

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: September 24, 2019

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB 19-0313. Adaptive Re-Use and Accessory Uses in the North Shore and Tatum Waterway Areas**

REQUEST

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 3, ENTITLED "RESIDENTIAL MULTIFAMILY DISTRICTS," SUBDIVISION II, ENTITLED "RM-1 RESIDENTIAL MULTIFAMILY LOW INTENSITY," SECTION 142-152, ENTITLED "MAIN PERMITTED AND PROHIBITED USES," AND SECTION 142-153, ENTITLED "CONDITIONAL USES," TO MODIFY USE REGULATIONS AND AMEND THE LIST OF CONDITIONAL USES FOR RM-1 PROPERTIES WITHIN THE NORTH SHORE NATIONAL REGISTER HISTORIC DISTRICT, TO INCLUDE ACCESSORY ALCOHOLIC BEVERAGE ESTABLISHMENTS AND HOTEL USES; BY AMENDING ARTICLE IV, ENTITLED "SUPPLEMENTARY DISTRICT REGULATIONS," DIVISION 2, ENTITLED "ACCESSORY USES," SECTION 142-902, ENTITLED "PERMITTED ACCESSORY USES," TO MODIFY THE ACCESSORY USES FOR HOTELS IN THE NORTH SHORE LOCAL HISTORIC DISTRICT AND EXPAND THE ALLOWABLE ACCESSORY USES FOR EXISTING APARTMENT BUILDINGS IN THE NORTH SHORE NATIONAL REGISTER DISTRICT TO ALLOW FOR ACCESSORY CAFÉ, OFFICE, RETAIL, PERSONAL SERVICE, AND NON-MOTORIZED WATERCRAFT RENTAL USES; AND BY AMENDING CHAPTER 130, ENTITLED "OFF-STREET PARKING," ARTICLE II, ENTITLED "DISTRICTS; REQUIREMENTS," TO PROVIDE FOR AN EXCEPTION TO OFF-STREET PARKING REQUIREMENTS FOR CERTAIN ACCESSORY AND CONDITIONAL USES ON RM-1 PROPERTIES IN THE NORTH SHORE NATIONAL REGISTER HISTORIC DISTRICT; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

RECOMMENDATION

Transmit the proposed Ordinance to the City Commission with a favorable recommendation.

HISTORY

On April 26, 2017, at the request of Commissioner Ricky Arriola, the City Commission referred the subject item to the Land Use and Development Committee for discussion (item C4X). On May 10, 2017 the Land Use Committee deferred the item to June 14, 2017. On June 14, 2017 the Committee discussed the item and continued it to September 20, 2017.

The September 20, 2017 LUDC meeting was re-scheduled to October 11, 2017, due to Hurricane Irma. On October 11, 2017 the item was discussed and continued to a date certain of October 30, 2017. On October 30, 2017 the item was discussed and continued to a date certain of December 11, 2017.

On December 11, 2017 the Land Use and Development Committee discussed the item and continued it to a date certain of March 14, 2018. On March 14, 2018 the item was deferred to April 4, 2018. On April 4, 2018 the item was deferred to May 23, 2018. Prior to the May 23, 2018 meeting, the item was moved to the June 13, 2018 LUDC meeting, at the request of the sponsor; on June 13, 2018 the item was deferred to the July 31, 2018 LUDC meeting.

Prior to the July 31, 2018 meeting, the item was moved to the September 28, 2018 LUDC meeting, at the request of the sponsor; on September 28, 2018 the item was deferred to the October 31, 2018 LUDC meeting. On October 31, 2019, the item was deferred to the January 2019 LUDC meeting. The January 2019 LUDC meeting could not be scheduled, and the item was moved to the February 20, 2019 meeting.

On February 20, 2019, the item was discussed and continued to April 3, 2019, with direction given to staff to conduct a public workshop with property owners and nearby residents. On April 3, 2019 staff provided an update on the scheduling of the public workshop, and the item was continued to the May 22, 2019 LUDC meeting.

The public workshop to discuss the proposal for establishing adaptive re-uses within the North Shore and Tatum Waterway area took place on May 9, 2019, at the North Shore Park Youth Center; approximately 20 people, including area residents, property owners and affected stakeholders, attended. The following is a general summary of the items discussed at the workshop, including feedback from the participants:

- The types of uses that would be most appropriate for the low scale, residential character of the area was discussed at length. There was general support for introducing low impact, context sensitive neighborhood type uses within the area.
- Appropriate waterfront uses along Tatum Waterway were discussed. There was general consensus on the advantages of being able to access neighborhood type uses from small watercraft, as well as the ability to rent non-motorized watercraft.
- Parking was discussed and the general consensus was that these types of adaptive, neighborhood uses should not be the destination type that requires more parking. Instead they should consist of neighbor specific uses that serve the community and are within walking distance of residents.
- There was a discussion regarding a sufficient market to support these uses and the potential to increase taxes due to more uses being allowed. Since these types of neighborhood uses are a new concept, a proposal for temporary, or 'pop-up' uses was discussed, on GU sites owned by the City.
- Property owners suggested that this concept could assist in generating additional funds to offset increases in the cost of flood insurance and that commercial uses could allow them to address flood mitigation in different ways that would not be possible with residential uses.

- Biscayne Beach was discussed and it was mentioned that it is even further from the nearest commercial use and should be considered for commercial uses as well.
- The proposal for a 25% limit of the floor area for commercial uses may be insufficient for smaller buildings, such as 4-plexes.
- There was support for café uses along the Tatum Waterway with limited hours.
- Some property owners and residents expressed a desire to allow bed & breakfast, limited hotel or short term rentals, especially along the Tatum Waterway, in order to be able to generate additional funds to restore buildings.
- Concern was expressed for the cost and time involved for a Conditional Use Approval from the Planning Board for restaurant uses with alcohol. It was suggested to see what threshold could be reviewed and approved administratively.
- A review process should be built in to the ordinance to allow 'course corrections' in the future. Additionally, there should be a streamlined approval process, which is incentive based in order to minimize the need to go to Planning Board.
- Suggestions were made to keep a larger distance separation at the beginning of this process, as well as explore other areas for these types of adaptive uses west of the waterway.
- In addition to the proposed changes in allowable accessory uses, the areas need to be made more walkable with shade trees to encourage more people to walk to the accessory uses.

On May 22, 2019, the LUDC recommended that the City Commission refer a draft ordinance to the planning board, and that a preliminary discussion be conducted by the planning board on June 25, 2019 for recommendations and input. On July 17, 2019, the City Commission referred the subject Ordinance to the Planning Board.

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.**

Consistent – The amendment would not create an isolated district.

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

Consistent – The proposed Ordinance would not be out of scale with the needs of the

neighborhood or the city.

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

Consistent – The proposed ordinance, with a modest increase in uses, should 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.**

Consistent – The proposed amendment does not modify district boundaries.

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

Consistent – Changes in economics and market conditions would have no bearing on the proposed regulations.

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

Consistent – The proposed change would not adversely influence living conditions in the City.

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 ordinance will not increase traffic congestion beyond the levels of service as set forth in the comprehensive plan or otherwise affect public safety.

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

Partially 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.

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 will 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.**

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.**

The proposal could improve the resiliency of the City with respect to sea level rise, as it will allow the adaptive re-use of residential structures at the ground level, which may be below the minimum base flood elevation, for commercial uses.

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

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

ANALYSIS

The RM-1 area that is north of 75th Street and east of Tatum Waterway is one of the few areas of the City *not* within walking distance of a low-medium intensity commercial district. This is important because most of the RM-1 and RM-2 districts in the City are within easy walking distance to neighborhood commercial districts and uses.

In order to address this mobility issue, as well as provide an economic tool for renovating and restoring historic structures, accessory uses in the area have been developed as part of a draft ordinance. The following is the summary of the types of adaptive uses that are contemplated under the ordinance, which have been updated based upon feedback from the public workshop and direction from the Land Use and Development Committee:

Accessory Uses

As it pertains to allowable 'Accessory Uses' (those allowed as of right), existing apartment buildings located along Tatum Waterway Drive, Byron Avenue, and Crespi Boulevard, which are also located within the North Shore National Register Historic District and which are classified as 'contributing', may have **accessory office uses and the rental of non-motorized watercraft**, subject to the following:

1. The accessory use areas shall not exceed 25 percent of the floor area of the existing structure;
2. The hours of operation for which the use is open to the public may be from 12:00 pm to 8:00 p.m.
3. No exterior speakers shall be permitted, except as may be required under the Florida Life Safety Code.

Additionally, apartment buildings located within the North Shore National Register Historic District, which are classified as 'contributing' would be permitted to have **accessory café, retail, office or personal service uses**, subject to the following:

1. Conditional Use approval shall be required.
2. The minimum distance separation between accessory uses shall be 500 feet. There shall be no variances from this distance separation requirement.
3. The accessory use areas shall not exceed 25 percent of the floor area of the structure.
4. The hours of operation for which the use is open to the public may be from 7:00 am to 7:00 p.m. Subject to planning board approval, the hours of operation for any of the above noted uses may be extended to 10:00 pm
5. No exterior speakers shall be permitted.
6. A hall for hire, dance hall, open-air entertainment establishment, outdoor entertainment establishment, entertainment establishment or special event permits shall be prohibited.

Based upon feedback from the public workshop and direction from the Land Use and Development Committee, staff has revised the ordinance to allow accessory restaurants serving alcohol to be approved as a conditional use, provided certain conditions are met, as follows:

For existing apartment buildings located within the North Shore National Register Historic District and which are classified as "Contributing", accessory restaurants serving alcoholic beverages shall be permitted in accordance with the following:

- (1) Conditional use approval from the planning board shall be required.
- (2) The interior restaurant area, inclusive of all seating and back of house, shall be located at the first level of the building and shall not exceed 25 percent of the floor area of the existing structure.
- (3) The maximum number of seats shall not exceed 40. Subject to planning board approval this may be increased to 60.
- (4) Outdoor seating and outdoor dining shall only be permitted in buildings with internal courtyards, which are part of a unified site under common ownership. All such outdoor seating and dining areas shall be located within the internal courtyard. The maximum number of exterior seats shall not exceed 20. Subject to planning board approval, this may be increased to 40.
- (5) Pass thru windows shall not be permitted.
- (6) Only Beer and wine may be served. Full liquor shall not be permitted.
- (7) A fully enclosed, air conditioned trash room shall be required.
- (8) The hours of operation may be from 11:00 am to 10:00 pm (no orders to be taken after 9:00 p.m.)
- (9) A plan for loading operations shall be provided for the review and approval of the Planning Department and Parking Department. Loading shall only take place between the hours of 10:00 am and 3:00 pm.
- (10) Exterior speakers shall be prohibited, except as may be required under the Florida Life Safety Code.
- (11) A hall for hire, dance hall, open-air entertainment establishment, outdoor entertainment establishment, entertainment establishment or special event permits shall be prohibited.

- (12) There shall only be one restaurant on the subject property.
- (13) The minimum distance separation between accessory restaurants serving alcoholic beverages shall be 1,000 feet. However, the planning board may allow a lesser distance than 1,000 feet, but in no event shall such use be located at a distance less than 500 feet from another accessory restaurant serving alcoholic beverages. There shall be no variances from this distance separation requirement.

As it pertains to minimum parking requirements, staff is concerned with the impact of requiring off-street parking for a couple of reasons. First, since the proposed accessory uses would be within existing structures, there would be no physical way to locate parking spaces within a property. Also, by requiring a parking impact fee, even if it were the less expensive annual fee in lieu, this added cost could be a deterrent to potential operators. Finally, even if parking could be provided on site, the availability of parking storage would be more of an incentive to drive. As demonstrated in the square footage limitations in the draft ordinance, these proposed adaptive accessory uses are intended to serve the area neighborhood, and not be destination establishments.

In order to incentivize and encourage the types of accessory uses proposed in the draft ordinance, staff has included the following modification to Sec. 130-31, pertaining to off-street parking requirements:

There shall be no off-street parking requirement for accessory uses associated with buildings in the RM-1 zoning district that existed prior to December 31, 2009, which are located in the North Shore National Register Historic District.

Attached is a map of these districts as well a zoning map of the North Beach area for reference.

SUMMARY

The attached draft ordinance has been modified in accordance with the direction of the LUDC on May 22, 2019. Additionally, as requested by the LUDC, the Planning Board, at their June 25, 2019 meeting, discussed the proposal and provided preliminary comments and feedback. Specifically, the Planning Board recommended that the following be considered for inclusion in the legislation:

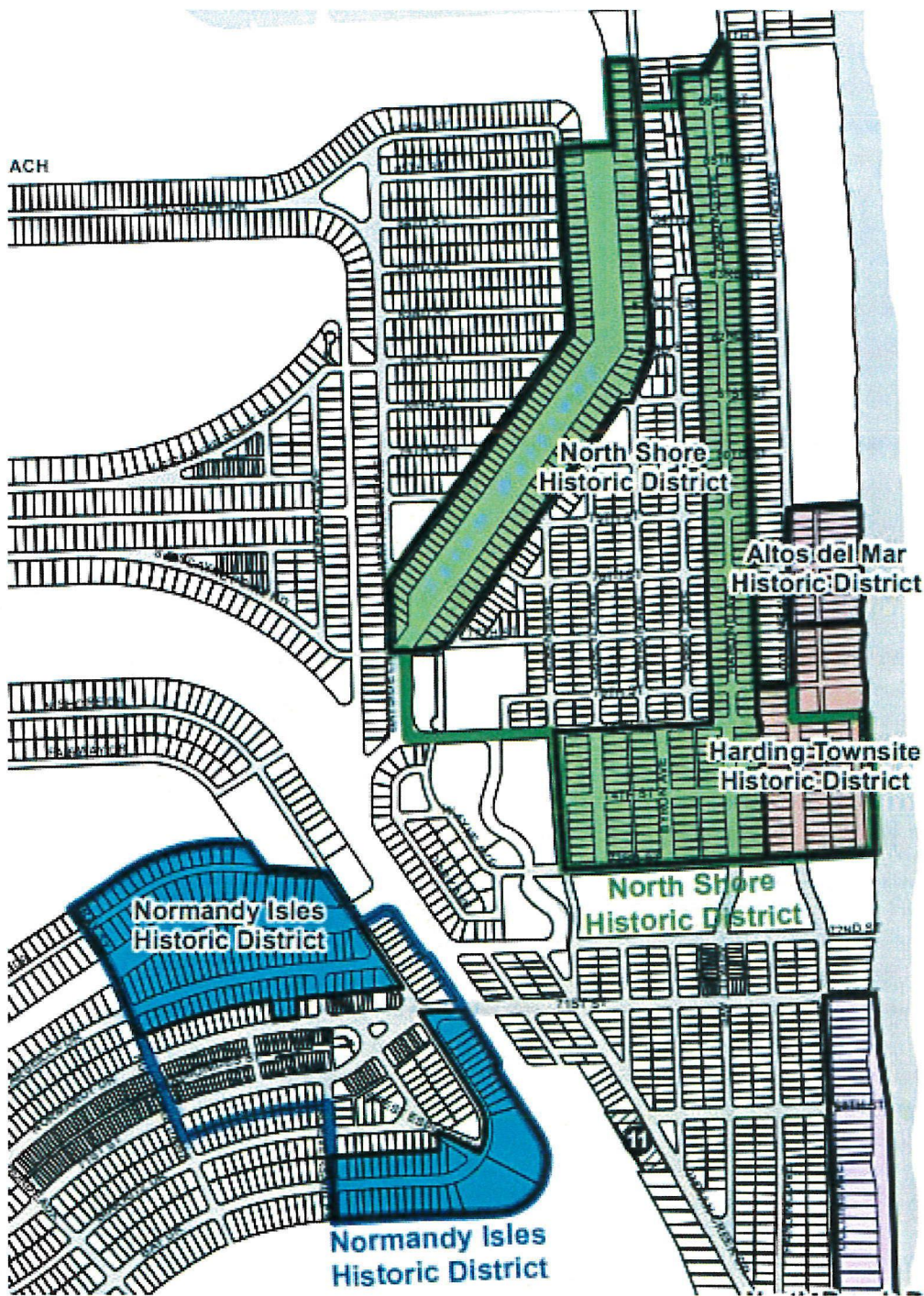
1. Hotels be permitted as a conditional use within 'contributing' buildings in the North Shore local historic district, along with typical accessory uses.
2. Café, retail, office and personal services be allowed as an accessory use, and not require mandatory conditional use approval, subject to additional conditions for safeguarding surrounding properties.

The aforementioned recommendations of the Planning Board have been included in the draft Ordinance.

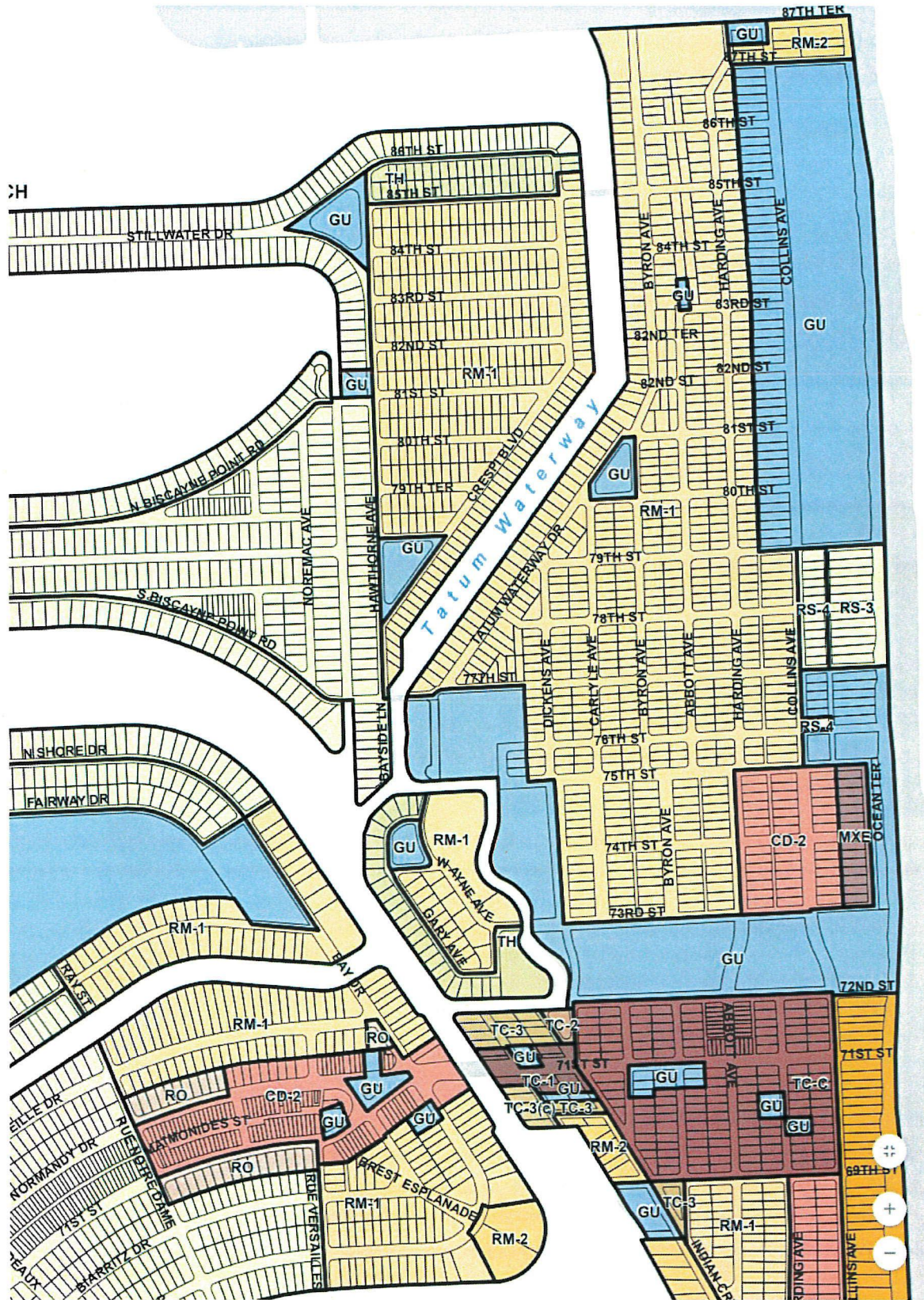
RECOMMENDATION

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

North Beach Historic Districts Map



North Beach Zoning



Adaptive Re-Use and Accessory Uses in the North Shore and Tatum Waterway Areas

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 3, ENTITLED "RESIDENTIAL MULTIFAMILY DISTRICTS," SUBDIVISION II, ENTITLED "RM-1 RESIDENTIAL MULTIFAMILY LOW INTENSITY," SECTION 142-152, ENTITLED "MAIN PERMITTED AND PROHIBITED USES," AND SECTION 142-153, ENTITLED "CONDITIONAL USES," TO MODIFY USE REGULATIONS AND AMEND THE LIST OF CONDITIONAL USES FOR RM-1 PROPERTIES WITHIN THE NORTH SHORE NATIONAL REGISTER HISTORIC DISTRICT, TO INCLUDE ACCESSORY ALCOHOLIC BEVERAGE ESTABLISHMENTS AND HOTEL USES; BY AMENDING ARTICLE IV, ENTITLED "SUPPLEMENTARY DISTRICT REGULATIONS," DIVISION 2, ENTITLED "ACCESSORY USES," SECTION 142-902, ENTITLED "PERMITTED ACCESSORY USES," TO MODIFY THE ACCESSORY USES FOR HOTELS IN THE NORTH SHORE LOCAL HISTORIC DISTRICT AND EXPAND THE ALLOWABLE ACCESSORY USES FOR EXISTING APARTMENT BUILDINGS IN THE NORTH SHORE NATIONAL REGISTER DISTRICT TO ALLOW FOR ACCESSORY CAFÉ, OFFICE, RETAIL, PERSONAL SERVICE, AND NON-MOTORIZED WATERCRAFT RENTAL USES; AND BY AMENDING CHAPTER 130, ENTITLED "OFF-STREET PARKING," ARTICLE II, ENTITLED "DISTRICTS; REQUIREMENTS," TO PROVIDE FOR AN EXCEPTION TO OFF-STREET PARKING REQUIREMENTS FOR CERTAIN ACCESSORY AND CONDITIONAL USES ON RM-1 PROPERTIES IN THE NORTH SHORE NATIONAL REGISTER HISTORIC DISTRICT; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

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

WHEREAS, the City seeks to encourage and incentivize the retention and restoration of contributing historic waterfront structures within the North Shore National Register District in the North Beach area; and

WHEREAS, the City seeks to enhance the pedestrian-friendly allure, and promote the unique sense of place and community culture, along North Beach's historic Tatum Waterway through low-intensity and compatible mixed-uses, while providing greater accessibility to neighborhood amenities for residents; and

WHEREAS, the amendments set forth below is necessary to accomplish all of 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 3, "Residential Multifamily Districts," Subdivision II, "RM-1 Residential Multifamily Low Intensity", is hereby amended as follows:

CHAPTER 142 – ZONING DISTRICTS AND REGULATIONS

* * *

ARTICLE II. – DISTRICT REGULATIONS

* * *

DIVISION 3. – RESIDENTIAL MULTIFAMILY DISTRICTS

* * *

Subdivision II. – RM-1 Residential Multifamily, Low Intensity

* * *

Sec. 142-152. - Main permitted and prohibited uses.

- (a) Main permitted and prohibited uses. The main permitted uses in the RM-1 residential multifamily, low density district are:

- (1) single-family detached dwelling;
- (2) townhomes;
- (3) apartments;
- (4) hotels, for properties fronting Harding Avenue or Collins Avenue, from the City Line on the north, to 73rd Street on the south; and
- (5) bed and breakfast inn (pursuant to article V, division 7 of this chapter).

- (b) Prohibited uses. Alcoholic beverage establishments pursuant to the regulations set forth in chapter 6, of the City Code, are prohibited uses, unless otherwise specified. Moreover, all uses not listed as a main permitted or conditional use are also prohibited.

Sec. 142-153. - Conditional uses.

- (a) The conditional uses in the RM-1 residential multifamily, low density district are

- (1) adult congregate living facility;
- (2) day care facility;
- (3) nursing home;
- (4) religious institutions;
- (5) private and public institutions;
- (6) schools; and
- (7) commercial or noncommercial parking lots and garages.

- (b) For properties located in the Collins Waterfront Local Historic District, which are designated as a Local Historic Site, a hall for hire use within the interior of an existing building shall require conditional use approval and shall comply with the following:

- (1) The conditional use shall only be permitted within an existing structure that is on a property designated as a "Historic Site" and such limitation shall be recorded in the Public Records;
- (2) Dance halls, entertainment establishments and neighborhood impact establishments may only be permitted as part of a hall for hire;

- (3) The hall for hire use shall close by 11:00 p.m. Sunday through Thursday, and by 12:00 a.m. Friday and Saturday;
 - (4) Events at the hall for hire shall be for the exclusive use of the property owner (and its subsidiaries) and invited guests. Events at the hall shall not be for the general public, with the exception of adjacent schools and community organizations within the Collins Park and Flamingo Drive areas, which may use the hall until 9:00 p.m.;
 - (5) Restaurants, stand-alone bars and alcoholic beverage establishments, not functioning as a hall-for-hire, shall be prohibited;
 - (6) Outdoor dining, outdoor entertainment and open-air entertainment uses shall be prohibited;
 - (7) Private or valet parking for any event at the hall shall be prohibited from using Flamingo Drive, Flamingo Place or Lake Pancoast Drive to facilitate access to the site.
 - (8) There shall be no variances from the provisions of Section 142-153(b).
- (c) For apartment buildings located north of 41st Street with a minimum of 100 apartment units, a restaurant serving alcoholic beverages shall require conditional use approval and shall comply with the following:
- (1) The restaurant shall only be open to residents of the apartment building and their invited guests. All invited guests shall be required to park on the subject property.
 - (2) The kitchen shall be limited to a maximum size of 500 square feet.
 - (3) The conditional use application for a restaurant with outdoor seating and outdoor dining areas shall specify the proposed maximum number of seats, and locations of seating in the outdoor areas, which shall be subject to Planning Board review and approval.
 - (4) A hall for hire, dance hall, open-air entertainment establishment, outdoor entertainment establishment or entertainment establishment shall be prohibited.
 - (5) There shall only be one restaurant on the subject property.
 - (6) The hours of operation of the Restaurant may be from 8 a.m. to midnight (no orders to be taken after 11 p.m.) and for any exterior areas then only until 11p.m. (no orders to be taken after 10 p.m.)
 - (7) Without limiting the foregoing, in the outdoor areas of the restaurant there shall not be any entertainment or Special Events.

~~There shall be no variances from the provisions of Section 142-153(b).~~

- (d) For existing apartment buildings located within the North Shore National Register Historic District and which are classified as 'contributing,' accessory restaurants serving alcoholic beverages may be permitted as a conditional use in accordance with the following provisions:
- (1) The interior restaurant area, inclusive of all seating and back-of-house areas, shall be located at the first level of the building and shall not exceed 25 percent of the floor area of the existing structure.
 - (2) The maximum number of seats shall not exceed 40; however, the maximum number of seats may be increased to 60, subject to planning board approval.
 - (3) Outdoor seating and outdoor dining shall only be permitted in buildings with internal courtyards, which are part of a unified development site under common ownership. All such outdoor seating and dining areas shall be located within the internal courtyard.

The maximum number of exterior seats shall not exceed 20; however, the maximum number of seats may be increased to 40, subject to planning board approval.

- (4) Pass-through windows shall not be permitted.
 - (5) Beer and wine may be served; however, full liquor shall not be permitted.
 - (6) A fully enclosed, air-conditioned trash room shall be required.
 - (7) The hours of operation may be from 11:00 am to 10:00 pm (no orders to be taken after 9:00 p.m.)
 - (8) A plan for loading operations shall be provided for the review and approval of the planning board and parking department. Loading shall only take place between the hours of 10:00 am and 3:00 pm.
 - (9) Exterior speakers shall be prohibited, except as may be required under the Florida Life Safety Code.
 - (10) A hall for hire, dance hall, open-air entertainment establishment, outdoor entertainment establishment, entertainment establishment, or special event shall be prohibited.
 - (11) There shall only be one restaurant on the subject property.
 - (12) The minimum distance separation between accessory restaurants serving alcoholic beverages shall be 1,000 feet. However, the planning board may allow a lesser distance than 1,000 feet, but in no event shall such use be located at a distance less than 500 feet from another accessory restaurant serving alcoholic beverages. There shall be no variances from this distance separation requirement.
- (e) For existing buildings classified as 'contributing' within the North Shore Local Historic District, hotels may be permitted as a conditional use. Accessory alcoholic beverage establishments (pursuant to article IV, division 2 of this chapter) associated with such hotel may also be permitted as a conditional use.

Sec. 142-154. - Accessory uses.

- (a) The accessory uses in the RM-1 residential multifamily, low density district are as required in article IV, division 2 of this chapter.

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SECTION 2. Chapter 142, "Zoning Districts and Regulations," Article IV "Supplementary District Regulations," Division 2, "Accessory Uses," is hereby amended as follows:

CHAPTER 142 – ZONING DISTRICTS AND REGULATIONS

* * *

ARTICLE IV. – SUPPLEMENTARY DISTRICT REGULATIONS

* * *

DIVISION 2. – ACCESSORY USES

* * *

Sec. 142-902. - Permitted accessory uses.

The following are permitted accessory uses:

- (1)
 - a. Hotels not located in the RM-1 or RM-2 district are permitted to have any accessory use that is customarily associated with the operation of a hotel or apartment building.
 - b. Hotels located in the RM-2 district are permitted to have any accessory use that is customarily associated with the operation of a hotel or apartment building, except for dance halls, entertainment establishments, neighborhood impact establishments, outdoor entertainment establishments or open air entertainment establishments.
 - c. Where permitted, hotels located in the RM-1 district may have accessory uses based upon the below criteria:
 1. A dining room operated solely for registered hotel visitors and their guests, located inside the building and not visible from the street, with no exterior signs, entrances or exits except as required by the South Florida Building Code.
 2. Other accessory uses customarily associated with the operation of an apartment building, as referenced in subsection 142-902(2), for the use of registered hotel visitors and their guests only.
 3. Notwithstanding the above, hotels located in the North Shore local historic district are permitted to have any accessory use that is customarily associated with the operation of a hotel or apartment building, except for dance halls, entertainment establishments, neighborhood impact establishments, outdoor entertainment establishments, or open air entertainment establishments.
 - d. Hotels located in the RM-1, 2 or 3 districts are permitted to have religious institutions as a matter of right up to 199 occupancy, and over that occupancy shall be a conditional use.
- (2) Apartment buildings may have accessory uses based upon the below criteria:
 - a. Mechanical support equipment and administrative offices and uses that maintain the operation of the building.
 - b. Washers and dryers shall be located inside a structure or not visible from a right-of-way.
 - c. A dining room which is operated solely for the residents in the building shall be located inside the building and shall not be visible from the street with no exterior signs, entrances or exits except for" those required by the South Florida Building Code. However, a dining room shall not be allowed in the RM-1 district except for those dining rooms associated with adult congregate living facilities.
 - d. Public telephones and vending machines shall only be permitted to be located inside buildings; however, one public telephone may also be permitted outside, as long as it is not located in a required front yard, required side yard facing a street, or on a facade facing a street; the exact location and manner of placement of all public telephones shall be subject to design review approval. One automatic teller machine shall be permitted on the exterior walls of buildings, when associated with an accessory commercial use allowed under subsection 142-902(2)e., except in historic districts. The exact location and manner of placement for automatic teller machines shall be subject to design review approval.

- e. Buildings in the RM-3 and R-PS4 districts may have:
 - 1. Commercial, office, eating or drinking uses with access from the main lobby or from the street if they are either located on the ground floor, subterranean level or on the highest floor of a building.
 - 2. A retail store and/or a cafe with less than 30 seats (either or both of which could be open to residents and their guests) may occupy space on the amenity level of an apartment building located within an RM-3 district.
 - 3. Office space, when originally constructed on the second level of an existing building may be retained or re-introduced. When located on the ground floor, office space shall be at least 50 feet from the front property line.
- f. Solarium, sauna, exercise studio, health club or massage service for use by residents or open to the public by an individual licensed by the state or other appropriate agencies.
- g. Any accessory commercial use as permitted herein shall be located on the lobby or first floor if there are no apartment units on such levels. This provision shall not apply to home based business offices as provided for in section 142-1411.
- h. Family day care centers as defined in subsection 142-905(b)(1).
- i. One property management office for the purpose of managing residential units within the building as well as residential units located in other buildings under common beneficial ownership, as long as the total number of units does not exceed a maximum of 100 units.
- j. Buildings in the RM-2 district in the area bounded by Indian Creek Drive, Collins Avenue, 41st Street and 44th Street that face the RM-3 district may have restaurant, coffee house, sundry shops, or food market uses located in ground floor space not to exceed 70 percent of the ground floor. These uses may have direct access to the street. Dance halls, entertainment establishments, neighborhood impact establishments, outdoor entertainment establishments, or open air entertainment establishments are not permitted. Outdoor music (including background music) is prohibited. Any outdoor uses on Indian Creek Drive shall be limited to no later than 11:00 p.m. Parking requirements for accessory commercial uses in newly constructed buildings must be satisfied by providing the required parking spaces, and may not be satisfied by paying a fee in lieu of providing parking. There shall be no variances from these provisions.
- k. Apartment buildings located in the RM-1, 2 or 3 districts are permitted to have religious institutions as a matter of right up to 199 occupancy, and over that occupancy shall be a conditional use.
- l. Existing apartment buildings located along Tatum Waterway Drive, Byron Avenue, and Crespi Boulevard, which are also located within the North Shore National Register Historic District and which are classified as 'contributing,' may have accessory office uses and may provide for the rental of non-motorized watercraft. These accessory uses shall comply with the following:
 - 1. The accessory use areas shall not exceed 25 percent of the floor area of the existing structure.

2. The hours of operation for which the use is open to the public may be from 12:00 pm to 8:00 p.m.

3. No exterior speakers shall be permitted, except as may be required under the Florida Life Safety Code.

m. For existing apartment buildings located within the North Shore National Register District, which are classified as 'contributing,' the following accessory uses may be permitted:

1. Café;
2. Retail;
3. Office; and
4. Personal services.

All accessory uses that may be permitted under this subsection (2)(m) shall comply with the following provisions:

- i. All uses shall be located within the interior of the premises. Outside or sidewalk seating shall be prohibited.
- ii. The minimum distance separation between accessory uses shall be 500 feet. There shall be no variances from this distance separation requirement.
- iii. The accessory use areas shall not exceed 25 percent of the floor area of the structure.
- iv. The hours of operation for which the use is open to the public may be from 7:00 a.m. to 7:00 p.m. The hours of operation for any of the above noted uses may be extended to 10:00 p.m. at the discretion of the planning board.
- v. No exterior speakers shall be permitted, except as may be required under the Florida Life Safety Code.
- vi. A hall for hire, dance hall, open-air entertainment establishment, outdoor entertainment establishment, entertainment establishment, or special event permit shall be prohibited.

* * *

SECTION 3. Chapter 130, "Off-Street Parking," Article II, "Districts; Requirements" is hereby amended as follows:

CHAPTER 130 – OFF-STREET PARKING

* * *

ARTICLE II. – DISTRICTS; REQUIREMENTS

* * *

Sec. 130-31 Parking districts established.

* * *

(b) There shall be no off-street parking requirement for main or accessory uses associated with buildings that existed prior to October 1, 1993, which are:

- (1) Located within the architectural district,
- (2) A contributing building within a local historic district, or
- (3) Individually designated historic building.

This provision shall not apply to renovations and new additions to existing buildings which create or add floor area, or to new construction which has a parking requirement.

(c) There shall be no off-street parking requirement for accessory uses associated with buildings in the RM-1 zoning district that existed prior to December 31, 2009, which are located in the North Shore National Register Historic District.

SECTION 4. 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 5. REPEALER.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 6. SEVERABILITY.

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

SECTION 7 EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and **ADOPTED** this ____ day of _____, 2019.

Dan Gelber
Mayor

ATTEST:

Rafael E. Granado
City Clerk

First Reading: October 16, 2019
Second Reading: December 11, 2019

Verified by:

Thomas Mooney, AICP
Planning Director