

MIAMI BEACH

PLANNING DEPARTMENT

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March 28, 2022

Alfredo Gonzalez
Greenberg Traurig, P.A.
333 S.E. 2nd Avenue
Miami, FL 33131

**Subject: Request for Zoning Interpretation
1 Lincoln Road and 1671 Collins Avenue
Miami Beach, Florida**

Dear Mr. Gonzalez:

This correspondence is in response to your February 8, 2022 request (attached) for a written determination regarding a proposed development project located at 1669 Collins Avenue / 1 Lincoln Road (Dilido-Ritz Carlton) and 1671 Collins Avenue (Sagamore). Specifically, you have requested a determination pertaining to the following:

1. Whether the properties located at 1669 Collins Avenue (the "Ritz Property") and the property located at 1671 Collins Avenue ("Sagamore Property") may be combined as one unified development site (Overall Property), in accordance with the regulations within the City Code.
2. Whether the Ritz Property and Sagamore Property located within the same zoning district ("RM-3") as a unified development site may use the total available FAR within the unified development site, even in the case where there are separate FAR 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.
3. Whether the combined site consisting of the Ritz Property and Sagamore Property, as a unified development site, exceeds 115,000 square feet in lot size, making the site eligible for a ground floor addition up to 200'-0" in building height under Ordinance 2019-4285 (codified at Section 142-246(f) of the City Code).

Aggregation of Ritz Property and Sagamore Property

The subject site consists of two abutting oceanfront lots: (i). Sagamore Property, which is less than 100,000 square feet in lot size; and (ii). Ritz Property, which is over 100,000 square feet in lot size. Both lots are zoned RM-3 and located in the Miami Beach Architectural District.

In accordance with Section 118-5 of the City's Land Development Regulations (LDRs), a unified development site is defined as follows:

*"...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-***

HPB22-0506
1 Lincoln Rd: 1671 Collins Av
4/12/22 HPB Hearing
"Exhibit B"

way. A 'unified development site' does not include any lots separated by a public right-of-way or any non-adjacent, non-contiguous parcels."

(Emphasis added).

The term "lot" is defined in Section 114-1 of the LDRs as follows:

"...a parcel of land of at least sufficient size to meet minimum zoning requirements for use, minimum width, and area, and to provide such yards and other open spaces as are required in these land development regulations. Such lot shall have frontage on a public street, and may consist of:

(1) A single lot of record;

(2) A portion of a lot of record;

(3) A combination of complete lots of record, and portions of lots of record; or of portions of lots of record;

(4) A parcel of land described by metes and bounds.

*'Lot' includes the word 'plot' or 'parcel' or 'tract' or '**site**.'"*

(Emphasis added).

The Ritz Property lot, containing a total area of 163,813 square feet, consists of multiple platted lots and portions of platted lots, which were combined prior to November 14, 1998. The Sagamore Property lot, containing a total area of 44,848 square feet, consists of two platted lots and portions of platted lots.

The two subject lots (Ritz Property and Sagamore Property) are not separated by any intervening lot and are not separated by a public right-of-way. A unified development site consisting of the Ritz Property and the Sagamore Property is, therefore, consistent with the LDRs. Further, there is no limit on lot aggregation, and no limit on the creation of a unified development site within the RM-3 development regulations.

FAR within the Unified Development Site

In accordance with Section 142-546 of the LDRs, the maximum floor area ratio (FAR) for oceanfront lots within the RM-3 zoning district and located within the Architectural District is 2.0. However, oceanfront lots greater than 100,000 square feet as of November 14, 1998, have a maximum FAR of 3.0.

Applicable Code Sections:

Sec. 114-1

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

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 square feet—2.25; lot area greater than 45,000 square feet—2.75; oceanfront lots with lot area greater than 45,000 square feet—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 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.

(Emphasis added).

NOTE: Section 142-246(3) was amended at Second Reading of the amending Ordinance on November 14, 1998, to accommodate existing lots larger than 100,000 square feet in the Architectural District.

The Ritz Property lot, which existed prior to November 14, 1998, has an area that exceeds 100,000 square feet and therefore, has a maximum FAR of 3.0. The Sagamore Property lot, which is smaller than 100,000 square feet, has a maximum FAR of 2.0.

A development project that includes the aggregation of the Ritz Property and the Sagamore Property as a unified development site would be permitted to distribute the maximum allowable FAR for each site across the larger unified development site. As clearly provided in Sections 114-4(7) and 118-5(d) below, since both lots are located in the same zoning district (RM-3), there is no prohibition on moving the allowable floor area for the combined parcels within across the larger unified development site, even though the Ritz Property is —on its own— eligible for a maximum 3.0 FAR, and the Sagamore Property is—on its own—limited to a 2.0 FAR. All structures located within the unified development site must be consistent with the applicable setback requirements for the combined site, as well as the maximum building height limits.

Section 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 districts. [...]

Section 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) Only commercial and/or mixed-use entertainment zoning districts may be joined together to create a unified development site, provided the entire unified development site, including each separate zoning district, 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.*

(d) **The maximum FAR for a unified development site shall not exceed the aggregate maximum FAR of the multiple lots allowed by the underlying zoning districts, inclusive of bonus FAR.** *Within a locally designated historic district or locally designated historic site within the Ocean Terrace Overlay District, any platted lot(s) with a contributing building(s) that contain legal-nonconforming FAR and were previously separate and apart from other lots that comprise the unified development site, may retain their existing legal nonconforming FAR, provided no additional FAR is added to such platted lot(s).*

(e) *Within a unified development site within the Ocean Terrace Overlay District, passageways or other connections that are in allowable FAR exception may be permitted on lots with legal nonconforming FAR.*

(Emphasis added).

Although the maximum allowable FAR for the Ritz Property, on its own, and the Sagamore Property, on its own, differ, the parcels lie within the same zoning district (RM-3) and are permitted to be combined as a unified development site. Moreover, the total aggregate floor area allowed cannot be exceeded within the unified site. The following is the breakdown of the allowable FAR for the proposed project at the Ritz Carlton – Sagamore unified development site:

Ritz/Sagamore Project data:

Lot Size

- (Ritz Carlton /1 Lincoln Rd): 163,813 S.F.
- (Sagamore / 1671 Collins Av): 44,848 S.F.

Existing FAR

- (Ritz Carlton): 2.6 / 417,874 S.F.
- (Sagamore): 1.39 / 62,548 S.F.

Maximum FAR

- (Ritz Carlton): 3.0 / 511,439 S.F. (including additional 20,000 S.F. hotel amenity space).
- (Sagamore): 2.0 / 89,696 S.F.

TOTAL FLOOR AREA PERMITTED WITHIN THE COMBINED SITE: 601,135 S.F.

TOTAL FLOOR AREA PROPOSED WITHIN THE COMBINED SITE: 600,000 S.F.

Another example of this type of FAR distribution would be if four separate lots in the RM-2 district were combined to create a unified development site in order to accommodate a residential development. If the maximum allotted floor area for the combined site (residential units and common areas) were constructed over two lots (lots 1 and 2), and the required parking, which is exempt from FAR, were provided on the other two lots (lots 3 and 4), the allotted floor area (residential units on lots 1 and 2) would exceed the maximum allowable FAR for those 2 lots on their own. However, when the floor area is calculated based on the FAR for the combined four-lot unified site, it would not exceed the maximum allowable FAR for the unified site.

Allowable Height within the Combined Site

As previously noted, there is no limit on lot aggregation or creating a unified development site within the RM-3 development regulations. The subject combined site has an area of 208,661 square feet, which exceeds the 115,000 square feet required to propose a ground floor addition up to a maximum height of 200'-0". Unlike the RM-3 regulations governing the maximum FAR, the regulations governing maximum height are not conditioned upon lot aggregation occurring prior to a specific date. The maximum height of 200'-0" is, therefore, applicable to the entire area of the combined site and is not limited to any specific location on the unified site.

The following is the relevant Code section:

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

[...]

*(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.

(Emphasis added).

Based upon the foregoing, the plans submitted for Historic Preservation Board review for the property located at 1 Lincoln Road and 1671 Collins Avenue (HPB21-0457) are consistent with the requirements of the Land Development Regulations. The following is noted regarding the requested determination:

1. The properties located at 1669 Collins Avenue (the "Ritz Property") and the property located at 1671 Collins Avenue ("Sagamore Property") may be combined as one unified development site (Overall Property), in accordance with the regulations within the City Code.

2. The Ritz Property and Sagamore Property are located within the same zoning district ("RM-3") and as a unified development site may use the total available FAR within the unified development site, even in the case where there are separate FAR allocations for each site independently, except the 20,000 square feet FAR for hotel amenities bonus under Section 142-246 of the Code shall only apply to hotel amenities.
3. The combined site consisting of the Ritz Property and Sagamore Property, as a unified development site, is eligible for a ground floor addition up to 200'-0" in building height under Ordinance 2019-4285 (codified at Section 142-246(f) of the City Code), as the unified development site exceeds 115,000 square feet in lot size.

In accordance with City Code Section 118-9, this administrative determination will be published on the City's website for at least 30 days. An eligible party, as defined in Section 118-9 of the City Code, shall have up to 30 days from the posting on the web page to appeal this administrative determination.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Thomas R. Mooney', is written over the typed name.

Thomas R. Mooney, AICP
Planning Director

TRM/DJT