

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: September 28, 2021

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB21-0458 Solar Panel Encroachment.**

RECOMMENDATION

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

HISTORY

On April 29, 2021, at the request of Commissioner Mark Samuelian, the City Commission referred a discussion item to the Land Use and Sustainability Committee (LUSC) and Planning Board pertaining to allowable setback encroachments for solar panels and related equipment in single family zoning districts (item C4M). On July 12, 2021 the LUSC reviewed a draft Ordinance modifying the interior side and rear setback requirements for solar panels and related equipment and recommended that the Planning Board transmit the Ordinance to the City Commission with a favorable recommendation.

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 proposed amendment does not create an isolated district unrelated to adjacent or nearby districts.

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

Consistent - The proposed ordinance amendment does not modify the scale of development.

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 as the maximum floor area ratio (FAR) is not modified.

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 – Improvements to solar panel technology 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 as it contains safeguards to minimize the impacts of the proposed use.

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, as the FAR is not being modified by this ordinance and the intensity of uses is not proposed to be increased.

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

Consistent – The proposed change would 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 will 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 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.**

Partially Consistent – 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.**

Consistent – The proposal improves the resiliency of the City with respect to sea level rise by promoting the use of renewable energy which limits greenhouse gas production.

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

Consistent – The proposal is compatible with the City's sea level rise mitigation and resiliency efforts.

BACKGROUND

On March 13, 2019, City Commission adopted an Urban Heat Island Ordinance, which allows for solar carports as an allowable front yard encroachment and for solar panels to be an allowable height exception in single family districts. The Ordinance also provides greater height for a rooftop curb in order to facilitate screening of the panels and explicitly states that solar panels are an allowable accessory use in all zoning districts. In addition, this Ordinance provides that public hearing fees for the installation of a "sustainable roofing system," "solar carport," porous pavement," or "cool pavement" are waived.

Once the City adopted its Urban Heat Island Ordinance, it received the Solsmart Gold designation. Solsmart is a national agency that certifies local governments as having regulations that facilitate the installation of solar panels. This designation is intended to encourage solar installers to work within the City by showcasing its efforts to remove existing barriers and lower

soft costs.

ANALYSIS

The rise of solar power over the past decade has been largely driven by cities. In these densely populated areas, solar power is helping to clean the air and reduce pollutant emissions, strengthen electric grids, provide consumers security against volatile energy costs, and improve the environment and residents' quality of life. Several cities have set robust goals for solar energy adoption including the implementation of programs and policies that promote the rapid expansion of solar energy, expanding access to all residents, installing solar energy systems on government buildings, and urging state and federal officials and investor-owned utilities to facilitate the growth of solar energy.

The existing Land Development Regulations (LDRs) for single family homes do not allow solar panels as an allowable encroachment within rear and side yard setbacks. Therefore, a person seeking to place solar panels in their required rear and side yards would need to seek a variance. The proposed Ordinance addresses this issue by allowing solar panels and home battery systems as an allowable encroachment within rear and side yard setbacks for a single-family homes and provides a maximum height for the equipment not to exceed five (5) feet above maximum yard elevation. These allowances are the same as those allowed for other types of mechanical equipment and should not negatively impact neighbors, especially since this type of equipment does not generate loud noise. This Ordinance further removes barriers to the adoption and installation of solar energy systems that can improve the resilience of single-family homes, particularly during energy outages.

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.

Solar Panels – Setback Exceptions in Single-Family Districts

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, ENTITLED “ZONING DISTRICTS AND REGULATIONS,” ARTICLE II, ENTITLED “DISTRICT REGULATIONS,” DIVISION 2, ENTITLED “RS-1, RS-2, RS-3, RS-4 SINGLE-FAMILY RESIDENTIAL DISTRICTS,” BY AMENDING SECTION 142-106, ENTITLED “SETBACK REQUIREMENTS FOR A SINGLE-FAMILY DETACHED DWELLING,” TO MODIFY SINGLE-FAMILY SETBACK REGULATIONS PERTAINING TO SOLAR PANELS AND RELATED EQUIPMENT; AND PROVIDING FOR REPEALER, CODIFICATION, 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 modifications of the City’s single-family home setback regulations pertaining to solar panels and related equipment will allow for more sustainable and resilient projects; 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, entitled “Zoning Districts and Regulations,” Article II, entitled “District Regulations,” Division 2, entitled “RS-1, RS-2, RS-3, RS-4 Single-Family Residential Districts,” is hereby amended as follows:

Sec. 142-106. - Setback requirements for a single-family detached dwelling.

* * *

(b) Allowable encroachments within required yards.

* * *

(5) *Central air conditioners, emergency generators, swimming pool equipment, solar panels, home battery systems and other similar mechanical equipment.* Accessory central air conditioners, generators, swimming pool equipment, solar panels, home battery systems and ~~any~~ other similar mechanical equipment, including attached screening elements, may occupy a required side or rear yard, provided that:

- a. They are not closer than five feet to a rear or interior side lot line, or ten feet to a side lot line facing a street.
- b. The maximum height of the equipment, including attached screening elements, shall not exceed five feet above current flood elevation, with a maximum height not to

exceed ten feet above grade, as defined in section 114-1, of the lot on which it is located.

- c. If visible from the right-of-way, physical and/or landscape screening shall be required.
- d. Any required sound buffering equipment shall comply with the setback requirements established in subsection (5)a., above.
- e. If the ~~central air conditioning and other mechanical~~ equipment does not conform to subsections (1), (2), (3), and (4) (a), (b), (c), and (d) above, then such equipment shall follow the setbacks of the main structure.

SECTION 2. Repealer.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith 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 _____, 2021.

ATTEST:

Dan Gelber, Mayor

Rafael E. Granado, City Clerk

First Reading: October ____, 2021

Second Reading: December ____, 2021

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