

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: December 20, 2022

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: **PB22-0561 - Washington Avenue Overlay Co-living amendments.**

#### **RECOMMENDATION**

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

#### **HISTORY**

On September 14, 2022, at the request of Commissioner Ricky Arriola (item C4Z), the City Commission referred the subject discussion item to the Land Use and Sustainability Committee (LUSC). On September 28, 2022, the LUSC recommended that the proposed Ordinance be referred to the Planning Board, with the following modifications:

1. A prohibition of Apartment Hotel, Hotel, Suite Hotel, and Hostels within developments that propose co-living and/or micro residential units.
2. An agreement, via covenant, to mandate that the minimum rental period of all co-living, micro and/or residential apartment unit shall be no less than 3 months and 1 day.
3. A minimum of 20% of all units shall be set aside for workforce housing, as defined in Chapter 58 of the City Code.

On October 26, 2022, the City Commission referred the proposal to the Planning Board for review and recommendation (Item C4 A).

#### **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 affect the scale of development; therefore, the proposal is not out of scale with the needs of the neighborhood or the city.

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

**Consistent** – The proposed ordinance does not modify allowable densities or intensities for new development, and therefore does not change the potential loads on public facilities and infrastructure.

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

**Not Applicable** –District boundaries are not proposed to be modified.

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

**Consistent** – The need to diversify the City's economy and to revitalize and create a vibrant mixed-use community along the Washington Avenue corridor 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 incentivize residential uses and attainable housing that will benefit the community.

**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** – Since the City is now a transportation concurrency exception area, the proposed change will not create or increase traffic congestion beyond the levels of service set forth in the Comprehensive Plan, or otherwise affect public safety. Additionally, the proposal does not increase the development potential beyond what currently exists.

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

**Consistent** – The proposed amendment does not modify the scale of development and as such will not reduce light and air to adjacent areas beyond what is currently permitted.

**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 will improve the resiliency of the City with respect to sea level rise by encouraging new development that will comply with the City's resiliency regulations.

**(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 October 16, 2019, and July 29, 2020, the City adopted Ordinance No. 2019-4312 and Ordinance No. 2020-4346, which established and refined the current provisions for co-living and micro residential units on Washington Avenue. The Ordinances incentivized a new co-living project with an office component in the 1200 block of Washington Avenue, which is in the process of obtaining a building permit.

However, these Ordinances limited the co-living component to the west side of Washington Avenue and included a sunset provision for co-living and micro unit residential projects. For reference, in this area, co-living and micro-units are residential units where the minimum size may be 275 square feet, provided that a minimum of 20 percent of the gross floor area of the building consists of amenity space.

### **PLANNING ANALYSIS**

The proposed Ordinance would amend Section 142-309 of the Land Development Regulations (LDR's) of the City Code (Washington Avenue Overlay), to modify the regulations related to co-living and micro-unit development. Specifically, the ordinance extends the timeframe to obtain a building permit for co-living or micro residential unit projects to September 1, 2027, from the current date of March 1, 2023.

Due to challenges faced with providing the required amenity space for co-living projects, the amendment provides that restaurants, bars, or cafes on the ground floor may now count toward the amenity space requirements but cannot exceed 50 percent of the total amenity space required. The amendment also provides that exterior windows for co-living, or micro units may now contain laminated windows, in addition to the option for double-pane glass.

The proposed Ordinance creates a "**South Washington Avenue**" area, between 6<sup>th</sup> Street and 15<sup>th</sup> Street, and a "**North Washington Avenue**" area, between 15<sup>th</sup> Street and 16<sup>th</sup> Street, for the purposes of creating distinct co-living regulations for each area.

The "**South Washington Avenue**" area is where the existing co-living regulations apply. Portions of the current Washington Avenue co-living regulations that are only applicable in this area were moved to a new subsection (6), including the requirement that co-living units only be located on the west side of Washington Avenue, and on a site that fronts on a street with an RM-1 or RO zoning designation.

The proposed changes primarily affect the "**North Washington Avenue**" area. Building co-living units was previously not possible in this area and the proposed regulations provide that co-living units would be permitted on both sides of Washington Avenue. The Ordinance also provides the following restrictions for developments that contain co-living units:

- a. Hotels, suite hotel, apartment hotel and/or hostels shall be prohibited.
- b. The property owner shall submit a covenant running with the land, in a form acceptable to the City Attorney, agreeing to the following:

1. A minimum of 20 percent of the total number of co-living or micro residential units shall be set aside for workforce housing, as defined in Chapter 58, Article VI of this Code.
  2. The minimum rental of any co-living or micro residential unit shall be for a period of no less than three months and one day.
- c. The percentage of maximum floor area for co-living or micro units within a development has been increased from 50% to 85%.
- d. No variances are permitted from this section.

The proposed Ordinance would slightly expand the area where co-living units can be built in the City. Co-living is a housing type that is becoming more common throughout many of the country's urban areas and is considered more attainable due to the smaller square footages permitted for each unit. Given the housing affordability issues that the City is facing, co-living units are an option that can assist the City in addressing this problem.

Also, since the proposed Ordinance contains income limits for 20 percent of the units built in the "North Washington Avenue" area, these units are expected to assist in providing housing that is attainable to the City's workforce. Overall staff is highly supportive of the proposed amendment and recommends that the Ordinance be transmitted to the City Commission with a favorable recommendation.

#### **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.

**Washington Avenue Overlay — Co-Living Amendments**

**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 5, ENTITLED "CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT," BY AMENDING BY AMENDING SECTION 142-309, ENTITLED "WASHINGTON AVENUE DEVELOPMENT REGULATIONS AND AREA REQUIREMENTS," TO EXTEND THE TIME TO OBTAIN A BUILDING PERMIT FOR CO-LIVING OR MICRO RESIDENTIAL UNITS AND TO ADD REGULATIONS FOR THE EAST SIDE OF WASHINGTON AVENUE WITHIN THE OVERLAY; AND PROVIDING FOR CODIFICATION, REPEALER, 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**, previously, pursuant to the input and recommendations of the Mayor's Washington Avenue Blue Ribbon Task Force, the City adopted development regulations specific to Washington Avenue; and

**WHEREAS**, the City reviewed the condition of properties located along Washington Avenue, in light of concerns raised by local residents, property owners, and businesses; and

**WHEREAS**, various constituents have expressed concerns regarding the deterioration of the area; and

**WHEREAS**, residents, property owners, and businesses are concerned with the quality of life and condition of the streets within the portions of the Flamingo Park Historic District and the National Register Historic District along Washington Avenue; and

**WHEREAS**, the City studied various mechanisms for improving the quality of life and quality of businesses within the area; and

**WHEREAS**, the City subsequently adopted Ordinance 2019-4312, as amended, which immediately incentivized new business development, including two new hotels and a new co-living project with an office component; and

**WHEREAS**, this has improved the quality of life and viability of new businesses within the Washington Avenue neighborhood; and

**WHEREAS**, to allow additional time for projects to obtain building permits, the City finds it in the best interest to extend the sunset of time for projects proposing co-living or micro residential units; and

**WHEREAS**, the City, with the input of residents, property owners, and businesses. determined that co-living and micro residential units would also be beneficial development incentive on the east side of Washington Avenue within a subarea of the Overlay in accordance with a list of specific safeguards; and

**WHEREAS**, the amendments set forth below provide additional time and include regulations on the east side of Washington Avenue, which in turn, will continue to improve the quality of life of the Washington Avenue neighborhood.

**NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:**

**SECTION 1.** Chapter 142, "Zoning Districts and Regulations," Article II, "District Regulations," Division 5, "CD-2 Commercial, Medium Intensity District," is hereby amended as follows:

**Sec. 142-309. - Washington Avenue development regulations and area requirements.**

The following regulations shall apply to properties that front Washington Avenue between 6th Street and 15th Street, referred herein as "South Washington Avenue", and between 15th Street and 16th Street, referred herein as "North Washington Avenue"; where there is conflict within this division, the criteria below shall apply:

\* \* \*

(5) Co-living or micro residential units are permitted in South Washington Avenue and North Washington Avenue subject to the following regulations:

a. For co-living or micro residential units, the minimum unit size may be 275 square feet, provided that a minimum of 20 percent of the gross floor area consists of amenity space on the same unified development site. Amenity space includes the following types of uses: Common area kitchens; club rooms; business center; retail; screening rooms; fitness center; wellness center; spas; gyms; pools; pool decks; roof decks, restaurant, bar or cafe ~~above the ground floor~~; and other similar uses whether operated by a condominium or cooperative association or another operator. Fitness centers, wellness centers, spas, and gyms located on the ground floor shall be open to the public. Restaurants, bars, or cafes on the ground floor shall count towards no more than 50 percent of the total amenity space required. ~~not count toward the amenity space requirements set forth herein.~~ These amenities may be combined with the amenities for hotel units on the same unified development site, provided that residents and hotel guests have access to such amenities.

~~b. Within the same unified development site, office uses are provided with a minimum of 10,000 square feet shall be provided.~~

~~c. b.~~ Each unit shall be fully furnished and shall have an individual bathroom.

~~d. c.~~ All one-bedroom co-living units shall have a washer and dryer machine located within the unit, and co-living units with two or more bedrooms shall, at a minimum, install a washer and dryer in the common area of the unit.

~~e.~~ d. Each co-living unit may contain a maximum of six bedrooms.

~~f.~~ Co-living units may only be located on the west side of Washington Avenue. In addition, the western lot line of the unified development site must front on a street with an RM-1 or RO zoning designation.

~~g.~~ e. A maximum of 50 percent of the floor area within the unified development site may consists of co-living or micro units.

~~h.~~ f. The owner must obtain a building permit for the co-living or micro residential units by ~~March 1, 2023~~ September 1, 2027.

~~i.~~ g. Formula commercial establishments and formula restaurants, as defined in section 114-1, are prohibited on a unified development site with co-living or micro units.

~~j.~~ h. The owner/operator shall submit a covenant running with the land, in a form acceptable to the city attorney, agreeing that any owner/operator of co-living or micro units within the unified development site shall be obligated to clean and maintain (or arrange to have cleaned and maintained) each unit.

~~k.~~ i. The owner/operator shall submit a covenant running with the land, in a form acceptable to the city attorney, agreeing that any owner/operator of co-living or micro units within the unified development site shall be required to perform background screening investigations of all tenants of co-living or micro units.

~~l.~~ j. Any owner/operator of co-living or micro units must provide onsite security guards 24 hours a day, seven days a week.

~~m.~~ k. All exterior windows in any hotel, co-living, or micro units on the unified development site shall contain double-pane glass and/or laminated windows.

~~n.~~ l. Ground floor uses fronting on Washington Avenue shall be limited to retail, restaurant, bar, or gym/fitness center. Residential uses fronting Washington Avenue shall be prohibited on the ground floor, except for the lobby and any required vertical circulation.

~~o.~~ m. Each co-living unit must include a dining, kitchen, and living area, unless a dining, kitchen, and living area is provided on the same floor.

~~p.~~ n. A wellness center shall be provided within a unified development site containing co-living or micro units, which wellness center shall have both self-service and personal training offerings such as strength training, yoga, stretching, recovery, mindfulness, cardiovascular equipment, and nutritional planning.

No variances shall be permitted from the provisions of this subsection (5).



(6) In addition to the foregoing, the following regulations apply only to Co-living or micro residential units in South Washington Avenue:

- a. Within the same unified development site, office uses with a minimum of 10,000 square feet shall be provided.
- b. Co-living units may only be located on the west side of Washington Avenue. In addition, the western lot line of the unified development site must front on a street with an RM-1 or RO zoning designation.
- c. A rooftop seating area, pool, and garden shall be provided within the unified development site.

No variances shall be permitted from the provisions of this subsection (6).

(7) In addition to the foregoing, for development projects in North Washington Avenue containing co-living or micro residential units, the following additional regulations shall apply:

- a. Hotel, suite hotel, apartment hotel and/or hostels shall be prohibited.
- b. The property owner shall submit a covenant running with the land, in a form acceptable to the City Attorney, agreeing to the following:
  - 1. A minimum of 20 percent of the total number of co-living or micro residential units shall be set aside for workforce housing, as defined in Chapter 58, Article VI of this Code.
  - 2. The minimum rental of any co-living or micro residential unit shall be for a period of no less than three months and one day.
- c. A development project that complies with the forgoing regulations may have a maximum 80 percent floor area consisting of co-living or micro units.

No variances shall be permitted from the provisions of this subsection (7).

(68) For lots that have a frontage that is greater than 100 feet, the following shall apply:

- a. Maximum building length. Unless otherwise approved by the historic preservation board at its sole discretion, no plane of a building, above the ground floor façade facing Washington Avenue, shall continue for greater than 100 feet without incorporating an offset of a minimum five feet in depth from the setback line. The total offset widths shall total no less than 20 percent of the entire building frontage.
- b. Physical separation between buildings. Unless otherwise approved by the historic preservation board at its sole discretion, a physical separation must be provided between buildings greater than 200 feet in length and at/or above 35 feet in height from the ground floor. Notwithstanding the foregoing, for building sites with a lot frontage in excess of 500

feet, no physical separation is required if: (i) the length of the building at/or above 35 feet in height from the ground floor does not exceed 50 percent of the length of the frontage of the property; and (ii) the offsets required in subsection (a), above, are a minimum of 20 feet in depth from the setback line and the combined offset widths total no less than 30 percent of the entire building frontage.

**SECTION 2. CODIFICATION.**

It is the intention of the Mayor and City Commission of the City of Miami Beach, 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, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and, the word "ordinance" may be changed to "section", "article", or other appropriate word.

**SECTION 3. REPEALER.**

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

**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.

\_\_\_\_\_  
Dan Gelber, Mayor

ATTEST:

\_\_\_\_\_  
Rafael E. Granado, City Clerk

APPROVED AS TO FORM  
AND LANGUAGE  
AND FOR EXECUTION

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

\_\_\_\_\_  
Date

First Reading: \_\_\_\_\_, 2022

Second Reading: \_\_\_\_\_, 2023

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