



City Attorney's Communication #2015-1583
September 17, 2015

TO: Karen Friedman, AICP, Principal Planner
FROM: Mark E. Berman, City Attorney
RE: Ordinance Amending Section 154.61, "Reserve and Flexibility Units"

As requested in your e-mail of September 17, 2015, the following form of Ordinance, relative to the above-referenced matter, has been prepared and is attached:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH AMENDING CHAPTER 154, "PLANNING," BY AMENDING SECTION 154.61, "RESERVE AND FLEXIBILITY UNITS," TO MODIFY PROCEDURES AND STANDARDS FOR AWARD OF RESERVE AND FLEXIBILITY UNITS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

Please feel free to contact me if I may be of further assistance.

MARK E. BERMAN

/jrm
l:cor/dev-srv/2015-1583

Attachment

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH AMENDING CHAPTER 154, "PLANNING," BY AMENDING SECTION 154.61, "RESERVE AND FLEXIBILITY UNITS," TO MODIFY PROCEDURES AND STANDARDS FOR AWARD OF RESERVE AND FLEXIBILITY UNITS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of its proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission has been held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had the opportunity to be and were, in fact, heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That Section 154.61, "Reserve and Flexibility Units," of Chapter 154, "Planning," of the City of Pompano Beach Code of Ordinances is amended to read as follows:

§ 154.61 RESERVE AND FLEXIBILITY UNITS.

(A) In conformance with the Comprehensive Plan, flexibility and reserve units as defined in § 154.60 of this chapter, may be allocated to authorize multifamily dwellings for residential projects or mixed use projects on properties with commercial land use designations or additional units on properties with residential land use designations. Approval of a transfer of flexibility and reserve units shall be achieved as outlined ~~in subsection (C)~~ below.

(B) Distribution of flexibility and reserve units.

(1) Available flexibility and reserve units may be utilized by the city to rearrange residential densities consistent with the Broward County Land Use Plan provisions.

...

~~(4) Distribution of flexibility and reserve units shall be subject to affordable housing requirements, subsection (D) below.~~

(C) Procedure.

~~(1) A written request from the developer to the Planning Director asking for a determination as the availability of surplus units in a certain flexibility zone.~~

~~(2) Approval by the City Commission for the requested number of reserve and flexibility units, or such lesser number, upon applicant establishing by competent and substantial evidence, the following:~~

~~(a) Consistency with applicable goals, objectives and policies of the City's Comprehensive Plan and this chapter.~~

~~(b) The use of the reserve and flexibility units will produce a reasonable development pattern. The criteria for reasonableness shall include compatibility of adjacent land uses and suitability of the parcel for various development patterns.~~

~~(3) Provision of a conceptual site plan pursuant to this chapter.~~

~~(4) Planning and Zoning Board development approval pursuant to this chapter.~~

(1) Step 1: Application Submittal. The applicant shall submit an application to the Development Services Director as follows:

(a) The application is in the form established by the Development Services Director;

(b) The application is accompanied by the application fee as specified in Chapter 154, Appendix A: Fee Schedule; and

(c) The applicant includes information in sufficient detail to evaluate the application in order to determine whether it complies with the review standards listed in subsection (D) below, including a conceptual site plan.

(2) Step 2: Staff Review. Applicable to a recommendation by the Development Service Director, following DRC review and comment based on the Application Review Standards listed in subsection D below.

(3) Step 3: Advisory Body Review and Recommendation. Applicable to a recommendation by the Planning and Zoning Board based on the Application Review Standards listed in subsection D below.

(4) Step 4: Decision-Making Body Review and Decision. Applicable to a final decision by the City Commission.

~~(5) Payment of a fee in the amount as specified in Chapter 154, Appendix A: Fee Schedule, at the time submission of a written request for a determination as to the availability of dwelling units.~~

(6 5) The availability of reserve and flexibility units will become null and void upon the expiration of the time limits provided in the resolution allocating said flexibility and reserve units. Time extensions may be granted for good cause shown if sufficient progress is demonstrated.

(D) Application Review Standards. An application shall only be approved on a finding that there is competent substantial evidence in the record that all of the following standards are met:

(1) Consistency with applicable goals, objectives and policies of the City's Comprehensive Plan and this chapter.

(2) The use of the reserve and flexibility units will produce a reasonable development pattern. The criteria for reasonableness shall include compatibility of adjacent land uses and suitability of the parcel for various development patterns.

(3) An agreement to provide affordable housing units per Section (E) below, except that infill properties which are one-acre or less are exempt from this requirement

~~(D E)~~ Affordable housing requirements.

...

SECTION 2. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of

this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 3. This Ordinance shall become effective upon passage.

PASSED FIRST READING this _____ day of _____, 2015.

PASSED SECOND READING this _____ day of _____, 2015.

LAMAR FISHER, MAYOR

ATTEST:

ASCELETA HAMMOND, CITY CLERK

MEB/jrm
9/17/15
ord/ch154/2015-489