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## Staff Analysis and Recommendation

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**To:** Honorable Mayor and Town Council  
**From:** Darby P. Delsalle, AICP, Planning Director  
**Subject:** Developer Information Sessions  
**Date:** August XX, 2017

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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 1<sup>st</sup>, 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.