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OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 7(B)

(Second Reading 6-5-12)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

DATE: March 6, 2012

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Ordinance amending Sections 28-4.1 and 28-11 of the Code, relating to waiver of plat and permitting requirements for plats pending approval

Ordinance No. 12-41

The accompanying ordinance was prepared by the Public Works & Waste Management and placed on the agenda at the request of Prime Sponsor Vice Chairwoman Audrey M. Edmonson and Co-Sponsor Commissioner Rebeca Sosa.

R. A. Cuevas, Jr.
County Attorney

RAC/jls

Memorandum

MIAMI-DADE COUNTY

Date: June 5, 2012

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Ordinance Amending Sections 28-4.1 and 28-11of the Code of Miami-Dade County, Florida, Relating to Waiver of Plat and Permitting Requirements for Plats Pending Approval

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Recommendation

It is recommended that the Board of County Commissioners (BCC) approve the attached Ordinance amending Sections 28-4.1 and 28-11 of the Code of Miami-Dade County, Florida (Code), relating to waiver of plat and permitting requirements for plats pending approval.

Scope

The proposed Ordinance involves platting regulation throughout Miami-Dade County. The proposed modifications will provide additional safeguards to Miami-Dade County (County) by requiring that an interest holder (mortgagee), when presenting property as a waiver of plat, consent to the platting action prior to the approval by the BCC. The Ordinance modification also requires full payment of the property taxes for the property in question to ensure that future owner(s) of the newly subdivided property are protected. In addition, the Ordinance modification allows the applicant to apply for additional permitting pending waiver of plat approval.

Fiscal Impact /Funding Source

This modification to the Ordinance will not require additional funding from the Public Works and Waste Management Department (PWWM).

Track Record/Monitor

PWWM, Land Development/Right-of-Way Division administers the processing of plats and the person responsible for the function is Raul A. Pino, PLS, Land Development/Right-of-Way Division Chief.

Background

In 1957, Ordinance 57-30 established subdivision (platting) regulations applicable throughout the County which included provisions whereby "waiving of the requirement for platting would not conflict with the purpose and intent" of the Ordinance, in essence, the precursor of the waiver of plat. In 1979, Ordinance 79-18 was enacted by the County providing an official procedure for waiver of plats. Successive evaluation of the existing waiver of plat procedures by PWWM and the County Attorney's Office (CAO) determined that certain changes are recommended to provide additional safeguards to the County and general public. These proposed changes make up a portion of this Ordinance and will address those existing deficiencies.

On April 22, 2003, the BCC approved Ordinance 03-94 to permit limited building construction on certain parcels of land pending the recordation of their final plat. Following the approval of this Ordinance and an amendment to the subdivision Code, it became apparent that further

revisions were required to the Code in order to provide for a more comprehensive permit release methodology.

In early 2006, the Mayor's Office, through the Chairperson of the Governmental Operations and Environment Committee, worked together with the County Manager's Office in agreeing to the assemblage of a Blue Ribbon Customer Review Group (BRCRG). This group, consisting of a wide range of professionals within the development community and representatives from a number of County Departments, gathered throughout 2006 and early 2007, to address viable alternatives towards reforming the County's land use permitting and inspection process. The group meetings of the BRCRG resulted in draft recommendations, which were finalized for implementation starting in August 2008. Between this date and mid 2010, the applicable recommendations dealing with the platting process were put into practice by PWWM's Land Development Division (LDD) through policy and process procedural changes. Between September 2010 and August of 2011, the LDD then sponsored meetings with representatives of the development community, led by the Builders Association of South Florida (BASF), to discuss any concerns the development industry had with the changes proposed in the Ordinance. In August 2011, a draft version of the proposed Ordinance was prepared and forwarded to the CAO for their review, with the final version being inclusive of their recommendations. The outcome of this undertaking has resulted in improvements to the County's development approval process.

County Manager/Deputy Mayor

MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: June 5, 2012

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 7(B)

Please note any items checked.

✓ **"3-Day Rule" for committees applicable if raised**

✓ **6 weeks required between first reading and public hearing**

✓ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous_____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(B)
6-5-12

ORDINANCE NO. 12-41

ORDINANCE AMENDING SECTIONS 28-4.1, AND 28-11 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA ("CODE"); ESTABLISHING ADDITIONAL REQUIREMENTS FOR WAIVER OF PLAT APPROVAL; INCREASING THE TYPE OF TOWNHOUSE MODELS PERMITTED PENDING PLAT APPROVAL; LIMITING THE TOTAL NUMBER OF RESIDENTIAL, COMMERCIAL AND INDUSTRIAL PERMITS PENDING PLAT APPROVAL; PERMITTING LIMITED CONSTRUCTION PENDING WAIVER OF PLAT APPROVAL; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 28-4.1, Miami-Dade County Code is hereby amended to read as follows:[1]

Section. 28-4.1. Same—Procedure for Waiver of Plat.

* * *

>>(f) The property owner shall submit a current opinion of title from any attorney authorized to practice law in this State with the submittal of the waiver of plat application.

(g) Prior to the approval of the waiver of plat the property owner shall submit appropriate documentation showing the consent of any mortgage holders to the adoption of the waiver of plat.

[1] Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

(h) Certification from the County that all taxes and assessments have been paid on the land within the proposed waiver of plat or receipted tax bills prior to the approval of the waiver of plat.

(i) The property owner shall pay clerk's fees for the recordation of the governing body's resolution that approved the waiver of plat.

(j) The property owner shall comply with all the County's Plat Committee requirements within 60 days of the recommendation for approval by the County's Plat Committee. If the property owner fails to comply with said requirements within the time prescribed, the Chief of Public Works and Waste Management's Land Development Division, or designee, shall notify the property owner that the recommendation for approval of the waiver of plat is rescinded.<<

Section 2. Section 28-11, Miami-Dade County Code is hereby amended to read as follows:

Section 28-11. Building Permits, Issuance.

No building permit shall be issued for construction of any improvements on a parcel that was not legally created in compliance with these regulations except permits for a construction trailer or sale office trailer, >>permanent buildings to be used as<< single family home[[s]] and townhouse[[~~s to be used as~~]] models, entrance features, perimeter walls, lift stations and >>multi-family residential,<< commercial and industrial buildings, may be issued if the developer complies with the following requirements.

* * *

(b) For permanent buildings to be used as single family or townhouse models:

Permits for models >>not to exceed 25% of the total number of lots<< will be approved when:

* * *

(4) A letter signed by the property owner has been submitted to the Supervisor, Platting >>Section<< [[~~Division~~]], requesting the construction of models prior to final plat recording. The letter shall include the number of models being requested (only one (1) of each >>single family<< model will be allowed, or only one (1) >>of each model townhouse<< [[~~townshome~~]] building) together with the lot and block numbers for each such model. The letter shall state that the owner understands and agrees that the model home >>, or homes,<< shall not be occupied until the plat is recorded in the public records and that the penalty for violation of this occupancy prohibition shall be the demolition of the model. The letter shall also state that the owner agrees and shall release and hold Miami-Dade County, its employees and agents, harmless from any and all liability and causes of action of whatsoever nature and kind for and as a result of the issuance of building permits and any construction prior to final plat approval and recordation. The Supervisor, should he/she approve the models, will send a copy of the owner's letter to the Zoning Processing Section to be placed in the plat file.

* * *

(c) Entrance features, perimeter wall and lift station permits may be issued after tentative plat approval by the Plat Committee and receipt of a letter >>to the Supervisor, Platting Section,<< signed by the >>property << owner requesting the permit prior to final plat recording and releasing and holding Miami-Dade County, its employees and agents, harmless from any and all liability and causes of action of whatsoever nature or kind for and as a result of the issuance of building permits and any construction prior to final plat approval and recordation. The Supervisor should he/she approve the request, will send a copy of the owner's letter to the Zoning Processing Section to be placed in the plat file.

(d) For >>multi-familty residential,<< commercial>>,<< and industrial buildings >>; tentative plat<<.

* * *

(2) [[~~Only one (1) b~~]] >>Building permits<< [[~~building permit~~]] may be issued, on >>only one<< [[~~a~~]] site, >>lot or tract, until the proposed final plat for the subdivision in which the structure, or structures, is to be located has been listed on an agenda for approval by the Board of County Commissioners.<< [[~~and only one (1) such permit may be issued within a subdivision.~~]]

* * *

[[~~(4) At the time of request, there must be an active set of building plans pertaining to the site, with an active process number under the County's permitting system. The plans must have approvals from the following disciplines or an indication that such approval(s) are non-applicable: building, Department of Environmental Resources Management, electrical, energy, impact fees, mechanical, planning, plumbing, Public Works and structural.~~]]

[[~~(5)~~]] >>(4)<< A letter, signed by the property owner, has been submitted to the Supervisor, Platting >>Section<< [[~~Division~~]], requesting the permit prior to final plat recording. The letter shall state the proposed lot and block or tract for such permit, and the owner's acknowledgment and agreement that no certificate of occupancy >>or use<< will be sought or >>issued for the structure, or structures,<< [[~~allowed~~]] until after the final plat is recorded. The letter shall also state that the owner agrees and shall release and hold Miami-Dade County, its employees and agents, harmless from any and all liability and causes of action of whatsoever nature or kind for and as a result of the issuance of building permits and any construction prior to final plat approval and recordation. The Supervisor, should he/she approve the request, will send a copy of the owner's letter to the Zoning Processing Section to be placed in the plat file.

[[~~(6)~~]] >>(5)<< No certificate of occupancy >>or use<< for the subject structure >>, or structures,<< will be issued until the plat is recorded.

[[~~(7)~~]] >>(6)<< The issuance of the building permit shall not modify or affect the concurrency capacity of the underlying tentative plat in any way.

>>(e) For multi-family residential, commercial, and industrial buildings; waiver of plat.

(1) The waiver of plat has been recommended for approval by the Plat Committee.

(2) Building permits may be issued, on only one parcel, until the proposed waiver of plat for the subdivision in which the structure, or structures, is to be located has been listed on an agenda for approval by the Board of County Commissioners.

(3) Paving and drainage plans and a bond in lieu of the immediate construction of any improvements (if required) shall have been approved by the Public Works and Waste Management Department.

(4) A letter, signed by the property owner, has been submitted to the Supervisor, Platting Section, requesting the permit, or permits, prior to the waiver of plat approval by the Board of County Commissioners. The letter shall state the proposed parcel for such permit, or permits, and the owner's acknowledgment and agreement that no certificate of occupancy or use will be sought or issued until after the waiver of plat is approved by the Board of County Commissioners and the resolution is recorded in the public records. The letter shall also state that the owner agrees and shall release and hold Miami-Dade County, its employees and agents, harmless from any and all liability and causes of action of whatsoever nature or kind for and as a result of the issuance of building permits and any construction prior to waiver of plat approval. Should the Supervisor approve the request, a copy of the owner's letter to the Zoning Processing Section shall be placed in the plat file.

(5) No certificate of occupancy or use for the subject structure, or structures, will be issued until the waiver of plat is approved by the Board of County Commissioners and the resolution is recorded in the public records.

(6) The issuance of the building permit, or permits, shall not modify or affect the concurrency capacity of the waiver of plat in any way.<<

[[~~(e)~~]] >>(f)<< For Permanent Buildings to be used as Single Family or Townhouse Production Homes:

Permits for single family or townhouse production homes will be approved when:

(1) The tentative plat has been approved >>or the waiver of plat has been recommended for approval<< by the Plat Committee and is current.

(2) Paving and Drainage plans have been approved. >>A bond in lieu of the immediate construction of any improvements (if required) shall have been approved by the Public Works and Waste Management Department for any waiver of plat.<<

* * *

(4) The proposed final >>or waiver of<< plat for the subdivision in which the production homes are to be located has been listed on an agenda for approval by the Board of County Commissioners.

(5) A letter, signed by the property owner, has been submitted to the supervisor, Platting >>Section<< [[~~Division~~]], requesting approval of production homes prior to final plat recording>>, or waiver of plat approval by the Board of County Commissioners<<. The letter shall state that the owner understands and agrees that the production home shall not be occupied until the plat is recorded in the public records>>, or the waiver of plat has been approved by the Board of County Commissioners and the resolution is recorded in the public records,<< and that the penalty for violation of this occupancy prohibition shall be the demolition of the production home. The letter shall

also state that the owner agrees and shall hold Miami-Dade County, its employees and agents, harmless from any and all liability and causes of action of whatsoever nature and kind for and as a result of the issuance of building permits and any construction prior to final plat approval and recordation>>, or the waiver of plat has been approved by the Board of County Commissioners and the resolution is recorded in the public records<<. The Supervisor, should he/she approve the models, will send a copy of the owner's letter to the Zoning Processing Section to be placed in the plat file. [[~~The owner's letter shall be filed in the public records of Miami-Dade County. The recorded letter shall be effective only until the final plat is recorded and shall thereafter be deemed automatically withdrawn and of no further legal force or effect.~~]]

Section 3. If any section, subsection, sentence, clause, or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 5. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED: June 5, 2012

Approved by County Attorney as to form and legal sufficiency: _____

Prepared by: JM

John A. McInnis