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LETTER TO COMMISSION

TO: Mayor Philip Levine and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: February 18, 2014

SUBJECT: Summary of the Recently Adopted Single Family Development Regulation Ordinances

On February 12, 2014, the City Commission adopted 2 separate Ordinances pertaining to the development regulations for single family properties. Subsequent to this action, a number of e-mail blasts have reached members of the City Commission, as well as City staff. In an effort to address any confusion regarding the action of the Commission, the following is a summary of the major changes made to the development regulations governing single family properties.

Section 142-105 and 142-106 – Development Regulations for Single Family Homes

The following is a summary of the previous regulations and those adopted under the approved Ordinance; these regulations apply for ALL single family districts in the City.

Lot Aggregation:

- **Previous Code:** No limits on the aggregation of single family lots in the City.
- **Approved Ordinance:** Limits the aggregation of lots to no more than two (2) contiguous lots. The aggregation of up to three (3) contiguous lots would be permitted with the 3rd lot limited to expanded yards, accessory pools, tennis courts, and similar outdoor activities, AND with the size of the home limited to the square footage of 2 lots only. Additionally, a home could only be placed in the middle of 3 aggregated lots if the sum of the side yard setbacks of the main structure are equivalent to the width of the smallest of the 3 aggregated lots AND the overall unit size and lot coverage of the main home is based upon the combined size of the largest 2 lots.

Lot Coverage (2 Story Home):

- **Previous Code:** Gave discretion to the DRB to allow up to 35% lot coverage.
- **Approved Ordinance:** Sets the maximum lot coverage at 30%, regardless of lot size, with no ability to go up to 35% at DRB. Additionally, for homes proposing a lot coverage of 25% or greater, the second floor of a home is limited to 70% of the area of the first floor, unless waived by the DRB. Finally, the calculation of lot coverage includes internal courtyards open to the sky, which are substantially enclosed on 3 or more sides.

Unit Size:

- **Previous Code:** Gave discretion to the DRB to allow up to 70% unit size.
- **Approved Ordinance:** Sets the maximum unit size at 50% for ALL Districts (RS-1, 2, 3 & 4), with no DRB increase.

Height:

- **Previous Code:** Measured maximum building height from grade (sidewalk elevation).
- **Approved Ordinance:** Measures maximum height from 'Minimum Flood Elevation'. The maximum height for properties in RS-1 & RS-2 districts is capped at 28 feet for flat roof structures and 31 feet for sloped roof structures. The maximum height for RS-3 and RS-4 districts is capped at 24 feet for flat roof structures and 27 feet for sloped roof structures. In the RS-3 district only, the DRB can increase the allowable height to a maximum of 28 feet for flat roof structures and 31 feet for sloped roof structures.

Roof Decks and Allowable Height Exceptions:

- **Previous Code:** Allowed enclosed stairwells and elevator bulkheads to project up to 10 feet above the roof deck. Additionally, there was no limit on the size of an open roof deck if it was located below the maximum height, and the size of the roof deck could be up to 50% of the floor below, if it exceeded the maximum building height. Finally, there were no setback requirements for roof decks, rails or parapets.
- **Approved Ordinance:** Removes stairwells as an allowable height exception; only exterior or open stairs that are not enclosed above the roof level are permitted. Elevators are still an allowable height exception, in order address ADA requirements, but must be visually recessive. The size of all roof decks have been reduced to 25 percent of the floor below regardless of the roof deck height, and must be setback a minimum of 10' from all perimeter walls, with the exception of rear walls on waterfront lots. All parapet walls and rails associated with a habitable roof deck must also meet these same setbacks.

Interior Side Walls:

- **Previous Code:** The maximum length of a structure without mandatory vertical breaks (from the ground level, open to the sky) was 50 percent of the lot depth or 80 feet, whichever is less.
- **Approved Ordinance:** The maximum length of a structure without such mandatory vertical breaks at 50 percent of the lot depth or 60 feet, whichever is less. This requirement can be waived by the DRB.

Projecting Terraces & Balconies:

- **Previous Code:** Covered terraces, balconies and porches, which projected from the home, were not counted in the unit size if they were open on 2 sides. In a lot of instances, these projections added substantially to the bulk and mass of a home.

- **Approved Ordinance:** Sets limits on the maximum projection of these elements, before they would be required to be counted in the overall unit size calculations of a home. Specifically, covered terraces, breezeways, or open porches will not count in the unit size, provided they do not project more than 10 feet from the building. Additionally, exterior unenclosed private balconies would not count in the unit size, provided any such balcony does do not project more than 6 feet from the building.

Section 108 – Retention Incentives for Architecturally Significant Single Family Homes

Under the previous Code, when an owner of an 'Architecturally Significant' single family home built before the year 1942 sought to demolish that home, the DRB was required to review the design of the proposed new home AND a Full Building Permit was required for the new home, prior to the issuance of a demolition permit. This has **NOT** changed under the revisions approved to Section 142-108.

Additionally, any new home replacing at pre-1942 Architecturally Significant home must now comply with the revised single family development regulations in Section 142-105 and 142-106, which are summarized above. The revised regulations contained in Sections 142-105 and 142-106 lower the maximum development thresholds for new homes, particularly as it pertains to lot coverage, unit size, lot aggregation and allowable projections.

The City Commission also removed the previous sliding scale for the maximum lot coverage of a new home that is proposed to replace a pre-1942 home. This sliding scale was only applicable to lots greater than 10,000 square feet AND could be waived by the DRB. Under the previous code, a property owner had the right to request up to 35% lot coverage, and could come back to the DRB for a revision to request additional lot coverage, if the maximum of 35% had not been previously granted. The removal of this sliding scale did not change the ability of a property owner to seek the maximum lot coverage under the current Code (now limited to 30%), either as part of an original or subsequent application.

More importantly, substantial and tangible incentives for the retention of an Architecturally Significant home were created under the approved Ordinance. Specifically, when an Architecturally Significant home is substantially retained, the following now applies:

- The maximum lot coverage is increased to 40% at Staff Level.
- The maximum unit size is increased to 60% at Staff Level.
- The second floor of a proposed addition may encroach forward to the 20-foot front setback line, at Staff Level.
- The maximum second floor footprint of 70% for those homes with lot coverage in excess of 25% may be waived at Staff Level.
- The construction of a ground floor addition of more than one story shall be allowed to follow the existing interior building lines, provided a minimum side setback of 5' is met, at Staff Level.

- Habitable additions to, as well as the relocation of, architecturally significant homes, may project into a required rear or side yard for a distance not to exceed 25 percent of the required yard, at Staff Level, up to the following maximum projections:
 - i. Interior side yard: 5'
 - ii. Street side yard: 7'-6"
 - iii Rear yard: 15'
- The minimum vertical break requirements for interior side walls may be waived at Staff Level.
- The applicability of these approved incentives can also apply to single family homes constructed prior to 1966, should the owner of a home constructed between 1942 and 1966 voluntarily seek a determination of Architectural Significance and where such home is determined to be Architecturally Significant in accordance with the applicable criteria in Section 142-108(a).

In conclusion, and as indicated previously, the approved Ordinances went through a very lengthy and sometimes arduous public hearing process. The administration recognizes that passion runs very high on both sides of the numerous issues generated by this legislation. While not everyone was completely happy with the modifications approved, overall the subject Ordinances did strike a careful balance between the legitimate development rights of a single family home owner and the need to preserve and enhance the character and fabric of single family districts, which makes Miami Beach a special place.

The staff of the Planning Department is available to address any concerns that the Commission may have regarding these Ordinances.

JLM/JMJ/TRM

C: Jose Smith, City Attorney
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