

ORDINANCE NO. 2018-023

1
2
3 **AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF**
4 **THE CITY OF HALLANDALE BEACH, FLORIDA, AMENDING**
5 **CHAPTER 32, “ZONING AND LAND DEVELOPMENT CODE” OF**
6 **THE CITY OF HALLANDALE BEACH CODE OF ORDINANCES;**
7 **AMENDING SECTION 32-171, “PLAC PLANNED LOCAL**
8 **ACTIVITY CENTER DISTRICT”;** AMENDING SECTION 32-186,
9 **“PDO PLANNED DEVELOPMENT OVERLAY”;** CREATING
10 **SECTION 32-805 TITLED “DEVELOPMENT AGREEMENTS;**
11 **AMENDMENTS AND MINOR REVISIONS”;** PROVIDING AN
12 **APPROVAL PROCESS FOR AMENDMENTS AND MINOR**
13 **REVISIONS TO DEVELOPMENT AGREEMENTS; PROVIDING**
14 **FOR CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING**
15 **FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE**
16 **DATE.**

17 **WHEREAS,** Section 163.3223, Florida Statutes provides, “Any local government may, by
18 ordinance, establish procedures and requirements, as provided in ss. 163.3220-163.3243, to
19 consider and enter into a development agreement with any person having a legal or equitable
20 interest in real property located within its jurisdiction”; and

21 **WHEREAS,** City Administration have determined it would be beneficial to provide for a
22 clear and efficient approval process within the City Code for amendments and minor revisions to
23 a development agreement adopted pursuant to Section 163.3220, Florida Statutes; and

24 **WHEREAS,** on April 25, 2018, the Planning and Zoning Board, serving as the Local
25 Planning Agency, considered the proposed ordinance and afforded all interested persons an
26 opportunity to be heard at the public meeting; and

27 **WHEREAS,** the Mayor and City Commission conducted a first and second reading of
28 this Ordinance at duly noticed public hearings, as required by law. After having received
29 input from and participation by interested members of the public and staff, the Mayor and
30 City Commission have determined that this Ordinance is consistent with the City's
31 Comprehensive Plan and in the best interest of the City, its residents, and its visitors.

32 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF**
33 **HALLANDALE BEACH, FLORIDA:**

34
35 **SECTION 1.** The foregoing “Whereas” clauses are hereby incorporated herein.

SECTION 2. Chapter 32, “Zoning and Land Development Code” of the Code of Ordinances of the City of Hallandale Beach, Florida is hereby amended to read as follows:

Section 32-171. - PLAC Planned Local Activity Center District

* * *

(i) *Review, approval and modification of major development plans and development agreements.* A major development plan for each phase shall be submitted to and processed by the city in accordance with the provisions of article V of this chapter, development review procedures, except that changes and deviations of a major development plan for any phase within a PLAC that does not exceed ten percent of the approved square footage in each phase or permitted uses and continues to be consistent with the approved design guidelines and/or development agreement within the PLAC district area shall only require administrative approval. Amendments and minor revisions to approved development agreements shall be made in accordance with section 32-805 of the city code. All building permits issued subsequent to the approval of the PLAC rezoning shall be consistent with the respective approved major development plans. Deviations from the approved major development plan and/or development agreement greater than ten percent or that changes the character of the development shall be subject to the provisions for major changes of section 32-174(j)(3).

* * *

Section 32-186. - PDO Planned Development Overlay

* * *

(j) *Conformance to approved major development plan.*

(1) *Building permits.* After rezoning to PDO planned development overlay, no building permits shall be issued by the city and no development shall commence unless in conformance with a development agreement and approved major development plan unless otherwise exempted pursuant to subsection (e)(2) of this section.

69 (2) *Minor changes.* The city manager, after receiving staff recommendations, may approve
70 minor changes and deviations from the approved major development plan which are in
71 compliance with the provisions and intent of this chapter, and which do not depart from
72 the principal concept of the approved major development plan, and which are not major
73 changes as described in subsection (j)(3) of this section. Minor revisions to development
74 agreements shall be in accordance with the provisions of section 32-805(d) of the city
75 code.

76 (3) *Major changes.* The city manager may determine that the requested changes and
77 deviations from ~~an approved development agreement and/or a~~ major development
78 plan constitutes a major change to the character of the development. A requested
79 major change shall be submitted to the city commission as a revision to the
80 ~~development agreement and/or~~ major development plan as specified in section 32-
81 782(a)(2) to be heard at a public hearing. Major changes ~~of~~ to major development plans
82 shall include but not be limited to:

83 a. A change in the use(s) of the planned development.

84 b. Any change resulting in greater than a ten percent variance in the following plan
85 features:

86 1. An increase in floor area of proposed structures.

87 2. An increase in the density of use, but not exceeding that allowed by the
88 underlying zone.

89 3. Plan revisions which increase trips and impact traffic and utilities.

90 4. A reduction in open space specified in the approved major development plan.

91 5. A reduction of off-street parking and loading spaces specified in the approved
92 major development plan.

93 6. The lesser of either a 10% increase in building height or the addition of one
94 story.

95 c. Any change in the boundaries or phasing of the project.

96 (4) Changes to development agreements which are not minor revisions according to section
97 32-805(d) are considered development agreement amendments and shall follow the
98 provisions of section 32-805(c).

99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129

* * *

Sec 32-805. - Development Agreements; Amendments and Minor Changes

- (a) Purpose and Intent. The purpose of this article is to provide for a clear and efficient process for consideration of requests for amendments or minor revisions to development agreements adopted pursuant to the Florida Local Government Development Agreement Act.
- (b) Applicability. For development agreements currently in effect and adopted by the city pursuant to Florida Statutes, the procedures contained in this section apply to any request for an amendment or minor revision.
- (c) Procedure for amendment to a development agreement.
 - (1) Development Services review and recommendation. The development services director shall review requests for modifications to Development Agreements. If it is determined that the request for modification is a minor revision, approval shall be pursuant to subsection (d) of this section. If it is determined the request for modification is not a minor revision, it is a development agreement amendment and shall be reviewed pursuant to the following process. The development services director shall provide a recommendation to the planning and zoning board to approve, approve with modifications or deny the development agreement amendment. The development services director shall make findings as to each proposed development agreement amendment and shall forward such findings to the planning and zoning board.
The findings shall be based on the following criteria:
 - a. Whether the development agreement amendment is consistent with the city's Comprehensive Plan, or as may be amended; and
 - b. Whether the provisions of the development agreement amendment are in the best interests of the public health, safety, welfare, economic order and aesthetics of the region and the community; and
 - c. Whether the development agreement amendment will adversely affect the orderly development of property in the area of the parcel of land subject to the development agreement amendment; and
 - d. Any findings required to be made pursuant to Florida Statutes.

130 (2) Planning and Zoning Board public hearing and recommendation. Upon consideration
131 of the recommendations of the development services director, the planning and zoning
132 board shall hold a public hearing. Notification of the public hearing shall be published
133 and mailed in accordance with Florida Statutes. Following the public hearing, and after
134 review of the city administration recommendation and findings, the planning and
135 zoning board shall make its written recommendation to the city commission and shall
136 make a written finding certifying consistency with the items listed in (1)(a)-(d) above.

137 (3) City Commission public hearing and decision. Upon consideration of the
138 recommendations of the planning and zoning board and the city administration, the
139 city commission shall hold a public hearing. Notification of the public hearing shall be
140 published and mailed in accordance with Florida Statutes. Following the public
141 hearing the city commission shall approve, or approve with modifications, or deny the
142 proposed development agreement amendment. This does not preclude an additional
143 public hearing(s) as may be required by law or as may be deemed appropriate by the
144 city.

145 (d) Procedure for minor revisions to a development agreement.

146 (1) Review and approval by development services director.

147 a. Minor revisions to a development agreement may be approved pursuant to the city's
148 home rule powers under the Florida Constitution and Chapter 166, Florida Statutes, after
149 review by the development services director. The findings shall be based on the following
150 criteria:

151 (i.) The revision is substantially consistent with the overall purposes and intent of
152 the approved development agreement;

153 (ii.) The revision conforms to all other applicable city ordinances and regulations;

154 (iii.) The revision does not require a change in any other provision of the
155 development agreement that would require review under (c) of the section
156 herein; and

157 (iv.) The revision is not inconsistent with the city's Comprehensive Plan.

158 b. A revision is considered minor if it includes one or more of the following:

- 159 (i.) Updates a development agreement to reflect an approved minor change to a
160 major development plan pursuant to section 32-186(j)(2) of the city code.
- 161 (ii.) Changes provisions regarding easements or utilities so that more effective
162 service levels can be achieved.
- 163 (iii.) Corrects scriveners' errors.
- 164 (iv.) Changes provisions which are specifically provided for as minor in the
165 approved development agreement.
- 166 (v.) Changes time frames for development application review, as long as the
167 modified schedule does not trigger any default dates that may exist within the
168 agreement and the modified review time frames and all required
169 improvements, can be accomplished without an extension of the expiration
170 date of the agreement.
- 171 (vi.) Changes resulting from revisions to any section or subsection numbers of
172 amended Florida Statutes, Florida Administrative Code, or any other state or
173 local law, so long as the substance of the state or local law has not changed.
- 174 (vii.) Changes resulting from modifications to a city-run program referenced in the
175 Development Agreement, so long as the intent and public purpose of the local
176 program has not changed.
- 177 (viii.) Extends the effective date of a current, unexpired development agreement if
178 state law applicable to the development agreement requires such extension,
179 so long as the developer follows the requirements of the law.
- 180 (ix.) When a development agreement requires a letter of credit or maintenance
181 bond, the change allows other forms of security interest, so long as any surety
182 is approved by the city manager; provided, however, that any stated amount
183 or percentage of the security interest remains the same.
- 184 (x.) Changes to the corporate name or address of developer when such changes
185 have been accomplished through the state.
- 186 (xi.) Changes to the name of the subject property or project, unless the name of the
187 subject property listed in the development agreement is the same as an
188 already-platted subdivision.

189 (2). If the development services director determines, when applying the above criteria, that the
190 revision is minor, the revision shall be prepared, executed, and recorded in the public records
191 of Broward County, without necessity of any public hearings before the planning and zoning
192 board or city commission. If the development services director determines that the revision
193 is not minor, (s)he shall state reasons in writing to the applicant, and the amendment shall
194 be reviewed in accordance with subsection (c) of the section herein. If a minor revision is
195 submitted for review while an application for a development agreement amendment is
196 pending on the same property, the Development Services Director may require review of the
197 minor revision to be in conjunction with the development agreement amendment approval
198 process.

199 (e) Periodic review of development agreements. development services director shall review land
200 subject to a development agreement at least once every 12 months to determine if there has been
201 demonstrated good-faith compliance with the terms of the development agreement, in accordance
202 with Section 163.3235, Florida Statutes, or as may be amended. A written determination shall be
203 made as to whether the developer has complied with the terms of the development agreement.

204 The development agreement may be revoked, modified, or canceled by the city at any time in
205 accordance with Florida Statutes.

206 **SECTION 3.** Sections 32-796 to 32-804 are reserved for future use.

207
208 **SECTION 4. Conflict.** All ordinances or parts of ordinances and all resolutions and parts
209 of resolutions in conflict herewith are hereby repealed, to the extent of the conflict.

210 **SECTION 5. Severability.** If this ordinance or any part thereof is declared by a court of
211 competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of
212 the ordinance other than the part declared to be invalid.

213 **SECTION 6. Effective Date.** This Ordinance shall take effect immediately upon adoption
214 on second reading.

215 PASSED AND ADOPTED on 1st reading on August 15, 2018.

216
217 PASSED AND ADOPTED on 2nd reading on September 17, 2018.

218
219
220

221

222

223

224

KEITH S. LONDON

MAYOR

225 SPONSORED BY: CITY ADMINISTRATION

226

227 ATTEST:

228

229

230 JENORGEN GUILLEN

231 INTERIM CITY CLERK

232

233 APPROVED AS TO LEGAL SUFFICIENCY

234 AND FORM

235

236

237 JENNIFER MERINO

238 CITY ATTORNEY