

February 27, 2023

## City of Miami 2023 Zoning Reform: A Tale of Two Cities

2023 is already shaping up to be a big year for zoning reform. While rising interest rates and tightening capital markets have prompted a reassessment of new projects, local governments in South Florida are using this opportunity to revisit zoning codes to address outdated standards and respond to the post-pandemic growth experienced over the past two years.

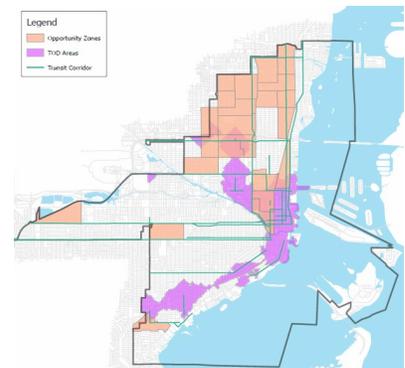
The City of Miami (the “City”) has seen an uptick in legislation – in some cases aimed at supporting economic development in emerging neighborhoods; in other cases to protect single-family neighborhoods in response to population growth and traffic concerns. Either way, it’s become increasingly apparent that more changes are on the way.

Part I of this Client Alert provides an update on key zoning code amendments recently adopted by the City Commission. Part II identifies legislation in the pipeline the Firm is keeping a close eye on that may be of interest to a broad set of real estate industry clients.

### PART I: RECENT LEGISLATION ADOPTED BY CITY COMMISSION

- **Opportunity Zone Parking Reductions.** On February 9, 2023, the City Commission approved the City’s first zoning incentives tied to the federal Opportunity Zone Program. The City Commission adopted Ordinance No. 14149 amending the Miami 21 Zoning Code (“Miami 21”) to allow for parking waivers in Miami’s qualified census tract Opportunity Zones within a Transit Oriented Development (“TOD”) area or designated Transit Corridor, except for properties within 500 feet of ungated T3 Transect Zones.

This would allow future development on eligible properties to apply for an administrative waiver to reduce overall parking requirements by up to 30%, up to 50% with payment into the Transit Enhancement Fund; and 100% exemption from parking requirements for new development with less than 10,000 square feet of floor area.



- **Outdoor Dining Criteria.** On February 23, 2023, the City Commission adopted Ordinance No. 14154, which creates additional restrictions on outdoor dining, including additional parking requirements (3 spaces per 1,000 square feet) for restaurants and alcohol service establishments where outdoor dining exceeds 50% of overall seating capacity. Notably, the City Commission included a floor amendment exempting established parking trust fund areas, meaning these supplemental parking requirements will not be applicable in Coconut Grove, Design District, Wynwood and Wynwood Norte – areas defined by their unique urban character, walkability and centralized parking programs.

**PART II: LEGISLATION IN THE PIPELINE**

- ***Text Amendments to Remove T6 Floorplate Restrictions.*** Miami 21 currently restricts building floorplates above the 8<sup>th</sup> floor for office and commercial uses to a maximum of 30,000 square feet and 215 feet in length. On February 15, 2023, the City's Planning, Zoning and Appeals Board unanimously recommended approval of legislation that would eliminate those floorplate restrictions, thereby creating additional flexibility for architects when contemplating the massing and design of a proposed building in the City's most urban development areas and commercial corridors. The legislation is expected to make its way to City Commission in the coming weeks for formal consideration and adoption at two (2) required public hearings.
- ***Anticipated Waiver Reform Package.*** Miami 21 does not provide a single formal site plan approval process applicable to new development. Rather, the majority of new large-scale developments in the City proceed through a Waiver Special Permit application, including a package of identified Waivers needed to seek a building permit. This is an administrative process allowing for deviations from Miami 21, ultimately approved by the Zoning Administrator.

Following on a recent report produced by the City's Miami 21 Task Force in 2021, the City is proceeding with a comprehensive review of Miami 21 intended initially as an effort to streamline the permitting process to allow more projects to proceed by-right, and to provide additional clarity when a Waiver is in fact needed. That said, as is the tale of two cities, this broad zoning reform package could also clamp down on waivers from dimensional standards or curtail the total number of waivers requested by developers. While the timeline is uncertain, this would be the City's first substantive overhaul to the Waiver Special Permit process since Miami 21 was first adopted almost fifteen (15) years ago. The potential scope of this Waiver Reform Package is huge and could have a significant impact on Miami's development industry.

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Wernick & Co, PLLC brings you this client alert as part of our efforts to stay on top of legal developments in these times of unprecedented change.



If we can be of assistance or you would like more information about the legislation discussed in this client alert above, please feel free to contact us.

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