

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: October 26, 2021

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB21-0473 Regulations for Lower Impact Accessory Medical Uses.**

RECOMMENDATION

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

HISTORY

On September 17, 2021, at the request of Commissioner Mark Samuelian, the City Commission referred the proposed ordinance to the Land Use and Sustainability Committee (LUSC) and Planning Board (item C4 L). The LUSC is scheduled to review the proposed Ordinance on October 19, 2021.

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 – Demand for conveniently located low impact medical uses 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 Class I medical uses would be subject to the limitations for accessory uses which minimize potential impacts of commercial uses on residential uses.

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.**

Partially Consistent – The proposal does 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.**

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

ANALYSIS

On January 17, 2018, the City Commission adopted Ordinance No. 2018-4170, which updated the Assisted Living Facility and Medical Use Zoning Regulations within the Land Development Regulations (LDRs). This Ordinance organized various types medical uses into eight (8) classes. Generally, the higher the class, the greater the impact of the medical use. The Ordinance also detailed specific zoning districts that each class is allowed and additional regulations that apply to each class.

Class I medical uses consist of opticians, retail clinics, adult day care centers, electrology facilities, and medical offices. For reference, a "medical office" is a small-scale office providing medical or dental treatment, including chiropractor's office, dentist's office, dietician, doctor's office, homeopathic physician's office, pathologist, physiotherapist's office, phlebotomist's office, podiatrist's office, optometrist's office, ophthalmologist's office, or psychiatrist's office, with a maximum floor area of 5,000 square feet. The regulations provide that Class I medical uses may not operate between the hours of 10:00 PM and 7:00 AM, though the hours can be modified with Conditional Use approval from the Planning Board. Additionally, the regulations prohibit any

overnight stays. Given their scale, services provided, and hours of operation, Class I medical uses have the lowest impact on their surroundings. Their impact is similar to that of a typical commercial establishment.

Class I medical uses are generally allowed as a main permitted use in the City's commercial districts. In the middle and high intensity multifamily residential districts, including RM-2, RM-PRD-2, RM-3, RPS-3, and RPS-4, Class I medical uses are allowed as an accessory use.

Section 142-1255 of the LDRs provide that where Class I medical uses are allowed as an accessory use that access be limited to hotel guests or residents of a building and their invited guests. Even though these types of uses may be desirable in high intensity residential areas in a limited form, this regulation essentially prevents Class I medical uses from locating in these areas because it greatly limits their potential to attract clients. It also has the effect of prohibiting the use as an accessory use in main use garages in these districts, if the garage does not contain residential, or hotel uses.

Given their minimal impact, importance for the health and well-being of residents, and desirability the attached Ordinance proposes to remove the limitation on clients where Class I medical uses are allowed as an accessory use. The proposed Ordinance instead treats the use as an allowable commercial use, and subject to the standard regulations for accessory uses in Chapter 142, Article IV, Division 2 of the LDRs, as well as the applicable underlying zoning district regulations. Additionally, if located in a main use parking garage, the use would be subject to the applicable regulations of section 130-68 of the LDRs.

The existing accessory use regulations provide where within a building the uses can locate, the circumstances under which they are allowed, and other restrictions. The limitations for accessory uses will ensure that Class I medical uses located in a residential district do not negatively impact surrounding residents. The proposal will therefore increase the access and convenience of low impact medical uses, while ensuring that residents' quality of life is not impacted.

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.

Regulations For Lower Impact Accessory Medical Uses

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 V, ENTITLED "SPECIALIZED USE REGULATIONS," DIVISION 2, ENTITLED "ASSISTED LIVING AND MEDICAL USES," TO MODIFY REGULATIONS FOR CLASS I MEDICAL USES, WHERE PERMITTED AS AN ACCESSORY USE, TO PROVIDE CONSISTENCY WITH REGULATIONS FOR ACCESSORY COMMERCIAL USES IN CHAPTER 142, ARTICLE IV, DIVISION 2 OF THE LAND DEVELOPMENT REGULATIONS AND OTHER RELATED PROVISIONS; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, pursuant to the regulations of Section 142-1253 of the Land Development Regulations (LDRs), Class I Medical Uses include optician, retail clinic, adult day care center, electrology facility, and medical office; and

WHEREAS, Class I medical uses generally have an impact similar to, and often incorporate, retail uses; and

WHEREAS, pursuant to the regulations of Section 142-1255 of the LDRs, Class I Medical Uses are permitted as an accessory use in the RM-2, RM-PRD-2, RM-3, RPS-3, and RPS-4 zoning districts; and

WHEREAS, the City seeks to regulate Class I medical uses when permitted as an accessory use in a manner that is similar to other accessory commercial uses; 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 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 V, entitled "Specialized Use Regulations," Division 2, entitled "Assisted Living and Medical Uses," is hereby amended as follows:

Sec. 142-1256. Minimum zoning standards.

* * *

(b) *Standards for specific medical use classes:*

(1) *Class I medical uses:*

- A. ~~Access to Class I medical uses where permitted as an accessory use shall be limited to guest of a hotel or residents and their guests of a residential use.~~ In zoning districts where Class I medical uses are permitted as an accessory use, they shall be treated as a commercial use. Such uses shall be subject to the regulations for accessory uses in Chapter 142, Article IV, Division 2 of the Land Development Regulations, as well as any applicable regulations in the underlying zoning district. If located within a main use parking garage as an allowable accessory use, such uses shall be subject to the applicable regulations in section 130-68 of the Land Development Regulations.
- B. Class I medical uses shall not operate between the hours of 10:00 p.m. and 7:00 a.m. Such hours may be modified with conditional use approval.
- C. Overnight stays are prohibited.

*

*

*

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 _____, 2022.

ATTEST:

Dan Gelber, Mayor

Rafael E. Granado, City Clerk

First Reading: December 8, 2021

Second Reading: January ____, 2022

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