



Memorandum

Date: August 14, 2024

To: Honorable Mayor and Councilmembers

From: Lorenzo Cobiella
City Attorney

Subject: **Seventh Amendment to Section 8 Settlement Agreement**

Application Request

Delcop Group, LLC (collectively the “Applicant”) is requesting Mayor and City Council approval for a Seventh Amendment (the “Seventh Amendment”) to Section 8 Settlement Agreement to accommodate the modified development program for Midtown Doral Planned Unit Development (PUD) Phases IV, V & VI consisting of 552 dwelling units, 22,740 square feet of gross leasable commercial use, and the removal of 75,000 square feet of net leasable office use. A copy of the Letter of Intent and Application is provided in “Exhibit A.” This application is a companion item to the Midtown Doral PUD Phases IV, V, & VI Master Development Agreement and Pattern Book modification.

Background

On December 16, 2004, the County’s Board of County Commissioners adopted Resolution No. Z-45-04 which rezoned approximately 200 acres from General Use to Traditional Neighborhood Development (TND) and granted approval for a Traditional Neighborhood Development comprising of public, civic, commercial, light industrial uses and 2,998 residential units to be developed as rowhouses and apartments. In 2005, the City of Doral raised concerns regarding impacts of the proposed development of the property on the City’s, the State’s, the County’s and School District’s infrastructure and raised further concerns regarding the land use unit type and density. Resolution No. Z-45-04 was challenged by the City of Doral which resulted in extensive settlement negotiations between the City and Atlas Developers Property I, LLC and Atlas Developers Property II, LLC (referred to collectively as “Atlas”). As a result of negotiations,

the City and Atlas entered into a settlement agreement (the “Settlement Agreement”) dated June 12, 2005, to address concerns over the development of the property. The Settlement Agreement provided various concessions from Atlas to the City, including granting the City property to be used as a park and providing for the ability to purchase more property at a discounted rate. The Settlement Agreement also provided for a maximum residential density of 4,350 dwelling units within the “Section 8 Residential Lands,” 2,750 residential dwelling units in the TND property, and 282 residential dwelling units, retail, office and industrial uses in the remaining Section 8 lands.

For purposes of clarity, the property referenced as “Section 8 Residential Lands” is depicted on the following aerial map:



Table I provides a breakdown of approved residential density by the Settlement Agreement. A copy of the Settlement Agreement is provided in “Exhibit B.”

Table I – Maximum Density Established by Settlement Agreement

Dwelling type	Approved Residential Density
Detached Single-family	300 (minimum)
Townhomes	500 (minimum)
Multi-family Units	800 (maximum)
TND Property	2,750
Section 8 Residential Lands	4,350
Additional Units for Mixed Use Project	282
Total	4,632

First Amendment to Section 8 Settlement Agreement

On February 12, 2007, the Mayor and City Council approved via Resolution No. 07-06, a modification to the Settlement Agreement. The intent of the modification was to provide further public benefit as a result of the City’s concerns. The modification amended two sections of the Settlement Agreement. The first modification removed certain technical language regarding eminent domain that Atlas deemed unnecessary. The modification reduced the maximum overall density by 175 units, reduced the density for the TND property by 296, increased the number of single-family units from 300 to 322, and increased townhomes units from 500 to 534. Table II provides a breakdown of approved residential density by the Amendment to Settlement Agreement. A copy of the Amendment to Settlement Agreement is provided in “Exhibit C.”

Table II – Maximum Density Established by Amended Settlement Agreement

Dwelling Type	Approved Density by Settlement Agreement	Approved Density by Amended Settlement Agreement
Detached Single-family	300 (minimum)	322 (minimum)
Townhomes	500 (minimum)	534 (minimum)
Multi-family Units	800 (maximum)	1,124 (maximum)
TND Property	2,750	2,454
Section 8 Residential Lands	4,350	4,175
Additional Units for Mixed Use Project	282	282
Total	4,632	4,457

Second Amendment to Settlement Agreement

The Second Amendment was approved by the Mayor and City Council on January 23, 2008, pursuant to Resolution No. Z08-03. The Second Amendment to Settlement Agreement consisted of a transfer of interest in certain portions of the property from Atlas to Century Grand and FDG Beacons Commons. Table III provides a breakdown of approved residential density by the Second Amendment to Settlement Agreement. A copy of the Second Amendment to Settlement Agreement is provided in “Exhibit D.”

Table III – Maximum Density Established by Second Amendment to Settlement Agreement

Dwelling Type	Approved Density by Settlement Agreement	Approved Density by Amended Settlement Agreement	Approved Density by Second Amended Settlement Agreement
Detached Single-family	300 (minimum)	322 (minimum)	384 (minimum)
Townhomes	500 (minimum)	534 (minimum)	440 (minimum)
Multi-family Units	800 (maximum)	1,124 (maximum)	1,260 (maximum)
TND Property	2,750	2,454	2,454
Section 8 Residential Lands	4,350	4,175	4,175
Additional Units for Mixed Use Project	282	282	282
Total	4,632	4,457	4,457

In 2012, a ±83 acre portion of the property that was covered by the Settlement Agreement (i.e., Doral Commons PUD) was released by the City pursuant to that certain Partial Release of Settlement Agreement recorded in Official Records Book 28316 at Page 1060 of the public records of Miami-Dade County. Doral Commons Planned Unit Development (PUD) was approved by the Mayor and City Council via Ordinance No. 2012-20 on August 22, 2012.

Third Amendment to Section 8 Settlement Agreement

From 2012 to 2014, the northeast portion of Section 8 was developed pursuant to the Isles at Grand Bay PUD approvals. The south portion received initial site development permits for Doral Commons PUD. The remaining ±273 acres in the western portion of Section 8 remained undeveloped.

In 2014, Flordade, LLC, and 107 Avenue Doral Properties, LLC, owners of land that remained undeveloped (the TND property) and under the Settlement Agreement requested a Third Amendment to the Settlement Agreement. The intent of the amendment was to rescind the Grand Bay TND, redesignate ±273 acres of land to Community Mixed Use (“CMU”) and created

three independent Planned Unit Developments; Grand Bay North PUD; Grand Bay South PUD, and Midtown Doral PUD.

The Third Amendment was approved by the Mayor and City Council on May 28, 2014, pursuant to Resolution No. 14-78. The Third Amendment to the Settlement Agreement did not increase or decrease total density within Section 8 Residential Lands. Instead, it transferred densities within certain portions of Section 8 Residential Lands. The total density for Section 8 Residential Lands was established as follows, 4,175 total dwelling units, 3,634 dwelling units on the CMU property, a minimum of 384 detached single-family homes, including a minimum of sixty (60) units within that portion of the property known as the Grand Bay South PUD, and 440 townhomes. Table IV provides a breakdown of approved residential density by the Third Amendment to Settlement Agreement. A copy of the Third Amendment to Settlement Agreement is provided in “Exhibit E.”

Table IV – Maximum Density Established by Third Amendment to Settlement Agreement

Dwelling Type	Approved Density by Settlement Agreement	Approved Density by Amended Settlement Agreement	Approved Density by Second Amendment to Settlement Agreement	Approved Density by Third Amendment to Settlement Agreement
Detached Single-family	300 (minimum)	322 (minimum)	384 (minimum)	384 (minimum)
Townhomes	500 (minimum)	534 (minimum)	440 (minimum)	440 (minimum)
Multi-family Units	800 (maximum)	1,124 (maximum)	1,260 (maximum)	N/A
TND Property	2,750	2,454	2,454	3,634
Section 8 Residential Lands	4,350	4,175	4,175	4,175
Additional Units for Mixed Use Project	282	282	282	N/A*
Total	4,632	4,457	4,457	4,175

*In 2012, a ±83-acre portion of Section 8 covered by the Settlement Agreement (i.e., Modern Doral) was released by the City pursuant to the Partial Release of Settlement Agreement. The 282 dwelling units assigned to what is now known as Modern Doral, were withdrawn from the Settlement Agreement.

Fourth Amendment to Section 8 Settlement Agreement

The Settlement Agreement was further amended by the City Council on October 21, 2015, via Resolution No. 15-209. The amendment revised language related to the school site authorizing either a charter or traditional public school. Overall density was not impacted by the amendment. A copy of Resolution No. 15-209 and Fourth Amendment is provided in “Exhibit F.”

The ±50-acre parcel is environmentally sensitive and is currently maintained as a preservation area by the owner. The City’s goal is to use the property as a passive recreational area, including a viewing platform. However, to use the property for such purpose, approval from several federal, state, regional, and local agencies must be obtained, specifically, the South Florida Water Management District (“SFWMD”), and the United States Army Corps of Engineers (“Corps”) both of which are parties to a conservation easement that governs the property.

Pursuant to the Fifth Amendment to the Settlement Agreement, the City had one-hundred and eighty (180) days following approval of the Midtown PUD Phase II application (December 8, 2021) to secure approval of the modification by the SFWMD and, if applicable the US Army Corps of Engineers, and Miami-Dade County’s Division of Environmental Resources Management (DERM). As a condition of approval, Century Midtown Properties, LLC agreed to not seek certificates of occupancy for more than 505 units until such time as the City secured approval of the modification to the conservation easement. Table V provides a breakdown of approved residential density by the Fifth Amendment to Settlement Agreement. A copy of the Fifth Amendment to Settlement Agreement is provided in “Exhibit G.”

Table V – Maximum Density Established by Fifth Amendment to Settlement Agreement

Dwelling Type	Approved Density by Settlement Agreement	Approved Density by Amended Settlement Agreement	Approved Density by Second Amendment to Settlement Agreement	Approved Density by Third Amendment to Settlement Agreement	Approved Density by Fifth Amendment to Settlement Agreement
Detached Single-family	300 (minimum)	322 (minimum)	384 (minimum)	384 (minimum)	384 (minimum)
Townhomes	500 (minimum)	534 (minimum)	440 (minimum)	440 (minimum)	440 (minimum)
Multi-family Units	800 (maximum)	1,124 (maximum)	1,260 (maximum)	N/A	N/A
TND Property	2,750	2,454	2,454	3,634	3,634
Section 8 Residential Lands	4,350	4,175	4,175	4,175	4,345
Additional Units for Mixed Use Project	282	282	282	N/A*	N/A*
Total	4,632	4,457	4,457	4,175	4,345

*In 2012, a ±83-acre portion of Section 8 covered by the Settlement Agreement (i.e., Modern Doral) was released by the City pursuant to the Partial Release of Settlement Agreement. The 282 dwelling units assigned to what is now known as Modern Doral, were withdrawn from the Settlement Agreement.

Sixth Amendment to Section 8 Settlement Agreement

On May 24, 2023, a third modification to the MDA (the “Third Modification”) and sixth settlement agreement was approved to further allow an increase of 59 dwelling units, an increase of 11,052 square feet for the clubhouse, and a reduction of 31, 936 square feet of gross leasable commercial space for Midtown Phase II.

Additional Density

Density in Section 8 Residential Lands is governed by the Settlement Agreement. When applying the base density of 19 units per gross acre (273 acres) allowed under the Community Mixed Use (CMU) land use designation and 19 units per gross acre (73 acres) allowed under the Medium Density Residential land use category of the City’s Comprehensive Plan, the Section 8 Residential Lands would be entitled to a density of 6,574 dwelling units.

It is worth noting that the density of 6,574 dwelling units does not account for a density bonus of 25 units per acre for projects (under the CMU land use designation) that exhibit creative excellence, provided that it is approved by the Mayor and City Council. For instance, the 273 acres under the CMU land use designation would be permitted to develop a maximum of 6,825 units.

To date, 4,370 units have either been built or allocated to portions of Section 8 Residential Lands. The proposed additional 299 for Phases IV, V & VI units would change from 4,370 to 4,669.

Table VI – provides the breakdown of the current approved density for Section 8 Residential Land

Project	Approved Residential Density
Doral Breeze and Isles at Grand Bay	542
Grand Bay North PUD	352
Grand Bay South PUD	1,699
Midtown PUD	1,777
Total	4,370

The current approved density for Section 8 Residential Lands overall is 12.6 units per acre (4,370 units/346 acres). The Applicant’s request results in an overall increase of density for Section 8 Residential Lands from 12.6 units per acre to 13.4 units per acre (4,669 units/346 acres) when analyzed as a whole. However, it is worth noting that when analyzed by each land use category, the proposed 299 units for Midtown PUD Phases IV, V & VI units would represent an increase from 12.7 units per acre to 13.8 units per acre for the CMU designated lands, which is under the maximum units per acre permitted in the CMU FLUM category (19 units per acre). The addition of the 299 units would equate to 3,775 units for the CMU lands, which is well under the permitted density in the CMU land use category (5,187 units permitted). In comparison, the MeDR designated lands would be unaffected by the additional units, remaining at 12.2 units per acre, which is under the maximum units per acre permitted in the MeDR FLUM category (19 units per acre); remaining at 894 units for the MeDR lands, which is well under the permitted density in the MeDR land use category (1,387 units permitted). City staff notes that the requested density is compatible with the surrounding area.

Table VII – provides the breakdown of the proposed/requested density by project

Project	Approved/Allocated Residential Density	Requested Residential Density
Doral Breeze and Isles at Grand Bay	542	542
Grand Bay North PUD	352	352
Grand Bay South PUD	1,699	1,699
Midtown PUD	1,777	2,076
Total	4,370	4,669

Fiscal Impact

This resolution has no fiscal impact on the city.

Strategic Plan Alignment

The proposed amendment to the settlement agreement will further the “Revenue Growth” strategic goal of the City of Doral Strategic Plan (2023), by increasing the property value, thereby adding new revenues to the city’s property tax base and fees. It is important to note that the additional tax revenues may be used to fund the infrastructure projects in the five-year capital improvement program (CIP).

Recommendation

The City Attorney’s Office respectfully requests that the Mayor and City Councilmembers authorize approval of the Seventh Amendment to the Settlement Agreement between Delcop Group, LLC and the City of Doral.