

R5 AE 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.

Applicable Area:

# MIAMI BEACH

## COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Eric Carpenter, City Manager

DATE: November 20, 2024 First Reading

TITLE: 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.

### **RECOMMENDATION**

The Administration recommends that the Mayor and City Commission (City Commission) approve the subject ordinance at First Reading and schedule a Second Reading public hearing for January 2025.

### **BACKGROUND/HISTORY**

On May 15, 2024, at the request of Commissioner Tanya K. Bhatt, the 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 recommendation for the proposed re-zoning of the park property. The intent of this text amendment is to address the previous movement of applicable floor area within the Alton Gateway overlay.

### **ANALYSIS**

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."

Canopy Park is currently classified on the city 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. The park is also located within the Alton Gateway overlay. Separate, companion ordinances are being proposed to change the zoning district for Canopy

Park to GU (Government Use) and change the future land use classification to ROS (Recreation and Open Space).

This subject ordinance, which is an amendment to Section 2.2.3.4 of the Land Development Regulations of the Code (LDRs) for unified development sites, would allow floor area to be distributed over multiple zoning districts, in accordance with the provisions of an applicable development agreement with the City. 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 a residential use in all three districts, all 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 amendment set forth in the attached ordinance will address the distribution of floor area for properties that are subject to the terms a development agreement with the City. This is a companion text amendment to the proposed change in zoning classification and the future land use designation of Canopy Park, which are being considered as separate ordinances.

### **PLANNING BOARD REVIEW**

On September 24, 2024, the Planning Board held a public hearing and transmitted the proposed ordinance to the City Commission with a favorable recommendation (7-0).

### **APPLICATION FEE WAIVER**

The subject amendment is proposed on a comprehensive, citywide basis, and not on behalf of a private applicant or third party. Pursuant to section 2.4.1.c of the Land Development Regulations of the City Code, amendments to the City Code require the payment of the applicable fees in section 2.2.3.5, 2.2.3.6, and appendix A to the City Code. These fees may be waived by a five-sevenths (5/7ths) vote of the City Commission, based upon one or more of the following circumstances:

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

The Administration recommends that the City Commission waive the applicable fees based on circumstances unique to the proposed amendment.

### **FISCAL IMPACT STATEMENT**

No Fiscal Impact Expected

**Does this Ordinance require a Business Impact Estimate?** Yes  
(FOR ORDINANCES ONLY)

If applicable, the Business Impact Estimate (BIE) was published on: 11/5/2024.  
See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

### **FINANCIAL INFORMATION**

Not Applicable

## **CONCLUSION**

The Administration recommends the following:

1. The City Commission approve the subject ordinance at First Reading and schedule a Second Reading public hearing for January 2025.
2. In accordance with section 2.4.1.c.1 of the Land Development Regulations of the City Code, the City Commission waive the applicable fees based on circumstances unique to the proposed amendment.

## **Applicable Area**

Citywide

**Is this a "Residents Right to Know" item, pursuant to City Code Section 2-17?**

Yes

**Is this item related to a G.O. Bond Project?**

No

**Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying?** No

If so, specify the name of lobbyist(s) and principal(s):

## **Department**

Planning

## **Sponsor(s)**

Commissioner Tanya K. Bhatt

## **Co-sponsor(s)**

## **Condensed Title**

1st Rdg, Unified Development Site - LDR Text Amendment. (Bhatt) PL 5/7

## **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 "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE II, ENTITLED "GENERAL DEVELOPMENT APPLICATION AND HEARING PROCEDURES," DIVISION 3, ENTITLED "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, which is now known as Canopy Park (the "Park"); and

**WHEREAS**, a companion Ordinance has been drafted to change the zoning district of the Park property from CD-2, Commercial, Medium Intensity, to GU, Government Use; and

**WHEREAS**, another companion Ordinance has been drafted to change the Future Land Use Map designation of the Park property to ROS, Recreation and Open Space; and

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

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

**WHEREAS**, when the Development Agreement was approved, the entire overlay was zoned C-PS2, 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 "Administration and Review Procedures," Article II, entitled "General Development Application and Hearing Procedures," Division 3, entitled "Development application submission and review," 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 which 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.~~ 4. 5. 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.

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## **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. EFFECTIVE DATE.**

This Ordinance shall take effect ten days following adoption.

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2024.

ATTEST:

\_\_\_\_\_  
Rafael E. Granado, City Clerk

\_\_\_\_\_  
Steven Meiner, Mayor

First Reading: November 20, 2024

Second Reading: January \_\_, 2025

Verified by: \_\_\_\_\_  
Thomas R. Mooney, AICP  
Planning Director

APPROVED AS TO  
FORM AND LANGUAGE  
AND FOR EXECUTION

\_\_\_\_\_  
City Attorney NK

11/13/2024  
Date