

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: June 25, 2019

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB 19-0301. Washington Avenue Overlay LDR Incentives.**

REQUEST

PB 19-0301. Washington Avenue Overlay LDR Incentives. AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, SUBPART B, ENTITLED "LAND DEVELOPMENT REGULATIONS," BY AMENDING CHAPTER 142 OF THE CITY CODE, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, ENTITLED "DISTRICT REGULATIONS," DIVISION 5, ENTITLED "CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT," BY AMENDING SECTION 142-303, ENTITLED "CONDITIONAL USES," TO MODIFY THE CONDITIONAL USE REQUIREMENTS, AND BY AMENDING SECTION 142-309 ENTITLED "WASHINGTON AVENUE DEVELOPMENT REGULATIONS AND AREA REQUIREMENTS," TO INCREASE THE BUILDING HEIGHT FOR CERTAIN USES AND CLARIFY THE SETBACK REQUIREMENTS; AND BY AMENDING CHAPTER 130, ENTITLED "OFF-STREET PARKING," ARTICLE II, ENTITLED "DISTRICTS; REQUIREMENTS," TO MODIFY THE PARKING REQUIREMENTS IN PARKING DISTRICT NO. 7; 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, the request of Commissioner Michael Gongora, the City Commission referred a discussion item pertaining to Washington Avenue land use regulations, to the Land Use and Development Committee (Item K5B).

On April 16, 2019 the City Commission held a workshop regarding the future of Washington Avenue, and made recommendation for proposed amendments to the City Code and Land Development Regulations (LDR's).

On May 8, 2019, the City Commission, at the request of Commissioner Ricky Arriola, referred a discussion item to the May 22, 2019 Land Use and Development Committee (LUDC) and the Planning Board regarding specific code changes to incentivize the revitalization of Washington Avenue (Item C4N).

On May 22, 2019, the LUDC discussed and combined the two aforementioned referrals and recommended the following:

1. Amend the proposed ordinance for Washington Avenue zoning incentives to include an increase in the occupational content threshold for indoor entertainment establishments from 200 persons to 300 persons.
2. Recommend that the Planning Board transmit the Washington Avenue incentive ordinance to the City Commission with a favorable recommendation.
3. Accept the administration recommendation regarding freight loading.

Commissioners Ricky Arriola and Michael Gongora are co-sponsors of the ordinance.

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.**

Consistent - The proposed ordinance amendment is not out of scale with the surrounding neighborhood, as the proposed maximum height is already permitted for hotel development along the corridor.

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 – The need to revitalize and create a vibrant mixed-use community along the Washington Avenue corridor makes 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 allow for the redevelopment of properties along Washington Avenue that will be more resilient with respect to sea level rise due to new code requirements.

(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

On October 14, 2015, the City Commission approved modifications to the development regulations for Washington Avenue in order to incentivize hotel development along the Washington Avenue corridor between 6th Street and 16th Street. The incentives have been successful at bringing hotel developments to the corridor. However, several stakeholders have sought to bring a greater mix of uses to the corridor, including residential, office, and dining establishments.

On April 16, 2019, the City Commission held a workshop regarding the future of Washington Avenue. Pursuant to the direction of the Commission and the LUDC, the following amendments to the land development regulations are proposed:

1. The following amendments to chapter 130:
 - a. Eliminate off-street parking requirements for co-living residential, office, and fine dining uses, including parklets associated with fine dining uses, on Washington Avenue.
 - b. Extend sunset provision for parking district no. 7 in section 130-33 of the City Code, which is set to expire on September 1, 2022. *Currently the provisions expire on September 1, 2020.*
2. An amendment to chapter 142 to increase the permitted height to 75 feet for properties on Washington Avenue that develop co-living residential and/ or office uses. *Currently this increased height is limited to hotel uses.*
3. An amendment to chapter 142 to provide that the occupational content threshold for indoor entertainment establishments requiring conditional use approval as a neighborhood impact establishment be increased from 200 persons to 300 persons.

The proposed amendments provide for a scale that is consistent with what is currently permitted for hotel uses. They seek to provide for alternative uses that will allow for the creation of a vibrant local community with places to live, work, and play.

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.

TRM/MAB/RAM

WASHINGTON AVENUE OVERLAY – LDR INCENTIVES

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, SUBPART B, ENTITLED "LAND DEVELOPMENT REGULATIONS," BY AMENDING CHAPTER 142 OF THE CITY CODE, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, ENTITLED "DISTRICT REGULATIONS," DIVISION 5, ENTITLED "CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT," BY AMENDING SECTION 142-303, ENTITLED "CONDITIONAL USES," TO MODIFY THE CONDITIONAL USE REQUIREMENTS, AND BY AMENDING SECTION 142-309 ENTITLED "WASHINGTON AVENUE DEVELOPMENT REGULATIONS AND AREA REQUIREMENTS," TO INCREASE THE BUILDING HEIGHT FOR CERTAIN USES AND CLARIFY THE SETBACK REQUIREMENTS; AND BY AMENDING CHAPTER 130, ENTITLED "OFF-STREET PARKING," ARTICLE II, ENTITLED "DISTRICTS; REQUIREMENTS," TO MODIFY THE PARKING REQUIREMENTS IN PARKING DISTRICT NO. 7; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach has the authority to enact laws which promote the public health, safety and general welfare of its citizens; and

WHEREAS, the City previously created development regulations specific to Washington Avenue pursuant to the input and recommendations of the Mayor's Washington Avenue Blue Ribbon Task Force; and

WHEREAS, the City has reviewed the conditions of Washington Avenue and the concerns raised by residents, property owners, and businesses as it relates to the condition of Washington Avenue; and

WHEREAS, there appears to be some deterioration of the area and the businesses and property owners are concerned with the quality of life and quality of the streets within the Historic District; and

WHEREAS, the City has studied various mechanisms for improving the quality of life and quality of business improvements within the area; and

WHEREAS, the City of Miami Beach Land Development Regulations ("LDRs") provides for the regulation of land within the City; and

WHEREAS, the amendments set forth below are necessary to accomplish the above objectives.

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

SECTION 1. Chapter 142, "Zoning Districts and Regulations," Article II, "District Regulations,"

Division 5, "CD-2 Commercial, Medium Intensity District," is hereby amended as follows:

CHAPTER 142 – ZONING DISTRICTS AND REGULATIONS

* * *

ARTICLE II. – DISTRICT REGULATIONS

* * *

DIVISION 5. – CD-2 COMMERCIAL MEDIUM INTENSITY DISTRICT

* * *

Sec. 142-303. - Conditional uses.

- (a) *Generally.* The conditional uses in the CD-2 commercial, medium intensity district include the following:
- (1) Reserved;
 - (2) Funeral home;
 - (3) Reserved;
 - (4) Religious institutions;
 - (5) Pawnshops;
 - (6) Video game arcades;
 - (7) Public and private institutions;
 - (8) Schools;
 - (9) Any use selling gasoline;
 - (10) New construction of structures 50,000 square feet and over (even when divided by a district boundary line), which review shall be the first step in the process before the review by any of the other land development boards;
 - (11) Outdoor entertainment establishment;
 - (12) Neighborhood impact establishment; however for properties that front Washington Avenue from 6th Street to 16th Street, a restaurant with a full kitchen and serving full meals may have entertainment without obtaining conditional use approval, in accordance with the following :
 - a. Entertainment shall be restricted to an interior enclosed area; and
 - b. Occupancy shall not exceed 299 persons; and
 - (13) Open air entertainment establishment; and
 - (14) Storage and/or parking of commercial vehicles on a site other than the site at which the associated commerce, trade or business is located. See section 142-1103.
- (b) *Sunset Harbour neighborhood.* All conditional uses shall comply with the conditional use criteria in section 118-192(a). The conditional uses for the Sunset Harbour neighborhood, generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south, shall include those conditional uses listed at section 142-303(a), but shall exclude subsection 142-303(a)(11) outdoor entertainment establishments, subsection 142-303(a)(12) neighborhood impact

establishments, and subsection 142-303(a)(13) open air entertainment establishments, as these specific uses are prohibited in the Sunset Harbour neighborhood pursuant to section 142-305. The following additional uses shall require conditional use approval in the Sunset Harbour neighborhood:

- (1) Main use parking garages; and
 - (2) Restaurants with alcoholic beverage licenses (alcoholic beverage establishments) with more than 100 seats or an occupancy content (as determined by the fire marshal) in excess of 125, but less than 199 persons and a floor area in excess of 3,500 square feet.
- (c) *North Beach neighborhood.* All conditional uses shall comply with the conditional use criteria in section 118-192(a). The conditional uses for the North Beach neighborhood (located north of 65th Street) shall include those listed at section 142-303(a), and shall also include the following:
- (1) Alcoholic beverage establishments (not also operating as a full restaurant with a full kitchen, serving full meals);
 - (2) Dance halls; and
 - (3) Entertainment establishments.
- (d) *South Alton Road corridor.* All conditional uses shall comply with the conditional use criteria in section 118-192(a). The conditional uses for the South Alton Road corridor, which includes properties located along Alton Road between 6th and 11th Street, shall include those listed at section 142-303(a), and shall also include the following:
- (1) Self storage warehouse, provided the minimum distance separation between self-storage warehouses shall be 300 feet and self-storage warehouses shall follow the development regulations for "self-storage warehouse" in section 142-305 and setback requirements in section 142-307.
- (e) *[Additional requirements.]* Alcoholic beverage establishments located in the following geographic areas within the CD-2 commercial, medium intensity district shall be subject to the additional requirements set forth in section 142-310:
- (1) *Alton Road corridor.* Properties on the west side of Alton Road and east of Alton Court, between 5th Street and 11th Street, and between 14th Street and Collins Canal; and properties on the east side of West Avenue, between Lincoln Road and 17th Street, except alcoholic beverage establishments fronting Lincoln Road between West Avenue, and Alton Road.
 - (2) *Sunset Harbour neighborhood.* The geographic area generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south.

* * *

Sec. 142-309 – Washington Avenue development regulations and area requirements:

The following regulations shall apply to properties that front Washington Avenue between 6th Street and 16th Street; where there is conflict within this division, the criteria below shall apply:

- (1) The maximum building height shall be as follows:
 - a. 55 feet, unless otherwise specified below,

- ~~b. except for lots that have a frontage equal to or greater than 200 feet, in which case the maximum building height shall be 75 feet;~~
 - ~~c. however, main use parking garages shall not exceed 55 feet, regardless of the amount of lot frontage.~~
 - ~~d. Notwithstanding the foregoing, the maximum building height shall be 75 feet for lots that have a platted frontage equal to or greater than 100 feet, located on the east side of Washington Avenue and located on or within 250 feet of a cultural institution, as defined under section 138-139 of the City Code, provided such cultural institution existed as of the effective date of the ordinance codified in this section and contains a minimum of 25,000 square feet of building area – 75 feet.~~
 - ~~e. Properties containing co-living units and/or office uses, either singularly or in combination, with at least 60% of the floor area – 75 feet~~
 - ~~f. For lots that have a platted frontage equal to or greater than 100 feet, but less than 200 feet, and are eligible for a 75 foot height limit, the sum of the side yards for floors with residential or hotel units shall be no less than 40 percent of the lot width.~~
- ~~(2) The maximum number of stories shall be five stories, except for lots that have a frontage equal to or greater than 200 feet, in which case the maximum number of stories shall not exceed seven stories. Notwithstanding the foregoing, the maximum number of stories shall not exceed seven stories for lots that have a platted frontage equal to or greater than 100 feet, located on the east side of Washington Avenue and located on or within 250 feet of a cultural institution, as defined under section 138-139 of the City Code, provided such cultural institution existed as of the effective date of the ordinance codified in this section and contains a minimum of 25,000 square feet of building area.~~
- (3) For lots that have a frontage that is equal to or less than 100 feet, the setbacks shall be pursuant to section 142-307. For lots that have a frontage that is greater than 100 feet, the setbacks shall be as follows:
 - a. Front:
 - i. Subterranean: Zero (0) feet.
 - ii. Ground level: Zero (0) feet.
 - iii. Above the ground level up to 35 feet in height:
 - 1. Minimum five feet for parking garages with liners; or
 - 2. Minimum ten feet for parking garages without liners; or
 - 3. Minimum 15 feet for all other uses.
 - iv. Above 35 feet in height:
 - 1. Minimum five feet for parking garages with liners; or
 - 2. Minimum ten feet for parking garages without liners; or
 - 3. Minimum 30 feet for all other uses.
 - b. Rear:
 - i. Subterranean: Zero (0) feet.
 - ii. Ground level: Zero (0) feet.
 - iii. Above the ground level:

1. Minimum ten percent of lot depth; or
 2. Minimum zero (0) feet for parking garage floors above the minimum truck clearance.
- c. Side, facing a street:
- i. Subterranean: Zero feet;
 - ii. Nonresidential uses: Zero feet;
 - iii. Residential and hotel uses: ~~Sum of the side setbacks shall equal 16 percent of lot width or a minimum of seven and one-half (7 ½) feet and up to 20 feet.~~
- d. Side, interior:
- i. Subterranean: Zero feet;
 - ii. Nonresidential uses: Zero feet;
 - iii. Residential and hotel uses: ~~Sum of the side setbacks shall equal 16 percent of lot width or a minimum of seven and one-half (7 ½) feet or eight percent of lot width, whichever is greater, up to ten (10) feet. When abutting a nonresidential or non-hotel use, the minimum interior side setback shall be seven and one-half (7 ½) feet, and the minimum sum of the side setbacks shall equal 16 percent of the lot width, up to 20 feet.~~
- e. Sum of the side yards:
- i. Residential and hotel uses: Sum of the side yard setbacks shall equal 16 percent of lot width, up to a total sum of the side yards of 20 feet.
 - ii. For lots that have a platted frontage equal to or greater than 100 feet, but less than 200 feet, and are eligible for a 75 foot height limit, the sum of the side yards for floors with residential or hotel units shall be no less than 40 percent of the lot width.
- (4) The maximum frontage for nightclubs and dance halls, located at the ground level shall not exceed 25 feet in width unless such a space has a certificate of use for nightclub or dance hall, or unless a valid license was issued after January 1, 2011, and before the date of adoption of the ordinance codified in this section for the use of such space as a nightclub or dance hall.
- (5) For new hotel construction or conversion to hotel use, the minimum hotel room unit size may be 175 square feet, provided that:
- a. A minimum of 20 percent of the gross floor area of the hotel consists of hotel amenity space that is physically connected to and directly accessed from the hotel. Hotel amenity space includes the following types of uses, whether indoor or outdoor, including roof decks: restaurants; bars; cafes; hotel business center; hotel retail; screening rooms; fitness center; spas; gyms; pools; pool decks; and other similar uses customarily associated with a hotel. Bars and restaurants shall count no more than 50 percent of the total hotel amenity space requirements.
 - b. Windows shall be required in all hotel rooms and shall be of dimensions that allow adequate natural lighting, as determined by the historic preservation board.
- (6) For residential co-living or micro units, the minimum unit size may be 375 square feet, provided that a minimum of 20 percent of the gross floor area of the building consist of amenity space on the same site. Amenity space includes the following

types of uses, whether indoor or outdoor, including roof decks; restaurants; bars; cafes; kitchens; club rooms; business center; retail; screening rooms; fitness center; spas; gym; pools; pool decks; and other similar uses whether operated by the condo or another operator. Bars and restaurants shall count no more than 50% of the total co-living amenity space requirements. These amenities may be combined with the amenities for hotels, provided residents and hotel guests have access. No variances shall be permitted from these provisions.

~~(6)~~ (7) For lots that have a frontage that is greater than 100 feet, the following shall apply:

- a. Maximum building length. Unless otherwise approved by the historic preservation board at its sole discretion, no plane of a building, above the ground floor façade facing Washington Avenue, shall continue for greater than 100 feet without incorporating an offset of a minimum five feet in depth from the setback line. The total offset widths shall total no less than 20 percent of the entire building frontage.
- b. Physical separation between buildings: Unless otherwise approved by the historic preservation board at its sole discretion, a physical separation must be provided between buildings greater than 200 feet in length and at/or above 35 feet in height from the ground floor. Notwithstanding the foregoing, for building sites with a lot frontage in excess of 500 feet, no physical separation is required if: (i) the length of the building at/or above 35 feet in height from the ground floor does not exceed 50 percent of the length of the frontage of the property; and (ii) the offsets required in subsection (a), above, are a minimum of 20 feet in depth from the setback line and the combined offset widths total no less than 30 percent of the entire building frontage.

SECTION 2. Chapter 130, "Off-Street Parking," Article II, "Districts; Requirements," is hereby amended as follows:

Sec. 130-33. - Off-street parking requirements for parking districts nos. 2, 3, 4, 5, 6, and 7.

* * *

- (e) *[Exceptions.]* Except as otherwise provided in these land development regulations, when any building or structure is erected or altered in parking district no. 7, off-street automobile parking spaces shall be provided for the building, structure or additional floor area as follows. For uses not listed below, the off-street parking requirement shall be the same as for parking district no. 1 or parking district no. 2, as applicable.

(1) Co-living units. No parking requirement.

~~(1)~~ (2) Hotel and hostel: No parking requirement. For accessory uses to a hotel or hostel, the minimum parking is as set-forth in parking district no. 1.

~~(2)~~ (3) Office: No parking requirement, provided a facility with publicly accessible parking spaces is located within 500 feet.

~~(3)~~ (4) Retail: Retail existing as of the date of adoption of parking district no. 7 shall have no parking requirement. For new retail construction, one space per 300 square feet of floor area.

~~(5)~~ Restaurants with full kitchen facilities and which do not provide take-out services: No parking requirement.

~~(4)~~ ~~(6)~~ Café, outdoor: No parking requirement.

~~(5)~~ ~~(7)~~ Approved parklets shall have no parking requirement.

~~(6)~~ ~~(8)~~ Any building or structure erected in parking district no. 7 may provide required parking on site as specified in parking district no. 1. Such required parking, if provided, shall be exempt from FAR, in accordance with the regulations specified in chapter 114 of these land development regulations.

The parking requirements in this subsection 130-33(d)(1)(2)(3)(4) and ~~(5)~~~~(6)~~ and ~~(7)~~ shall only apply to projects that have obtained a full building permit or business tax receipt by September 1, 2020 2022.

SECTION 3. REPEALER.

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

SECTION 4. CODIFICATION.

It is the intention of the City Commission, 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 as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 5. SEVERABILITY.

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

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and ADOPTED this ____ day of _____, 2019.

ATTEST:

Dan Gelber, Mayor

Rafael E. Granado, City Clerk

First Reading:

Second Reading:

Verified by: _____

Thomas R. Mooney, AICP
Planning Director

Underline denotes new language

~~Strikethrough~~ denotes deleted language

Sponsored by Commissioners Ricky Arriola and Michael Gongora

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