



# City of Miami

## Legislation

### Ordinance

City Hall  
3500 Pan American  
Drive  
Miami, FL 33133  
www.miamigov.com

File Number: 11-00380ap2

Final Action Date:

AN ORDINANCE OF THE MIAMI CITY COMMISSION, WITH ATTACHMENT(S), APPROVING WITH CONDITIONS, AN AMENDMENT TO THE PREVIOUSLY-APPROVED "BRICKELL CITY CENTRE" SPECIAL AREA PLAN ("BCC SAP") PURSUANT TO ARTICLE 3, SECTION 3.9 AND ARTICLE 7, SECTION 7.1.2.8 OF THE MIAMI 21 CODE, THE ZONING ORDINANCE OF THE CITY OF MIAMI, FLORIDA, BY ADDING ADDITIONAL PROPERTIES GENERALLY LOCATED IN THE EASTERN PORTION OF THE BLOCK BOUNDED BY SOUTHEAST 7TH STREET ON THE NORTH, SOUTHEAST 8TH STREET ON THE SOUTH, THE 8TH STREET METRO MOVER STATION RIGHT-OF-WAY ON THE WEST, AND BRICKELL AVENUE ON THE EAST, MIAMI, FLORIDA; MORE SPECIFICALLY DESCRIBED IN EXHIBIT "A"; THE ADDITIONAL EASTERN PORTION OF THE BLOCK COMBINES WITH THE ORIGINALLY-APPROVED "BCC PLAZA" TO CREATE THE "ONE BCC" BLOCK; THE AMENDMENT PROPOSES: A) ADDING APPROXIMATELY 67,620 SQUARE FEET (1.55 ACRES) OF LOT AREA FOR A TOTAL COMBINED LOT AREA OF 503,948 SQUARE FEET (11.57 ACRES); B) INCREASING THE RETAIL / ENTERTAINMENT AREA BY 58,307 SQUARE FEET FOR A TOTAL OF 723,575 SQUARE FEET; C) INCREASING THE OFFICE SPACE BY 36,333 SQUARE FEET FOR A TOTAL OF 961,400 SQUARE FEET; D) INCREASING THE RESIDENTIAL COMPONENT BY 256 UNITS FOR A TOTAL OF 1,400 UNITS; E) INCREASING HOTEL KEYS BY 120 FOR A TOTAL OF 385 KEYS; AND F) INCREASING THE PARKING SPACES ABOVE GROUND AND BELOW GRADE BY 308 SPACES FOR A TOTAL OF 5,057 SPACES. THE SQUARE FOOTAGES ABOVE ARE APPROXIMATE AND MAY INCREASE OR DECREASE AT TIME OF BUILDING PERMIT NOT TO EXCEED A TOTAL OF 9,071,064 SQUARE FEET OF FLOOR AREA OR LESS THAN 25,197 SQUARE FEET OF CIVIC SPACE OR NOT LESS THAN 50,395 SQUARE FEET OF OPEN SPACE; FURTHERMORE, AMENDING THE ZONING ATLAS OF ORDINANCE NO 13114, BY CHANGING THE ZONING CLASSIFICATION OF THE ADDITIONAL SELECTED PROPERTY FROM "T6-48A-O" URBAN CORE ZONE AND "T6-48B-O" URBAN CORE ZONE TO "T6-48B-O" URBAN CORE ZONE; MAKING FINDINGS OF FACT AND STATING CONCLUSIONS OF LAW; PROVIDING FOR BINDING EFFECT; CONTAINING A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the original "Brickell CitiCentre" is a 9.038 acres Special Area Plan ("SAP"), pursuant to Article 3, Section 3.9 of the Miami 21 Code, the Zoning Ordinance of the City of Miami, Florida, ("Zoning Ordinance"), generally bound by Brickell Avenue to the East, Southwest 1st Avenue to the West, Southeast 6th Street to the North and Southwest 8th Street to the South, Miami, Florida: and

WHEREAS, the applicant amended the SAP by renaming the project from "BRICKELL CITICENTRE" to "BRICKELL CITYCENTRE SAP"; and

WHEREAS, the applicant amended the Special Area Plan SAP, its Regulating Plan and Design

Guidelines by adding 0.98 acres of abutting parcels to include in the Brickell CityCentre SAP project, located adjacent and north of the existing SAP and bounded by Southeast 5th Street, Southeast 1st Avenue, Southeast 5th Street, and South Miami Avenue, Miami Florida, and resulting in a total of 10.01 acres; and

WHEREAS, the applicant wishes to further amend the Special Area Plan, its Regulating Plan and Design Guidelines by adding an additional 1.55 acres to the **Brickell CityCentre** SAP project, generally located adjacent and east of the existing SAP and bounded by Southeast 7th Street on the North, Southeast 8th Street on the South, the 8th Street Metro Mover Right-of Way to the West, and Brickell Avenue on the East, Miami Florida, and further described in "Exhibit A" herein, resulting in a total of 11.57 acres; and

WHEREAS, the "Brickell CityCentre" SAP project integrates public improvements and infrastructure while providing greater flexibility resulting in higher or specialized quality building and streetscape design; and

WHEREAS, projects such as this are critically important to the economic revitalization and enhancement of the City of Miami Downtown area; and

WHEREAS, the expanded "Brickell CityCentre" SAP will benefit the area by creating residential units, hotel rooms, and commercial uses promoting its interaction with the adjacent areas, Brickell, Miami River and Downtown; and

WHEREAS, the Miami Planning, Zoning and Appeals Board, at its meeting on January 15, 2014, following an advertised public hearing, adopted Resolution No. PZAB-R-14-001 by a vote of nine to zero (9-0), item no. 5, recommending APPROVAL with conditions of the amended SAP as set forth; and

WHEREAS, the City Commission, after careful consideration of this matter, deems it advisable and in the best interest of the general welfare of the City of Miami and its citizens to amend its Zoning Ordinance as hereinafter set forth;

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

Section 1. The recitals and findings contained in the Preamble to this Ordinance are hereby adopted by reference thereto and incorporated herein as if fully set forth in this Section.

Section 2. The amended SAP, its Regulating Plan and Design Guidelines attached hereto, is approved subject to the conditions specified herein, and with the Zoning Ordinance.

Section 3. The findings of fact set forth below are made with respect to the amended SAP:

- a. The amended SAP is consistent with the adopted Miami Comprehensive Neighborhood Plan, as amended.
- b. The development proposed in the amended SAP is expected to generate recurring fiscal benefits of approximately \$5.3 million in ad valorem taxes for both the city's general fund and debt service, as well as \$300,000 annually to the DDA. Approximately 2,375 permanent jobs will be created with \$200 million paid for construction labor. This is equivalent to 3,447 man-years of construction work at the average annual pay rate of a construction worker in Miami-Dade County, which is \$58,800 per year.

c. The City Commission further finds that:

- (1) The SAP will have a favorable impact on the economy of the City;
- (2) The SAP will efficiently use public transportation facilities;
- (3) Any potentially adverse effects of the development will be mitigated through compliance with the conditions of this SAP;
- (4) The SAP will efficiently use necessary public facilities;
- (5) The SAP will not negatively impact the environment and natural resources of the City;
- (6) The SAP will not adversely affect living conditions in the neighborhood;
- (7) The SAP will not adversely affect public safety;
- (8) Based on the record presented and evidence presented, the public welfare will be served by the SAP;

(9) Any potentially adverse effects arising from this development not limited to safety and security, fire protection, solid waste, heritage conservation and trees will be mitigated through compliance with the conditions of this SAP.

Section 4. The SAP, inclusive of all exhibits, in particular, Exhibit "B", the Amended Concept Book, Exhibit "C" the Amended Regulating Plan, Exhibit "D" Amended Development Program Spreadsheet, Exhibit "E" the Amended Development Agreement, as approved, shall be binding upon the Applicant and any successors in interest.

Section 5. The amended application for SAP, which was submitted on November 22, 2013, and on file with the Hearing Boards Section of the Planning and Zoning Department, shall be relied upon generally for administrative interpretations and is incorporated by reference.

Section 6. The City Manager is directed to instruct the Planning and Zoning Director to transmit a copy of this Ordinance and attachments to the Applicant upon final approval.

Section 7. The Findings of Fact and Conclusions of Law are made with respect to the amended SAP as described herein and in documents incorporated hereto.

Section 8. The amended SAP for the "Brickell CityCentre" is granted and approved.

Section 9. In the event that any portion or section of this Ordinance or the amended SAP is determined to be invalid, illegal, or unconstitutional by a court or agency of competent jurisdiction, such decision shall in no manner affect the remaining portions of this Ordinance or amended SAP which shall remain in full force and effect.

Section 10. The provisions for this amended SAP, as approved, shall commence and become operative thirty (30) days after the final adoption of the Ordinance.

Section 11. This Ordinance shall become effective immediately upon its final adoption and signature of the Mayor, following any applicable appeal period. {1}

Section 12. The Zoning Ordinance is hereby amended by adding "Appendix E: AMENDED BRICKELL CITYCENTRE SAP" to said Ordinance, as follows:

APPENDIX E: AMENDED "BRICKELL CITYCENTRE SAP"

**CONDITIONS**

Based on analysis and findings, the Planning and Zoning Department recommends approval of the amended "Brickell CityCentre" SAP with the following conditions:

- 1) Meet all applicable building codes, land development regulations, ordinances and other laws and pay all applicable fees due prior to the issuance of any building permit.
- 2) Allow the Miami Police Department to conduct a security survey at the appropriate time, of "One BCC", at the Department's discretion, and to make recommendations concerning security measures and systems; further submit a report to the Planning and Zoning Department, prior to commencement of construction, demonstrating how the Police Department recommendations, if any, have been incorporated into the SAP, as amended, security and construction plans, or demonstrate to the Planning and Zoning Director why such recommendations are impractical.
- 3) Obtain approval from, or provide a letter from the Department of Fire-Rescue indicating applicant's coordination with members of the Fire Plan Review Section at the Department of Fire-Rescue in review of One BCC, owner responsibility, building development process and review procedures, as well as specific requirements for fire protection and life safety systems, exiting, vehicular access and water supply.
- 4) Obtain approval from, or provide a letter of assurance from the Department of Solid Waste that "One BCC", now included in the SAP have addressed all concerns of the said Department prior to the obtaining a shell permit.
- 5) Comply with the Minority Participation and Employment Plan (including a Contractor/Subcontractor Participation Plan) submitted to the City as part of the Application for Development Approval, with the understanding that the Applicant must use its best efforts to follow the provisions of the City 's Minority/Women Business Affairs and Procurement Program as a guide, as applicable.
- 6) Record the following in the Public Records of Miami-Dade County, Florida, prior to the issuance of any building permit:
  - a. Declaration of Covenants and Restrictions for "One BCC", providing that the ownership, operation and maintenance of all common areas and facilities will be by the property owner or a mandatory property owner association in perpetuity; and
  - b. Record in the Public Records a Unity of Title or a covenant in lieu of a Unity of Title, if applicable, subject to the review and approval of the City Attorney's Office.
- 7) Prior to the issuance of a shell permit, provide the Planning and Zoning Department with a recorded copy of the documents mentioned in condition number 6 above.
- 8) Provide the Planning and Zoning Department with an amended temporary construction plan, inclusive of "One BCC", which contains the following:
  - a. Temporary construction parking plan, with an enforcement policy;
  - b. Construction noise management plan with an enforcement policy; and
  - c. Maintenance plan for the temporary construction site; said plan shall be subject to the review

and approval by the Planning and Zoning Department prior to the issuance of any building permits and shall be enforced during construction activity. All construction activity shall remain in full compliance with the provisions of the submitted construction plan or other agreements and permits as applicable; failure to comply may lead to a suspension or revocation of this SAP.

9) Prior to the issuance of any building permit, the applicant shall provide the Planning and Zoning Department for review and approval:

a. Environmental Impact Statement for amended SAP site, inclusive of "One BCC".

b. Sufficiency Letter from the City of Miami, Office of Transportation for SAP site, inclusive of "One BCC".

c. Final determination of Public School Concurrency and Capacity Reservation for all residential development within the SAP, inclusive of "One BCC".

d. Conservation Assessment Report (project location is within an high Archeological Probability Zone)

e. Applicants shall work with City staff (Department of Capital Improvements, CIP) to identify a solution for potential conflicts that may arise between the proposed development of "One BCC" and the implementation / completion of the Greenway project on Southeast 5th Street.

f. Prior to final approval of this amendment, the applicants shall work with City staff (Office of Transportation) to review alternatives addressing traffic flow throughout Brickell Avenue.

10) The "Brickell CityCentre" SAP includes a Development Review Process which addresses the build out of the individual projects as identified in the Regulating Plan.

11) If the project is to be developed in phases and/or individual specific projects, the Applicant shall submit an interim plan, including a landscape plan, which addresses design details for the land occupying future phases of this Project in the event that the future phases are not developed, said plan shall include a proposed timetable and shall be subject to review and approval by the Planning and Zoning Director.

12) The applicant shall meet conditions identified in this Ordinance, the "Brickell CityCentre" SAP and all applicable regulations from local, state and federal agencies.

13) The proposed SAP, inclusive of "One BCC", is located within the Downtown Development of Regional Impact (DDRI) area. DDRI fees will be calculated based on final program. DDRI credits for "One BCC" may be reserved upon approval of this amendment; but without exception, all fees must be paid prior to the issuance of any building permit.

14) Within 90 days of the effective date of this Ordinance, record a certified copy of the amended Development Agreement specifying that the Development Agreement runs with the land and is binding on the Applicant, its successors, and assigns, jointly or severally.

#### CONCLUSIONS OF LAW:

The amended "Brickell CityCentre" SAP, as approved complies with the Miami Comprehensive

Neighborhood Plan as amended, is consistent with the orderly development and goals of the City of Miami, and complies with local land development regulations pursuant to the Zoning Ordinance Code.

The proposed development does not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the City of Miami.

APPROVED AS TO FORM AND CORRECTNESS:

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VICTORIA MÉNDEZ  
CITY ATTORNEY

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**Footnotes:**

{1} This Ordinance shall become effective as specified herein unless vetoed by the Mayor within ten days from the date it was passed and adopted. If the Mayor vetoes this Ordinance, it shall become effective immediately upon override of the veto by the City Commission or upon the effective date stated herein, whichever is later.