

# MIAMI BEACH

## PLANNING DEPARTMENT


Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: November 19, 2019

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: **PB 19-312. RM-2 Conditional Uses for 600 Block of Washington Avenue.**

### **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 IV, ENTITLED "RM-2 RESIDENTIAL MULTIFAMILY, MEDIUM INTENSITY," SECTION 142-213, ENTITLED "CONDITIONAL USES," TO MODIFY THE CONDITIONAL USE REGULATIONS FOR PROPERTIES FRONTING THE WEST SIDE OF WASHINGTON AVENUE BETWEEN 6<sup>TH</sup> STREET AND 7<sup>TH</sup> STREET; AND BY AMENDING ARTICLE IV, ENTITLED "SUPPLEMENTAL DISTRICT REGULATIONS," DIVISION 2, ENTITLED "ACCESSORY USES," SECTION 142-902, ENTITLED "PERMITTED ACCESSORY USES," TO CLARIFY THE PERMITTED ACCESSORY USES FOR HOTELS IN THE RM-2 DISTRICT; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.**

### **RECOMMENDATION**

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

### **HISTORY**

On July 17, 2019, at the request of Commissioner John Elizabeth Aleman, the City Commission referred the draft Ordinance to both the Land Use and Development Committee and the Planning Board (Item C4 Q). Commissioner Ricky Arriola co-sponsored the referral.

On July 24, 2019 the Land Use and Development Committee recommended approval 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.**  
**Consistent** – The amendment would be applicable to the entire portion of the zoned RM-2 property as depicted in the included map.
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 built context of the City.
4. **Whether the proposed change would tax the existing load on public facilities and infrastructure.**  
**Partially Consistent** – The additional load on public facilities and infrastructure would be evaluated through the Conditional Use review and building permit process.
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.**  
**Partially Consistent** – The proposed change could adversely influence living conditions in neighboring properties if the expanded conditional uses are not carefully controlled.
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.**  
**Partially Consistent** – If the proposed Ordinance is adopted, traffic Congestion and public safety would be reviewed as part of the Conditional Use review process.
9. **Whether the proposed change will seriously reduce light and air to adjacent areas.**  
**Consistent** – The proposed change will not impact light and air to adjacent areas.
10. **Whether the proposed change will adversely affect property values in the adjacent**

area.

**Partially Consistent** – The proposed change could adversely affect neighboring property values of the expanded conditional uses are not carefully controlled.

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 should not be a deterrent to the improvement or development of properties in the City, provided the expanded conditional uses are reviewed by the Planning Board through the Conditional Use process.

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

**Not Consistent** – There are no substantial reasons why the property cannot be used in accordance with the existing zoning.

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 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.**

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

#### **ANALYSIS**

In the RM-2 Zoning District, hotels have limited permitted accessory uses. Pursuant to Section 142-902(1)b. of the City Code, the following are permitted accessory uses for hotels in the RM-2 district:

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, unless otherwise

provided in the RM-2 district regulations set forth in article II, division 3, subdivision IV of this chapter.

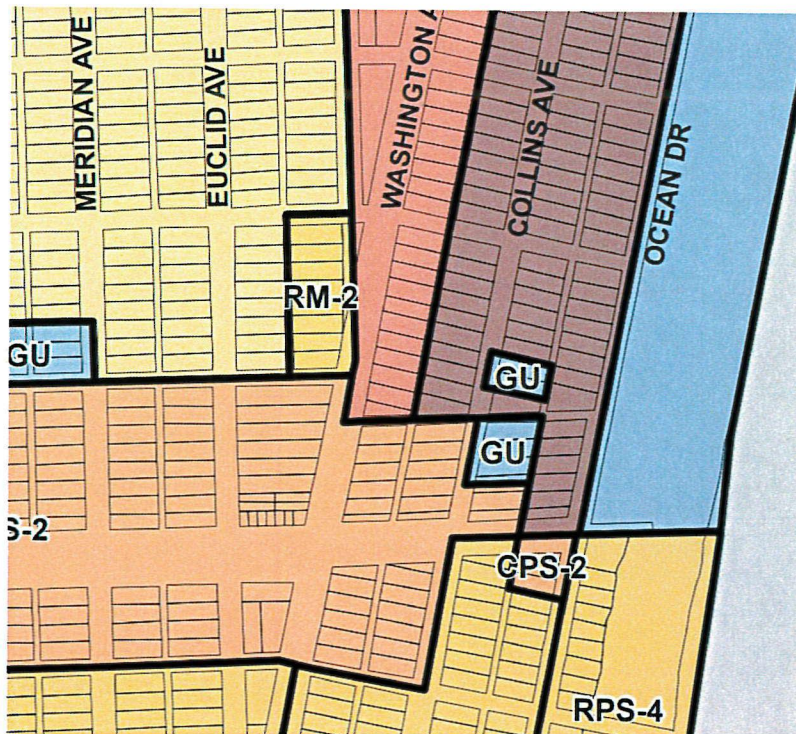
Entertainment establishments and neighborhood impact establishments are generally not permitted in the RM-2 zoning districts. The exceptions to this include the Collins Park Overlay District which allows outdoor entertainment as a Conditional Use subject to specific additional regulations, and the Museum Historic Preservation District, which allow entertainment within a hall for hire use within existing religious institutions.

This proposed Ordinance would add an exception to the prohibition on entertainment for properties that front Washington Avenue or Pennsylvania Avenue between 6<sup>th</sup> and 7<sup>th</sup> Streets as follows:

(d) Washington Avenue. In addition to the conditional uses specified in subsection 142-213(a), the following regulations shall apply to properties that front Washington Avenue between 6th Street and 7th Street, including those properties between 6th and 7th Streets that may have frontage on Pennsylvania Avenue:

- (1) Restaurants, cafes and/or eating & drinking establishments, which include entertainment, as an accessory use to a hotel. This may include establishments that qualify as a neighborhood impact establishment.

The RM-2 designation shown on the map below outlines the subject area of this Ordinance.



The Angler's hotel, which has proposed this Ordinance, is the only hotel within this portion of the RM-2 zoning district which could currently take advantage of the proposed expanded uses through the conditional use process. It is important to note that this RM-2 zoning district buffers the more intensive uses allowed in the adjacent CD-2 zoning district to the east and the much

lower intensity RM-1 zoning district to the west. Further, the property immediately abutting the Angler's hotel property to the north is a 3-story residential condominium.

While not opposed to expanding the list of conditional uses for this specific RM-2 zoning district, as it also abuts Washington Avenue, which is predominately zoned CD-2, staff would recommend the ordinance be further limited to only allow indoor entertainment, and only associated with a full restaurant as follows:

(d) Washington Avenue. In addition to the conditional uses specified in subsection 142-213(a), the following regulations shall apply to properties that front Washington Avenue between 6th Street and 7th Street, including those properties between 6th Street and 7th Street that have frontage on Pennsylvania Avenue:

- (1) Restaurants, with full kitchens and serving full meals, cafes and/or eating & drinking establishments, which include entertainment, as an accessory use to a hotel. This may include establishments that qualify as a neighborhood impact establishment.

The ultimate operation, including hours, occupancy, nature of the entertainment, and location of the entertainment would be subject to the review of the Planning Board as part of the Conditional Use procedures.

#### **RECOMMENDATION**

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

**RM-2 CONDITIONAL USES  
FOR 600 BLOCK OF WASHINGTON AVENUE**

**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 IV, ENTITLED "RM-2 RESIDENTIAL MULTIFAMILY, MEDIUM INTENSITY," SECTION 142-213, ENTITLED "CONDITIONAL USES," TO MODIFY THE CONDITIONAL USE REGULATIONS FOR PROPERTIES FRONTING THE WEST SIDE OF WASHINGTON AVENUE BETWEEN 6<sup>TH</sup> STREET AND 7<sup>TH</sup> STREET; AND BY AMENDING ARTICLE IV, ENTITLED "SUPPLEMENTAL DISTRICT REGULATIONS," DIVISION 2, ENTITLED "ACCESSORY USES," SECTION 142-902, ENTITLED "PERMITTED ACCESSORY USES," TO CLARIFY THE PERMITTED ACCESSORY USES FOR HOTELS IN THE RM-2 DISTRICT; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, 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**, recently, the City has undertaken a close study of the Washington Avenue corridor and the concerns raised by residents, property owners, and businesses; and

**WHEREAS**, the City has analyzed various mechanisms to improve the quality of life and quality of business improvements within the area; and

**WHEREAS**, the City's Land Development Regulations ("LDRs") provide for the regulation of land uses within the City; and

**WHEREAS**, the amendments set forth below are 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 of the City Code, entitled "Zoning Districts and Regulations," Article II "District Regulations", Division 3 "Residential Multifamily Districts", Subdivision IV, "RM-2 Residential Multifamily, Medium Intensity", is hereby amended as follows:

**CHAPTER 142 – ZONING DISTRICTS AND REGULATIONS**

\* \* \*

**ARTICLE II. – DISTRICT REGULATIONS**

\* \* \*

**DIVISION 3. – RESIDENTIAL MULTIFAMILY DISTRICTS**

\* \* \*  
**Subdivision IV. – RM-2 Residential Multifamily, Medium Intensity**  
\* \* \*

**Sec. 142-213. – Conditional uses**

- (a) The conditional uses in the RM\_2 residential multifamily, medium intensity district are as follows:
- (1) day care facility;
  - (2) stand-alone religious institutions;
  - (3) private and public institutions;
  - (4) schools;
  - (5) commercial or noncommercial parking lots and garages; and
  - (6) accessory neighborhood impact establishment; as set forth in subsection (d) below in article V, division 6 of this chapter.
- (b) Museum Historic Preservation District. In addition to the conditional uses specified in subsection 142-213(a), existing religious institutions located on properties in the Museum Historic Preservation District, which contain a contributing structure, may obtain conditional use approval for a separate hall for hire use within the interior of the existing religious institution. Any such hall for hire use shall comply with the following additional regulations:
- (1) Entertainment may only be permitted in the hall for hire;
  - (2) The hall for hire use shall cease operations by 11:00 p.m. on Sunday through Thursday, and by 12:00 a.m. on Friday and Saturday;
  - (3) Only the property owner, its subsidiaries, and its invited guests may hold events at the hall for hire;
  - (4) Restaurants, stand-alone bars, and alcoholic beverage establishments, shall be prohibited;
  - (5) Outdoor dining, outdoor entertainment, open-air entertainment uses, outdoor speakers and outdoor music shall be prohibited;
  - (6) There shall be no variances from the provisions of subsection 142-213(b).
- (c) West Avenue Bayfront Overlay District. In addition to the conditional uses specified in subsection 142-213(a), the conditional uses within the West Avenue Bayfront Overlay District shall include the following: non-medical offices and personal service uses, either of which may only be located on the lobby level of bayfront apartment buildings.
- (d) Washington Avenue. In addition to the conditional uses specified in subsection 142-213(a), the following regulations shall apply to properties that front Washington Avenue between 6th Street and 7th Street, including those properties between 6th Street and 7th Street that have frontage on Pennsylvania Avenue:
- (1) Restaurants, cafes and/or eating and drinking establishments, which include entertainment, as an accessory use to a hotel. This may include establishments that qualify as a neighborhood impact establishment.

\* \* \*

**SECTION 2.** Chapter 142 of the City Code, entitled "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, unless otherwise provided in the RM-2 district regulations set forth in article II, division 3, subdivision IV of this chapter.

\* \* \*

**SECTION 3. Repealer.**

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith 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

APPROVED AS TO FORM  
AND LANGUAGE  
AND FOR EXECUTION

\_\_\_\_\_  
City Attorney Date

First Reading: \_\_\_\_\_, 2019  
Second Reading: \_\_\_\_\_, 2019

Verified By: \_\_\_\_\_  
Thomas R. Mooney, AICP  
Planning Director