

16. PB24-0711. UNIFIED DEVELOPMENT SITE - LDR TEXT AMENDMENT.

MIAMIBEACH

PLANNING DEPARTMENT

1700 Convention Center Drive, Miami Beach, Florida 33139; Tel: 305.673.7550; Web: www.miamibeachfl.gov/planning

LAND USE BOARD HEARING APPLICATION

The following application is submitted for review and consideration of the project described herein by the land use board selected below. A separate application must be completed for each board reviewing the proposed project.

Application Information			
FILE NUMBER PB24-0711		Is the property the primary residence & homestead of the applicant/property owner? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (if "Yes," provide office of the property appraiser summary report)	
Board of Adjustment <input type="checkbox"/> Variance from a provision of the Land Development Regulations <input type="checkbox"/> Appeal of an administrative decision <input type="checkbox"/> Modification of existing Board Order		Design Review Board <input type="checkbox"/> Design review approval <input type="checkbox"/> Variance <input type="checkbox"/> Modification of existing Board Order	
Planning Board <input type="checkbox"/> Conditional Use Permit <input type="checkbox"/> Lot Split <input checked="" type="checkbox"/> Amendment to the Land Development Regulations or Zoning Map <input type="checkbox"/> Amendment to the Comprehensive Plan or Future Land Use Map <input type="checkbox"/> Modification of existing Board Order		Historic Preservation Board <input type="checkbox"/> Certificate of Appropriateness for design <input type="checkbox"/> Certificate of Appropriateness for demolition <input type="checkbox"/> Historic District/Site Designation <input type="checkbox"/> Variance <input type="checkbox"/> Modification of existing Board Order	
<input type="checkbox"/> Other:			
Property Information – Please attach Legal Description as "Exhibit A"			
ADDRESS OF PROPERTY N/A			
FOLIO NUMBER(S)			
Property Owner Information			
PROPERTY OWNER NAME N/A			
ADDRESS		CITY	STATE
BUSINESS PHONE		CELL PHONE	EMAIL ADDRESS
Applicant Information (if different than owner)			
APPLICANT NAME City of Miami Beach			
ADDRESS 1700 Convention Center Drive		CITY Miami Beach	STATE FL
BUSINESS PHONE 3056737550		CELL PHONE	EMAIL ADDRESS N/A
Summary of Request			
PROVIDE A BRIEF SCOPE OF REQUEST SEE AFFIDAVIT			

Project Information			
Is there an existing building(s) on the site?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
If previous answer is "Yes", is the building architecturally significant per sec. 142-108?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
Does the project include interior or exterior demolition?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
Provide the total floor area of the new construction.			SQ. FT.
Provide the gross floor area of the new construction (including required parking and all usable area).			SQ. FT.
Party responsible for project design			
NAME		<input type="checkbox"/> Architect <input type="checkbox"/> Contractor <input type="checkbox"/> Landscape Architect <input type="checkbox"/> Engineer <input type="checkbox"/> Tenant <input type="checkbox"/> Other _____	
ADDRESS		CITY	STATE ZIPCODE
BUSINESS PHONE	CELL PHONE	EMAIL ADDRESS	
Authorized Representative(s) Information (if applicable)			
NAME		<input type="checkbox"/> Attorney <input type="checkbox"/> Contact <input type="checkbox"/> Agent <input type="checkbox"/> Other _____	
ADDRESS		CITY	STATE ZIPCODE
BUSINESS PHONE	CELL PHONE	EMAIL ADDRESS	
NAME		<input type="checkbox"/> Attorney <input type="checkbox"/> Contact <input type="checkbox"/> Agent <input type="checkbox"/> Other _____	
ADDRESS		CITY	STATE ZIPCODE
BUSINESS PHONE	CELL PHONE	EMAIL ADDRESS	
NAME		<input type="checkbox"/> Attorney <input type="checkbox"/> Contact <input type="checkbox"/> Agent <input type="checkbox"/> Other _____	
ADDRESS		CITY	STATE ZIPCODE
BUSINESS PHONE	CELL PHONE	EMAIL ADDRESS	

Please note the following information:

- A separate disclosure of interest form must be submitted with this application if the applicant or owner is a corporation, partnership, limited partnership or trustee.
- All applicable affidavits must be completed and the property owner must complete and sign the "Power of Attorney" portion of the affidavit if they will not be present at the hearing, or if other persons are speaking on their behalf.
- To request this material in alternate format, sign language interpreter (five-day notice is required), information on access for persons with disabilities, and 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).

Please read the following and acknowledge below:

- Applications for any board hearing(s) will not be accepted without payment of the required fees. All checks are to be made payable to the "City of Miami Beach".
- All disclosures must be submitted in CMB Application format and be consistent with CMB Code Sub-part A Section 2-482(c):
 - (c) If the lobbyist represents a corporation, partnership or trust, the chief officer, partner or beneficiary shall also be identified. Without limiting the foregoing, the lobbyist shall also identify all persons holding, directly or indirectly, a five percent or more ownership interest in such corporation, partnership, or trust.
- Public records notice – All documentation submitted for this application is considered a public record subject to Chapter 119 of the Florida Statutes and shall be disclosed upon request.
- In accordance with the requirements of Section 2-482 of the code of the City of Miami Beach, any individual or group that will be compensated to speak or refrain from speaking in favor or against an application being presented before any of the City's land use boards, shall fully disclose, prior to the public hearing, that they have been, or will be compensated. Such parties include: architects, engineers, landscape architects, contractors, or other persons responsible for project design, as well as authorized representatives attorneys or agents and contact persons who are representing or appearing on behalf of a third party; such individuals must register with the City Clerk prior to the hearing.
- In accordance with Section 118-31. – Disclosure Requirement. Each person or entity requesting approval, relief or other action from the Planning Board, Design Review Board, Historic Preservation Board or the Board of Adjustment shall disclose, at the commencement (or continuance) of the public hearing(s), any consideration provided or committed, directly or on its behalf, for an agreement to support or withhold objection to the requested approval, relief or action, excluding from this requirement consideration for legal or design professional service rendered or to be rendered. The disclosure shall: (I) be in writing, (II) indicate to whom the consideration has been provided or committed, (III) generally describe the nature of the consideration, and (IV) be read into the record by the requesting person or entity prior to submission to the secretary/clerk of the respective board. Upon determination by the applicable board that the forgoing disclosure requirement was not timely satisfied by the person or entity requesting approval, relief or other action as provided above, then (I) the application or order, as applicable, shall immediately be deemed null and void without further force or effect, and (II) no application form said person or entity for the subject property shall be reviewed or considered by the applicable board(s) until expiration of a period of one year after the nullification of the application or order. It shall be unlawful to employ any device, scheme or artifice to circumvent the disclosure requirements of this section and such circumvention shall be deemed a violation of the disclosure requirements of this section.
- When the applicable board reaches a decision a final order will be issued stating the board's decision and any conditions imposed therein. The final order will be recorded with the Miami-Dade Clerk of Courts. The original board order shall remain on file with the City of Miami Beach Planning Department. Under no circumstances will a building permit be issued by the City of Miami Beach without a copy of the recorded final order being included and made a part of the plans submitted for a building permit.

The aforementioned is acknowledged by:

Owner of the subject property Authorized representative



SIGNATURE

David Martinez

PRINT NAME

8/19/24

DATE SIGNED

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