



Town of Miami Lakes Memorandum

To: The Honorable Mayor and Councilmembers
From: Alex Rey, Town Manager
Subject: Mixed Use Height Exceptions
Date: 9/5/2017

Recommendation:

Staff finds the attached ordinance, requiring public hearings before the Town Council for vertically mixed-use zoning applications within the Town Center (TC) zoning district that include a request for height exemptions, will achieve the Town Council's expressed desire to increase awareness of such development projects.

Background:

The Town Council approved the creation of the TC District on September 1st, 2015. The TC district, permits a maximum height of five (5) stories, however it encourages the creation of mixed-use spaces by creating an incentive to allow for two (2) additional stories subject to an administrative site plan review.

The remaining zoning districts which permit such heights in excess of five (5) stories already require a hearing before the Town Council if they exceed five (5) acres or 50,000 square feet of floor area; which is likely to be the case on most buildings of over five (5) stories in height.

On July 25, 2017, the Town Council of the Town of Miami Lakes directed the Town Manager to review the Land Development Code (LDC) and return with provisions that would ensure development proposals pursuing the mixed-use development exemption to exceed five (5) stories are subject to Town Council's consideration and final approval authority. The idea is to increase awareness of such projects by requiring them to be subject to a public hearing where the community can be heard by the Town Council.

The proposed ordinance amends those portions of Division 26, TC District, of the LDC, as it relates to mixed-use development incentives; and transfer the decision for applications to the Town Council after a public hearing. A more detailed analysis is provided at the attached Staff Analysis and Recommendation report.

ATTACHMENTS:

Description

Staff Report

Ordinance



Department of Planning, Zoning and Code Compliance
6601 Main Street • Miami Lakes, Florida 33014
Office: (305) 364-6100 • Fax: (305) 558-8511
Website: www.miamilakes-fl.gov

Staff Analysis and Recommendation

To: Honorable Mayor and Town Council

From: Darby P. Delsalle, AICP, Planning Director

Subject: Developer Information Sessions

Date: August XX, 2017

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, RELATING TO CHAPTER 13, LAND DEVELOPMENT CODE, AMENDING SECTIONS 13-870 AND 13-881, RELATING TO DEVELOPMENT APPROVAL PROCEDURES FOR BUILDING HEIGHTS EXCEEDING FIVE (5) STORIES IN THE TC, TOWN CENTER DISTRICT, REQUIRING SUCH DEVELOPMENT REQUESTS BE SUBJECT TO TOWN COUNCIL CONSIDERATION; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE. (Cid & Collazo)

A. BACKGROUND

On July 25, 2017, the Town Council of the Town of Miami Lakes directed the Town Manager to review the Land Development Code (LDC) and return with provisions that would ensure development proposals that exceed five (5) stories are subject to Town Council's consideration and final approval authority. The request was driven in part by concerns that the public was not appropriately aware of pending projects of a significant nature. The concern arose in the wake of a development cycle more active than the Town was traditionally accustomed to experiencing. The expressed desire of the Council at that meeting was to capture any zoning development requests for buildings that exceed five (5) stories, that might otherwise be reviewed and approved/denied administratively, to be presented at a public hearing before the Council for their final determination.

Only the TC, Town Center district, permits site plan requests that exceed five (5) stories to proceed solely administratively for review and final decision-making authority. The remaining districts which permit such heights in excess of five (5) stories already require a hearing before the Town Council. As such, the proposed ordinance only seeks to amend those portions of

Division 26, TC Town Center District, of the LDC, as it relates to building heights and decision granting authority for applications within the TC district. Please note, jurisdictional appeal of a site plan administrative decision rests with the Town Council at a duly noticed quasi-judicial public hearing.

Adopted on September 1st, 2015, Division 26 (Ord. No. 15-184) provided, among other provisions, for all site plans within the TC district to be reviewed and to be issued final development orders by the Administrative Official. This approach was and still is considered common protocol for mixed use districts where the desire is to encourage development towards a focalized district. The TC district permits by-right heights of five (5) stories with an inducement to go to six (6) and seven (7) stories provided the development integrates commercial and residential uses into the same building. Through implementation of this “bonus floor(s)” incentive, the new TC code, in effect, became more restrictive than the BU-2, Special Business District, it replaced. The BU-2 district permitted seven (7) stories by-right, yet it still required Council consideration for final decision of the site plan.

Regardless of the prior BU-2 and current TC district provisions, the predominate existing development of multifamily, commercial, and mixed uses within the Town ranges from three (3) to four (4) stories. In the eyes of the community at large, this became the expected form of development. This perception, however, does not undo the potential right to additional floor heights as currently and previously permitted by code. By providing language that ensures all development in excess of five (5) stories is heard at a public hearing before the Council, potential development rights are not infringed upon and a mechanism is offered that ensures a venue for public awareness and input regarding such development.

B. STAFF RECOMMENDATION

Based on the analysis provided below and other factors contained in this report, Staff recommends approval of the ordinance requiring buildings in excess of five (5) stories to require a public hearing before the Town Council.

C. ANALYSIS

The Land Development Code (LDC) provides that all proposed amendments to the LDC shall be evaluated by the Administrative Official, the Local Planning Agency and the Town Council, and that, in evaluating the proposed amendment, the criteria in Subsection 13-306(b) shall be considered. All portions of this report are hereby incorporated into all portions of this analysis. The following is a staff analysis of the criteria as applied to this ordinance.

1. Whether the proposal is consistent with the Comprehensive Plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program.

Analysis: See Section “A”, Background, of this report. Policy 1.1.2 provides for all of the Land Use Categories within the Comprehensive Master Development Plan, including the Town Center Mixed Use designation. That designation permits heights of up to seven (7) stories. Further, Objective 1.2 provides underlying intent to ensure the LDC’s appropriately regulate the use of land reflective of the community’s desires. The amendment achieves that

intent by providing a public forum whereby the public has a venue that contributes to awareness and input regarding such developments.

Objective 1.2: LAND DEVELOPMENT CODE

Maintain an effective and efficient Land Development Code (LDC), which implements the community vision underlying the goals, objectives and policies of adopted Comprehensive Plan, regulates the quality, scope and impacts of new development and redevelopment, coordinates future land uses with topography and soil conditions, and incorporates innovative land development techniques.

Finding: Complies

2. Whether the proposal is in conformance with all applicable requirements of this Code of Ordinances, including this chapter.

Analysis: The proposed ordinance conforms with the Town's LDC's. A review of the LDC's found no conflicts.

Finding: Complies.

3. Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether such changes support or work against the proposed change in land use policy.

Analysis: See Section "A", Background, of this report. The Town has recently experienced a volume of development application requests that are not typical to its past experiences since incorporation in the year 2000. This increase in activity has brought attention of the Town's residents regarding such zoning application requests and their desire to have more information. In response, the Town Council directed the Town Manager to prepare regulations that ensure developments that exceed five (5) floors are heard before the Town Council for their final decision.

Finding: Complies.

4. Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved, the impact on adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land use.

Analysis: The proposed ordinance does not change the permitted use of land. It includes in the review procedure the final consideration by the Town Council for approval, approval with conditions, or denial of the application request.

Finding: Complies.

5. Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and services, exceeding the capacity of such facilities and services, existing or programmed, including schools, transportation, water

and wastewater services, solid waste disposal, drainage, water supply, recreation, education, emergency services, and similar necessary facilities and services.

Analysis: See Section “A”, Background, of this report. The proposed ordinance does not change permitted uses or development parameters. As such, it does not impact the above systems.

Finding: Complies.

- 6. Whether, and the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetland protection, preservation of any groundwater aquifers, wildlife habitats, and vegetative communities.**

Analysis: See Section “A”, Background, of this report. The proposed ordinance does not change permitted uses or development parameters. As such, it does not impact the above systems.

Finding: Complies.

- 7. Whether, and the extent to which, the proposal would adversely affect the property values in the affected area, or adversely affect the general welfare.**

Analysis: See Section “A”, Background, of this report and Criterion 1 of this Analysis section. The proposed ordinance does not change permitted uses or development parameters. Consistent with other zoning districts within the town, the proposed ordinance does require building requests in excess of five (5) stories in the TC district to be subject to public hearing before the Town Council. Such hearings may prove to better serve the general welfare by facilitating greater awareness of the project and potentially increase public participation in the development review process.

Finding: Complies.

- 8. Whether the proposal would result in an orderly and compatible land use pattern. Any positive and negative effects on such pattern shall be identified.**

Analysis: See Section “A”, Background, and Criteria 1 and 7 of this report. All site plan applications are cost recovery with the full cost of the request borne by the applicant. The proposed ordinance may result in some additional cost to the applicant/developer as a result of required advertising, staff report preparation, and hearing time. However, it is believed the sessions may have the potential of increasing public awareness and participation in the development review process. Staff believes this increased participation outweighs the impact of the additional costs.

Finding: Complies.

- 9. Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and intent of this chapter.**

Analysis: See Section “A”, Background, and Criteria 7 and 8 of this report. No portion of the proposed amendment is in conflict with the existing regulations of the LDC. The

proposed ordinance provides a venue to increase the public's awareness of pending zoning applications.

Finding: Complies.

10. Other matters which the Local Planning Agency or the Town Council, in its legislative discretion, may deem appropriate.

Analysis: See Summary Section and all portions of this analysis. The Local Planning Agency and the Town Council may consider other appropriate factors to determine whether the proposed ordinance is appropriate and consistent with the public interest. The Analysis Section addressed the conditions suggested by the Planning and Zoning Board.

Finding: As determined by the Town Council.

ORDINANCE NO. 17-__

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, RELATING TO CHAPTER 13, LAND DEVELOPMENT CODE, AMENDING SECTIONS 13-870 AND 13-881, RELATING TO DEVELOPMENT APPROVAL PROCEDURES FOR BUILDING HEIGHTS EXCEEDING FIVE (5) STORIES IN THE TC, TOWN CENTER DISTRICT, REQUIRING SUCH DEVELOPMENT REQUESTS BE SUBJECT TO TOWN COUNCIL CONSIDERATION; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE. (Cid & Collazo)

WHEREAS, on September 1, 2015, the Town Council adopted Ordinance No. 15-184, creating Division 26, Town Center District (the “TC District”), within Chapter 13 of the Town’s Code of Ordinances, titled Land Development Code (the “LDC”); and

WHEREAS, Section 13-870, of the LDC permits building heights of five (5) stories, and allows for up to seven (7) stories when the building encompasses mix-uses within the TC District.;

WHEREAS, Section 13-881, of the LDC authorizes all TC District final site plan reviews and approvals to be processed administratively; and

WHEREAS, on July 25, 2017, during a Town Council Meeting, the Town Council directed the Town Manager to explore an amendment to the LDC, requiring Town Council review and approval for developments that exceed five (5) stories. ; and

WHEREAS, the LDC only permits buildings in excess of five (5) stories to be build within the TC District; and

WHEREAS, Exhibit “A” is reflective of the Town Council’s desire as expressed at their July 25, 2017, Regular Council meeting; and

WHEREAS, the Administrative Official reviewed the proposed amendment to the LDC

and recommends approval, as set forth in the Staff Analysis and Recommendation dated September 5, 2017, and incorporated into this Ordinance by reference; and

WHEREAS, the Town Council appointed the Planning and Zoning Board as the Local Planning Agency (LPA) for the Town pursuant to Section 163.3174, Florida Statutes; and

WHEREAS, on September, _____ 2017, after conducting a properly noticed public hearing, the Planning and Zoning Board, acting in its capacity as the Local Planning Agency, acted in accordance with state law, and in specific compliance with Section 163.3174, Florida Statutes and reviewed and recommended approval to the Miami Lakes Town Council; and

WHEREAS, _____ 2017, after conducting a properly noticed public hearing and considering the recommendations of the public, the Local Planning Agency, and the Administrative Official, the Town Council moved the proposed amendment on first reading for second reading and consideration of adoption; and

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, HEREBY ORDAINS AS FOLLOWS.

Section 1. Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference.

Section 2. Findings. After considering Staff's report, both submitted in writing and presented orally and the public comment, the Town Council finds, pursuant to Subsection 13-306(b) of the Town Code, that the proposed amendment is consistent with the Town of Miami Lakes Comprehensive Plan and the criteria for evaluation of an amendment to the Land Development Code found at Subsection 13-306(b) of the Town Code as provided for in the Staff Recommendation and Analysis Report.

Section 3. Approval. The Town Council hereby adopts the amendment as provided at

Exhibit "A," and as incorporated herein.

Section 4. Repeal of Conflicting Provisions. All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.

Section 5. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 6. Inclusion in the Town Code. It is the intention of the Town Council, and it is hereby ordained, that the provisions of this Ordinance shall be included in the Town Code.

Section 7. Effective date. This Ordinance shall become effective immediately upon adoption.

FIRST READING

The foregoing ordinance was offered by Councilmember _____ who moved its adoption on first reading. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid _____

Vice Mayor Nelson Rodriguez _____

Councilmember Luis Collazo _____

Councilmember Tim Daubert _____

Councilmember Ceasar Mestre _____

Councilmember Frank Mingo _____

Councilmember Marilyn Ruano _____

Passed on first reading this _____ day of _____, 2017.

SECOND READING

The foregoing ordinance was offered by Councilmember _____ who moved its adoption on second reading. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid _____

Vice Mayor Nelson Rodriguez _____

Councilmember Luis Collazo _____

Councilmember Tim Daubert _____

Councilmember Ceasar Mestre _____

Councilmember Frank Mingo _____

Councilmember Marilyn Ruano _____

Passed and adopted on second reading this _____ day of _____, 2017.

Manny Cid
Mayor

Attest:

Gina M. Inguanzo
Town Clerk

Approved as to form and legal sufficiency:

Raul Gastesi, Jr.
Gastesi & Associates, P.A.
Town Attorney

Additions to the text are shown in underlined; deletions from the text are shown in ~~striketrough~~.
Omitted portions of this ordinance are shown as “* * *”.

EXHIBIT A
AMENDMENT

Chapter 13 - LAND DEVELOPMENT CODE

* * *

DIVISION 26. - TC TOWN CENTER DISTRICT

* * *

Sec. 13-870. - Building height.

The maximum height of buildings shall not exceed ~~be~~ five (5) stories, except where a building includes vertically integrated mixed uses, in which case, subject to Town Council review and approval, the maximum height shall not exceed ~~be~~ seven (7) stories. However, where a building includes frontage on a Type 1 Street, the ground floor must be occupied with active uses, as defined in this Code, in order to qualify for height above five (5) stories. Height may be limited by the Opa-Locka Airport Zoning Ordinance of Miami-Dade County.

* * *

Sec. 13-881. - Site plan review standards.

All site plan reviews and approvals decisions in the TC District shall be by the Administrative Official except for plans that include height requests that exceed five (5) stories, which shall require final site plan review and approval by the Town Council. ~~Any~~ ~~The~~ Administrative Official ~~may~~ decision to approve, approve with modifications and/or conditions, or deny a site plan. ~~Affected parties may be appealed the Administrative Official's action on a site plan application to the Town Council in accordance with Section 13-310.~~ In addition to other applicable standards in this Code, including those in Section 13-304(h), in order to be approved, a site plan must meet the following criteria:

* * *