MIAMIBEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Commissioner Laura Dominguez
DATE: March 27, 2023

SUBJECT: REFERRAL TO THE LAND USE AND SUSTAINABILITY COMMITTEE - DISCUSS PROPOSED LIMITED APPLICABILITY CLAUSE FOR REGULATIONS ON TRANSIENT USES (INCLUDING BED AND BREAKFASTS) IN THE WEST AVENUE BAYFRONT OVERLAY.

RECOMMENDATION

Please place the above referral on the March 27, 2023 City Commission meeting agenda as a referral to the Land Use and Sustainability Committee ("LUSC"). I would like the LUSC to consider the attached proposed amendment to the West Avenue Bayfront Overlay regulations. Specifically, the amendment would exempt from the prohibition on bed and breakfasts, which was adopted by the City Commission in September of 2021, any existing property which, as of October 1, 2021, had a building permit process number for a transient use, including bed and breakfast.

SUPPORTING SURVEY DATA

n/a

FINANCIAL INFORMATION

n/a

Applicable Area

Not Applicable

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?

Yes

Does this item utilize G.O. Bond Funds?

No

Strategic Connection

Non-Applicable

Legislative Tracking

Commissioner Laura Dominguez

ATTACHMENTS:

Description

- Bed and Breakfast Amendment

CHAPTER 142. ZONING DISTRICTS AND REGULATIONS
ARTICLE III. OVERLAY DISTRICTS
DIVISION 5. WEST AVENUE BAY FRONT

Section 142-842 - Location and purpose.

(a) The subject overlay district shall be bounded by the south bulkhead line of the Collins Canal on the north, the south side of 11th Street inclusive of Lot 8, Block 84, on the south, and between the centerline of Alton Court on the east and the Biscayne Bay bulkhead line on the west.

(b) The purpose in identifying this subject overlay district is to provide district specific land development regulations and land-use incentives to property owners and developers who retain existing structures and/or provide new infill structures that maintain the low-scale, as-built character predominant in the existing low intensity (RM-1) and medium intensity (RM-2) underlying residential zoning district of the subject overlay area.

(c) The intent of the overlay regulations of this division relating to minimum and maximum developable lots within the underlying RM-1 zoning district shall be to bring into conformance existing undersized lot configurations that currently do not meet code and to further regulate new infill development upon aggregated lots to an incremental lot configuration of generally one or two contiguous parcels aggregated along existing side property lines.

(d) The overlay regulations of this division relating to residential offices or bed and breakfast inns shall only apply to existing low scale properties, which were designed and constructed to be no more than three stories in height and are located in the subject overlay district.

Applicability Clause: Any existing property which by October 1, 2021, had a building permit process number for a transient use, including bed and breakfast, shall be exempt from the limitations of the bed and breakfast use as amended by the City Commission on September 17, 2021 and reflected in subsection (d). If the permit is abandoned then the business must be in full compliance of the ordinance.

Section 142-843 – Compliance with Regulations.

(a) The following overlay regulations shall apply to those areas of the subject district which have an underlying zoning designation of (RM-1) residential multifamily low intensity and (RM-2) residential multifamily medium intensity. In particular, the overlay regulations shall allow the additional main permitted uses specified in this division, in the RM-1 and RM-2 of the subject area only if all the required criteria herein have been satisfied.

(b) As specified in chapter 118, article VI, design review regulations, applications for a building permit shall be reviewed and approved in accordance with design review procedures.

(c) Residential offices or bed and breakfast inn may only be permitted in structures that have been rehabilitated in general accordance with the U.S. Secretary of the Interior's standards for rehabilitation of historic buildings as determined by the planning director or his designee, or in buildings that have been substantially rehabilitated or where a request for a building permit will result in the building being substantially rehabilitated.

(d) All development regulations and setback requirements in the underlying land-use zoning district shall remain. However, a residential office or bed and breakfast may only be established where:

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Applicability Clause. Any existing property which by October 1, 2021, had a building permit process number for a transient use, including bed and breakfast, shall be exempt from the limitations of the bed and breakfast use as amended by the City Commission on September 17, 2021 and reflected in subsections (c) and (d). If the permit is abandoned then the business must be in full compliance of the ordinance.

Sec. 142-845. Legal nonconforming and other transient uses.

(a) Bed and breakfast inns, suite hotels and hostels shall be prohibited in the subject overlay area.

(b) Existing, legal nonconforming suite hotels and bed and breakfast inns, located within the overlay, shall not be permitted to expand any existing structure, operation, or building footprint, in any manner whatsoever. Additionally, such legal nonconforming uses shall adhere to the following regulations:

(1) Accessory uses, including, but not limited to, dining halls, restaurants, cafes, retail, personal service, alcoholic beverage establishments, dance halls, entertainment establishments, neighborhood impact establishments, outdoor entertainment establishments, and open air entertainment establishments shall be prohibited.

(2) The building identification sign for a bed and breakfast inn shall be the same as allowed for an apartment building in the underlying zoning district in which it is located.

(3) The building(s) shall have central air conditioning or flush-mounted wall units; however, no air conditioning equipment may face a street or the Bay.

(4) The maximum amount of time that any person other than the owner may stay in a bed and breakfast inn during a one-year period shall not exceed six months.

(c) Existing, legal nonconforming bed and breakfast inns shall be subject to the following conditions:

(1) The owner/operator of the bed and breakfast inn shall permanently reside in the structure.

(2) The structure shall have originally been constructed as a single-family residence. The structure may have original auxiliary structures such as a detached garage or servant's residence that may or may not be used as part of the inn.

(3) The structure shall maintain main public rooms (living room/dining room) for use of the guests.

(4) Original auxiliary structures, such as detached garages and servants' residences, may be converted to guestrooms or other appropriate use. New bedrooms constructed shall have a minimum size of 200 square feet and shall have a private bathroom.

(5) There shall be no cooking facilities/equipment in guestrooms. One small refrigerator with maximum capacity of five cubic feet shall be permitted in each guestroom. All cooking equipment, which may exist, shall be removed from the structure with the exception of the single main kitchen of the house.

(6) The bed and breakfast inn may serve meals to registered guests and their visitors only. Permitted meals may be served in common rooms, guestrooms or on outside terraces (see subsection 142-1401(9)). The meal service is not considered an accessory use and is not entitled to an outside sign.

(7) Permitted meals may be served in areas outside of the building under the following conditions:

a. The area shall be landscaped and reviewed under the design review process. Landscape design shall effectively buffer the outdoor area used for meals from adjacent properties and the street.

b. All meals served outdoors shall be prepared for service from inside facilities. Except for the use of a barbecue, all outdoor preparation, cooking as well as outdoor refrigeration and storage of food and beverages shall be prohibited.

Applicability Clause. Any existing property which by October 1, 2021, had a building permit process number for a transient use, including bed and breakfast, shall be exempt from the limitations of the bed and breakfast use, as amended by the City Commission on September 17, 2021. If the permit is abandoned then the business must be in full compliance of the ordinance.