

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: **PB21-0463. Landscape Neighborhood Overlays.**

RECOMMENDATION

Discuss both options and transmit the proposed “Overlay Version” of the Ordinance to the City Commission with a favorable recommendation.

HISTORY

On March 17, 2021, at the request of Commissioner Steven Meiner, the City Commission referred a proposed Ordinance pertaining to Chapter 126 of the Land Development Regulations of the City Code to the Land Use and Sustainability Committee (C4 AK). At the April 29, 2021 Land Use and Sustainability Committee (LUSC) meeting, the item was deferred to the May 26, 2021 LUSC meeting with no discussion. On May 26, 2021 the item was deferred to the June 21, 2021 LUSC meeting, without discussion.

On June 21, 2021, the LUSC discussed the proposed amendment, as well as the proposal within the context of La Gorce Island. The LUSC continued the item to the July 12, 2021 meeting of the LUSC, with direction to staff to prepare an option for a more tailored approach to La Gorce Island that balances the goals of the Urban Forestry Master Plan (UFMP) with the unique character and context of the neighborhood. The LUSC also directed staff to study a method for providing a similar, tailored approach to individual neighborhoods citywide.

On July 12, 2021, the Administration provided an overlay version of the Ordinance, in accordance with the previous direction of the LUSC. The LUSC recommended that the City Commission consider both the sponsor (Appendix F) version of the proposal, as well as the Administration (Overlay) version for referral to the Planning Board.

On July 28, 2021, the City Commission referred both the sponsor’s (“Resolution”) version and the Administration’s (“Overlay”) version to the Planning Board (item R9 Y).

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 – The need to protect the existing character of specific neighborhoods in light of changes to the landscape ordinance the 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 is intended to preserve the existing character of specific neighborhoods.

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.

Inconsistent – 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.

Inconsistent – The proposal could impact the resiliency of the City with respect to sea level rise by allowing for the palm trees which have more limited benefits in terms of absorption of stormwater and may be more susceptible to impacts from saltwater intrusion.

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

Inconsistent – The City's sea level rise and mitigation and resiliency efforts call for utilizing green infrastructure and landscaping to assist with managing stormwater and sea

level rise. Larger shade trees tend to provide greater benefits to manage stormwater and are less susceptible to impacts from saltwater intrusion.

BACKGROUND

On October 14th, 2020, the Urban Forestry Master Plan was approved unanimously by the City Commission, with the purpose of establishing a resilient tree canopy that will increase the canopy coverage in the City from 17% to 22% over the next 20 years. On March 17, 2021, two separate referrals were made to City Commission Committees regarding a process for allowing palm trees, in certain, defined areas of the City, to count toward the minimum number of required street trees (as opposed to the currently required canopy trees), and to allow palm trees to be eligible for Heritage Tree designation (currently this designation is for canopy trees). The proposed Ordinance amendment to Chapter 126 of the LDR's that was originally referred to the LUSC proposed to allow palms or trees identified in a new, Appendix F of the Urban Forestry Master Plan to count towards the minimum number of required street trees established in Chapter 126.

For additional background, the following is a brief synopsis of the current unique roles of Chapter 46 and Chapter 126 of the City Code in the maintenance and enhancement of trees in the City:

Chapter 46, Division 2 – Tree Preservation and Protection

Pursuant to this Division of the City Code, the Urban Forestry Division administers the City's tree preservation program, which includes the tree permitting program for the proposed removal or relocation of any palm or tree on public or private property. Mitigation for palm and tree canopy loss, either as part of a separate application or a development permit, is in the form of replacement canopy trees. A minimum of 50% of all replacement trees shall be native to South Florida. Palms may be included in landscape plans for a project, but they do not count for mitigation due to the low environmental benefits they provide. When the total number of trees required as replacement trees cannot be reasonably planted on the property or a suitable alternate location cannot be identified, a property owner can contribute to the City's Tree Preservation Trust Fund as an alternative.

Chapter 126 – Landscape Requirements

The regulations set forth in Chapter 126 establish minimum landscape standards that enhance, improve, and maintain the quality of the City's landscape. This includes preventing the destruction of the City's existing tree canopy on public and private property and promoting its expansion and diversification. Chapter 126 provides the following minimum street tree requirements:

- Street tree plantings shall be provided along all roadways at a maximum average spacing of 20 feet on center.
- Minimum tree height: 12 to 14 feet.
- Minimum palm height: 15 feet of clear or grey wood.
- Street tree diversification to prevent a monoculture and to prevent significant tree loss due to disease that may impact specific tree species.

Chapter 126 allows for palms to be planted in addition to the required number of street trees; palms are an important part of our Miami Beach identity. However, palms do not count towards the minimum number of required trees since canopy trees will help achieve overall urban forestry goals of shade, heat reduction, biodiversity, disease resistance and stormwater management.

ANALYSIS

On July 28, 2021, the City Commission referred 2 versions of the proposed amendment to Chapter 126:

1. The LDR Overlay option, recommended by the Administration.
2. A revised version of the Resolution Overlay option, with more review protections, and recommended by the item sponsor.

The following is an analysis of both options:

LDR Overlay Version

This version provides a more tailored option for addressing the unique, individual character of neighborhoods citywide, including, more specifically, La Gorce Island. In this regard, the overlay option establishes provisions for creating landscape overlays for specific neighborhoods and includes the following specific provisions:

- Subsection 126-8, entitled 'Landscape Neighborhood Overlay' has been created. This subsection establishes a purpose and process for creating specific overlays within the City.
- Within the overlay areas, distinct and iconic landscaping features, that contribute to a unique and prominent neighborhood character, will be identified and permitted to be retained.
- Landscape Neighborhood Overlays must still comply with all applicable regulations set forth in Chapter 126 and Chapter 46, including minimum landscape standards and contributions into the Tree Trust Fund.
- All future Landscape Neighborhood Overlays would be added through the LDR amendment process, including Planning Board review and transmittal.
- The La Gorce Island Neighborhood has been identified as the first Landscape Neighborhood Overlay. This overlay recognizes the aesthetic characteristics associated with the long-term planting of Royal Palms and Canary Island Date Palms within its rights of way. The La Gorce Island overlay also establishes provisions that will preserve the long-term characteristics of this distinct streetscape.

Resolution Version

This version also provides a tailored approach for addressing the unique, individual character of neighborhoods citywide. La Gorce Island is included as part of this version, but not within the body of the Ordinance. The resolution option establishes similar provisions for creating landscape overlays for specific neighborhoods and includes the following specific provisions:

- Subsection 126-8, entitled 'Landscape Neighborhood Overlay' has been created. This subsection establishes a purpose and process for creating specific overlays within the City.
- Within the overlay areas, distinct and iconic landscaping features, that contribute to a unique and prominent neighborhood character, will be identified and permitted to be retained.
- Landscape Neighborhood Overlays must still comply with all applicable regulations set forth in Chapter 126 and Chapter 46, including minimum landscape standards and contributions into the Tree Trust Fund.
- All future Landscape Neighborhood Overlays would be added through Resolution, approved by the City Commission at a public hearing.
- The La Gorce Island Neighborhood has been identified as the first Landscape Neighborhood Overlay and would be approved via a separate Resolution. This overlay recognizes the aesthetic characteristics associated with the long-term planting of Royal Palms and Canary Island Date Palms within its rights of way. The La Gorce Island overlay also establishes provisions that will preserve the long-term characteristics of this distinct streetscape.

Both proposals provided herein address the unique character and identity of individual neighborhoods, while still being consistent with the goals and objectives of the UFMP, as well as Chapter 46 and Chapter 126 of the City code. Future Neighborhood Landscape Overlays would be considered on a case specific basis, taking into consideration the unique characteristics of a particular neighborhood, as well as existing and proposed species of trees and palms.

The primary difference between the 2 versions of the Ordinance is that under the Overlay Version of the Ordinance, future overlays would require an amendment to the LDRs, and Planning Board review would be required. Under the Resolution Version, future overlays would only require a single public hearing before the City Commission approval.

Considering the significant role that landscape plays within the City's environment and the critical need for canopy coverage citywide, staff believes that the Overlay Version of the Ordinance is the best option. In this regard, although it requires a slightly lengthier process (Planning Board review, as well as 2 readings before the City Commission), this extra level of review will ensure that the proposed Neighborhood Landscape Overlay has merit, and that that the specific provisions of future overlays are well constructed.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the Planning Board discuss both options and transmit the proposed "Overlay Version" to the City Commission with a favorable recommendation.

Landscape Neighborhood Overlays (Overlay Version)

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 126, ENTITLED “LANDSCAPE REQUIREMENTS,” BY CREATING SECTION 126-8, ENTITLED “LANDSCAPE NEIGHBORHOOD OVERLAY,” TO ESTABLISH PROVISIONS FOR LANDSCAPE NEIGHBORHOOD OVERLAYS WITHIN EXISTING NEIGHBORHOODS AND BY INCLUDING LA GORCE ISLAND AS AN OVERLAY AREA; 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, in 2016 the City adopted major changes to the City’s Landscape Ordinance; and

WHEREAS, the city recognizes that certain neighborhoods have a established and iconic landscape features within the streetscape that contributes to the unique character of a particular neighborhood; and

WHEREAS, the proposed amendments would create provisions that will identify special neighborhood overlays within City of Miami Beach Landscape Ordinance; 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 126, entitled “Landscape Requirements,” is hereby amended as follows:

Sec. 126-8. – Landscape Neighborhood Overlays

(a) Purpose. The purpose of this section is to identify unique neighborhoods and areas of the City, which contain distinct and character defining landscaping features that contribute to the special identity of the particular neighborhood or area of the City.

(b) Minimum standards and criteria.

(1) The creation of a Landscape Neighborhood Overlay shall be applicable to a defined area or neighborhood in the City and shall be accomplished as an amendment to this subsection.

(2) The species of the particular plant material, trees, palms and/or significant landscape features shall be identified within the overlay.

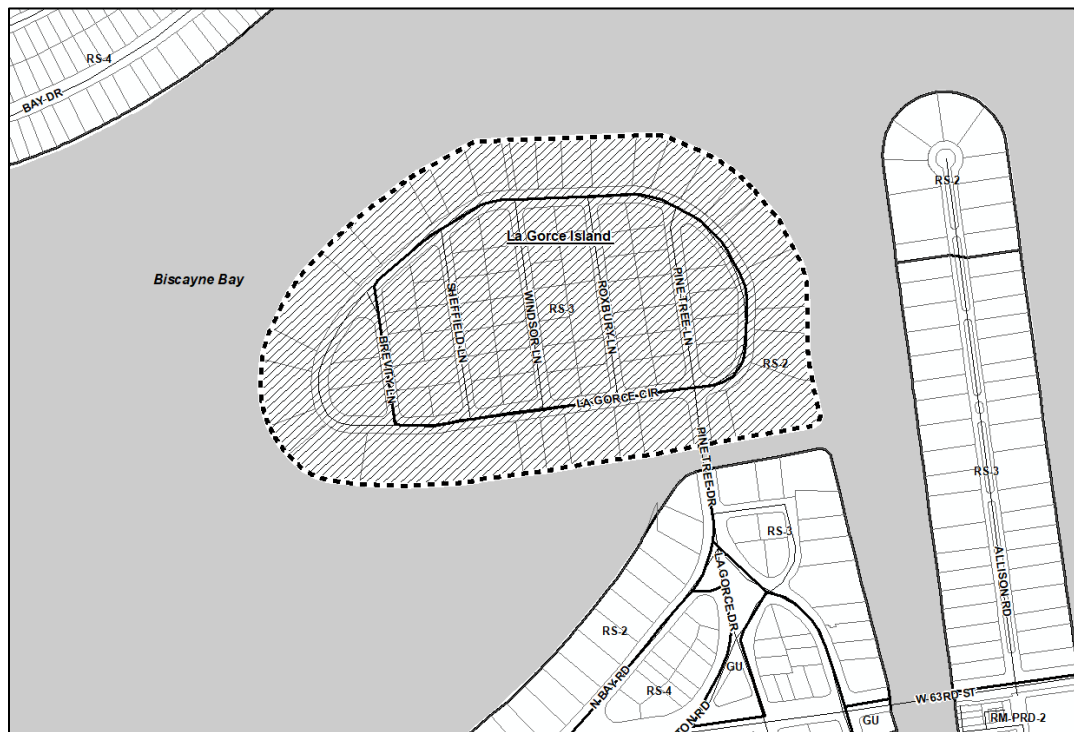
(3) Areas of the City identified in a Landscape Neighborhood Overlay shall not be exempt from all of the applicable regulations of Chapter 126 or Chapter 46 of the City Code. Where there is a conflict with the remaining provisions of Chapter 126 and/or Chapter 46, the provisions set forth in subsection 126-8 shall control.

(4) The provisions set forth within a specific Landscape Neighborhood Overlay shall be adhered to during all forms of construction that take place within the overlay.

(c) Landscape Neighborhood Overlays

(1) La Gorce Island Neighborhood Overlay.

- a. **Location:** The regulations for the “La Gorce Island Neighborhood Overlay” shall apply to all of the property located on La Gorce Island as indicated in the map below:



- b. **Regulations:** Royal palms and Canary Island Date palms planted within the rights of way have created an established iconic landscape feature within the streetscape and provide a unique character to this particular this neighborhood. All development and improvements within the rights of way of this overlay shall retain the established and iconic features of the original streetscape design and shall comply with the following:
- i. No other species of tree or palm other than Royal Palms and Canary Island Date Palm shall be planted within the rights of way of this overlay.
 - ii. Existing Royal Palms and Canary Island Date Palms shall be preserved and protected during any proposed construction.

- iii. Alterations to the rights of way within the overlay that impact the location of existing palms shall require the relocation of such palms with the neighborhood rights of way.
- iv. Newly planted Royal Palms and Canary Island Date Palms shall be consistent with the dimensions and spacing of the existing species within this overlay, as determined by the City's Urban Forrester.

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.

Dan Gelber, Mayor

ATTEST:

Rafael E. Granado, City Clerk

APPROVED AS TO FORM
AND LANGUAGE
AND FOR EXECUTION

City Attorney

Date

First Reading: October 13, 2021
Second Reading: December 8, 2021

Verified By: _____

Thomas R. Mooney, AICP
Planning Director

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Landscape Neighborhood Overlays (Resolution Version)

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 126, ENTITLED “LANDSCAPE REQUIREMENTS,” BY CREATING SECTION 126-8, ENTITLED “LANDSCAPE NEIGHBORHOOD OVERLAY,” TO ESTABLISH PROVISIONS FOR LANDSCAPE NEIGHBORHOOD OVERLAYS WITHIN EXISTING NEIGHBORHOODS; 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, in 2016 the City adopted major changes to the City’s Landscape Ordinance; and

WHEREAS, the city recognizes that certain neighborhoods have a established and iconic landscape features within the streetscape that contributes to the unique character of a particular neighborhood; and

WHEREAS, the proposed amendments would create provisions that will identify special neighborhood overlays within City of Miami Beach Landscape Ordinance; 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 126, entitled “Landscape Requirements,” is hereby amended as follows:

Sec. 126-8. – Landscape Neighborhood Overlays

(a) Purpose. The purpose of this section is to identify unique neighborhoods and areas of the City, which contain distinct and character defining landscaping features that contribute to the special identity of the particular neighborhood or area of the City.

(b) Creation. A Landscape Neighborhood Overlay shall be created by Resolution, approved at a public hearing by the City Commission, and pursuant to the minimum standards and criteria within this subsection.

(c) Minimum standards and criteria.

(1) The creation of a Landscape Neighborhood Overlay shall be applicable to a defined area or neighborhood in the City.

(2) The species of the particular plant material, trees, palms and/or significant landscape features shall be identified within the overlay.

(3) Areas of the City identified in a Landscape Neighborhood Overlay shall not be exempt from all of the applicable regulations of Chapter 126 or Chapter 46 of the City Code. Where there is a

conflict with the remaining provisions of Chapter 126 and/or Chapter 46, the provisions set forth in subsection 126-8 shall control.

(4). The provisions set forth within a specific Landscape Neighborhood Overlay shall be adhered to during all forms of construction that take place within the overlay.

(d) Landscape Neighborhood Overlays

NOTE: The following neighborhood overlay is not a part of this ordinance and is shown for informational purposes only; this overlay will be included pursuant to a separate Resolution at the date of adoption of this ordinance:

- (1) *La Gorce Island Neighborhood.* Royal palms and Canary Island Date palms planted within the rights of way have created an established iconic landscape feature within the streetscape and provide a unique character to this particular this neighborhood. All development and improvements within the rights of way of this overlay shall retain the established and iconic features of the original streetscape design, and shall comply with the following.
- a. No other species of tree or palm other than Royal Palms and Canary Island Date Palm shall be planted within the rights of way of this overlay.
 - b. Existing Royal Palms and Canary Island Date Palms shall be preserved and protected during any proposed construction.
 - c. Alterations to the rights of way within the overlay that impact the location of existing palms shall require the relocation of such palms with the neighborhood rights of way.
 - d. Newly planted Royal Palms and Canary Island Date Palms shall be consistent with the dimensions and spacing of the existing species within this overlay, as determined by the City's Urban Forester.

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.

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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.

Dan Gelber, Mayor

Rafael E. Granado, City Clerk

City Attorney _____ Date _____

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

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