

ORDINANCE NO. _____

An Ordinance amending Section 20-4.2 of the City of South Miami's Land Development Code to add, clarify and/or modify criteria for the City's approval of a waiver of plat, and for approval of all plats or re-plats requiring approval by Miami-Dade County and adding definitions for roadways in Section 20-2.3.

WHEREAS, Section 20-4.2 of the City's Land Development Code provides for the process of subdividing parcels of land as well as the waiver of the platting process for land located in the City of South Miami; and

WHEREAS, Section 20-4.2 defers to the Miami-Dade County platting process of Chapter 28 of the Miami-Dade County Code of Ordinances for the subdivision of land; and

WHEREAS, Miami-Dade County platting ordinance requires that a tentative plat must be approved by the City of South Miami before it can obtain final County plat approval; and

WHEREAS, the title of this amended ordinance, as originally proposed, adequately described the purpose and intent of the amendment as originally drafted for first reading; and

WHEREAS, the amendment was changed and broadened in scope between first and final reading so that the title may not have reflected the scope of the amendments; and

WHEREAS, the ordinance was submitted for an additional or 2nd first reading with a modified title that would include all of the subject matter. In addition, the ordinance was further amended at the time of the 2nd first reading to include definitions of the different types of roadways that were being referred to in the amendments made at the time of the 1st second reading of the ordinance. However, at the time of the 2nd first reading, the text that was changed at the time of the 1st second reading, when the amendment was first proposed, was not underlined when it had its 2nd first reading; and

WHEREAS, in an abundance of caution, the ordinance is being re-adopted and re-enacted for the third time with a broader title, definitions of different type of roadways and with amendments that are in addition to those made at the time of the 1st second reading so as to include additional conditions for approval of either a waiver of plat or a subdivision of land; and

WHEREAS, those changes that were made previously at the time of the 1st second reading but which are now being deleted have been underlined and they have a line striking through the text; and

WHEREAS, the original text that existed before any amendments were made prior to the 1st first reading of the amendments to the ordinance are neither underlined nor is there a line striking through them; and

WHEREAS, the Mayor and City Commissioners of the City of South Miami desire to

1 re-enact this ordinance with the additional conditions.

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3 **NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY**
4 **COMMISSION OF THE CITY OF SOUTH MIAMI, FLORIDA:**
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6 **Section 1.** Section 20-4.2 titled "Land subdivision regulations", subsections (A) and (B)
7 are hereby amended to read as follows:

8 (A) Applicable Regulations. The subdivision of all land within the city shall be
9 subject to Chapter 28 of the Miami-Dade County Code of Ordinances and administered by the
10 Miami-Dade County Department of Public Works. All applications for tentative plat or waiver
11 of plat require the approval of the City Commission and shall meet all of the requirements as
12 set forth in Subsection (B) below.

13 (B) Platted Lot Compliance. Every building or structure hereafter erected, moved or
14 structurally altered within the city shall be located on a platted lot, except that the city
15 commission may waive platted lot compliance in accordance with section 28-4 of the County
16 Code and the procedures set forth below.

17 (1) As part of the required plat or waiver-of-plat application, applicants shall be required
18 to submit a proposed site plan for the resulting building parcels, an existing tree survey
19 (may be included in property survey) which shall indicate any proposed tree removal or
20 relocation necessary, and, if so, an appropriate city application for tree removal or
21 relocation shall be included.

22 (2) All tentative plats and all waiver-of-plat applications shall be reviewed by the
23 Planning Board. The Planning Board shall render a recommendation to either deny the
24 application, approve the application or approve the application with conditions. At least
25 ten (10) days prior to the meetings of the Planning Board and of the City Commission
26 that will be considering the application, notice of the date and time of the meeting shall
27 be posted on the subject property by the Planning Department at locations facing all
28 roadways that abut the property and the notice shall also be mailed to all property owners
29 within a five hundred-foot radius of the subject property.

30 (3) Waiver-of-Plat. A waiver of plat may be approved by the city commission.

31 ~~(2) Prior to city commission approval, the application shall be reviewed by the planning-~~
32 ~~board. The subject property shall be posted ten (10) days prior to the planning board review of~~
33 ~~the application, and mailed notice shall be provided to all property owners within a five hundred-~~
34 ~~foot radius of the subject property.~~

35 (4) ~~(2)~~ City Commission Findings. Prior to approving a waiver of plat, the city
36 commission shall use must make the following findings guidelines:

37 (a) The building site created by the proposed waiver of plat will be equal to or larger
38 than the majority of the existing building sites and of the same character as the
39 surrounding area (this shall be demonstrated using copies of the official plat maps for the
40 subject property and surrounding neighborhood). Surrounding area is defined as all
41 abutting lots within the same zoning district and within a radius of five hundred (500)
42 feet from the subject property, including those that are diagonal to the property and
43 separated by a roadway, provided the roadway is not an arterial road.

44 (b) ~~The building site created by the proposed waiver of plat will not result in existing~~
45 ~~structures becoming nonconforming as they relate to setbacks and other applicable~~

1 regulations of these land development regulations. The proposed building site(s) to be
2 created, separated or established shall not result in any existing structures becoming non-
3 conforming as it relates to setbacks, lot area, lot width and depth, ground coverage and
4 other applicable provisions of the land development code and City code of ordinances.
5 The voluntary demolition of a building which eliminates any of the conditions identified
6 in this criterion shall not constitute or result in compliance with this criterion. The
7 voluntary demolition of a building which eliminates any of the conditions identified in
8 this criterion shall not constitute or result in compliance with this criterion unless the
9 existing structure was built prior to January 1, 1955 and has not been designated as
10 historic.

11 (c) The building site created by the proposed waiver of plat will be free of
12 encroachments from abutting buildable sites.

13 ~~(3) Additional Conditions. The city commission may designate such additional conditions~~
14 ~~in connection with a waiver of plat as will, in its opinion, assure that such waiver of plat~~
15 ~~will conform to the foregoing requirements.~~

16 ~~(4) (5) Additional Application Requirements. As part of the required waiver of plat~~
17 ~~application, applicants shall be required to submit a proposed site plan for the resulting~~
18 ~~building parcels, an existing tree survey (may be included in property survey) which shall~~
19 ~~indicate any proposed tree removal or relocation necessary, and, if so, the appropriate city~~
20 ~~application for tree removal or relocation.~~

21 (5) All applications for the approval of a tentative plat or a waiver of plat shall satisfies
22 following criteria:

23 (a) Exceptional or unusual circumstances exist, that are site specific such as unusual site
24 configuration or partially platted lots, or are code specific such as properties having
25 two (2) or more zoning and/or land use designations, multiple facings or through-
26 block sites, which would warrant the separation or establishment of a building site(s).

27 (b) The frontage of the building site(s) created would be equal to or larger than the majority of
28 the existing building site frontages in the same zoning designation within a minimum of
29 five hundred (500) foot radius of the perimeter of the subject property, but not including
30 existing building sites separated from the applicant's site by an arterial roadway.

31 (c) No restrictive covenants, encroachments, easements, or the like exist which would
32 prevent the separation of the site. The voluntary demolition of a building which
33 eliminates any of the conditions identified in this criterion shall not constitute or
34 result in compliance with this criterion unless the existing structure was built prior to
35 January 1, 1955 and has not been designated as historic.

36 (d) The proposed building site(s) maintains and preserves open space, promotes
37 neighborhood compatibility, preserves historic character, maintains property values
38 and enhances visual attractiveness of the area.

39 (6) Conditions of approval (if applicable). If an application is recommended for approval, the
40 Planning Department, Planning and Zoning Board may recommend and City Commission may
41 prescribe conditions, restrictions or safeguards deemed necessary to satisfy the provisions within
42 this Section.

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46 **Section 2.** 20-2.3 Definitions, is hereby amended to add the following
47 definitions:

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2 Arterial roadway is a roadway that connects freeways or expressways to
3 neighborhoods.

4 * * *

5 Collector roadway is a roadway that connects to an arterial roadway and
6 penetrates neighborhoods.

7 * * *

8 Local Access roadway is a roadway that is connected to a collector roadway and
9 provides a direct approach to individual residences and structures.

10 * * *

11 **Section 3. Codification.** The provisions of this ordinance shall become and be made
12 part of the Code of Ordinances of the City of South Miami as amended; that the sections of this
13 ordinance may be renumbered or re-lettered to accomplish such intention; and that the word
14 "ordinance" may be changed to "section" or other appropriate word.
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16 **Section 4. Severability.** If any section, clause, sentence, or phrase of this ordinance is
17 for any reason held invalid or unconstitutional by a court of competent jurisdiction, this holding
18 shall not affect the validity of the remaining portions of this ordinance.
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20 **Section 5. Ordinances in Conflict.** All ordinances or parts of ordinances and all
21 sections and parts of sections of ordinances in direct conflict herewith are hereby repealed.
22 However, it is not the intent of this section to repeal entire ordinances, or parts of ordinances,
23 that give the appearance of being in conflict when the two ordinances can be harmonized or
24 when only a portion of the ordinance in conflict needs to be repealed to harmonize the
25 ordinances. If the ordinance in conflict can be harmonized by amending its terms, it is hereby
26 amended to harmonize the two ordinances. Therefore, only that portion that needs to be repealed
27 to harmonize the two ordinances shall be repealed.
28

29 **Section 6. Effective Date.** This ordinance shall become effective upon enactment.
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31 PASSED AND ENACTED this ____ day of _____, 2015.
32

33 ATTEST:

34 APPROVED:

35 _____
36 CITY CLERK

37 _____
38 MAYOR

39 1st Reading

40 2nd Reading
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READ AND APPROVED AS TO FORM:
LANGUAGE, LEGALITY AND
EXECUTION THEREOF

CITY ATTORNEY

COMMISSION VOTE:
Mayor Stoddard:
Vice Mayor Harris:
Commissioner Edmond:
Commissioner Liebman:
Commissioner Welsh: