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City of Miami Proposes Administrative Site Plan Review Ordinance to Streamline Permitting Process

Like many cities across the United States, the City of Miami has been focused on the topic of zoning reform. As Miami continues to experience growth and redevelopment, the city is taking decisive steps to address the demand for a more efficient and predictable development process. On July 17, 2024 the City of Miami's Planning, Zoning, and Appeals Board unanimously recommended approval of legislation (Ordinance) introduced by the Office of Zoning establishing an administrative site plan review process (ASPR) for "by right" projects and introducing several other reforms aimed at improving the city's zoning approval process. This proposed ordinance is an important indicator that the city recognizes the need to foster a more welcoming business environment to attract quality urban development and reduce inefficiencies in the Miami 21 Zoning Code (M21 Code) to ensure that Miami remains a hub of investment. A summary of the key zoning reforms included in the proposed Ordinance and the expected implications for developers and permit applicants are noted below:

I. By-Right ASPR Process

Currently: Under the M21 Code, Miami currently lacks a standard process for the review and approval of design drawings for projects proceeding by right before applying for building permits. Under the M21 Code, unless a project requires waivers or warrants for specific deviations, the Office of Zoning does not formally conduct its review until the project is submitted for building permit. This leaves applicants without assurance that their designs are protected against mandatory redesigns if omissions or errors are found during the building permit review. Consequently, applicants must risk substantial expenditures on detailed mechanical, electrical, plumbing, and structural drawings without any guarantee that their designs will not require costly revisions to comply with the city's zoning standards. Although developers appreciate the ability to proceed directly to building permit, with the increasing costs associated with preparing full construction drawings, plus the lending environment tightening its underwriting criteria requiring more equity invested into the entitlement process, projects in Miami's pipeline are increasingly being put in limbo. **Proposed Revisions:** The ordinance introduces the ASPR process as an optional permit for projects eligible to proceed by right and would put the City of Miami on par with the ASPR process utilized by Miami-Dade County. Applicants can seek an ASPR prior to submitting a building permit application by following the process described in Section 7.1.2.10 of the M21 Code. One of the key benefits of the ASPR is the creation of certainty for developers. With the exception of errors related to density, intensity, height, setbacks, and life safety issues, once a project receives ASPR approval, the ordinance protects the project from additional planning and zoning reviews during the building permit application and exempts them from subsequent amendments to the M21 Code that may require modifications to an otherwise approved development. Ultimately, this safeguard prevents applicants from facing the financial burden of redesigning projects due to later-discovered issues or divergent interpretations, allowing developers to move forward with projects more swiftly and confidently, reducing the need for redundant reviews and unnecessary use of City resources.

II. Validity Period for Special Permits and ASPR Extended to Three Years

Currently: Special permits under the M21 Code (including waivers, warrants and exceptions) are valid for two years from approval, during which time a building permit or certificate of use must be obtained. The M21 Code permits the director to grant or deny a one-year extension to any special permit beyond its two-year expiration date; however, with no established criteria for approving or denying such extensions. While the one-year extensions have typically been granted, the current timeframes contribute to lack of efficiency and certainty in the development process. **Proposed Revisions:** The ordinance

introduces a three year validity period for ASPRs, in which time a building permit must be obtained and will amend the lifespan of Special Permits by replacing the existing two-year time limitation and discretionary one-year extension with a fixed three-year period for obtaining a building permit or certificate of use. This change grants an additional year for all administrative entitlements, promoting timely project progression without the applicant needing to expend resources to seek an extension. The ordinance additionally stipulates that all unexpired warrants, waivers, exceptions, and projects with an approved variance as of the ordinance's effective date will receive an automatic one-year extension, provided they have not previously been granted an extension under the current rule. Lastly, permit extensions authorized through the State of Florida under a Governor's Declaration of State of Emergency would still be available for developers, in cases where additional unanticipated delays are experienced.

III. Reduction in Minimum Land Area for Phased Projects to One Acre

Currently: Under the current M21 Code, a phased project is one which, due to its magnitude, is to be developed in stages and (among other requirements) requires a minimum of three acres of land. A phased project is considered one development site for the purpose of calculating all zoning requirements but allows for phasing of permitting and construction, which in turn helps a developer secure approvals and financing for large-scale projects that otherwise would require concurrent permitting of multiple buildings – complicating a developer's ability to finance and deliver the project. However, the three- acre minimum requirement restricts the number of projects eligible to utilize the benefits associated with phased development. **Proposed Revisions:** The ordinance reduces the minimum acreage requirement needed to qualify as a phased project from three acres to one acre. Further, the ordinance removes the need for a project to be qualified by the zoning administrator and simply requires the planning director's approval.

IV. Conclusion and Next Steps

The city's ordinance, introducing the ASPR process and other zoning reforms, signals the city's attention to ensuring Miami remains competitive for attracting quality real estate investment and development. Through the ordinance, the City aims to foster a more efficient, predictable, and developer-friendly environment, ultimately to accommodate Miami's future growth. The amendments proposed to the M21 Code are required to be presented at two public hearings prior to formal adoption by the City Commission The Ordinance is currently scheduled to be presented to City Commission for first reading in September 2024. *This client alert provides a summary of key components of the city's ASPR ordinance and is not intended as legal advice. For more information on how the Ordinance may impact a specific property or project within City of Miami, contact* ***Steven J. Wernick, Esq., AICP*** *in Day Pitney's Miami office.*

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