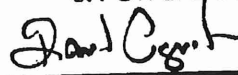
Aug 13, 2019

First Reading: July 17, 2019
Second Reading: July 31, 2019

Verified by: 

Thomas R. Mooney, AICP
Planning Director

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



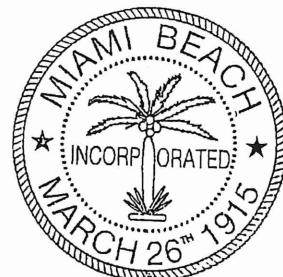
City Attorney

7/2/19

Date

NK

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To: Thomas Mooney, Planning Director
Re: HPB21-0457

EXHIBIT B

Application Zoning Data Sheet FAR Chart

To: Thomas Mooney, Planning Director
 Re: HPB21-0457

EXISTING FAR TO REMAIN RITZ AND SAGAMORE BLDG				
RITZ HOTEL			Sagamore	
	FAR AREA			FAR AREA
Basement	8,785 **		Basement	0 **
Ground	66,541		Ground	10,620
2nd Floor	65,856		2nd Floor	11,726
3rd Floor	60,169		3rd Floor	11,726
4th Floor	44,244		4th Floor	11,726
5th Floor	26,639		5th Floor	11,275
6th Floor	24,397		6th Floor	4,218
7th Floor	24,393		Totals	61,291
8th Floor	24,397			
9th Floor	24,327			
10th Floor	24,387			
11th Floor	24,383			
Totals	418,518		Total FAR to remain	479,809
RITZ	LOT AREA	FAR RATIO	MAX FAR	FAR AVAILABLE
PER SURVEY	163,813	3	511,439	92,922 *
SAGAMORE	LOT AREA	FAR RATIO	MAX FAR	FAR AVAILABLE
Lot AREA	44,848	2	89,696	28,405
FAR SUMMARY				
Ritz FAR		Sagamore FAR	Total FAR Available	
92,922 *		28,405	121,327	

* Includes 20,000 SF per Sec.142-246 (a)(3)

** 1/2 of the basement included in the calculation

PROPOSED AREAS - NEW TOWER						
LEVELS	UNITS	COMMON AREA+BOH	AMENITIES	NEW BRIDGE CONNECTION	NEW RESIDENTIAL UNITS	FAR
ROOF		1,380 SQ.FT.				
LEVEL 17	6,688 SQ.FT.	1,395 SQ.FT.			4	8,083 SQ.FT.
LEVEL 16	6,688 SQ.FT.	1,395 SQ.FT.			4	8,083 SQ.FT.
LEVEL 15	6,688 SQ.FT.	1,395 SQ.FT.			4	8,083 SQ.FT.
LEVEL 14	6,688 SQ.FT.	1,395 SQ.FT.			4	8,083 SQ.FT.
LEVEL 13	6,688 SQ.FT.	1,395 SQ.FT.			4	8,083 SQ.FT.
LEVEL 12	6,688 SQ.FT.	1,395 SQ.FT.			4	8,083 SQ.FT.
LEVEL 11	6,653 SQ.FT.	1,430 SQ.FT.			4	8,083 SQ.FT.
LEVEL 10	6,653 SQ.FT.	1,430 SQ.FT.			4	8,083 SQ.FT.
LEVEL 9	6,653 SQ.FT.	1,430 SQ.FT.			4	8,083 SQ.FT.
LEVEL 8	6,653 SQ.FT.	1,430 SQ.FT.			4	8,083 SQ.FT.
LEVEL 7	6,653 SQ.FT.	1,430 SQ.FT.			4	8,083 SQ.FT.
LEVEL 6	6,487 SQ.FT.	1,596 SQ.FT.			4	8,083 SQ.FT.
LEVEL 5	-	1,596 SQ.FT.	8,224 SQ.FT.			9,820 SQ.FT.
LEVEL 4	3,387 SQ.FT.	1,430 SQ.FT.			1	4,817 SQ.FT.
LEVEL 3	3,407 SQ.FT.	1,670 SQ.FT.		378 SQ.FT.	1	5,455 SQ.FT.
LEVEL 2	-	-		378 SQ.FT.		378 SQ.FT.
LEVEL 1	-	3,860 SQ.FT.				3,860 SQ.FT.
	86,674 SQ.FT.	27,052 SQ.FT.	8,224 SQ.FT.	756 SQ.FT.	50	121,326 SQ.FT.

PROPOSED PROJECT FAR		
RITZ		418,518 SQ.FT.
SAGAMORE		61,291 SQ.FT.
TOWER		121,326 SQ.FT.
GRAND TOTAL		601,135 SQ.FT.

EXHIBIT “B”

Unified Development Sites and FAR Distribution

ORDINANCE NO.

2016-4011

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 118, ENTITLED "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE I ENTITLED "IN GENERAL" AT SECTION 118-5, ENTITLED "UNITY OF TITLE; COVENANT IN LIEU THEREOF;" CHAPTER 114, ENTITLED "GENERAL PROVISIONS," AT SECTION 114-4, ENTITLED "COMPLIANCE WITH REGULATIONS REQUIRED;" AND CHAPTER 142, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE II ENTITLED "DISTRICT REGULATIONS," DIVISION 1, ENTITLED "GENERALLY," AT SECTION 142-73, ENTITLED "INTERPRETATION OF DISTRICT BOUNDARIES;" IN ORDER TO CLARIFY PROCEDURES FOR THE MOVEMENT OF FAR WITHIN UNIFIED DEVELOPMENT SITES WITH DIFFERING ZONING DISTRICTS; PROVIDING FOR ENFORCEMENT AND PENALTIES; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

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

WHEREAS, the City of Miami Beach Land Development Regulations ("LDRs") provides for the regulation of land within the City; and

WHEREAS, Section 1.03(c) of the City of Miami Beach Charter explicitly prohibits the floor area ratio (FAR) of any property from being increased by zoning, transfer, or any other means from its current zoned floor area ratio as it exists currently, without being approved by a public referendum; and

WHEREAS, Section 1.03(c) of the City of Miami Beach Charter provision includes an exception to the floor area ratio limitation, "or the aggregation of development rights on unified abutting parcels, as may be permitted by ordinance"; and

WHEREAS, additional flexibility could improve the quality of development when developing certain sites within the City; and

WHEREAS, these regulations will accomplish these goals and ensure that the public health, safety and welfare will be preserved.

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

SECTION 1. That Chapter 118, entitled "Administration and Review Procedures," Article I entitled "In General" at Section 118-5, entitled "Unity of title; covenant in lieu thereof," of the Miami Beach City Code is hereby amended as follows:

Sec. 118-5. - Unity of title; covenant in lieu thereof.

The term "Unified Development Site" shall be defined as a site where a development is proposed and consists of multiple lots, all lots touching and not separated by a lot under different ownership, or a public right-of-way. A "Unified Development Site" does not include any lots separated by a public right-of-way or any non-adjacent, non-contiguous parcels.

Additionally, the following shall apply to any "Unified Development Site":

(a) All lots need not be in the same zoning district; however; the allowable floor area ratio (FAR) shall be limited to the maximum FAR for each zoning district, inclusive of bonus FAR.

(b) ~~If more than one~~ Only commercial and/or mixed-use entertainment zoning districts is may be joined together to create a unified development site, provided the entire unified development site, including each separate zoning district, ~~must~~ have has the same maximum floor area ratio (FAR), inclusive of bonus FAR. Such unified development site shall only contain commercial and/or mixed-use entertainment districts and shall not include any residential zoning district. The instrument creating the unified development site shall clearly delineate both the maximum FAR, inclusive of bonus FAR, and total square footage permitted.

(c) In the event a future change in zoning district classification modifies the maximum floor area ratio (FAR), inclusive of bonus FAR, for a district within a unified development site, the maximum floor area square footage recorded for the unified development site shall not be exceeded.

SECTION 2. That Chapter 114, entitled "General Provisions," at Section 114-4, entitled "Compliance with regulations required," of the Miami Beach City Code is hereby amended as follows:

114-4 - Compliance with regulations required

(7) No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered except in conformity with the floor area ratio, minimum and average unit sizes or open space ratio regulations of the district in which it is located. However, in accordance with Section 118-5, the maximum floor area ratio (FAR), inclusive of bonus FAR, for a unified development site may be located over multiple zoning district.

SECTION 3. That Chapter 142, entitled "Zoning Districts and Regulations," Article II entitled "District Regulations," Division 1, entitled "Generally," at Section 142-73, entitled "Interpretation of district boundaries," of the Miami Beach City Code is hereby amended as follows:

142-73 - Interpretation of district boundaries.

(6) If a parcel of property is crossed by a zoning district boundary and thus lies in two zoning districts, the district boundary shall be treated as if it were a lot line separating the two separately zoned parcels. However, in accordance with Section 118-5, the maximum floor area ratio (FAR), inclusive of bonus FAR, for a unified development site may be located over multiple zoning district.

SECTION 4. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, 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, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or other appropriate word.

SECTION 5. REPEALER.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

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 11 day of May, 2016.

Philip Levine, Mayor

ATTEST:

Rafael E. Granado, City Clerk

First Reading: April 13, 2016

Second Reading: May 11, 2016

Verified By:

Thomas R. Mooney, AICP
Planning Director

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney

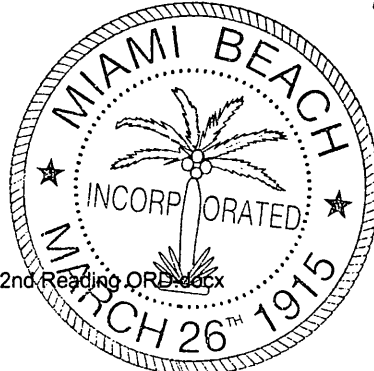
Date

Underline = new language

~~Strikethrough~~ = deleted language

[Sponsored by Commissioner Michael Grieco]

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COMMISSION ITEM SUMMARY

Condensed Title:

An Ordinance amending the Land Development Regulations of the City Code as it pertains to the distribution of allowable Floor Area Ratio (FAR) within a Unified Development Sites.

Key Intended Outcome Supported:

Increase satisfaction with neighborhood character. Increase satisfaction with development and growth management across the City.

Supporting Data (Surveys, Environmental Scan, etc 48% of residential respondents and 55% of businesses rate the effort put forth by the City to regulate development is "about the right amount."

Item Summary/Recommendation:

SECOND READING – PUBLIC HEARING

The subject ordinance would amend Sections 114-4, 118-5 and 142-73 of the Land Development Regulations of the City Code in order to modify the requirements for the distribution of allowable Floor Area Ratio (FAR) within a Unified Development Sites.

On December 9, 2015, at the request of Commissioner Grieco, the City Commission referred the subject Ordinance amendment (Item C4C) to the Land Use and Development Committee. On January 20, 2016, the Land Use and Development Committee recommended that the City Commission refer the proposed ordinance to the Planning Board with the modification that sites involving multifamily zoning be excluded from the modification. On February 10, 2016, the City Commission referred the subject ordinance amendment (Item C4C) to the Planning Board.

On April 13, 2016 the City Commission: 1) accepted the recommendation of the Land Use and Development Committee via separate motion; 2) approved the ordinance at First Reading and; 3) set a Second Reading Public Hearing for May 11, 2016.

The Administration recommends that the City Commission adopt the ordinance.

Advisory Board Recommendation:

On March 22, 2016, the Planning Board transmitted the proposed ordinance to the City Commission with a favorable recommendation (vote 6 to 0).

Financial Information:

Source of Funds:		Amount	Account
	1		
	2		
	3		
OBPI	Total		

Financial Impact Summary:

In accordance with Charter section 5.02, which requires that the "City of Miami Beach shall consider the long-term economic impact (at least five years) of proposed legislative actions," this shall confirm that the City Administration evaluated the long-term economic impact (at least five years) of this proposed legislative action, and determined that there will be no measurable impact on the City's budget.

City Clerk's Office Legislative Tracking:

Thomas Mooney

Sign-Offs:

Department Director	Assistant City Manager	City Manager
	<i>MJL for SUT</i>	<i>TM</i>

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MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Philip Levine and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: May 11, 2016

SECOND READING – PUBLIC HEARING

SUBJECT: **AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 118, ENTITLED "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE I ENTITLED "IN GENERAL" AT SECTION 118-5, ENTITLED "UNITY OF TITLE; COVENANT IN LIEU THEREOF;" CHAPTER 114, ENTITLED "GENERAL PROVISIONS," AT SECTION 114-4, ENTITLED "COMPLIANCE WITH REGULATIONS REQUIRED;" AND CHAPTER 142, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE II ENTITLED "DISTRICT REGULATIONS," DIVISION 1, ENTITLED "GENERALLY," AT SECTION 142-73, ENTITLED "INTERPRETATION OF DISTRICT BOUNDARIES;" IN ORDER TO CLARIFY PROCEDURES FOR THE MOVEMENT OF FAR WITHIN UNIFIED DEVELOPMENT SITES WITH DIFFERING ZONING DISTRICTS; PROVIDING FOR ENFORCEMENT AND PENALTIES; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.**

ADMINISTRATION RECOMMENDATION

The Administration recommends that the City Commission adopt the ordinance.

BACKGROUND

On December 9, 2015, at the request of Commissioner Grieco, the City Commission referred the subject ordinance amendment (Item C4C) to the Land Use and Development Committee.

On January 20, 2016, the Land Use and Development Committee recommended that the City Commission refer the proposed ordinance to the Planning Board with the modification that sites involving multifamily zoning be excluded from the modification.

On February 10, 2016, the City Commission referred the subject ordinance amendment (Item C4C) to the Planning Board.

ANALYSIS

Section 1.03(c) of the City of Miami Beach Charter explicitly prohibits the floor area ratio (FAR) of any property from being increased by zoning, transfer, or any other means from its current zoned floor area ratio as it exists currently, without being approved by a public referendum. This Charter provision does include an exception for the division of lots, "*or the aggregation of development rights on unified abutting parcels, as may be permitted by ordinance.*" The ordinance referred to is Section 118-5 of the Land Development Regulations of the City Code, pertaining to Unities of Title and Covenants in Lieu of Unity of Title. This section provides a

mechanism for single or multiple buildings proposed for a unified development site consisting of multiple lots, all lots touching and not separated by a lot under different ownership, or a public right of way.

When a development is proposed over multiple lots, or multiple buildings are proposed for single or multiple lots, a Unity of Title or a Covenant in Lieu of Unity of Title must be executed to combine the lots or buildings for zoning purposes. While the code allows for a unified development site over multiple abutting lots, clarifications are needed as it relates to lots that have different zoning designations.

The proposed ordinance amendment would modify sections 114-4, 142-73, and 118-5, as it relates to FAR for unified sites with different zoning districts. If the zoning districts within the proposed unified site all have the same maximum FAR, the proposed ordinance would allow for the movement of floor area to different portions of the unified site, up to the maximum permitted by code for the entire site. While this may result in a situation where the maximum FAR is exceeded in a particular district, the overall unified site will still comply with the combined maximum permissible floor area.

The proposal will allow for additional flexibility when developing unified sites. Attached to the memorandum are maps identifying areas of the City with abutting zoning districts that have the same maximum FAR. These areas could potentially take advantage of this modification.

The Land Use Committee recommended that the proposed ordinance only apply to abutting districts zoned commercial and/or mixed-use. The following are the proposed amendments to the Land Development Regulations, as recommended by the Land Use Committee:

Sec. 118-5. - Unity of title; covenant in lieu thereof.

The term "Unified Development Site" shall be defined as a site where a development is proposed and consists of multiple lots, all lots touching and not separated by a lot under different ownership, or a public right of way. A "Unified Development Site" does not include any lots separated by a public right-of-way or any non-adjacent, non-contiguous parcels. Additionally, the following shall apply to any "Unified Development Site":

- (a) All lots need not be in the same zoning district; however, the allowable floor area ratio (FAR) shall be limited to the maximum FAR for each zoning district.*
- (b) If more than one commercial and/or mixed-use entertainment zoning district is proposed for a unified development site, the entire unified site may have the same maximum floor area ratio (FAR), inclusive of bonus FAR, provided the eligible commercial and/or mixed-use entertainment zoning districts within the unified development site have the same maximum allowable FAR. The instrument creating the unified development site shall clearly delineate both the maximum FAR and total square footage permitted.*
- (c) In the event a future change in zoning district classification modifies the maximum FAR for a district within a unified development site, the maximum floor area square footage recorded for the unified development site shall not be exceeded.*

114-4 - Compliance with regulations required

(7) No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered except in conformity with the floor area ratio, minimum and average unit sizes or open space ratio regulations of the district in which it is located. However, in accordance with the Sec 118-5, the maximum floor area ratio (FAR) for a Unified Development Site may be located over multiple zoning district boundaries.

142-73 - Interpretation of district boundaries.

(6) If a parcel of property is crossed by a zoning district boundary and thus lies in two zoning districts, the district boundary shall be treated as if it were a lot line separating the two separately zoned parcels. However, in accordance with the Sec 118-5, the maximum floor area ratio (FAR) for a Unified Development Site may be located over multiple zoning district boundaries.

PLANNING BOARD REVIEW

On March 22, 2016, the Planning Board transmitted the proposed ordinance to the City Commission with a favorable recommendation.

FINANCIAL IMPACT

In accordance with Charter Section 5.02, which requires that the "City of Miami Beach shall consider the long term economic impact (at least five years) of proposed legislative actions," this shall confirm that the City Administration City Administration evaluated the long term economic impact (at least five years) of this proposed legislative action. The proposed Ordinance is not expected to have a negative fiscal impact upon the City.

SUMMARY

On April 13, 2016, the subject ordinance was approved at First Reading, with a minor text change further clarifying that the allowable unified site with different zoning districts shall not include residential districts, and is limited to commercial and mixed-use districts. The revised text has been included in the ordinance for Second Reading.

RECOMMENDATION

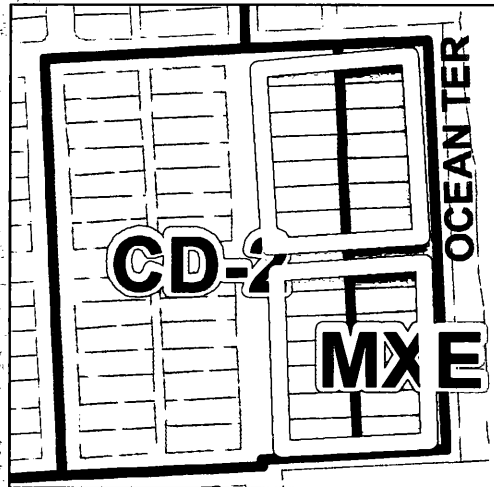
The Administration recommends that the City Commission adopt the attached ordinance.

JLM
JLM/SMT/TRM

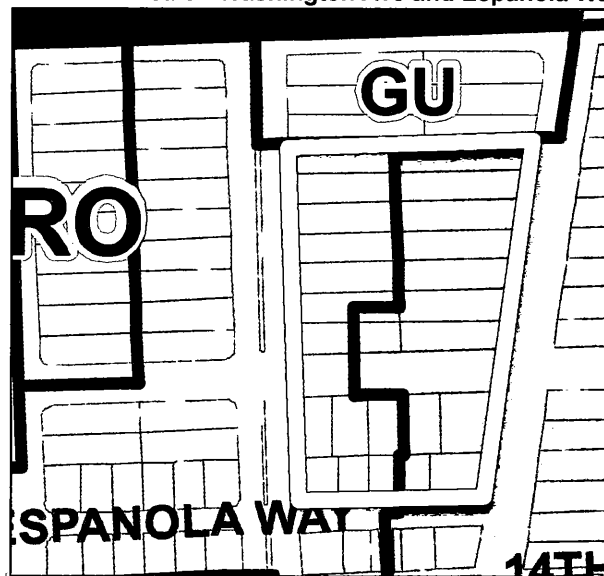
Unified Development Sites and Distribution of Floor Area

Applicable Sites

CD-2/MXE Area on Ocean Terrace



CD-2/MXE Area on Washington Ave and Espanola Way



MIAMI BEACH

CITY OF MIAMI BEACH NOTICE OF PUBLIC HEARINGS MAY 11, 2016

NOTICE IS HEREBY given that public hearings will be held by the Mayor and City Commissioners of the City of Miami Beach, Florida, in the Commission Chamber, 3rd Floor, City Hall, 1700 Convention Center Drive, Miami Beach, Florida, on **Wednesday, May 11, 2016**, at the times listed, or as soon thereafter as the matter can be heard, to consider:

10:00 a.m.

A Resolution Adopting The Fourth Amendment To The General Fund, Enterprise Fund, Internal Service Fund And Special Revenue Fund Budgets For Fiscal Year (FY) 2015/16. *This Resolution is being heard pursuant to §166.041 FS. Inquiries may be directed to the Budget & Performance Improvement Department at 305.673.7510.*

10:01 a.m.

A Resolution Adopting The Fifth Amendment To The Capital Budget For Fiscal Year (FY) 2015/16. *This Resolution is being heard pursuant to §166.041 FS. Inquiries may be directed to the Budget & Performance Improvement Department at 305.673.7510.*

10:05 a.m.

An Ordinance Amending Subpart A - General Ordinances, Of The City Code, By Amending Chapter 54 "Floods" At Section 54-35, "Definitions," By Amending The Definitions For Base Flood Elevation, Crown Of Road, And Freeboard, And By Creating Definitions For Centerline Of Roadway, Critical Facility, Future Crown Of Road, Minimum Freeboard, Maximum Freeboard, Green Infrastructure, Low Impact Development (LID), And Surface Stormwater Shallow Conveyance; By Amending Section 54-45, "Permit Procedures," To Require A Stormwater Management Plan; By Amending Section 54-47, "General Standards," To Prohibit Septic Sewage Systems, And Include Requirements For Storage Of Hazardous Materials; By Amending Section 54-48, "Specific Standards," To Clarify The Minimum Elevation Of The Lowest Finished Floor For Residential And Non-Residential Construction, And Requiring A Minimum Elevation For Garage Entrances; By Amending Section 54-51, "Standards For Coastal High Hazard Areas (V-Zones)," To Clarify The Minimum Elevation Of The Lowest Floor Of All New Construction And Substantial Improvements; Providing Codification; Repealer; Severability; And An Effective Date. *This Ordinance is being heard pursuant to Section 2.05 of the City Charter and §166.041 FS. Inquiries may be directed to the Planning Department at 305.673.7550.*

10:06 a.m.

An Ordinance Amending The City's Land Development Regulations, By Amending Chapter 114, "General Provisions," At Section 114-1, "Definitions," By Amending The Definitions For Grade, Future Adjusted Grade, And Building Height, And To Establish By Reference To Chapter 54-35 Definitions For Base Flood Elevation, Crown Of Road, Future Crown Of Road, Freeboard, Minimum Freeboard, Maximum Freeboard, Green Infrastructure, Future Adjusted Grade, And Surface Stormwater Shallow Conveyance; By Amending Chapter 142, "Zoning Districts And Regulations," Division 2, "RS-1, RS-2, RS-3, RS-4 Single-Family Residential Districts," By Amending And Clarifying The Maximum Elevation Within A Required Yard And Providing A Minimum Elevation Requirement For New Construction, And Amending How Maximum Building Height Is Calculated; Providing Codification; Repealer; Severability, And An Effective Date. *This Ordinance is being heard pursuant to Section 118-164 of the City's Land Development Code. Inquiries may be directed to the Planning Department at 305.673.7550.*

10:10 a.m.

An Ordinance Amending Chapter 118, Entitled "Administration And Review Procedures," Article I Entitled "In General" At Section 118-5, Entitled "Unity Of Title; Covenant In Lieu Thereof;" Chapter 114, Entitled "General Provisions," At Section 114-4, Entitled "Compliance With Regulations Required;" And Chapter 142, Entitled "Zoning Districts And Regulations," Article II Entitled "District Regulations," Division 1, Entitled "Generally," At Section 142-73, Entitled "Interpretation Of District Boundaries;" In Order To Clarify Procedures For The Movement Of FAR Within Unified Development Sites With Differing Zoning Districts; Providing For Enforcement And Penalties; And Providing For Repealer, Codification, Severability, And An Effective Date. *This Ordinance is being heard pursuant to Section 2.05 of the City Charter and §166.041 FS. Inquiries may be directed to the Planning Department at 305.673.7550.*

10:15 a.m.

An Ordinance Amending Chapter 2 Of The Code Of The City Of Miami Beach, Entitled "Administration," Article VI, "Procurement," Division 3, "Contract Procedures," By Creating Section 2-376, Entitled "Fair Chance Requirement For City Contractors," And Amending Chapter 62, "Human Relations," By Creating Article V, To Be Entitled The "Fair Chance Ordinance," To Provide Regulations Regarding The Consideration By The City And By City Contractors Of The Criminal History Of Applicants For Employment, And To Provide Limiting Provisions; And Providing For Repealer, Severability, Codification, And An Effective Date. *This Ordinance is being heard pursuant to Section 2.05 of the City Charter and §166.041 FS. Inquiries may be directed to the Office of the City Attorney at 305.673.7470; the Human Resources Department at 305.673.7524, and/or the Procurement Department at 305.673.7490.*

INTERESTED PARTIES are invited to appear at this meeting, or be represented by an agent, or to express their views in writing addressed to the City Commission, c/o the City Clerk, 1700 Convention Center Drive, 1st Floor, City Hall, Miami Beach, Florida 33139. These items are available for public inspection during normal business hours in the Office of the City Clerk, 1700 Convention Center Drive, 1st Floor, City Hall, Miami Beach, Florida 33139. This meeting, or any item herein, may be continued, and under such circumstances, additional legal notice need not be provided.

Pursuant to Section 286.0105, Fla. Stat., the City hereby advises the public that if a person decides to appeal any decision made by the City Commission with respect to any matter considered at its meeting or its hearing, such person must ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

To request this material in alternate format, sign language interpreter (five-day notice required), information on access for persons with disabilities, and/or any accommodation to review any document or participate in any City-sponsored proceedings, call 305.604.2489 and select 1 for English or 2 for Spanish, then option 6; TTY users may call via 711 (Florida Relay Service).

Rafael E. Granado, City Clerk
City of Miami Beach

EXHIBIT “C”

Vickers, Devon (Assoc-MIA-LDZ-RE)

From: Mooney, Thomas <ThomasMooney@miamibeachfl.gov>
Sent: Wednesday, April 29, 2020 1:51 PM
To: Kobi Karp; Mathieu Picard
Cc: Carter McDowell; Belush, Michael; Tackett, Deborah
Subject: RM3 FAR - 3.0 Eligibility
Attachments: 98-3149 FAR.pdf

Hi Matt and Kobi

We did some research, including review of the legislative history of the applicable code section (see attached). In this regard, it appears that Sec. 142-246(a)(3) was added on the floor at 2nd reading on November 14, 1998. There is no explanation in the CC memo.

Sec. 142-246. - Development regulations and area requirements.

- (a) The development regulations in the RM-3 residential multifamily, high intensity district are as follows:
- (1) Max. FAR: Lot area equal to or less than 45,000 sq. ft.—2.25; lot area greater than 45,000 sq. ft.—2.75; oceanfront lots with lot area greater than 45,000 sq. ft.—3.0.
 - (2) Notwithstanding the above, oceanfront lots in architectural district shall have a maximum FAR of 2.0.
 - (3) Notwithstanding the above, lots which, as of the effective date of this ordinance (November 14, 1998), are oceanfront lots with a lot area greater than 100,000 sq. ft. with an existing building, shall have a maximum FAR of 3.0; however, additional FAR shall be available for the sole purpose of providing hotel amenities as follows: the lesser of 0.15 FAR or 20,000 sq. ft.

As written, the above noted code section does exclude lots aggregated after November 14, 1998 from going to an FAR of 3.0. As such, while you can technically combine the Sagamore and Ritz-Carlton lots for operational purposes, the Sagamore portion would be limited to a maximum FAR of 2.0.

Tom

From: Mooney, Thomas
Sent: Tuesday, April 28, 2020 10:23 AM
To: Kobi Karp <kobikarp@kobikarp.com>
Cc: Mathieu Picard <mpicard@kobikarp.com>; Tackett, Deborah <DeborahTackett@miamibeachfl.gov>; Andrei Rusu <arusu@kobikarp.com>; Polia Lubenova <plubenova@kobikarp.com>; Carter McDowell <cmcdowell@bilzin.com>
Subject: RE: Ritz FAR

Hi Kobi

In order to move available FAR from the Ritz Carlton site to the Sagamore, you would need to create a unified development site. This can be done via unity of title or covenant in lieu of unity of title.

Such a combined site would exceed 100,000 sq ft, and the 3.0 FAR would apply to the larger site.

Tom

From: Kobi Karp <kobikarp@kobikarp.com>
Sent: Tuesday, April 28, 2020 9:08 AM
To: Mooney, Thomas <ThomasMooney@miamibeachfl.gov>
Cc: Mathieu Picard <mpicard@kobikarp.com>; Tackett, Deborah <DeborahTackett@miamibeachfl.gov>; Andrei Rusu <arusu@kobikarp.com>; Polia Lubenova <plubenova@kobikarp.com>; Carter McDowell <cmcdowell@bilzin.com>
Subject: Re: Ritz FAR

[THIS MESSAGE COMES FROM AN EXTERNAL EMAIL - USE CAUTION WHEN REPLYING AND OPENING LINKS OR ATTACHMENTS]

Hi Tom,

Good Morning, I hope that you and the family are staying safe and healthy.

I'm adding Carter to the communication.

If we keep the Ritz at the 3.0 FAR and we keep the Sagamore at the 2.0 FAR can we join the two properties together via a covenant in Lieu unity of title, and can we move the available FAR from the Ritz to the Sagamore site specifically to be located where the existing cabana building is which we are proposing to demolish and build a new addition of the remaining 80,000 SF of FAR?

Best wishes,

Kobi

Kobi Karp
Kobi Karp Architecture Interior Design
[2915 Biscayne Boulevard](#)
[Suite 200](#)
[Miami, FL 33137](#)
KobiKarp@KobiKarp.com
C: [305.992.5892](tel:305.992.5892)
T: [305.573.1818](tel:305.573.1818)
F: [305.573.3766](tel:305.573.3766)

WWW.KOBIKARP.COM

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On Apr 27, 2020, at 6:09 PM, Mooney, Thomas <ThomasMooney@miamibeachfl.gov> wrote:

Hi Matt

Sec 142-246 (see below) has not changed. As long as the subject property is at least 100,000 SF the max FAR is 3.0

Sec. 142-246. - Development regulations and area requirements.

- (a) The development regulations in the RM-3 residential multifamily, high intensity district are as follows:

- (1) Max. FAR: Lot area equal to or less than 45,000 sq. ft.—2.25; lot area greater than 45,000 sq. ft.—2.75; oceanfront lots with lot area greater than 45,000 sq. ft.—3.0.
- (2) Notwithstanding the above, oceanfront lots in architectural district shall have a maximum FAR of 2.0.
- (3) Notwithstanding the above, lots which, as of the effective date of this ordinance (November 14, 1998), are oceanfront lots with a lot area greater than 100,000 sq. ft. with an existing building, shall have a maximum FAR of 3.0; however, additional FAR shall be available for the sole purpose of providing hotel amenities as follows: the lesser of 0.15 FAR or 20,000 sq. ft.

From: Mathieu Picard <mpicard@kobikarp.com>

Sent: Monday, April 27, 2020 4:44 PM

To: Kobi Karp <kobikarp@kobikarp.com>; Tackett, Deborah <DeborahTackett@miamibeachfl.gov>;

Andrei Rusu <arusu@kobikarp.com>; Mooney, Thomas <ThomasMooney@miamibeachfl.gov>

Cc: Polia Lubenova <plubenova@kobikarp.com>

Subject: RE: Ritz FAR

[THIS MESSAGE COMES FROM AN EXTERNAL EMAIL - USE CAUTION WHEN REPLYING AND OPENING LINKS OR ATTACHMENTS]

Tom,

I hope all is well.

We have been requested by the owners of the Ritz on Lincoln Road to analyze their site along with the Sagamore to determine what could be developed if the two properties were combined.

The Ritz has gone under renovation, and would incorporate the neighboring property as a new product of Ritz residences and some additional amenities.

The owners of the Ritz found the attached email from you confirming that the property does fall within the Sec. 142-246 (a) (3), or an FAR of 3.0.

Can you confirm that this interpretation of the FAR still stands for this property?

Best Regards,

Mathieu Picard
Kobi Karp Architecture & Interior Design
2915 Biscayne Boulevard
Suite 200
Miami, FL 33137
MPicard@KobiKarp.com

O: 305.573.1818

D: 786.523.7679

C: 786.537.9464

F: 305.573.3766

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From: Kobi Karp <kobikarp@kobikarp.com>

Sent: Monday, April 27, 2020 3:26 PM

To: Mathieu Picard <mpicard@kobikarp.com>; John Shedd <jsheddd@kobikarp.com>; Andrei Rusu <arusu@kobikarp.com>

Cc: Polia Lubenova <plubenova@kobikarp.com>

Subject: FW: Ritz FAR

fyi

Kobi Karp
Kobi Karp Architecture Interior Design
2915 Biscayne Boulevard
Suite 200
Miami, FL 33137
kobikarp@kobikarp.com

T: 305.573.1818

C: 305.992.5892

F: 305.573.3766

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From: Diego Lowenstein <diego@lionstone.net>

Sent: Monday, April 27, 2020 3:22 PM

To: Kobi Karp <kobikarp@kobikarp.com>
Cc: Bruce Lazar <bruce@lionstone.net>; Dayssi Kanavos <Dayssi@flagluxury.com>; Javier Granda <javier@lionstone.net>; Paul Kanavos <paul.kanavos@flagluxury.com>
Subject: Fw: Ritz FAR

Kobi, as discussed today, here are the past Zoning Analysis, FAR calculations and documents including the email exchange with Tom Mooney in 2016. You should validate and see if you find the opportunity to increase this available FAR (101,623sf with the bonus if added in). We will try to get you the EoA study as well. Give us an estimate of when you will present your first draft. Regards

From: Bruce Lazar <bruce@lionstone.net>
Sent: Monday, April 27, 2020 3:03 PM
To: Diego Lowenstein <diego@lionstone.net>
Subject: Ritz FAR

Attached are the Zoning Analysis on the original plans, the applicable ordinance and a confirming email from Tom Mooney. The Zoning Analysis reflects that the property contains 163,191 sq. ft, inclusive of easements. The current ordinance allows a 3 FAR, or a total of 489,573 sq ft of FAR. Per the Zoning Analysis, the existing building contains 407,950 sq ft, leaving 81,623 sq ft available. This is without regard to the bonus of 20,000 sq ft as there is some doubt as to whether Tom Mooney would allow it. In any event, the bonus is solely for hotel amenities which would not include a condo building. Also if the Sagamore property is combined with the Ritz, I suspect that there will be more available FAR.

Bruce Lazar
305 439-9333