

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Planning Board

TO: Chairperson and Members
Planning Board

DATE: June 28, 2016

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: **Ordinance Amendment**
Below Grade Floor Area – Contributing Buildings

REQUEST

PB0601-0025. BELOW GRADE FLOOR AREA – CONTRIBUTING BUILDINGS. AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, BY AMENDING CHAPTER 114, “GENERAL PROVISIONS,” BY AMENDING THE DEFINITION OF FLOOR AREA; WHICH DEFINITION IS CONSISTENT WITH THE DEFINITION OF FLOOR AREA RATIO (FAR) AS EXISTED ON NOVEMBER 7, 2001, THUS ENSURING COMPLIANCE WITH SECTION 1.03(c) OF THE CHARTER; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

RECOMMENDATION

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

HISTORY

On June 8, 2016, at the request of Commissioner Alemán, the City Commission referred the subject Ordinance amendment (Item C4T) to the Planning Board.

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 amendment does not modify the permitted uses in the affected area and 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.**

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

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

Consistent – The proposed Ordinance is consistent with development regulations that existed prior to June 11, 2014 and will not result in development that is out of scale with the needs of the neighborhood or City.

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

Partially Consistent – The proposed ordinance may allow for a slight increase in intensity from what is currently permitted; however, it is less than the intensity permitted prior to June 11, 2014. Developments will still be required to undergo a concurrency review as part of a building permit process.

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

Not applicable – The proposed change does not modify existing district boundaries.

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

Consistent – The need to incentivize the preservation of contributing structures in the National Register Historic Districts, as well as encouraging the restoration of contributing structures in local historic districts and sites makes the proposed change necessary.

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

Consistent – The proposed change 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.

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

Partially Consistent – The proposal may allow for slight increases in intensity; however, it is not expected that the increase will greatly reduce light and air in adjacent areas.

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

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

adjacent areas.

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

Consistent – The proposal is intended to encourage the restoration of contributing buildings with basements within historic districts.

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.

ANALYSIS

Section 114-1 of the Land Development Regulations defines the criteria for areas that count towards a buildings floor area limitations provided for through the Floor Area Ratio (FAR) permitted in each zoning district within the City. The criteria exempts certain portions of a building from counting towards the floor area limitations. The proposed amendment modifies the exemptions from floor area as follows:

***Floor area** means the sum of the gross horizontal areas of the floors of a building or buildings, measured from the exterior faces of exterior walls or from the exterior face of an architectural projection, from the centerline of walls separating two attached buildings. However, the floor area of a building shall not include the following unless otherwise provided for in these land development regulations.*

* * *

(9) Floor area located below grade when the top of the slab of the ceiling is located at or below grade. However, if any portion of the top of the slab of the ceiling is above grade, the floor area that is below grade shall be included in the floor area ratio calculation. Despite the foregoing, for existing contributing structures that are located within a local historic district, national register historic district, or local historic site, when the top of the slab of an existing ceiling is located above grade, one-half of the floor area that is below grade shall be included in the floor area ratio calculation.

As basements that are primarily below the level of the sidewalk, its impact on the overall scale of the building on its surroundings is not as great as a floor that is fully above the sidewalk level. As a result, the modification proposed to reduce the area that is counted towards the maximum floor area of a building for existing basements in contributing buildings. It is the intention of this ordinance amendment to improve the economics for the restoration of contributing buildings with existing basements in local historic districts. It also incentivizes the preservation of contributing structures with basements in National Register Historic Districts.

City Charter Issues

Since the amendment relates to the definition of Floor Area Ratio (FAR), the proposal must be reviewed for consistency with City Charter Section 1.03 (c), which states, in relevant part:

The floor area ratio of any property or street end within the City of Miami Beach shall not be increased by zoning, transfer, or any other means from its current zone floor area ratio as it exists on the date of adoption of this Charter Amendment (November 7, 2001), including any limitations on floor area ratios which are in effect by virtue of development agreements through the full term of such agreements, unless such increase in zone floor area ratio for any such property shall first be approved by a vote of the electors of the City of Miami Beach.

The definition of floor area ratio in effect on November 7, 2001 included the following exemption from the calculation of floor area:

(9) Floor area located below grade; however, if the ceiling is above grade, one half of the floor area that is below grade shall be included in the floor area ratio calculation.

On June 11, 2014, the City Commission adopted Ordinance 2014-3876, which amended a portion of the definition of Floor Area, to clarify and narrow the definition to the following:

(9) Floor area located below grade when the top of the slab of the ceiling is located at or below grade; ~~however,~~ However, if any portion of the top of the slab of the ceiling is above grade, ~~one-half of the floor area that is below grade shall be included in the floor area ratio calculation.~~

The proposed amendment partially reinstates the exemption that existed prior to June 11, 2014, and that was in effect on November 7, 2001, when the City Charter provision related to FAR went into effect. It reinstates the provision regarding counting half of the floor area below grade into the calculation of FAR if any portion of the slab or ceiling is above grade, but only for existing contributing buildings in a local historic district, national register district, or local historic sites. The regulation in effect prior to June 11, 2014 counted for all buildings. Since the regulation proposed by the amendment is more restrictive than the FAR regulations in effect on November 7, 2001, a general referendum on the amendment is not required. The proposed ordinance amendment remains equal to or more restrictive than the FAR regulations in effect on November 7, 2001. Consistent with the Charter, the definition of FAR is not being amended to allow an “increase[] by zoning, transfer, or any other means from its current zoned floor area ratio as it exists on the date of adoption of this Charter Amendment [November 7, 2001].” Therefore, the Charter provision is not being triggered by the enactment of the attached ordinance.

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.

TRM/MAB/RAM

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