

Exhibit P

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, CREATING SECTION 118-5 IN THE CITY'S LAND DEVELOPMENT REGULATIONS ENTITLED: "UNITY OF TITLE; COVENANT IN LIEU THEREOF"; CLARIFYING THE REQUIREMENT OF A UNITY OF TITLE FOR CERTAIN DEVELOPMENTS; AUTHORIZING THE PLANNING DIRECTOR TO ACCEPT COVENANTS IN LIEU OF UNITY OF TITLE, IN A FORM ACCEPTABLE TO THE CITY ATTORNEY; SPECIFYING THE PROVISIONS OF SUCH A COVENANT, AND ACCOMPANYING EASEMENT AND OPERATING AGREEMENT; PROVIDING FOR TREATMENT OF THE UNIFIED SITE AS ONE SITE UNDER THE LAND DEVELOPMENT REGULATIONS; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF MIAMI-BEACH, FLORIDA; PROVIDING FOR REPEALER, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City sometimes requires or allows the development of parcels containing multiple lots or buildings to be treated as a single parcel for zoning purposes; and

WHEREAS, the single parcel is sometimes enforced through the requirement of having the property owner and others holding interest in the property execute and record a unity of title, which binds the property together for zoning purposes; and

WHEREAS, Miami Beach Code section 118-321 contains a prohibition against lot splitting, which could be interpreted as not allowing different owners or entities to develop, redevelop or finance portions of property previously maintained as a single parcel for zoning purposes; and

WHEREAS, in recent months property owners have approached the Planning Department and City Attorney's Office proposing covenants in lieu of unity of title; and

WHEREAS, the concept of such a covenant is acceptable to both the Planning Department and the City Attorney's Office, however it is unclear whether the City's development regulations permit the acceptance of such a covenant; and

WHEREAS, the City desires to adopt an ordinance, based on Miami-Dade County Code section 33-257, clarifying the requirement of a unity of title for certain developments, and authorizing the use of covenants in lieu of unity of title in the City of Miami Beach.

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

SECTION I. That Section 118-5, entitled "Unity of Title; Covenant in Lieu Thereof" of the Code of the City of Miami Beach, Florida is hereby created as follows:

Section 118-5 **Unity of Title; Covenant in Lieu Thereof.**

All applications for building permits where multiple buildings are proposed for a single lot, or where single or multiple buildings are proposed for a unified development site consisting of multiple lots, shall be accompanied by one of the following documents:

- (1) A unity of title, approved for legal form and sufficiency by the City Attorney, which shall run with the land and be binding upon the owner's heirs, successors, personal representatives and assigns, and upon all mortgagees or lessees and others presently or in the future having any interest in the property; or
- (2) A declaration of restrictive covenants, also called a covenant in lieu of unity of title, approved for legal form and sufficiency by the City Attorney, which shall run with the land and be binding upon the owner's heirs, successors, personal representatives and assigns, and upon all mortgagees and lessees and others presently or in the future having any interest in the property. The declaration shall contain the following necessary elements:
 - (a) That the subject site will be developed in substantial accordance with the approved site plan, after one has been submitted and approved under the City's land development regulations. That no modification shall be effectuated without the written consent of the then owner(s) of the phase or portion of the property for which modification is sought, all owners within the original unified development site, or their successors, whose consent shall not be unreasonably withheld, and the Director of the City's Planning Department; provided the Director finds that the modification would not generate excessive noise or traffic, tend to create a fire or other equally or greater dangerous hazard, or provoke excessive overcrowding of people, or tend to provoke a nuisance, or be incompatible with the area concerned, when considering the necessity and reasonableness of the modification in relation to the present and future development of the area concerned. Should the Director withhold such approval, the then owner(s) of the phase or portion of

the property for which modification is sought shall be permitted to seek such modification by application to modify the plan or covenant at public hearing before the appropriate City board or the City Commission of Miami Beach, Florida, (whichever by law has jurisdiction over such matters). Such application shall be in addition to all other required approvals necessary for the modification sought. Proposed modifications to the property's use, operation, physical condition or site plan shall also be required to return to the appropriate development review board or boards for consideration of the effect on prior approvals and the affirmation, modification or release of previously issued approvals or imposed conditions.

(b) That if the subject property will be developed in phases, that each phase will be developed in substantial accordance with the approved site plan.

(c) That in the event of multiple ownerships subsequent to site plan approval, that each of the subsequent owners shall be bound by the terms, provisions and conditions of the declaration of restrictive covenants. The owner shall further agree that he or she will not convey portions of the subject property to such other parties unless and until the owner and such other party or parties shall have executed and mutually delivered, in recordable form, an instrument to be known as an "easement and operating agreement" which shall contain, among other things:

- (i) Easements in the common area of each parcel for ingress to and egress from the other parcels;
- (ii) Easements in the common area of each parcel for the passage and parking of vehicles;
- (iii) Easements in the common area of each parcel for the passage and accommodation of pedestrians;
- (iv) Easements for access roads across the common area of each parcel to public and private roadways;
- (v) Easements for the installation, use, operation, maintenance, repair, replacement, relocation and removal of utility facilities in appropriate areas in each such parcel;

- (vi) Easements on each such parcel for construction of buildings and improvements in favor of each such other parcel;
- (vii) Easements upon each such parcel in favor of each adjoining parcel for the installation, use, maintenance, repair, replacement and removal of common construction improvements such as footings, supports and foundations;
- (viii) Easements on each parcel for attachment of buildings;
- (ix) Easements on each parcel for building overhangs and other overhangs and projections encroaching upon such parcel from the adjoining parcels such as, by way of example, marquees, canopies, lights, lighting devices, awnings, wing walls and the like;
- (x) Appropriate reservation of rights to grant easements to utility companies;
- (xi) Appropriate reservation of rights to road right-of-ways and curb cuts;
- (xii) Easements in favor of each such parcel for pedestrian and vehicular traffic over dedicated private ring roads and access roads; and
- (xiii) Appropriate agreements between the owners of the several parcels as to the obligation to maintain and repair all private roadways, parking facilities, common areas and common facilities and the like.

These provisions or portions thereof may be waived by the Director if they are not applicable to the subject property (such as for conveyances to purchasers of individual condominium units). These provisions of the easement and operating agreement shall not be amended without prior written approval of the City Attorney. In addition, such easement and operating agreement shall contain such other provisions with respect to the operation, maintenance and development of the property as to which the parties thereto may

agree, or the Director may require, all to the end that although the property may have several owners, it will be constructed, conveyed, maintained and operated in accordance with the approved site plan. The Department shall treat the unified site as one site under these land development regulations, regardless of separate ownerships.

- (d) The declaration of restrictive covenants shall be in effect for a period of thirty years from the date the documents are recorded in the public records of Miami-Dade County, Florida, after which time they shall be extended automatically for successive periods of ten years unless released in writing by the then owners and the Director, acting for and on behalf of Miami Beach, Florida, upon the demonstration and affirmative finding that the same is no longer necessary to preserve and protect the property for the purposes herein intended.
- (e) Enforcement of the declaration of restrictive covenants shall be by action at law or in equity with costs and reasonable attorneys' fees to the prevailing party.

SECTION 2. INCLUSION IN CODE OF THE CITY OF MIAMI BEACH, FLORIDA.

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 section 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 3. REPEALER.

All ordinances or parts of ordinances and all sections and parts of sections 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 ten days following adoption.

PASSED and ADOPTED this 18th day of October, 2000.

ATTEST:

M

MAYOR

Robert Packer

CITY CLERK

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

M. H. H. H.

City Attorney

10/2/00

Date

(Ordinance No. 2000-3275)

F:\ATTO\HELGP\Planning\CovUT\COVORDNE.WPD - September 28, 2000

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
http://ci.miami-beach.fl.us



COMMISSION MEMORANDUM NO. 782-00

TO: Mayor Neisen O. Kasdin and
Members of the City Commission

DATE: October 18, 2000

FROM: Jorge M. Gonzalez
City Manager

SECOND READING PUBLIC HEARING

SUBJECT: Ordinance - Unity of Title; Covenant in Lieu Thereof

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, CREATING SECTION 118-5 IN THE CITY'S LAND DEVELOPMENT REGULATIONS ENTITLED: "UNITY OF TITLE; COVENANT IN LIEU THEREOF"; CLARIFYING THE REQUIREMENT OF A UNITY OF TITLE FOR CERTAIN DEVELOPMENTS; AUTHORIZING THE PLANNING DIRECTOR TO ACCEPT COVENANTS IN LIEU OF UNITY OF TITLE, IN A FORM ACCEPTABLE TO THE CITY ATTORNEY; SPECIFYING THE PROVISIONS OF SUCH A COVENANT, AND ACCOMPANYING EASEMENT AND OPERATING AGREEMENT; PROVIDING FOR TREATMENT OF THE UNIFIED SITE AS ONE SITE UNDER THE LAND DEVELOPMENT REGULATIONS; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF MIAMI-BEACH, FLORIDA; PROVIDING FOR REPEALER, SEVERABILITY AND AN EFFECTIVE DATE.

ADMINISTRATION RECOMMENDATION

The Administration recommends that the City Commission, upon second reading public hearing, adopt the proposed amending Ordinance.

ANALYSIS

The Commission referred this item to the Land Use and Development Committee on December 1, 1999, at the request of the City Attorney's Office. The Land Use and Development Committee referred it to the Planning Board, without a recommendation, on March 13, 2000. At its May 23, 2000 meeting, the Planning Board voted 6-0 to recommend approval of the proposed ordinance. The City Commission approved the proposed ordinance on first reading at its June 7, 2000 meeting. The Historic Preservation Board reviewed and approved the proposed ordinance at its July 11, 2000 meeting. On July 12, 2000, the City Commission held a second reading public hearing, took public comment and directed staff to consider amendments to the ordinance based on the public comment, and return for second reading in October, 2000.

AGENDA ITEM

R5D

DATE

10-18-00

Numerous requests have been made to the Planning Director to allow the submission of a Covenant in Lieu of Unity of Title. A Unity of Title is required by the Planning Department where multiple buildings or multiple lots are proposed to be combined or provided in one development site. The Unity of Title ensures that development will remain unified and not split up into separate developments. The Covenant in Lieu of Unity of Title accomplishes the same result, but also allows that portions of the development site, or separate buildings on a development site, can be owned by separate interests.

The proposed draft ordinance generally tracks the Miami-Dade County ordinance on unities of title and covenants in lieu of unity of title (Miami-Dade County code section 33-257). The ordinance will codify the unity of title requirement and the Planning Director's authority to accept covenants in lieu of the unity of title. The differences between the County ordinance and the proposed City ordinance primarily relate to the differences in jurisdiction, boards, and the Planning Director's title. The differences also allow for the differences in procedure, as in the City an approved site plan is not required in the initial stages of development review. The City ordinance confirms that modification of the covenant by board or the Commission at hearing does not relieve the property owner from obtaining other required development approvals, and also specifically allows the sale of individual condominium units without the need for an easement and operating agreement (used to ensure the operation of the development site in the event of multiple ownership). Further, the City Commission requested that modifications also be subject to the approval of "all owners within the original unified development site." Additional public comment at the July 12, 2000 Commission meeting and incorporated into the ordinance related to imposing a requirement that consent to modifications not be unreasonably withheld, and modifications as to the property's use, operation, physical condition or site plan be required to return to the appropriate development review board to review such modifications in light of its original approval.

The City ordinance codifies the requirement of a unity of title in certain circumstances, confirms the Planning Director's authority to use covenants in lieu of unity of title, provides for stricter control over the use of and language of such covenants, and provides for treatment of the unified site as one site under the Land Development Regulations, regardless of separate ownerships.

Based on the foregoing analysis, the Administration recommends that the Commission adopt, upon second reading public hearing, the proposed amending ordinance.

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ORIGINAL

ORDINANCE NO. 2000-3275

Creating Section 118-5 in the City's Land
Development Regulations Entitled: "Unity
of Title; Covenant in Lieu Thereof";
Clarifying the Requirement of a Unity of
Title for Certain Developments; Authorizing
the Planning Director to Accept Covenants
in Lieu of Unity of Title,

DEFINITION OF UNIFIED DEVELOPMENT SITE

ORDINANCE NO. 2015-3941

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY CODE, BY AMENDING CHAPTER 118, "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE I, "IN GENERAL," SECTION 118-5, "UNITY OF TITLE; COVENANT IN LIEU THEREOF," BY AMENDING THE REQUIREMENTS AND STANDARDS FOR A COVENANT IN LIEU AND BY PROVIDING A DEFINITION FOR UNIFIED DEVELOPMENT SITE; PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach contains a variety of building sites, with numerous variations in uses and development rights; and

WHEREAS, the Land Development Regulations of Miami Beach have been promulgated to provide for compatibility of new development within the built context of the City of Miami Beach; and

WHEREAS, the Land Development Regulations contain certain provisions that govern Covenants in Lieu of Unity of Title and Unified Development Sites.

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

SECTION 1. Chapter 118, "Administration and Review Procedures," Article I, "In General," of the Land Development Regulations of the Code of the City of Miami Beach 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.

All applications for building permits where multiple buildings and/or improvements are proposed for a single lot or where ~~single or multiple building(s)~~ are proposed for a unified development site ~~consisting of multiple lots~~, shall be accompanied by one of the following documents:

For purposes of this subsection, the term "Unified Development Site" be defined as "a site where development is proposed comprising multiple lots with all lots touching and not separated by another lot, street, sidewalk or alley."

(1) Unity of Title. A unity of title shall be utilized when there is solely one owner of the entire Unified Development Site. ~~The~~A unity of title, approved for legal form and sufficiency by the city attorney, ~~which~~ shall run with the land and be binding upon the owner's heirs, successors, personal representatives and assigns, and upon all mortgagees or lessees and others presently or in the future having any interest in the property; or

(2) Covenant in Lieu of Unity of Title. A Covenant in Lieu of Unity of Title or a ~~A~~ declaration of restrictive covenants, shall be utilized when the Unified Development Site is owned, or is proposed for multiple ownership, including but not limited to a condominium form of ownership. ~~also called a~~ The covenant in lieu of unity of title shall be approved for legal form and sufficiency by the city attorney, ~~which~~ The covenant in lieu of unity of title shall run with the land and be binding upon the owner's heirs, successors, personal representatives and assigns, and upon all mortgagees and lessees and others presently or in the future having any interest in the property. The declaration covenant shall contain the following necessary elements:

- a. ~~The subject site unified development site shall~~ will be developed in substantial accordance with the approved site plan, ~~after one has been submitted and approved under the city's land development regulations.~~
- b. ~~That a~~ No modification to the site plan shall be effectuated without the written consent of the then owner(s) of the ~~[phase] or portion of the property~~ unified development site for which modification is sought, ~~a~~
- c. Standards for reviewing a modification to the site plan. A modification may be requested, provided all owners within the original unified development site, or their successors, whose consent shall not be unreasonably withheld, execute the application for modification. ~~The~~ ~~and the~~ director of the city's planning department shall review the application and determine whether the request is for a minor or substantial modification. If the request is a minor modification, the modification may be approved administratively by the planning director. If the modification is substantial, the request will be reviewed by the applicable Board, after public hearing. This application shall be in addition to all other required approvals necessary for the modification sought.

A minor modification ; ~~provided the director finds that the modification would not generate excessive noise or traffic; tend to create a fire or other equally or greater dangerous hazard; or provoke excessive overcrowding of people; or tend to provoke a nuisance; nor be incompatible with the area concerned when considering the necessity and reasonableness of the modification in relation to the present and future development of the area concerned. Should the director withhold such approval, the then owner(s) of the phase or portion of the property for which modification is sought shall be permitted to seek such modification by application to modify the plan or covenant at public hearing before the appropriate city board or the city commission of Miami Beach Florida, (whichever by law has jurisdiction over such matters). Such application shall be in addition to all other required approvals necessary for the modification sought. Proposed modifications to the property's use, operation, physical condition or site plan shall also be required to return to the appropriate development review board or boards for consideration of the effect on prior approvals and the affirmation, modification or release of previously issued approvals or imposed conditions.~~

A substantial modification would create the conditions identified above. A substantial modification ~~may~~ also includes a request to modify the uses on the unified development site; the operation, physical condition or site plan. ~~All such substantial modifications~~ shall be required to return to the appropriate development review board or boards for consideration of the effect on prior approvals and the affirmation, modification or release of previously issued approvals or imposed conditions.

- ~~db.~~ That if the ~~unified development site-subject property will~~ is to be developed in phases, that each phase will be developed in substantial accordance with the approved site plan.
- ~~ee.~~ That ~~in the event of multiple ownerships subsequent to site plan approval that each of the subsequent owners shall be bound by the terms, provisions and conditions of the covenant in lieu of unity of titled~~declaration of restrictive covenants. The owner shall further agree that he or she will not convey portions of the subject property to such other parties unless and until the owner and such other party or parties shall have executed and mutually delivered, in recordable form, an instrument to be known as an "easement and operating agreement" which shall include, but not be limited to~~contain among other things:~~
- i. Easements for in the common area(s) of each parcel for ingress to and egress from the other parcels;
 - ii. Easements in the common area(s) of each parcel for the passage and parking of vehicles;
 - iii. Easements in the common area(s) of each parcel for the passage and accommodation of pedestrians;
 - iv. Easements for access roads across the common area(s) of the unified development site ~~each~~ parcel to public and private roadways;
 - v. Easements for the installation, use, operation, maintenance, repair, replacement, relocation and removal of utility facilities in appropriate areas in the unified development site ~~each such parcel~~;
 - vi. Easements on each ~~such~~ parcel within the unified development site for construction of buildings and improvements in favor of each such other parcel;
 - vii. Easements upon each such parcel within the unified development site in favor of each adjoining parcel for the installation, use, maintenance, repair, replacement and removal of common construction improvements such as footings, supports and foundations;
 - viii. Easements on each parcel within the unified development site for attachment of buildings;
 - ix. Easements on each parcel within the unified development site for building overhangs and other overhangs and projections encroaching upon such parcel from the adjoining parcels such as, by way of example, marquees, canopies, lights, lighting devices, awnings, wing walls and the like;
 - x. Appropriate reservation of rights to grant easements to utility companies;
 - xi. Appropriate reservation of rights to road right-of-ways and curb cuts;
 - xii. Easements in favor of each such parcel within the unified development site for pedestrian and vehicular traffic over dedicated private ring roads and access roads; and
 - xiii. Appropriate agreements between the owners of the ~~several parcels~~ unified development site as to the obligation to maintain and repair all private roadways, parking facilities, common areas and common facilities and the like.

xiv. Such easement and operating agreement shall contain such other provisions with respect to the operation, maintenance and development of the property as to which the parties thereto may agree, or the director may require, all to the end that although the property may have several owners, it will be constructed, conveyed, maintained and operated in accordance with the approved site plan. The planning department shall treat the unified site as one site under these land development regulations, regardless of separate ownerships.

These provisions or portions thereof may be waived by the planning director if they are not applicable to the subject property (such as for conveyances to purchasers of individual condominium units). These provisions of the easement and operating agreement shall not be amended without prior written approval of the city attorney. ~~In addition, such easement and operating agreement shall contain such other provisions with respect to the operation, maintenance and development of the property as to which the parties thereto may agree, or the director may require, all to the end that although the property may have several owners, it will be constructed, conveyed, maintained and operated in accordance with the approved site plan. The department shall treat the unified site as one site under these land development regulations, regardless of separate ownerships.~~

- fd. The declaration of restrictive covenants shall be in effect for a period of 30 years from the date the documents are recorded in the public records of Miami-Dade County, Florida, after which time they shall be extended automatically for successive periods of ten years unless released in writing by the then owners and the planning director, acting for and on behalf of Miami Beach, Florida, upon the demonstration and affirmative finding that the same is no longer necessary to preserve and protect the property for the purposes herein intended.
- fe. Enforcement of the declaration of restrictive covenants shall be by action at law or in equity with costs and reasonable attorneys' fees to the prevailing party.

* * *

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 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 3. REPEALER.

All ordinances or part 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.

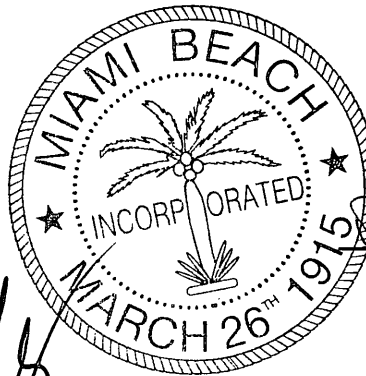
This Ordinance shall take effect ten days following adoption.

PASSED and ADOPTED this 10 day of June, 2015.

Philip Levine, Mayor

ATTEST:

Rafael E. Granado, City Clerk



APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

City Attorney

Date

First Reading: May 6, 2015
Second Reading: June 10, 2015

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

Underscore denotes new language
Strikethrough denotes deleted language
Double Underscore denotes clarifying text added after First Reading

[Sponsored by Commissioner Tobin]
[Co-sponsored by Commissioner Grieco]

COMMISSION ITEM SUMMARY

Condensed Title:

Second Reading to adopt an Ordinance amendment that provides a definition for a unified development site.

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 create a definition for a 'Unified Development' site. Additionally, text clean-up language modifications are proposed.

On May 6, 2015 the City Commission: 1) accepted the recommendation of the Land Use and Development Committee via separate motion; and 2) approved the attached Ordinance at First Reading and set a Second Reading Public Hearing for June 10, 2015.

The Administration recommends that the City Commission adopt the Ordinance.

Advisory Board Recommendation:

On March 24, 2015, the Planning Board (vote of 5-0), transmitted the proposed Ordinance amendment to the City Commission with a favorable recommendation. (Planning Board File No. 2241).

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 5 years) of proposed legislative actions," this shall confirm that the City Administration evaluated the long-term economic impact (at least 5 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
		

T:\AGENDA\2015\June\Unified Development Site - SUM Second Reading.docx

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: June 10, 2015

SECOND READING

SUBJECT: **Definition of Unified Development Site**

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY CODE, BY AMENDING CHAPTER 118, "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE I, "IN GENERAL," SECTION 118-5, "UNITY OF TITLE; COVENANT IN LIEU THEREOF," BY AMENDING THE REQUIREMENTS AND STANDARDS FOR A COVENANT IN LIEU AND BY PROVIDING A DEFINITION FOR UNIFIED DEVELOPMENT SITE; PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY AND AN EFFECTIVE DATE.

ADMINISTRATION RECOMMENDATION

The Administration recommends that the City Commission adopt the Ordinance.

BACKGROUND

On June 5th, 2013, at the request of Commissioner Tobin, the City Commission referred a discussion item to the Land Use and Development Committee, pertaining to the section of the City Code governing Unities of Title and Covenants in Lieu of Unity of Title. On January 22, 2014, the Land Use Committee discussed the item and continued it to the February 19, 2014 meeting in order for staff to properly address the definition of a 'Unified Development Site'. The item was moved from the February 19, 2014 agenda to the March 19, 2014 agenda.

On March 19, 2014, the matter was discussed briefly and continued to a date certain of April 9, 2014. On April 9, 2014, the Land Use and Development Committee recommended that an Ordinance be referred to the Planning Board to amend the requirements and standards for a 'Covenant-In-Lieu' by providing a definition for a "Unified Development Site."

On September 10, 2014, the City Commission referred the subject Ordinance to the Planning Board. On September 23, 2014, the Planning Board (by a vote of 6-0) transmitted the proposed Ordinance to the City Commission with a favorable recommendation.

On October 22, 2014, the City Commission, at First Reading, referred the Ordinance back to the Land Use Committee for further discussion and input.

On January 21, 2015 the Land Use and Development Committee recommended that the subject Ordinance, as well as a companion Ordinance pertaining to ownership and covenants in lieu related to lot splits, be referred to the Planning Board. On February 11, 2015, at the request of Commissioner Tobin, the City Commission referred both of these items to the Planning Board.

On April 15, 2015, the City Commission opened and continued the item related to the "Definition of Unified Development Site" to a date certain of May 6, 2015 so that it could be heard with the companion item regarding Section 118-321 of the Land Development Regulations.

ANALYSIS

On March 1, 2013, the Board of Adjustment granted an appeal of an Administrative Decision of the Planning Director, which denied a proposed transfer of Floor Area (FAR) for a project on a multi-property site. The Administrative Determination, dated April 10, 2012, concluded that a proposed unification of three (3) properties on Collins Avenue through the use of a proposed 'Covenant in Lieu of Unity of Title' was not a true "**unified development site**" as required by Section 118-5 of the City Code, and the proposed transfer of development rights did not conform with the applicable Charter provision 1.03(c) or the Land Development Regulations. The Board of Adjustment concluded that the language of section 118-5 did not restrict the proposed unification, granted the appeal, and then the Board suggested that refinements be considered to more clearly restrict the unification of unrelated properties for transfer of floor area.

The following is a summary of the relevant Charter and City Code provisions, and instruments, pertaining to a Unity of Title and a Covenant in Lieu of Unity of Title:

Miami Beach City Charter:

Section 1.03(c) of the City of Miami Beach Charter explicitly prohibits the floor area ratio 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 underlying principal has been a critical component in the overall policymaking of the City, the protection of the historic character of the City's historic districts, and the careful planning regulation of growth and development.

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, which discusses unities of title, or covenants in lieu of unity of title, for multiple buildings proposed for a single lot or for single or multiple buildings proposed for a unified development site consisting of multiple lots.

Section 118-5 - Unity of Title; Covenant in Lieu Thereof

When a development is proposed over multiple lots, or multiple buildings are proposed for single or multiple lots, certain documents must be executed to combine the lots or buildings for zoning purposes. As stated above, these documents may have floor area implications. Under Section 118-5(a), a Declaration of Restrictive Covenants in Lieu of

Unity of Title must contain the following elements:

1. That the subject site will be developed in substantial accordance with the approved site plan, after one has been submitted and approved under the city's land development regulations. That no modification shall be effectuated without the written consent of the then owner(s) of the [phase] or portion of the property for which modification is sought, all owners within the original unified development site, or their successors, whose consent shall not be unreasonably withheld, and the director of the city's planning department; provided the director finds that the modification would not generate excessive noise or traffic, tend to create a fire or other equally or greater dangerous hazard, or provoke excessive overcrowding of people, or tend to provoke a nuisance, or be incompatible with the area concerned when considering the necessity and reasonableness of the modification in relation to the present and future development of the area concerned. Should the director withhold such approval, the then owner(s) of the phase or portion of the property for which modification is sought shall be permitted to seek such modification by application to modify the plan or covenant at public hearing before the appropriate city board or the city commission of Miami Beach Florida, (whichever by law has jurisdiction over such matters). Such application shall be in addition to all other required approvals necessary for the modification sought. Proposed modifications to the property's use, operation, physical condition or site plan shall also be required to return to the appropriate development review board or boards for consideration of the effect on prior approvals and the affirmation, modification or release of previously issued approvals or imposed conditions.
2. That if the subject property will be developed in phases, that each phase will be developed in substantial accordance with the approved site plan.
3. That in the event of multiple ownerships subsequent to site plan approval that each of the subsequent owners shall be bound by the terms, provisions and conditions of the declaration of restrictive covenants. The owner shall further agree that he or she will not convey portions of the subject property to such other parties unless and until the owner and such other party or parties shall have executed and mutually delivered, in recordable form, an instrument to be known as an "easement and operating agreement" which provides for easements between the parcels. These can contain among other things:
 - a. Easements in the common area of each parcel for ingress to and egress from the other parcels;
 - b. Easements in the common area of each parcel for the passage and parking of vehicles;
 - c. Easements in the common area of each parcel for the passage and accommodation of pedestrians;
 - d. Easements for access roads across the common area of [each] parcel to public and private roadways;
 - e. Easements for the installation, use, operation, maintenance, repair, replacement, relocation and removal of utility facilities in appropriate areas in each such parcel;
 - f. Easements on each such parcel for construction of buildings and improvements in favor of each such other parcel;
 - g. Easements upon each such parcel in favor of each adjoining parcel for

- the installation, use, maintenance, repair, replacement and removal of common construction improvements such as footings, supports and foundations;
- h. Easements on each parcel for attachment of buildings;
 - i. Easements on each parcel for building overhangs and other overhangs and projections encroaching upon such parcel from the adjoining parcels such as, by way of example, marquees, canopies, lights, lighting devices, awnings, wing walls and the like;
 - j. Appropriate reservation of rights to grant easements to utility companies;
 - k. Appropriate reservation of rights to road right-of-ways and curb cuts;
 - l. Easements in favor of each such parcel for pedestrian and vehicular traffic over dedicated private ring roads and access roads; and
 - m. Appropriate agreements between the owners of the several parcels as to the obligation to maintain and repair all private roadways, parking facilities, common areas and common facilities and the like.

A Unity of Title, and Covenant in Lieu of Unity of Title, are used for various purposes, and do not always have floor area implications. In some instances they are just for the unification of properties of multiple ownerships for easement purposes. However, when floor area is implicated, it becomes important to examine the charter language, where the phrase "unified abutting parcels" becomes pertinent.

When the phrase "unified abutting parcels" is used, along with the covenant in lieu of unity of title, it becomes possible to transfer floor area between different ownerships of abutting parcels. The term "abutting parcels" usually refers to parcels that have lot lines that touch, not separated by a street or alley. However, regardless of ownership, the amount of FAR permitted by the Code cannot be increased within an overall unified site.

The Administration believes that the current language in the Ordinance can be an effective planning tool in terms of providing flexibility for the distribution of allowable floor area within a defined site. Moreover, the existing code does not permit a net increase in overall FAR, should multiple sites be combined through either a covenant in lieu, or other legal mechanisms. In order to continue to provide a flexible planning mechanism, it is recommended that the term "Unified Development Site" be defined within Section 118-5 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 way. A "Unified Development Site" does not include any lots separated by a public right-of-way or any non-adjacent, non-contiguous parcels".

In addition to providing this definition within Section 118-5, the City Attorney's office has taken a closer look at the remainder of this Section of the Code and has proposed clarifying text modifications. These proposed modifications are included in the proposed Ordinance attached.

PLANNING BOARD REVIEW

On March 24, 2015, the Planning Board (by a 5-0 vote) transmitted the proposed Ordinance to the City Commission with a favorable recommendation.

FISCAL 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 5 years) of proposed legislative actions," this shall confirm that the City Administration City Administration evaluated the long term economic impact (at least 5 years) of this proposed legislative action. The proposed Ordinance is not expected to have a negative fiscal impact upon the City.

SUMMARY

The subject Ordinance was approved at First Reading on May 6, 2015. Subsequent to approval at First Reading, the Administration identified some minor text issues, which required clarification. The clarifying text has been incorporated into the body of the Ordinance and is delineated by a **double underscore**.

CONCLUSION

The Administration recommends that the City Commission adopt the Ordinance.



CITY OF MIAMI BEACH NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY given that the following public hearings will be held by the Mayor and City Commissioners of the City of Miami Beach, Florida, in the Commission Chambers, Third Floor, City Hall, 1700 Convention Center Drive, Miami Beach, Florida, on **June 10, 2015**, at the times listed, or as soon thereafter as the matter can be heard:

10:05 a.m.

A Resolution Adopting The Third Amendment To The General Fund, Enterprise Fund, Internal Service Fund, And Special Revenue Fund Budgets For Fiscal Year (FY) 2014/15. *Inquiries may be directed to the Budget & Performance Improvement Department at 305.673.7510.*

10:10 a.m.

A Resolution Adopting The Fifth Amendment To The Capital Budget For Fiscal Year 2014/15. *Inquiries may be directed to the Budget & Performance Improvement Department at 305.673.7510.*

10:15 a.m.

A Resolution Pursuant To Section 142-425(d) Of The City Code, Waiving By 57th Vote Of The City Commission After Public Hearing, The Development Regulations Under Chapters 130 And 142 Of The Land Development Regulations Of The City Code Pertaining To Required Off-Street Parking Spaces And Minimum Required Setbacks, At The Bass Museum Of Art, 2100 Collins Avenue. *Inquiries may be directed to the Planning Department at 305.673.7550.*

10:20 a.m.

An Ordinance Amending The Land Development Regulations (LDR) Of The City Code, Chapter 142, "Zoning Districts And Regulations," Article IV, "Supplementary District Regulations," Division 4, "Supplementary Yard Regulations," At Section 142-1132, "Allowable Encroachments Within Required Yards," By Amending And Clarifying The Measurement Of Fences, Walls, And Gates Within A Required Yard; Providing Codification; Repealer; Severability; And An Effective Date. *Inquiries may be directed to the Planning Department at 305.673.7550.*

10:25 a.m.

An Ordinance Amending The Land Development Regulations Of The City Code, By Amending Chapter 118, "Administration And Review Procedures," Article I, "In General," Section 118-5, "Unity Of Title; Covenant In Lieu Thereof," By Amending The Requirements And Standards For A Covenant In Lieu And By Providing A Definition For Unified Development Site; Providing For Codification, Repealer, Severability And An Effective Date. *Inquiries may be directed to the Planning Department at 305.673.7550.*

10:30 a.m.

An Ordinance Amending The Land Development Regulations Of The City Code, By Amending Chapter 118, "Administration And Review Procedures," Article IV, "Division Of Land/Lot Split," At Section 118-321, Entitled "Purpose, Standards And Procedure" In Order To Clarify The Requirements And Standards For A Lot Split To Allow A Change In The Form Of Ownership Of Building Sites Or Unified Development Sites To Allow Ownership By An Individual, Or Via A Covenant In Lieu Of Unity Of Title Without Requiring A Lot Split; Providing For Codification, Repealer, Severability And An Effective Date. *Inquiries may be directed to the Planning Department at 305.673.7550.*

10:35 a.m.

An Ordinance Amending Section 114-4 Entitled "Compliance With Regulations Required;" Creating Subsection (12) Providing That No Building Permit Or Board Order Shall Be Issued For Any Lot Or Site With A Building Permit Valued At \$250,000 Or More Without A Construction Parking And Traffic Management Plan (CPTMP) Approved By The Parking Director Pursuant To Chapter 106, Article II, Division 3, Entitled "Construction Management Plan"; And Modifying Chapter 130, Article IV Entitled "Fee In Lieu Of Parking" By Amending Section 130-134, Entitled "Deposit Of Funds/Account"; By Authorizing The Placement Of The Fines Or Penalties Collected From Enforcement Of Chapter 106 CPTMP, Into This Account To Be Utilized For The Purposes Provided Therein; Providing For Repealer; Severability; Codification; And An Effective Date. *Inquiries may be directed to the Planning Department at 305.673.7550.*

10:40 a.m.

An Ordinance Amending The Land Development Regulations Of The Code Of The City Of Miami Beach, Florida, By Amending Chapter 114, "General Provisions," Section 114-1, "Definitions," By Including Definitions For Adjusted Grade And Average Grade; 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 By Amending And Clarifying When The Water Portion Of A Pool Is Counted Towards The Open Space Previous Requirements; Providing Codification; Repealer; Severability; And An Effective Date. *Inquiries may be directed to the Planning Department at 305.673.7550.*

10:45 a.m.

An Ordinance Amending The Firefighters' Relief And Pension Fund To Comply With Applicable Provisions Of The Internal Revenue Code And Regulations Thereunder; Amending The "Related Special Acts," Of The City By Amending Article VII, Entitled "Firefighters' Relief And Pension Fund," By Amending Sections 36 Through 48; Providing For Severability; Repealing All Ordinances In Conflict Therewith; Providing For Codification; And Providing An Effective Date. *Inquiries may be directed to the Human Resources Department at 305.673.7524.*

10:50 a.m.

An Ordinance Amending And Restating The Miami Beach Employees' Retirement Plan Created By Ordinance No. 2008-3504, As Subsequently Amended, By Amending Sections 2, 4, 5, 11, And 12 Of The Plan To Comply With Applicable Provisions Of The Internal Revenue Code And Regulations Thereunder, And Deleting Outdated Language; Providing For Severability; Repealing All Ordinances In Conflict Therewith; And Providing An Effective Date. *Inquiries may be directed to the Human Resources Department at 305.673.7524.*

Dr. Stanley Sutnick Citizen's Forum – Pursuant to Resolution No. 2013-28440, the times for the Dr. Stanley Sutnick Citizen's Forum are **8:30 a.m.** and **1:00 p.m.**, or as soon as possible thereafter. Approximately thirty minutes will be allocated to each session, with individuals being limited to no more than three minutes or for a period established by the Mayor. No appointment or advance notification is needed in order to speak to the Commission during this Forum.

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, First Floor, City Hall, Miami Beach, Florida 33139. Copies of these items are available for public inspection during normal business hours in the Office of the City Clerk, 1700 Convention Center Drive, First 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).

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

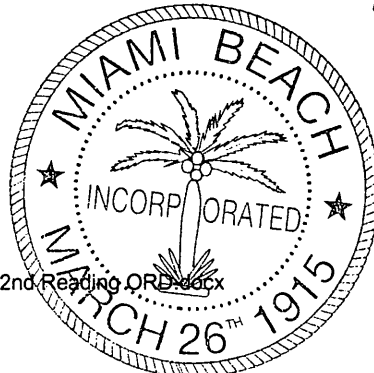
Date

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>MJ R. 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

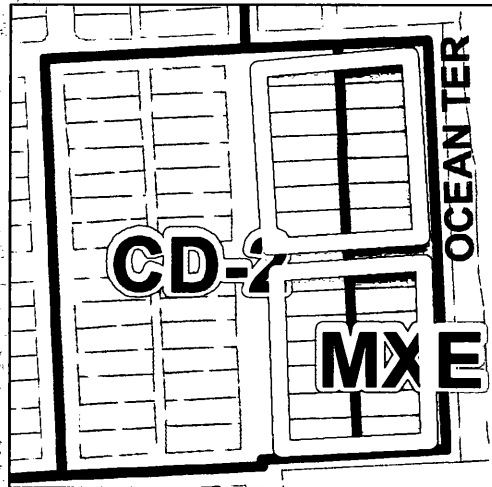
The Administration recommends that the City Commission adopt the attached ordinance.

JLM
JLM/SMT/TRM

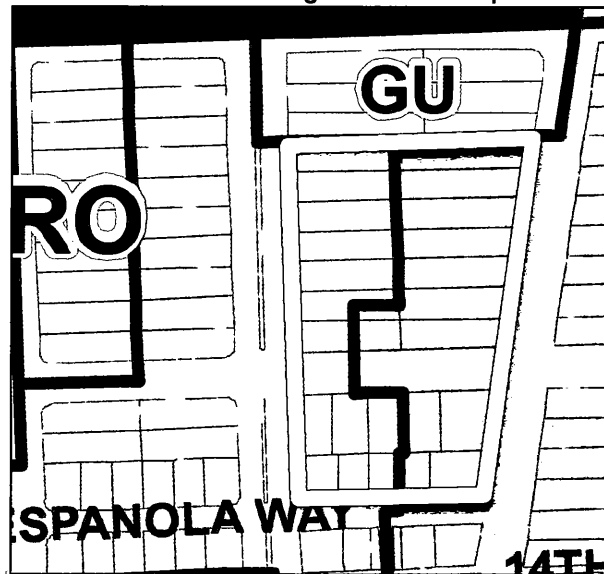
Unified Development Sites and Distribution of Floor Area

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

UNIFIED DEVELOPMENT SITES — FAR

ORDINANCE NO. 2018-4162

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 118, "ADMINISTRATION AND REVIEW PROCEDURES" ARTICLE I "IN GENERAL," TO CLARIFY THE MAXIMUM ALLOWABLE FLOOR AREA RATIO ("FAR") FOR UNIFIED DEVELOPMENT SITES CONTAINING BUILDINGS WITH NONCONFORMING FAR AND/OR ELEVATED OPEN-AIR BRIDGES, PASSAGEWAYS OR CONNECTIONS USED SOLELY FOR PEDESTRIAN CIRCULATION BETWEEN BUILDINGS; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

WHEREAS, Section 118-5 of the City of Miami Beach Land Development Regulations ("LDRs") defines a "Unified Development Site" 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"; and

WHEREAS, a Unified Development Site may result from the merger of multiple abutting lots or building sites, any or all of which may contain one or more buildings with a nonconforming Floor Area Ratio ("FAR"); and

WHEREAS, Section 1.03(c) of the City Charter requires voter approval of certain "increases" to current zoned FAR, but provides that "The provision shall not preclude or otherwise affect the division of lots, or the aggregation of development rights on unified abutting parcels, as may be permitted by ordinance"; and

WHEREAS, the City Attorney, in an opinion dated March 21, 2014, recognized that the Section 1.03(c) referendum requirement "includes an exception for," and therefore does not apply to, "the aggregation of development rights on unified abutting parcels"; and

WHEREAS, as noted in the City Attorney's March 21, 2014 opinion, the City has historically interpreted the phrase "unified abutting parcels" as being synonymous with the phrase "Unified Development Site"; and

WHEREAS, on May 11, 2016, the City adopted Ordinance No. 2016-4011, which amended the LDRs to clarify the procedures for the movement of FAR within Unified Development Sites divided among different zoning districts as a means of providing greater flexibility and improving the quality of development within Unified Development Sites; and

WHEREAS, the amendments proposed herein are consistent with the exception for "unified abutting parcels" in Section 1.03(c) of the City Charter and authorize the retention of nonconforming FAR within certain structures as a means of encouraging the preservation of such structures; and

WHEREAS, the amendment set forth below is necessary to accomplish all of the above objectives and to ensure that the public health, safety and welfare are preserved.

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

SECTION 1. That Chapter 118, Article I entitled "In General" 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) 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 non-conforming 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 an allowable FAR exception may be permitted on lots with legal non-conforming FAR.

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 Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered 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 ten days following adoption.

PASSED and ADOPTED this 17th day of January, 2018.

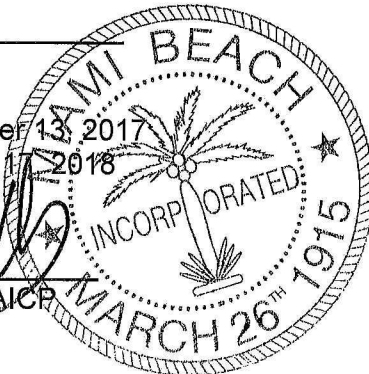
ATTEST:


1/25/18
Rafael E. Granado, City Clerk


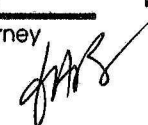

Dan Gelber, Mayor

First Reading: December 13, 2017
Second Reading: January 17, 2018

Verified by: 
Thomas Mooney, AICP
Planning Director



APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION


City Attorney
12/18/17
Date


Underscore denotes new language
~~Strikethrough~~ denotes removed language

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Jimmy L. Morales, City Manager
DATE: January 17, 2018

10:25 a.m. Second Reading Public Hearing

SUBJECT: UNIFIED DEVELOPMENT SITES - FAR:

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 118, "ADMINISTRATION AND REVIEW PROCEDURES" ARTICLE I "IN" GENERAL," TO CLARIFY THE MAXIMUM ALLOWABLE FLOOR AREA RATIO ("FAR") FOR UNIFIED DEVELOPMENT SITES CONTAINING BUILDINGS WITH NONCONFORMING FAR AND/OR ELEVATED OPEN-AIR BRIDGES, PASSAGEWAYS OR CONNECTIONS USED SOLELY FOR PEDESTRIAN CIRCULATION BETWEEN BUILDINGS; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

RECOMMENDATION

The Administration recommends that the City Commission adopt the subject Ordinance.

ANALYSIS

HISTORY

On October 18, 2017, at the request of former Commissioner Joy Malakoff, the City Commission made a dual referral of the subject amendment to the Land Use and Development Committee and the Planning Board (item C4T). On October 30, 2017, the Land Use Committee discussed the proposed amendment and gave a positive recommendation. Additionally, Commissioner John Elizabeth Aleman agreed to co-sponsor the proposed ordinance.

PLANNING ANALYSIS

A property owner that is seeking approval for a unified development site on Ocean Terrace has proposed an amendment that would modify current regulations pertaining to legal non-conforming FAR. Although the change proposed is legislative, review for compliance with the City Charter was required, as the proposal involves an increase in zoned FAR.

City 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. The mere fact that touching lots are under the same ownership may be enough to consider such lots as a unified development site. In this regard, the entire collection of lots is considered one site for zoning purposes, which includes the calculation of a site's Floor Area Ratio (FAR). For example, if a unified site has a maximum FAR of 100,000 SF, and there is an existing building to remain on that site with an area of 20,000 square feet, then the maximum area of added new construction cannot exceed 80,000 square feet, totaling to the maximum FAR for the site of 100,000 SF.

As proposed, the draft Ordinance would modify the regulations pertaining to the retention of legal non-conforming floor area for unified sites located within a locally designated historic district or historic site as follows:

1. 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, any platted lot(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 non-conforming FAR, provided no additional FAR is added to such platted lot(s).

2. Within a Unified Development Site, passageways or other connections that are an allowable FAR exception may be permitted on lots with legal non-conforming FAR.

The proposed changes would allow for the retention of legal non-conforming floor area in an existing building, which was previously permitted as a separate site. Such retention of non-conforming floor area would be permissible within a proposed unified development site located within an historic district or individually designated site. For example, under the current code, if an existing 20,000 SF building was located on a site with a current maximum FAR of 10,000 SF, no new floor area could be added to that site. If that site was proposed to be combined with multiple abutting sites, forming a larger, unified development site, the excess legal non-conforming FAR would be required to be distributed over all the sites, such that the overall FAR of the newly created unified development site did not exceed the current maximum FAR.

Under the proposal, the legal non-conforming FAR as noted in the example would be permitted to be retained, as part of the overall FAR for the unified site. This would result in a net increase of 10,000 SF for the unified development site, as the legal non-conforming FAR would not have to have to be distributed within the proposed unified site.

The proposal is practical as it pertains to the operation of existing buildings within unified development sites that may contain legal non-conforming FAR. However, although limited to historic districts and sites, the proposed amendment could have implications across the City, including for lots which were previously unified.

PLANNING BOARD REVIEW

On November 21, 2017, the Planning Board transmitted the proposed Ordinance Amendment to the City Commission with a favorable recommendation.

UPDATE

The subject Ordinance was approved at First Reading on December 13, 2017, with two minor changes. First, pursuant to the recommendation of the Administration, the Ordinance was revised to restrict the retention of legal non-conforming FAR to 'contributing' buildings. In this regard, by limiting the retention of legal non-conforming FAR to 'contributing' buildings, the legislation would be consistent with Sec. 118-395 of the City Code, which allows the historic preservation board to approve the retention of legal non-conforming FAR for a 'contributing' building, if the renovation exceeds the 50% rule.

Second, at the request of the proposer, the subject ordinance was limited to applicable properties within the Ocean Terrace Overlay. Both of these changes have been incorporated into a revised Ordinance for Second Reading.

CONCLUSION

The Administration recommends that the City Commission adopt the subject Ordinance.

Legislative Tracking

Planning

Sponsor

Vice-Mayor John Elizabeth Aleman

ATTACHMENTS:

Description

- ▣ Form Approved ORD - 2nd Reading Unified Sites and FAR