

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Planning Board

TO: Chairperson and Members
Planning Board

DATE: July 27, 2020

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB20-0383 - ORD - DRB Advisory Process.**

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 118 of the City code, entitled "Administration and Review procedures," by amending Article VI, entitled "Design Review Procedures," by amending Section 118-252, entitled "Applicability and Exemptions," to create a procedure for the Design Review Board to conduct a non-binding, advisory review of the design of certain right-of-way and/or neighborhood improvement projects; and providing for repealer, severability, codification, and an effective date.

RECOMMENDATION:

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

BACKGROUND/HISTORY

On April 11, 2018, at the request of Commissioner Mark Samuelian, the City Commission referred the discussion item to the Land Use and Development Committee (Item C4N). On May 23, 2018, the LUDC discussed the item and continued it to a date certain of July 18, 2018, with direction to staff to look at different potential options. On July 18, 2018 the item was deferred to September 28, 2018.

On September 28, 2018 the item was deferred to the December 2018 LUDC meeting. Since the December 2018 LUDC was cancelled, the item was moved to the January 2019 LUDC agenda. The January 2019 LUDC agenda was moved to February 20, 2019.

On February 20, 2019, the item was deferred to the April 3, 2019 LUDC meeting. On April 3, 2019 the item was continued to the May 22, 2019 LUDC. On May 22, 2019 the item was deferred to the June 12, 2019 LUDC. On June 12, 2019 the item was deferred to the July 24, 2019 LUDC. On July 24, 2019 the item was deferred to the September 18, 2019 LUDC.

On September 18, 2019 the item was deferred to the December 2, 2019 LUDC. The December 2, 2019 LUDC was cancelled, and the item was moved to the January 21, 2020 agenda of the newly created Land Use and Sustainability Committee (LUSC). On January 21, 2020 the item was deferred to the February 18, 2020 LUSC. On February 18, 2020 the item was deferred to the March 17, 2020 LUSC. The March 17, 2020 LUSC meeting was postponed and the item was moved to the May 6, 2020 agenda.

On May 6, 2020 the LUSC discussed the item and recommended that the City Commission refer an ordinance to the Planning Board that includes the following:

1. Establish a procedure for DRB advisory review of certain types of right-of-way and neighborhood projects.
2. Goal is to elevate aesthetics.
3. Establish a timeframe for the review by the DRB, as well as a process for the City Manager to seek a waiver from the advisory review by the City Commission.
4. Types of projects subject to advisory review would be above ground improvements.
5. Establish a public notice project.

On June 24, 2020, The administration presented two versions of the ordinance, both of which reflected the direction of the LUSC provided on May 6, 2020, to the City Commission for referral to the Planning Board:

- Version A (Sponsor Version)
- Version B (Administration Version)

Version B of the ordinance included the following additional exception to DRB advisory review:

- Projects for which an agreement has been approved by the City Commission on or before September 30, 2020.

Additionally, version B of the ordinance did not contain the following areas that would be subject to advisory review by the DRB in version A:

- Stormwater pump stations and related apparatus are included as part of the advisory review. Additionally, for stormwater pump stations and related apparatus, notice shall be posted on the land subject to the application and mailed to owners of record of land lying within 375 feet of the land pursuant to Section 118-8.
- Roadway elevations in excess of six inches above the existing crown of road are included as part of the advisory review.
- Master neighborhood improvement plans which involve and integrate the scope of projects noted above are included as part of the advisory review.

At the request of the Commissioner Mark Samuelian, the City Commission referred Version A of the ordinance (C4A) to the Planning Board for review and recommendation.

REVIEW CRITERIA

In accordance with Section 118-163 (3), when reviewing a request for an amendment to these land development regulations, the Board shall consider the following where applicable:

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

Consistent – The proposed modifications are consistent with the Comprehensive Plan.

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

Consistent – 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 Ordinances is consistent with the needs of the neighborhood to ensure that City neighborhood projects that are substantially above ground, and primarily for aesthetics are reviewed by the Design Review Board.

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

Consistent – The proposed ordinance will not increase the level of intensity of development and will not affect the load on public facilities.

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

Not applicable – The proposed change does not modify existing district boundaries.

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

Consistent – City neighborhood projects are necessary, and by having the DRB review and the public involve in this public process, ensures that these type of projects have a better compatibility and aesthetics.

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

Consistent - The proposed changes should not adversely influence living conditions in the surrounding 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.

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

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

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

Consistent – Property values should not be negatively impacted by the proposed changes.

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 changes would not be a deterrent to the redevelopment or improvement of any adjacent property.

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

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

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 in the long term.

(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

The proposed amendment to Sec. 118-252 of the Land Development Regulations creates a non-binding, Design Review Board (DRB) advisory review for City neighborhood projects. This advisory review process is for projects that are substantially above ground, and primarily for aesthetics. The following is a summary of the proposed review process:

Scope

The following City neighborhood projects would be subject to advisory review by the DRB:

Design Review Board Advisory Process

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 118 OF THE CITY CODE, ENTITLED "ADMINISTRATION AND REVIEW PROCEDURES," BY AMENDING ARTICLE VI, ENTITLED "DESIGN REVIEW PROCEDURES," BY AMENDING SECTION 118-252, ENTITLED "APPLICABILITY AND EXEMPTIONS," TO CREATE A PROCEDURE FOR THE DESIGN REVIEW BOARD TO CONDUCT A NON-BINDING, ADVISORY REVIEW OF THE DESIGN OF CERTAIN RIGHT-OF-WAY AND/OR NEIGHBORHOOD IMPROVEMENT PROJECTS; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, 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, on April 11, 2018 the City Commission referred the discussion item to the Land Use and Development Committee; and

WHEREAS, on May 6, 2020 the LUSC discussed the item and recommended that the City Commission refer an ordinance to the Planning Board; and

WHEREAS, on June 24, 2020 the City Commission referred this item to the Planning Board in order to establish a procedure for advisory review by the Design Review Board of certain types of right-of-way and/or neighborhood improvement projects, and

WHEREAS, a goal to elevate aesthetics, establishing a time frame for the review by DRB, as well as process for the City Manager to seek a waiver from the advisory review by the City Commission.; and

WHEREAS, the type of projects subject to advisory review would be above ground improvements to ensure appropriate relation to the site, adjacent structures and surrounding community according to DRB design review criteria; and

WHEREAS, Principle 1: Maintaining Urgency of the Climate Resiliency and Sustainability Element of the 2040 Comprehensive Plan requires that "the City will continue to prioritize climate adaptation efforts and policies that enhances public and private infrastructure, and shall encourage other coastal communities to be proactive and innovative in their efforts to mitigate against climate change;" and

WHEREAS, the design review criteria and resiliency review criteria for each project will be consistent with Principle 1; and

WHEREAS, Principle 2: using incrementalism of the Climate Resiliency and Sustainability Element of the 2040 Comprehensive Plan requires that " the City shall design all future infrastructure plans to be adaptive to emerging technologies and data on climate change and sea-

level rise, as well as input from affected community members to develop inclusive and innovative solutions;" and

WHEREAS, Principle 3: Ensuring transparency of the Climate Resiliency and Sustainability Element of the 2040 Comprehensive Plan requires that "The City shall provide access to information related to climate change science and climate adaption efforts to residents and other stakeholders, and shall engage in outreach activities as appropriate so that the community is knowledgeable in making adaptation investments;" and

WHEREAS, the proposed ordinance establishes a public process, including a public notice requirement, to allow input from community members, consistent with Principles 2 and 3; and

WHEREAS, Principle 7: Preserving Cultural Identity of the Climate Resiliency and Sustainability Element of the 2040 Comprehensive Plan requires that "the City shall embrace its unique character and history by incorporating art into adaptation efforts;" and

WHEREAS, input from the Design Review Board will allow for the improvement of the quality of art into the adaptation efforts, consistent with Principle 7; and

WHEREAS, principle 9: Managing water of the Climate Resiliency and Sustainability Element of the 2040 Comprehensive Plan requires that " the City shall continue to strive to be a leader in adapting to a changing climate and sea-level rise by preserving and sustainably managing the City's water environmental and recreational resources; and

WHEREAS, the advisory review of the Design Review Board on certain types of right-of-way and neighborhood projects is consistent with Principle 9; and

WHEREAS, the proposed amendments are consistent with the principles, goals, objectives, and policies of the 2040 Comprehensive Plan; and

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 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 118, " Administration and Review Procedures" at Article VI, entitled "Design Review Procedures, Section 118-252 entitled " Applicability and exemptions," of the Land Development Regulations of the Code of the City of Miami Beach, Florida is hereby amended follows:

CHAPTER 118
ADMINISTRATION AND REVIEW PROCEDURES
* * *

ARTICLE VI
DESIGN REVIEW PROCEDURES

Sec. 118-252. - Applicability and exemptions

- (c) Advisory review. The Design Review Board shall review City neighborhood projects and stormwater pump stations and related apparatus (which are otherwise exempt from design review pursuant to subsection (a)(1)), in a non-binding, advisory capacity, and provide a written recommendation to the City Commission, in accordance with the following:

(1) The scope of the Design Review Board's advisory review of neighborhood projects, pursuant to this subsection (c), shall consist of the following:

- a. Stormwater pump stations and related apparatus
- b. The location and screening of above ground infrastructure.
- c. The design of new street lighting.
- d. The above ground design of non-standard materials for newly constructed sidewalks, streets and crosswalks.
- e. The above ground design of new roadway medians, traffic circles and plazas.
- f. Protected bike lanes.
- g. Roadway elevations in excess of six inches above the existing crown of road.
- h. Pedestrian bridges.
- i. Master neighborhood improvement plans which involve and integrate the above elements.

(2) The Design Review Board shall review the project and provide an advisory recommendation within 35 days of the first Design Review Board meeting at which the project is reviewed. Any recommendation of the Design Review Board shall be transmitted to the City Commission via Letter to Commission. Notwithstanding the foregoing, the requirement set forth in this paragraph shall be deemed to have been satisfied in the event that the board fails, for any reason whatsoever, to review a project and/or provide a recommendation to the City Commission within the 35-day period following the first meeting at which the project is reviewed.

(3) If the design of a project should change substantially, as determined by the Planning Director, after it has been reviewed by the Board, the Design Review Board shall be required to review any changes to the design.

(4) Upon a written recommendation of the City Manager, the City Commission may, by majority vote, waive the advisory review required pursuant to this subsection (c), if the City Commission finds such waiver to be in the best interest of the City.

(5) The advisory review by the Design Review Board shall be noticed by publication in a newspaper of general circulation at least 15 days in advance of the meeting. Additionally, for stormwater pump stations and related apparatus, notice shall be posted on the land subject to the application, and mailed to owners of record of land lying within 375 feet of the land pursuant to Section 118-8.

(6) Advisory review shall not be required for:

- a. Emergency work.
- b. Cross-walk projects that address ADA and Florida Accessibility Compliance.
- c. Lighting improvements to address safety concerns.

d. Routine maintenance and utility repair work.

e. Projects for which a notice to proceed with construction has been issued on or before September 30, 2020.

SECTION 2. 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 3. 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 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 _____, 2020.

Dan Gelber, Mayor

ATTEST:

Rafael E. Granado, City Clerk

APPROVED AS TO FORM
AND LANGUAGE
AND FOR EXECUTION

City Attorney

Date

First Reading: July 29, 2020

Second Reading: September 16, 2020

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

