



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

COMMISSION MEMORANDUM

TO: Mayor Dan Gelber and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: June 24, 2020

SUBJECT: **Referral to the June 30, 2020 LUSC and the Planning Board – Proposed Ordinance Pertaining to the Reconstruction of Floor Plates in Nonconforming Contributing Buildings**

ADMINISTRATION RECOMMENDATION

The administration recommends that the City Commission refer the attached ordinance to the June 30, 2020 Land Use and Sustainability Meeting and the Planning Board for review and recommendation.

BACKGROUND

Under the current regulations of the city code, when an existing building exceeds the current maximum allowable floor area ratio (FAR), the excess FAR is considered legal non-conforming, and no additional FAR may be added. Specifically, under Chapter 118, Article IX of the Land Development Regulations (LDRs) of the City Code, governing nonconformances, a nonconforming building or use cannot be expanded.

In order to amend the code to allow for limited circumstances where non-conforming FAR can be reconstructed, an amendment to Chapter 118, Article IX of the LDRs is required. Pursuant to City Charter Section 1.03(c), such amendment would require the approval of the City's voters.

On July 17, 2019, the City Commission approved the following ballot question, which was placed on the November 5, 2020 election ballot:

Ordinance authorizing new floor area within interior of historic buildings for adaptive reuse

Floor area ratio ("FAR") is the measure the City utilizes to regulate the overall size of a building. Currently, new floor area cannot be added to the interior of historic buildings that have no available floor area, unless the City's voters approve an FAR increase, pursuant to Charter Section 1.03(c).

Shall City Commission adopt an Ordinance authorizing the use of new floor area within historic buildings for the adaptive reuse of such buildings?

The ballot measure failed by a very narrow margin. Out of 9,380 votes cast for this particular ballot measure, 4,592 voted yes (49%) and 4,788 voted no (51%).

PLANNING ANALYSIS

The proposed referral pertains to an amendment to Chapter 118, Article IX of the LDR's that would allow the historic preservation board to approve the reconstruction of original, interior floor plates, as part of the restoration of a contributing building. For example, if a contributing building that is legal non-conforming as to FAR sought to reconstruct original interior floors that were previously removed, the HPB could allow for the reconstruction of those floors, as part of a restoration project. This is not possible under the current regulations of the code.

The draft regulations would only apply to existing structures that are classified as 'contributing' in the city's historic properties database, and which are located within a locally designated historic district. Additionally, the reconstruction of the original floor plates would be subject to the review and approval of the HPB and would only be allowable for interior floor plates removed prior to June 4, 1997. The reason for establishing this particular date is so the applicability of the provision would be limited to those floor plates removed prior to the date of approval of the first charter amendment requiring voter approval of increases in FAR.

From a policy standpoint the administration is supportive of this proposal, as it will provide the HPB with the ability to review and authorize the reconstruction of original interior floor plates in nonconforming, contributing buildings. Although a similar ballot measure failed last November, the administration believes that limiting this proposal to the reconstruction of original floors in contributing buildings will make this proposal more acceptable. The previous ballot measure included a much broader application, that would have allowed non-original floor plates to be reconstructed. This likely contributed to the failure of the measure.

As the proposed amendment would result in an increased in zoned FAR, under the City Charter approval from the voters is required. For a ballot question to be placed on the November 3, 2020 ballot, the City Commission would need to approve the ballot language by the end of July.

APPLICATION FEE WAIVER

The subject amendment is proposed to be referred on a comprehensive basis, and not on behalf of a private applicant or third party. Pursuant to section 118-162(c) of the Land Development Regulations of the City Code, amendments to the City Code require the payment of the applicable fees in section 118-7 and Appendix A. These fees may be waived by a five-sevenths (5/7ths) vote of the City Commission, based upon one or more of the following circumstances:

1. The City Manager determines, in writing, that the proposed amendment is necessary due to a change in federal or state law, and/or to implement best practices in urban planning;
2. Upon written recommendation of the city manager acknowledging a documented financial hardship of a property owner(s) or developer(s); and/or
3. If requested, in writing, by a non-profit organization, neighborhood association, or homeowner's association for property owned by any such organization or association, so long as the request demonstrates that a public purpose is achieved

by enacting the applicable amendment.

The City Manager has determined that the proposed amendment is necessary to implement best practices in urban planning.

CONCLUSION

The Administration recommends that the City Commission:

1. Refer the attached ordinance to the June 30, 2020 Land Use and Sustainability Committee and the Planning Board for review and recommendation.
2. In accordance with section 118-162(c) of the City Code, waive the applicable application fees based upon the legislation implementing best practices in urban planning.

JLM/EC/TRM

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