

MIAMIBEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: September 24, 2024

FROM: Thomas R. Mooney, AICP  for TRM
Planning Director

SUBJECT: **PB24-0711. Unified Development Site – LDR Text Amendment**

RECOMMENDATION

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

HISTORY

On May 15, 2024, at the request of Commissioner Tanya K. Bhatt, the Mayor and City Commission referred a proposal pertaining to the zoning and future land use designation of Canopy Park (C4 AC) to the Land Use and Sustainability Committee (LUSC) and the Planning Board. On June 10, 2024, the LUSC discussed the item and recommended that the Planning Board approve the proposed ordinances, including a new future land use designation of Recreation Open Space (ROS).

A text amendment to Chapter 2 of the Land Development Regulations of the City Code (LDRs) was also proposed and included as part of the proposed re-zoning of the park property, to address the previous movement of applicable floor area within the Alton Gateway overlay.

BACKGROUND

As part of the Development Agreement for the 500 Alton Road project, the developer designed, constructed, and conveyed a 3.0-acre public park to the City of Miami Beach. The park, located at 701 Alton Road, is a municipal park, operated by the City for the benefit of the general public. On August 23, 2022, 82% of the City's voters voted to name the park as "Canopy Park."

The property is currently classified on the zoning map and future land use map as CD-2 (commercial, medium intensity), which is the zoning and future land use classification at the time of the original development agreement. Separate, companion ordinances will change the zoning district to GU, Government Use, and change the future land use classification to ROS, Recreation and Open Space (PB24-0709 & PB24-0710).

This subject ordinance, which is an amendment to Section 2.2.3.4 of the Land Development Regulations for Unified Development Sites (PB24-0711), allows floor area to be distributed in accordance with the provisions of a development agreement with the City.

REVIEW CRITERIA

Pursuant to Section 2.4.2 of the Resiliency Code, in reviewing a request for an amendment to these land development regulations (LDRs), 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 amendment 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.**

Not applicable – The proposed Ordinance does not affect the overall scale of development.

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

Consistent – The proposed amendment does not increase loads on public facilities or infrastructures.

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 proposed change is necessary in order to include requirements for the transfer of floor area for properties that are subject to the terms of a development agreement with the city and which contain properties with different zoning classifications.

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

Consistent – The proposed ordinance amendment will not 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 affect traffic congestion.

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

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

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

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

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

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

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

Consistent – As the public park area is now city owned, the passage of the proposed change is necessary.

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

Not applicable.

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 7.1.2.4 of the LDRs establishes the following review criteria when considering ordinances, adopting resolutions, or making recommendations:

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

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

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

Consistent – The proposal does not affect the resiliency of the City.

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

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

ANALYSIS

When the development agreement creating Canopy Park was approved, the entire overlay was located within the C-PS2, CD-2 and RM-2 zoning districts. Since the maximum FAR (2.0) was the same for residential use in all three districts, all of the available floor area from the portion of the site that is now a public park was moved to other parts of the site to accommodate the new residential tower and the proposed detached retail structure.

The following amendment is proposed to address the distribution of floor area for properties that are subject to the terms a development agreement with the City:

2.2.3.4 Unified Development Site

- a. *Where development is proposed on a site that consists of a unified development site, the application shall be accompanied by either a unity of title or covenant in lieu of unity of title, as applicable. A "unified development site" is 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:*
 1. *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.*
 2. *Lots not located in the same zoning districts may be joined together to create a unified development site, and be permitted to aggregate the allowable floor area ratio, provided the entire unified development site, including each separate zoning district, has the same maximum FAR, inclusive of bonus FAR. The instrument creating the unified development site shall clearly delineate both the maximum FAR, inclusive of bonus FAR, and total square footage permitted.*
 3. *For unified development sites that are subject to the terms of a development agreement with the City of Miami Beach, and contain properties with different zoning classifications, as well as properties located in the Alton Road Gateway Area, as more specifically prescribed in Section 7.2.11.7, the maximum allowable floor area may be distributed within the entirety of the unified development site in accordance with the provisions of the applicable development agreement.*
 4. *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.*

RECOMMENDATION

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

Unified Development Site - LDR Text Amendment

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE MIAMI BEACH RESILIENCY CODE, BY AMENDING CHAPTER 2, ENTITLED “ADMINISTRATIVE AND REVIEW PROCEDURES,” ARTICLE II, ENTITLED “GENERAL DEVELOPMENT APPLICATION SUBMISSION AND REVIEW,” SECTION 2.2.3.4, ENTITLED “UNIFIED DEVELOPMENT SITE,” BY INCLUDING REQUIREMENTS FOR THE TRANSFER OF FLOOR AREA FOR PROPERTIES THAT ARE SUBJECT TO THE TERMS OF A DEVELOPMENT AGREEMENT WITH THE CITY AND WHICH CONTAIN PROPERTIES WITH DIFFERENT ZONING CLASSIFICATIONS, AS WELL AS PROPERTIES LOCATED IN THE ALTON ROAD GATEWAY; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, as part of the Development Agreement for the 500 Alton Road project, the developer designed, constructed, and conveyed a 3.0-acre public park to the City of Miami Beach; and

WHEREAS, a companion ordinance will change the zoning district of the Park property to GU, Government Use; and

WHEREAS, a text amendment to Chapter 2 of the Land Development Regulations of the City Code (LDRs) is necessary as part of the proposed re-zoning of the park property; and

WHEREAS, this amendment is intended to address the prior reallocation of applicable floor area within the Alton Gateway overlay; and

WHEREAS, when the development agreement was approved, the entire overlay was zoned CD-2 and RM-2; and

WHEREAS, the maximum Floor Area Ratio (FAR) of 2.0 was consistent for residential use in both districts; and

WHEREAS, all available floor area from the portion of the site now designated as a public park was transferred to other areas of the site to facilitate the construction of a new residential tower and a proposed detached retail structure; and

WHEREAS, the amendments set forth below are necessary to accomplish all of the above objectives.

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

SECTION 1. Chapter 2, entitled “Administrative and Review Procedures,” Article II, entitled “General Development Application Submission Requirements,” Section 2.2.3.4, entitled “Unified Development Site,” is hereby amended as follows:

**CHAPTER 2
ADMINISTRATIVE AND REVIEW PROCEDURES**

* * *

ARTICLE II: General Development Application and Hearing Procedures

* * *

2.2.3.4 Unified Development Site

- a. Where development is proposed on a site that consists of a unified development site, the application shall be accompanied by either a unity of title or covenant in lieu of unity of title, as applicable. A "unified development site" is 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:
1. 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.
 2. Lots not located in the same zoning districts may be joined together to create a unified development site, and be permitted to aggregate the allowable floor area ratio, provided the entire unified development site, including each separate zoning district, has the same maximum FAR, inclusive of bonus FAR. The instrument creating the unified development site shall clearly delineate both the maximum FAR, inclusive of bonus FAR, and total square footage permitted.
 3. *For unified development sites that are subject to the terms of a development agreement with the City of Miami Beach, and contain properties with different zoning classifications, as well as properties located in the Alton Road Gateway Area, as more specifically prescribed in Section 7.2.11.7, the maximum allowable floor area may be distributed within the entirety of the unified development site in accordance with the provisions of the applicable development agreement.*
 - ~~3.4.~~ 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.
 - ~~4.~~ 5. The maximum FAR for a unified development site shall not exceed the aggregate maximum FAR of the multiple lots allowed by the underlying zoning districts, inclusive of bonus FAR. Within a locally designated historic district or locally designated historic site within the Ocean Terrace Overlay District, any platted lot(s) with a contributing building(s) that contain legal-nonconforming FAR and were previously separate and apart from other lots that comprise the unified development site, may retain their existing legal nonconforming FAR, provided no additional FAR is added to such platted lot(s).

~~5-6.~~ Within a unified development site within the Ocean Terrace Overlay District, passageways or other connections that are in allowable FAR exception may be permitted on lots with legal nonconforming FAR.

* * *

SECTION 2. REPEALER.

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

SECTION 3. CODIFICATION.

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 sections 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 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. APPLICABILITY

The Ordinance shall not apply to properties fronting Washington Avenue that have an active land use board application, with a hearing file number, and where a notice to proceed to public hearing has been issued by the City no later than July 1, 2024.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED AND ADOPTED this _____ day of _____, 2024

Steven Meiner, Mayor

ATTEST:

Rafael E. Granado, City Clerk.

APPROVED AS TO FORM AND
LANGUAGE AND FOR EXECUTION

City Attorney

Date

First Reading: October 30, 2024
Second Reading: December 11, 2024

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