

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: February 28, 2023

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB23-0575. LDR Amendment – Square Footage for FAR Increases.**

RECOMMENDATION

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

HISTORY

On October 26, 2022, at the request of Commissioner Kristen Rosen Gonzalez, the City Commission referred a discussion item (Item C4 O) to the Public Safety and Neighborhood Quality of Life Committee (the “PSNQLC”). This discussion item pertained to providing supplementary information, where permitted by law, illustrating the actual amount of additional square footage of floor area on properties that would benefit from a ballot measure proposing an increase in FAR.

On December 7, 2022, the PSNQLC discussed the item and recommended that the City Commission refer a Land Development Regulation (LDR) amendment to the Planning Board. Specifically, such amendment would codify a requirement for identifying increases in actual square footage associated with proposed increases in FAR prior to approval of a ballot question. Additionally, Commissioner Alex Fernandez agreed to become a co-sponsor of the proposal.

On February 1, 2023, the City Commission referred the proposed ordinance to the Planning Board (Item C4 F).

REVIEW CRITERIA

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

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

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

2. **Whether the proposed change would create an isolated district unrelated to**

adjacent or nearby districts.

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

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

Consistent - The proposed ordinance does modify the scale of development, as such the amendment is not out of scale with the needs of the neighborhood or the city.

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

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

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

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

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

Consistent – The need to improve the understanding of the impacts of FAR increases makes passage of the proposed change necessary.

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

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

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

Consistent – The proposed change will not create or increase traffic congestion from what is currently permitted, as the FAR is not being modified by this ordinance.

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

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

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

Consistent – The proposed change will not adversely affect property values in the

adjacent areas.

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

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

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

Not applicable.

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

Not applicable.

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

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

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

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

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

Partially Consistent – The proposal should not impact the resiliency of the City with respect to sea level rise.

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

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

ANALYSIS

The impacts of an increase in maximum floor area ratio (FAR) can vary, depending upon the actual increase in intensity proposed. For instance, the ballot question approved in 2020 that created additional exceptions to FAR (stairs above the roof, bike parking and FPL vaults) had little to no impact on the intensity or massing of a building. However, the FAR increase approved in 2017 for the North Beach Town Center (TC-C) area had a much more significant impact, as the maximum FAR for a larger, defined area, was increased to 3.5, from the previous FARs of 1.25 (TC-3), 1.5/2.0 (TC-2), and 2.25/2.75 (TC-1).

The City Commission can request, as needed, an intensity analysis that would show the visual impact of future FAR increases. It is important to note that smaller FAR increases may not always result in new building mass being visible from the street or sidewalk. However, for larger FAR increases, massing studies would clearly show how much additional square footage would be allowed and provide a good comparison to the existing regulations.

The attached draft ordinance creates Section 142-5 in the Land Development Regulations of the City Code (LDR's) and would apply to a proposal to increase the maximum allowable FAR within any zoning district. As recommended by the PSNQLC, the proposed amendment would require that prior to approval of a ballot question, if required pursuant to the City Charter, or in advance of First Reading of an applicable amendment to the LDR's, whichever comes first, the maximum square footage associated with the proposed increase in FAR shall be identified, to the greatest extent possible.

Additionally, a provision has been added that would allow for these requirements to be waived by a 5/7th vote of the City Commission, for any reason.

Staff believes that the identification of square footage associated with increases in FAR should be considered on a case-by-case basis. This would give the City Commission the flexibility to decide which FAR increases may need to have such an analysis, prior to being placed on a ballot.

RECOMMENDATION

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

LDR Amendment – Square Footage for FAR Increases

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, SUBPART B, ENTITLED "LAND DEVELOPMENT REGULATIONS," BY AMENDING CHAPTER 142 OF THE CITY CODE, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE I, ENTITLED "GENERAL TO ALL ZONING DISTRICTS," BY CREATING SECTION 142-5 TO ESTABLISHMENT REQUIREMENTS FOR IDENTIFYING MAXIMUM FLOOR AREA RATIO (FAR) AVAILABLE WHEN AN FAR INCREASE IS PROPOSED; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, City Charter Section 1.03(c), requires that any increase in zoned floor area ratio (FAR) for any property in the City must be approved by a majority vote of the electors of the City of Miami Beach; and

WHEREAS, the City of Miami Beach seeks to adopt regulations to ensure that the visual impacts of any future FAR increase are well understood prior to consideration of such questions by voters; and

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 amendments set forth below are necessary to accomplish the objectives above.

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 I, "General to All Zoning Districts," is hereby amended as follows:

Sec. 142-5. Requirements for proposed increases in allowable floor area ratio (FAR).

The following shall apply to any proposal to increase the maximum allowable FAR within any zoning district:

(1) Prior to approval of a ballot question, if required pursuant to the City Charter, or in advance of First Reading of the applicable Amendment to the Land Development Regulations, whichever comes first, the maximum square footage associated with the proposed increase in FAR shall be identified, to the greatest extent possible.

(2) The requirements herein may be waived by a 5/7th vote of the City Commission, for any reason.

SECTION 2. 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 Miami Beach City Code. 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 3. REPEALER.

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

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 10 days after passage

PASSED AND ADOPTED this _____ day of 2023

Dan Gelber, Mayor

ATTEST:

Rafael E. Granado, City Clerk.

APPROVED AS TO FORM AND
LANGUAGE AND FOR EXECUTION

City Attorney

Date

First Reading: _____, 2023

Second Reading: _____, 2023

Verified by: _____
Thomas R. Mooney, AICP
Planning Director