



**TO:** Honorable Mayor & Members of the  
Fort Lauderdale City Commission

**FROM:** Lee R. Feldman, ICMA-CM, City Manager

**DATE:** March 17, 2015

**TITLE:** QUASI-JUDICIAL - Resolution to Approve a Proposed Change to the  
Development Order – Riverwalk Center I Joint Venture - New River Center  
Florida Quality Development

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**Recommendation**

It is recommended that the City Commission adopt a resolution determining that the proposed change to the development order for the New River Center Florida Quality Development (FQD), removing Parcel “C” from the FQD, is not a substantial change as defined in Section 73C-42.024 of the Florida Administrative Code, but may require a modification of the development order.

**Background**

Riverwalk Center I Joint Venture requests a fifth modification to the development order for the New River Center Florida Quality Development (FQD) to remove a parcel of land identified as Parcel “C” of the New River Center Plat (See Exhibit 1 for a location map and Exhibit 2 for the application). Section 73C-42.024(2)(a) of the Florida Administrative Code provides that whenever the developer of a designated FQD proposes a change in its plan of development or to conditions of the FQD development order, it shall submit its proposed change to the Department of Economic Opportunity (DEO), the local government and the regional planning council. The DEO and the local government, in consultation with the South Florida Regional Planning Council (SFRPC), must determine whether the proposed change is a substantial change and if such change may require a modification of the development order.

The FQD program was created by the State of Florida to encourage development that has been thoughtfully planned to take into consideration protection of Florida's natural amenities, while balancing the financial impact local governments incur providing services for growing communities. The program was an alternative to the Developments of Regional Impact (DRI) land use program, established in 1972 as part of the State's growth management policies. Both FQDs and DRIs benefited applicants in that the type and amount of development that was approved became vested for a certain period of time. Projects that met the criteria of these programs were also subject

to conditions, such as infrastructure improvements paid for by the developer, as well as State review of potential impacts of these regionally significant projects. As a “Dense Urban Area”, the City of Fort Lauderdale is no longer subject to the FQD or DRI review requirements for new projects; however previously approved FQDs and DRIs are still recognized.

The New River Center FQD is one of 18 designated FQDs in the State. The Florida Department of Community affairs (now called the Florida DEO) originally designated New River Center as a FQD in 1989. Since that time, the development order has been amended four times, most recently in 2006. The development order extends permitted development rights to the FQD, including the allowable uses and development potential for the FQD.

The FQD contains four parcels: Parcel “A” partially includes the River House condominiums, but the remaining portion is largely vacant; Parcel “B” contains an office building; Parcel “C” contains a parking lot; and Parcel “D” contains the River House condominiums (See Exhibit 1). The following breakdown provides existing and additional development potential remaining under the FQD:

	<b>Approved</b>	<b>Currently Built</b>	<b>Remaining Development under the FQD</b>
Phase I	<ul style="list-style-type: none"> <li>• 295,000 sf of office</li> <li>• 13,000 sf of retail</li> </ul>	<ul style="list-style-type: none"> <li>• 295,000 sf of office (Parcel B)</li> <li>• 13,000 sf of retail (Parcel B)</li> </ul>	None
Phase II	<ul style="list-style-type: none"> <li>• 400 room hotel</li> <li>• 22,000 sf of retail</li> <li>• 650,000 sf of office</li> <li>• 375 dwelling units<sup>1</sup></li> </ul>	<ul style="list-style-type: none"> <li>• 284 dwelling units (River House condominiums: Parcel A, partially, and Parcel D)</li> </ul>	Parcels A (partially) and D: <ul style="list-style-type: none"> <li>• 400 room hotel</li> <li>• 22,000 sf of retail</li> <li>• 650,000 sf of office</li> <li>• 91 dwelling units</li> </ul>

Note:

1. 375 residential units approved but need to reduce hotel and/or office use using switch out rates and amend the plat note restriction. Switch out rates: 1 unit = reduce 251.57 sf of office and reduce 0.6 hotel rooms.

Although the fourth amendment to the development order indicates that the build out date for Parcel C terminated as of December 31, 2003, Parcel C remains subject to the provisions of the FQD. The applicant seeks to modify the FQD development order to remove Parcel C, which will give development flexibility to the applicant in terms of the programming of the subject parcel, recognizing that market conditions have changed

since 2006. The removal of Parcel C from the FQD will allow the applicant to propose a project that is consistent with the types of development located in this area of the downtown and will subject future development of this parcel to the requirements outlined in the City's Unified Land Development Regulations and Downtown Master Plan design guidelines.

**Review Criteria:**

Pursuant to Section 73C-42.024 of the Florida Administrative Code, a "substantial change" shall mean either:

- a) Any deviation in the carrying out of a condition, commitment, or agreement set forth and recited in the FQD development order which so alters the condition, commitment, or agreement that it can be fairly said to change the intent or result of the condition, commitment, or agreement.
- b) Other similar deviations in the construction of the Development or the alignment of roads which alter significantly the commitments or agreements of the developer or which represent a significant departure from the plan of development or the conditions of the FQD development order.
- c) Any proposed change that meets or exceeds 150 percent of the criteria specified in Section 380.06(19)(b), F.S., shall be presumed to be a substantial change. However, the developer may rebut this presumption by demonstrating that the proposed change is not substantial under the criteria pursuant to paragraphs 73C-42.024(3)(a) and (3)(b), F.A.C., of this rule.
- d) Any proposed change that meets or is less than 200 percent of the criteria in Section 380.06(19)(b)9., F.S., shall be presumed not to be a substantial change; provided that the change involves the addition of residential units and that the developer guarantees that 25 percent of the units will be affordable to very low- or low-income households.

A "substantial change" shall not include proposed alterations that do not affect the plan of development or the conditions or commitments expressed in the FQD development order. "Substantial change" shall not include such modifications as the following:

- a) Architectural or landscape architectural changes necessitated by the soil, topography, or other onsite conditions;
- b) Reduction of the amount of impervious surface area; and
- c) Reduction in open space due to governmental requirements for transportation improvements.

The applicant's narrative (Exhibit 2) contains responses indicating that the proposed removal of Parcel C from the FQD will not result in a substantial change as defined by the Florida Administrative Code. The applicant's narrative also contains confirmation that all previous conditions of the FQD have been met. Staff concurs with the applicant's determination that the proposed change to the FQD is not a substantial change and that all previous FQD conditions have been satisfied.

If the Florida DEO and the City of Fort Lauderdale, in consultation with the SFRPC, determine that the proposed change is not a substantial change, but may require a modification of the development order, the Florida DEO shall, subject to the approval of the local government, modify the development order within 60 days of the receipt of the proposed change to the Department or shall notify the developer in writing that it will not modify the development order. On February 5, 2015, the SFRPC issued a letter noting that the proposal does not create any new or additional adverse impacts to any regional resources or facilities and that the agency has no objections to the proposed modifications to the FQD to remove Parcel C (See Exhibit 3). It is anticipated that the Florida DEO will make its determination by March 31, 2015, after receiving the City's Resolution.

### **Resource Impact**

There is no fiscal impact associated with this action.

### **Strategic Connections**

This item is a *Press Play Fort Lauderdale Strategic Plan 2018* initiative, included within the Neighborhood Enhancement Cylinder of Excellence, specifically advancing:

- Goal 6: Be an inclusive community made up of distinct, complementary, and diverse neighborhoods.
- Objective 2: Ensure a range of housing options for current and future neighbors.

This item advances the *Fast Forward Fort Lauderdale 2035 Vision Plan: We Are Community*.

#### Attachments:

Exhibit 1 – Location Map

Exhibit 2 – Application and Applicant Responses

Exhibit 3 – South Florida Regional Planning Council Determination

Exhibit 4 - Proposed Resolution

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