

ORDINANCE NO. 17-21-2407

An Ordinance amending the City of South Miami Land Development Code, Chapter 20, Sections 20-1.3, 20-1.5 and 20-1.6 to clarify that when the City's Comprehensive Plan, or Land Development Code, provides a higher standard of land use or regulation, the higher standard must prevail over lesser standards, including those set forth in Miami-Dade County's Code for those properties located both within the City and within the Miami-Dade County Rapid Transit Zone and providing that all such properties must remain subject to all of the higher, or more restrictive, standards set forth in the City's Comprehensive Plan and Land Development Code.

WHEREAS, on October 17, 1978, the Board of Miami-Dade County Commissioners, pursuant to Ordinance No. 78-74, established the Rapid Transit Zone for the Stage I Fixed Guideway Rapid Transit System in order to encourage development activity surrounding the rapid transit system; and

WHEREAS, the Miami-Dade County's ("County") intent was to provide a coordinated review and analysis of mass transit facilities necessary to carry on a central metropolitan government in Miami-Dade County, however, the County has continued to increase areas included in the Rapid Transit Zone ("RTZ"); and

WHEREAS, Section 33C-2 (C) of the Miami-Dade County Code provides that jurisdiction for regulatory decisions including, but not limited to: comprehensive planning; district boundary changes, special exceptions, variances, unusual uses, site plan approvals, and other zoning approvals; historic preservation; compliance with environmental regulations; issuance of building permits; building inspections; construction-related fire permits and inspections, but not fire suppression or fire rescue services or annual inspections for fire safety; compliance with the Florida Building Code and the Florida Fire Prevention Code; issuance of certificates of occupancy; building or zoning moratoria; subdivision approvals; and all other types of planning, zoning, subdivision, or building functions or other functions typically performed by departments, boards, or other entities that review or issue development permits or development orders, for "lands included within the RTZ, shall be vested in Miami-Dade County regardless of any municipal code, charter, or ordinance provisions to the contrary; and

WHEREAS, the County is proposing to amend Chapter 33C of the County Code to provide for expansion of the Rapid Transit Zone (RTZ) District to include all existing Metrorail Corridors, the existing Palmetto and Dolphin Metrorail stations, the Miami Intermodal Center, the South Dade busway, all planned Smart Plan Corridors, and certain properties adjacent or nearby thereto; creating a Smart Corridor Subzone of the RTZ District; providing uses, regulatory framework, site plan review standards, and procedures for zoning approval in the Smart Corridor Subzone; amending procedures for other subzones and non-Metrorail development areas based on Smart Corridor Subzone procedures; amending section 33-314; and providing for County Commission jurisdiction over Smart Corridor Subzone applications; and

WHEREAS, the effect of the proposed amendment to Chapter 33C generally, Section 33-314 and the expansion of the RTZ to include a much larger swarth of properties located in the City of South Miami ("City") is to permit, as of right, higher density and intensity of development (Lower Standards) than what is provided for in the City of South Miami's Comprehensive Plan, and Land Development Code, as amended ("LDC"); and

WHEREAS, Section 6.02 of the Miami-Dade County Charter provides that "[e]ach municipality shall have the authority to exercise all powers relating to its local affairs not inconsistent with this Charter. Each municipality may provide for higher standards of zoning, service, and regulation than those provided by the Board of County Commissioners in order that its individual character and standards may be preserved for its citizens"; and

WHEREAS, the expansion of the County's jurisdiction to properties within the City threatens the orderly development and the health, safety, convenience, prosperity and welfare of the present and future citizens of the City as well as requiring Lower Standards that degrade the individual character and Higher Standards that the City's citizens demand and that must be preserved for them; and

WHEREAS, the Planning Board, at its meeting on August 10, 2021, following an advertised public hearing, unanimously approved the proposed ordinance amending City of South Miami Land Development Code, Chapter 20, Sections 20-1.3, 20-1.5 and 20-1.6; and

WHEREAS, the City Commission has considered whether the proposed text amendment as stated herein will further the goals, objectives, and policies of the South Miami Comprehensive Plan, the City's Land Development Code, and other City regulations; and

WHEREAS, the City Commission has considered the need and justification for the proposed text amendments as stated herein, including changed or changing conditions that make the passage of this ordinance necessary; and

WHEREAS, the City Commission finds that it is in the best interest of the City and its residents to amend the City's Land Development Code for the purpose stated herein;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF SOUTH MIAMI, FLORIDA:

Section 1. The foregoing recitals are hereby ratified and incorporated by reference as if fully set forth herein and as the legislative intent of this Ordinance.

Section 2. Chapter 20, Sections 20-1.3, 20-1.5 and 20-1.6 of the City of South Miami's Land Development Code are hereby amended and shall read as follows:

20-1.3 - Purpose and intent.

(A) Health, Safety and Welfare. It is the purpose and intent of this Code to promote the health, safety, community acceptable standard of morals and general welfare of the residents of the City of South Miami through the stated regulations of this Code.

(B) Plan Implementation. It is the purpose and intent of this Code to implement the recommendations of the City's adopted Comprehensive Plan and to insure that adequate public facilities and services shall be available to accommodate new development.

(C) Permissive Regulations. It is the intent of the language in this Code to be permissive, rather than prohibitive in nature. In other words, uses and structures not specifically permitted shall be prohibited.

(D) Minimum Requirements. These regulations and the City's Comprehensive Plan shall be considered are the minimum requirements for administration, enforcement, procedures, restrictions, standards, uses, variances, and all other areas addressed by this Code, and, if any other existing ordinance or regulation allows lesser regulation, including lands that are within the Miami-Dade County Rapid Transit System Development Zone or the Rapid Transit Zone District, as set forth in Chapter 33C of the Miami-Dade County Code (County Regulation) that have a lower standard of services or less restrictive standard of zoning and regulation than the City's Comprehensive Plan or the City's Land Development Code (LDC), the City's Comprehensive Plan will govern first and then this LDC will shall govern before the County Regulation governs, so that in all cases, the more restrictive limitation or requirement must shall govern.

20-1.5 - Jurisdiction.

The provisions of this Code shall apply to all the territory encompassed in the jurisdictional area of the City of South Miami where authority may be exercised pursuant to Florida Statutes, Section 163.3171, including lands that are part of the Miami-Dade County Rapid Transit System Development Zone or the Rapid Transit Zone District, as set forth in Chapter 33C of the Miami-Dade County Code.

20-1.6 - Conflicting provisions.

Where a conflict exists between any limitation or requirement in this Code and any applicable limitation or requirement elsewhere in this Code, the more restrictive limitation or requirement, or the regulation that imposes the higher standard of services and more restrictive land use and land development regulation (Higher Standards) must govern and must shall prevail. Where there is a conflict between the Miami-Dade County Comprehensive Development Master Plan (CDMP) or the County Code of Ordinances (collectively referred to as County Regulations) and this Code or the City's Comprehensive Plan, if the Miami-Dade County Charter authorizes municipal regulations to prevail or authorizes municipalities to enforce a Higher Standard, then the Higher Standards of this Code and of the City's Comprehensive Plan will take precedence and prevail over the County Regulations. Properties located within the Miami-Dade County Rapid Transit System Development Zone or within a Rapid Transit Zone District, as set forth in Chapter 33C of the Miami-Dade County Code, as amended, must remain subject to all of the provisions of City's Comprehensive Plan and the City's Land Development Code that provide for a Higher Standard.

Section 3. Corrections. Conforming language or technical scrivener-type corrections may be made by the City Attorney for any conforming amendments to be incorporated into the final ordinance.

Section 4. Codification. The provisions of this ordinance will become and be made part of the City of South Miami Land Development Code as amended; that the sections of this ordinance may be renumbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

Section 5. Ordinances in Conflict. All ordinances or parts of ordinances and all sections and parts of sections of ordinances in direct conflict herewith are hereby repealed.

Section 6. Severability. If any section, clause, sentence, or phrase of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, this holding will not affect the validity of the remaining portions of this ordinance.


Section 7. Effective Date. This ordinance will become effective upon enactment.

PASSED AND ENACTED this 7TH day of September, 2021.

ATTEST:

APPROVED:

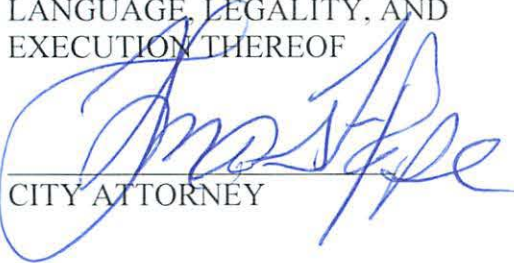

CITY CLERK


MAYOR

1st Reading – 8/17/21

2nd Reading – 9/7/21

READ AND APPROVED AS TO FORM:
LANGUAGE, LEGALITY, AND
EXECUTION THEREOF


CITY ATTORNEY

COMMISSION VOTE:

Mayor Phillips:

Commissioner Harris:

Commissioner Gil:

Commissioner Liebman:

Commissioner Corey:

5-0

Yea

Yea

Yea

Yea

Yea