

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: April 30, 2019

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB19-0277. Administrative Review of Operable storefronts.**

REQUEST

PB 19-0277. ADMINISTRATIVE REVIEW OF OPERABLE STOREFRONTS. AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, BY AMENDING CHAPTER 118, "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE VI, "DESIGN REVIEW PROCEDURES," AT SECTION 118-260, ENTITLED "ADMINISTRATIVE REVIEW PROCEDURES," TO AUTHORIZE ADMINISTRATIVE REVIEW OF OPERABLE STOREFRONTS AND/OR FAÇADE ALTERATIONS UTILIZING AN EXTERIOR COMPONENT WITHIN THE STOREFRONT; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

RECOMMENDATION

Transmit the proposed ordinance amendment to the City Commission with a favorable recommendation.

HISTORY

On January 16, 2019, at the request of Commissioner Ricky Arriola, the City Commission referred the subject discussion to the Land Use and Development Committee (LUDC) for consideration and recommendation (item R9N).

On February 20, 2019 LUDC meeting, the item was discussed and continued to the March 6, 2019 meeting, with direction to staff to draft an ordinance allowing for an administrative review process for operable storefronts.

On March 6, 2019 the LUDC recommended that the City Commission refer the proposed ordinance to the Planning Board, with an additional modification to increase the minimum distance separation from residential districts to 300 feet.

On April 10, 2019 the City Commission referred the proposed ordinance to the Planning Board for review and recommendation (Item C4 R).

REVIEW CRITERIA

Pursuant to Section 118-163 of the City Code, in reviewing a request for an amendment to these land development regulations, the board shall consider the following when applicable:

1. **Whether the proposed change is consistent and compatible with the comprehensive plan and any applicable neighborhood or redevelopment plans.**

Consistent – The proposed ordinance is consistent with the goals, objectives, and policies of the Comprehensive Plan.

2. **Whether the proposed change would create an isolated district unrelated to adjacent or nearby districts.**

Not applicable – The proposed amendment does not modify district boundaries.

3. **Whether the change suggested is out of scale with the needs of the neighborhood or the city.**

The proposed ordinance amendment is not out of scale with the surrounding neighborhood.

4. **Whether the proposed change would tax the existing load on public facilities and infrastructure.**

Consistent – The proposed ordinance will not affect the load on public facilities and infrastructure.

5. **Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.**

Not applicable. – The proposed amendment does not modify district boundaries.

6. **Whether changed or changing conditions make the passage of the proposed change necessary.**

Consistent – This proposal is specific to those properties that are currently subject to design review approval, the current regulations for operable storefronts, require the review and approval of the Design Review Board (DRB), this process is at least three months in length, and costs approximately \$5,000.00. By allowing for administrative review in commercial districts, it would be less onerous on a business owner, and allow for a more streamlined process, for these reasons, the passage of the proposed change necessary.

7. **Whether the proposed change will adversely influence living conditions in the neighborhood.**

Consistent – The proposed ordinance amendment will not adversely affect living conditions in the neighborhood.

8. **Whether the proposed change will create or excessively increase traffic congestion beyond the levels of service as set forth in the comprehensive plan or otherwise affect public safety.**

Consistent – The proposed change will not create or increase traffic congestion from what is currently permitted.

9. Whether the proposed change will seriously reduce light and air to adjacent areas.

Consistent – The proposed change will not reduce light and air to adjacent areas.

10. Whether the proposed change will adversely affect property values in the adjacent area.

Consistent – The proposed change should not adversely affect property values in the adjacent areas.

11. Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.

Consistent – The proposed change should not be a deterrent to the improvement or development of properties in the City.

12. Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.

Not applicable –

13. Whether it is impossible to find other adequate sites in the city for the proposed use in a district already permitting such use.

Not applicable –

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 133-50(b) of the Land Development Regulations establishes the following review criteria when considering ordinances, adopting resolutions, or making recommendations:

(1) Whether the proposal affects an area that is vulnerable to the impacts of sea level rise, pursuant to adopted projections.

Partially Consistent – The proposal does affect areas that are vulnerable to the impacts of sea level rise.

(2) Whether the proposal will increase the resiliency of the City with respect to sea level rise.

Consistent – The proposal will not affect the resiliency of the City with respect to sea level rise.

(3) Whether the proposal is compatible with the City's sea level rise mitigation and resiliency efforts.

Consistent – The proposal does not diminish and is compatible with the City's sea level rise mitigation and resiliency efforts.

ANALYSIS

Under the Land Development Regulations (LDR's) of the City Code, any exterior improvements or modifications proposed for buildings that are located in commercial or multi-family zoning districts require the review and approval of the Design Review Board. Sec. 118-260 of the LDR's contains certain exterior improvements that may be reviewed at staff level, such as the replacement of windows, doors, storefront frames and windows. Currently, such administrative review does not extend to alterations to storefronts or façades that would substantially alter the window and door systems from the original configurations.

Glass garage doors, retractable or telescopic wall systems and sliding glass doors are sometimes used to create operable storefronts, primarily on restaurants or cafés, as they allow for a more seamless merger of indoor and outdoor seating for patrons, as well as the blending of interior and exterior spaces. This can directly lead to a more vibrant and active street experience and create a quality pedestrian-oriented streetscape and facade design with more eyes on the street to enhance the sense of security. These building enhancements also lead to increased façade transparency.

This discussion pertains to the current regulations for operable storefronts, which require the review and approval of the Design Review Board (DRB). In order to allow for administrative review of operable storefronts, an amendment to Sec. 118-260 would be required to modify the administrative review procedures relating to storefronts, openings, façade alterations of existing commercial buildings, as well as new construction. Such a modification would expand the review powers of the Planning Director, or designated representative, to have the authority to approve operable storefronts administratively on behalf of the DRB. This would provide staff with more flexibility to review modifications to commercial storefronts that endeavor to provide an indoor /outdoor component.

In looking at different ways the current regulations could be modified, one concern identified by staff is the proximity of an operable storefront to residential zoning districts. In this regard, as operable storefronts can, potentially, generate more noise and activity than a conventional storefront, certain safeguards would be recommended. The DRB, when reviewing applications for operable storefronts, will typically include conditions related to noise, queuing and, in some instances, hours of operation. As DRB meetings are noticed to all property owners within 375 feet, affected persons tend to participate in the review discussions at the DRB.

The following are the specific proposed revisions to Section 118-260 of the city code that would allow for administrative review of operable storefronts:

Sec. 118-260. - Administrative review procedures.

- (a) The planning director or designated representative, shall have the authority to approve, approve with conditions or deny an application on behalf of the board, for the following:

* * *

- (4) *Modifications to storefronts and/or façade alterations in commercial zoning districts that support indoor/outdoor uses, with the exception of vehicular drive-through facilities, and which are compatible with the architecture of the building. This may include the installation of operable window and entry systems such as pass-through windows, take-out counters, sliding or folding panel doors, french doors, or partially-transparent overhead-door systems. Additionally, compliance with the following shall be required:*

- a. *the property shall not be located within 300 feet of any residential zoning district, measured following a straight line from the proposed operable storefront of the commercial establishment to the nearest point of the property designated as RS, RM, RMPS, RPS, RO or TH on the city's official zoning district map;*
- b. *the extent of demolition and alterations to the façade of the building shall not permanently alter the character of the architecture by removing original architectural features that cannot be reversed, as well as by compromising the integrity of the architectural design.*

Should the proposed storefront modification not meet any of the above, the proposed modifications to storefronts and/or façade alterations shall require design review board review and approval.

- (5) Modifications to storefronts and/or façade alterations utilizing an exterior component within the storefront and/or façade, and which are compatible with the architecture of the building; this may include the installation of walk-up teller systems and similar 24/7 ATM-style pickup openings, dry-cleaning drop-off and pick-up kiosks, and similar self service facilities. Any new openings shall be architecturally compatible with the building and minimally sized to facilitate the transfer of goods and services. This shall not apply to vehicular drive-through facilities.*

This proposal is specific to those properties that are currently subject to design review approval and would allow for administrative review of more substantial alterations to commercial façades. The DRB process for an operable storefront system is at least three months in length, and costs approximately \$5,000.00. By allowing for administrative review in commercial districts, it would be less onerous on a business owner, and allow for a more streamlined process.

Additionally, staff will be tasked with a more detailed review of any operable storefront proposal, as not all would be the same. This is important because the demolition and alteration of a building façade can, potentially, modify the character of the architecture by removing certain original features that cannot be reversed, as well as by compromising the integrity of the architectural design. If staff determined that a particular operable storefront proposal compromised the architectural integrity of a building, the owner would still have the option of making an application to the DRB.

In those zoning districts and neighborhoods where residential and commercial uses co-exist next to each other, or within the same building, the compatibility issues are part of the DRB review process. While a mix of uses in buildings can promote active, urban and pedestrian-friendly streetscapes, they can also create acoustical and quality of life issues. Specifically, a number of commercial districts in the City are immediately adjacent to residential zoning districts. To address potential compatibility issues, the draft ordinance, as noted above, contains a minimum distance separation requirement from residential zoning districts of 300 feet, for operable storefronts that can be approved administratively.

Also, more specific design criteria are provided, and the planning director's decision must be based upon the criteria listed in the code. The applicant may still seek approval for an operable storefront application from the design review board, or appeal a decision of the planning director

pursuant to the procedural requirements of section 118-9. The proposal herein is not applicable to properties located within a locally designated historic district or site.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the Planning Board transmit the proposed ordinance amendment to the City Commission with a favorable recommendation.

ADMINISTRATIVE REVIEW OF OPERABLE STOREFRONTS

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, BY AMENDING CHAPTER 118, "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE VI, "DESIGN REVIEW PROCEDURES," AT SECTION 118-260, ENTITLED "ADMINISTRATIVE REVIEW PROCEDURES," TO AUTHORIZE ADMINISTRATIVE REVIEW OF OPERABLE STOREFRONTS AND/OR FAÇADE ALTERATIONS UTILIZING AN EXTERIOR COMPONENT WITHIN THE STOREFRONT; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, to allow for administrative review of operable storefronts as an alternate replacement of fixed storefront systems or modifications, the City desires to amend the administrative review procedures for the structures under the jurisdiction of the Design Review Board to authorize the planning department to administratively review storefront modifications that do not materially modify the design of existing buildings; and

WHEREAS, many commercial enterprises in the City have exterior components separated by a fixed storefront systems, and

WHEREAS, many commercial enterprises in the City have expressed a desire to modify the fixed storefronts with operable systems in order to seamlessly expand the interior space and merge indoor and outdoor spaces and uses; and

WHEREAS, these regulations can directly lead to a more vibrant and active street experience and create a quality pedestrian-oriented streetscape and facade design with more eyes on the street to enhance the sense of security; and

WHEREAS, these regulations will make the public realm more inviting and accommodating to pedestrians; and

WHEREAS, these regulations will enhance the built environment of the City; and

WHEREAS, these administrative reviews will streamline the process for commercial enterprises seeking to do business in the City; and

WHEREAS, these regulations will accomplish these goals and ensure that the public health, safety and welfare will be preserved.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION
OF THE CITY OF MIAMI BEACH, FLORIDA:**

SECTION 1. That Chapter 118, "Administration and Review Procedures," Article VI, "Design Review Procedures," at Section 118-260, " is hereby amended, as follows:

Sec. 118-260. - Administrative review procedures.

- (a) The planning director or designated representative, shall have the authority to approve, approve with conditions or deny an application on behalf of the board, for the following:
- (1) Ground level additions to existing structures, not to exceed two stories in height, which are not substantially visible from the public right-of-way, any waterfront or public park. For those lots which are greater than 10,000 square feet, the floor area of the proposed addition may not exceed ten percent of the floor area of the existing structure or primary lot, whichever is less, with a maximum total floor area not to exceed 5,000 square feet.
 - (2) Replacement of windows, doors, storefront frames and windows, or the approval of awnings, canopies, exterior surface colors, storm shutters and signs.
 - (3) Facade and building alterations, renovations and restorations which are minor in nature.
 - (4) Modifications to storefronts and/or façade alterations in commercial zoning districts that support indoor/outdoor uses, with the exception of vehicular drive-through facilities, and which are compatible with the architecture of the building. This may include the installation of operable window and entry systems such as pass-through windows, take-out counters, sliding or folding panel doors, french doors, or partially-transparent overhead-door systems. Additionally, compliance with the following would be required:
 - a. the property shall not be located within 300 feet of any residential zoning district, measured following a straight line from the proposed operable storefront of the commercial establishment to the nearest point of the property designated as RS, RM, RMPS, RPS, RO or TH on the city's official zoning district map;
 - b. the extent of demolition and alterations to the façade of the building shall not permanently alter the character of the architecture by removing original architectural features that cannot be reversed, as well as by compromising the integrity of the architectural design.

Should the proposed storefront modification not meet any of the above, the proposed modifications to storefronts and/or façade alterations shall require design review board review and approval.
 - (5) Modifications to storefronts and/or façade alterations utilizing an exterior component within the storefront and/or façade, and which are compatible with the architecture of the building; this may include the installation of walk-up teller

systems and similar 24/7 ATM-style pickup openings, dry-cleaning drop-off and pick-up kiosks, and similar self service facilities. Any new openings shall be architecturally compatible with the building and minimally sized to facilitate the transfer of goods and services. This shall not apply to vehicular drive-through facilities.

- (4)(6) Minor demolition and alterations to address accessibility, life safety, mechanical and other applicable code requirements.
- (5)(7) Minor demolition and alterations to rear and secondary facades to accommodate utilities, refuse disposal and storage.
- (6)(8) Minor work associated with the public interiors of buildings and those interior portions of commercial structures which front a street or sidewalk.
- (7)(9) Minor work involving public improvements upon public rights-of-way and easements.
- (8)(10) Minor work which is associated with rehabilitations and additions to existing buildings, or the construction, repair, or rehabilitation of new or existing walls, at-grade parking lots, fences.
- (9)(11) Applications related to exterior balcony, terrace, porch and stairway rails on existing buildings, which have become nonconforming as it pertains to applicable Florida State Codes, and which have been issued a violation by an agency or city department responsible for the enforcement of Florida Statutes associated with life safety codes. Modifications required to address compliance with applicable state life safety codes shall be consistent with the original design character of the existing rails, and may include the introduction of secondary materials such as fabric mesh, solid panels and glass panels.

The director's decision shall be based upon the criteria listed in this article. The applicant may appeal a decision of the planning director to the design review board, pursuant to the procedural requirements of Section 118-9.

SECTION 2. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and, the word "ordinance" may be changed to "section", "article", or other appropriate word.

SECTION 3. REPEALER.

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 4. SEVERABILITY.

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

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and ADOPTED this _____ day of _____, 2019.

ATTEST:

Mayor Dan Gelber

Rafael E. Granado, City Clerk

First Reading: May 8, 2019

Second Reading: June 5, 2019

(Sponsor: Commissioner Ricky Arriola)

Verified by: _____
Thomas R. Mooney, AICP
Planning Director

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