

# MIAMI BEACH

## PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: May 23, 2023

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: **PB23-0592. 6th Street Overlay – CPS-2 Development Regulations.**

### **RECOMMENDATION**

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

### **HISTORY**

On July 28, 2021, at the request of Commissioner Steven Meiner, the City Commission referred a discussion item (Item C4 T) pertaining to the creation of a 6<sup>th</sup> Street Overlay between Washington Avenue and Alton Road, to the Land Use and Sustainability Committee (LUSC). On September 14, 2021, the LUSC discussed the item and continued it to October 19, 2021.

On October 19, 2021, the item was deferred to the December 2021 LUSC meeting. The December 2021 LUSC meeting did not take place and the item was automatically deferred to the first available meeting of 2022.

On March 4, 2022, the LUSC discussed and continued the item to the May 13, 2022 LUSC meeting with the following direction:

1. Engage in follow-up outreach to the affected stakeholders and provide a summary of the applicable comments and input.
2. Modify the northeast boundary of the overlay to remove Washington Avenue.

On May 13, 2022, the item was deferred to the June 6, 2022, LUSC meeting, with no discussion. On June 6, 2022, the item was deferred to the July 7, 2022, LUSC meeting, with no discussion. On July 7, 2022, the item was deferred to the September 28, 2022 LUSC meeting, with no discussion.

On September 28, 2022, the LUSC discussed the proposal, including additional revisions to the draft overlay, and continued the item to the November 18, 2022 LUSC meeting with direction to further explore allowable uses within the proposed overlay, as well as hold a publicly noticed

community meeting in the neighborhood. On November 18, 2022, the item was deferred to the January 25, 2023, LUSC meeting, with no discussion.

On December 19, 2022, the city held an evening public meeting at the Miami Beach Police Department Community Room within the Flamingo Park neighborhood to discuss the proposed overlay. The hybrid meeting was advertised and well attended by residents and property owners both in person and via Zoom.

On January 25, 2023, the item was discussed and continued to the March 1, 2023 LUSC with direction to the Administration to develop incentives to transfer allowable intensity from the south side of 6<sup>th</sup> Street closer to 5<sup>th</sup> Street. On March 1, 2023, the LUSC recommended that the City Commission refer the Administration version of the proposed overlay ordinance to the Planning Board.

On March 27, 2023, the City Commission referred the attached ordinance to the Planning Board (Item C4 B).

On April 25, 2023, the Planning Board discussed the item and continued it to the May 23, 2023 meeting.

#### **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 improves the scale of development by providing for better transitions between the 5<sup>th</sup> Street corridor and the Flamingo Park residential neighborhood, as such the amendment 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 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 ensure that there are appropriate transitions in both use and scale between 5<sup>th</sup> Street and 6<sup>th</sup> Street, 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 provide safeguards to the quality of life of residents living in the Flamingo Park neighborhood.

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.

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

**Consistent** – The proposed change will improve penetration of air and light and air to the Flamingo Park neighborhood.

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 should not impact 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.

**BACKGROUND**

The area between 5<sup>th</sup> and 6<sup>th</sup> Street, from Washington Avenue to Alton Road, is currently zoned C-PS2 (commercial performance general mixed-use). The C-PS2 district permits a range of business, commercial, office and hotel use, as well as medium density residential development.

As noted on the attached map, the north side of 6<sup>th</sup> Street between Washington Avenue and Alton Road is comprised of the following zoning districts: RM-2, residential multifamily medium intensity (between Washington Avenue and Pennsylvania Court); GU, government use (between Meridian Avenue and Jefferson Avenue); CD-2, commercial medium intensity (between Lenox Court and Alton Road), with the remainder RM-1, residential multifamily low intensity.

The south side of 6<sup>th</sup> Street between Washington Avenue and Alton Road is comprised of C-PS2, general mixed-use commercial (between Washington Avenue and Alton Road) The center line of 6<sup>th</sup> Street between Washington Avenue and Lenox Court serves as the boundary for the Flamingo Park Historic District to the north and the Ocean Beach Historic District to the south.

The Flamingo Park neighborhood is bounded on the south by 6<sup>th</sup> Street, and on the north by Lincoln Lane south, and is generally between Alton Road and Washington Avenue. The Flamingo Park neighborhood is within a designated local historic district, and is composed predominantly of low scale, multi-family residential apartment buildings.

## **ANALYSIS**

The low scale residential neighborhood within Flamingo Park is currently buffered from the higher intensity zoning CD-2 district on the west (Washington Avenue) by the RO (Residential Office) zoning district on Pennsylvania and Drexel Avenues. Additionally, in 2014, the Alton Road Historic District Buffer Overlay was created along the east side of Alton Road, in order to create a transition zone between that CD-2 commercial district. Over time, these transition areas have helped to mitigate the impacts of higher intensity commercial uses adjacent to lower intensity residential uses on the east and west sides of the Flamingo Park neighborhood.

Recently there have been several large, high intensity projects approved within the C-PS2 area between 5<sup>th</sup> and 6<sup>th</sup> streets, from Alton Road to Meridian Avenue. Most recently, a new hotel with a rooftop amenity deck and accessory outdoor café was approved for the property located at the southeast corner of 6<sup>th</sup> Street and Lenox Avenue. Given that there are a number of non-contributing properties, including several surface parking lots, in this area, as well as the designation of 5<sup>th</sup> Street as a major transit corridor, it is likely the City will see an increase in new development proposals in this C-PS2 area.

In order to ensure that future development proposals within the C-PS2 area north of 5<sup>th</sup> Street are compatible with and sensitive to the established, low scale area of Flamingo Park north of 6<sup>th</sup> Street, additional development regulations have been proposed as part of a new 6<sup>th</sup> Street Overlay. The attached draft ordinance amends the Land Development Regulations of the City Code (LDRs) creates the 6<sup>th</sup> Street Overlay and is specific to properties and uses that front on the south side of 6<sup>th</sup> Street, as well as all properties between 5<sup>th</sup> and 6<sup>th</sup> Street, from Lenox Avenue to Euclid Avenue.

The proposed overlay provides a meaningful buffer along the 6<sup>th</sup> Street corridor and has been carefully created, as the make-up of existing properties between 5<sup>th</sup> and 6<sup>th</sup> Streets is unique and includes variations in overall lot sizes and unified development sites. The intention of the overlay regulations is to foster a more compatible relationship in terms of scale, massing and land uses between the 6<sup>th</sup> Street corridor and the Flamingo Park residential neighborhood.

Also, this area contains several less than desirable uses, including surface parking lots, gas stations and other automobile related uses. The proposed overlay also considers the ability for multiple lots to be developed in a tangible manner. Attached are maps showing the following:

1. Existing unified development sites (current property owners map); and
2. Existing properties with buildings classified as ‘contributing’ in the City’s historic properties database (contributing buildings map).

These maps show how dispersed the area between 5<sup>th</sup> and 6<sup>th</sup> Street is both from a property ownership and unified site standpoint. Additionally, there is no strong concentration of contributing structures along 5<sup>th</sup> Street and the mid portions of most blocks.

In light of this, the overlay regulations do not create a barrier to establishing desirable unified sites, even if some of the lots within a unified site are close to or fronting 6<sup>th</sup> Street. Additionally, as 5<sup>th</sup> Street is a dedicated transit corridor there is an opportunity to maximize the development potential of these properties, including unification efforts with properties immediately north of 5<sup>th</sup> Street. Currently there are a number of highly underutilized parcels fronting on and north of 5<sup>th</sup> Street, as well as a number of uses that would be better suited elsewhere.

The following is a summary of the attached overlay regulations:

1. The overlay would apply to properties bounded by 6<sup>th</sup> Street to the north and 5<sup>th</sup> Street to the south, between the east side of Lenox Avenue and the west side of Washington Avenue.
2. Properties with frontage on Washington Avenue as of January 1, 2022 have been removed from the overlay. However, in the future, if a lot with frontage on Washington Avenue is unified with a lot that does not have frontage on Washington Avenue, such unified site shall thereafter be subject to the overlay regulations.
3. The following shall apply to alcoholic beverage establishments within the proposed overlay:
  - a. Operations in outdoor or open-air areas of an alcoholic beverage establishment shall cease no later than 12:00 a.m., except as otherwise provided herein.
  - b. Alcoholic beverage establishments participating in the Outdoor Dining Concession Program shall not be permitted to have outdoor speakers abutting or adjacent to any public sidewalks.
  - c. Outdoor bar counters shall be prohibited within 200 feet of the south side of 6th Street.
  - d. Within 100 feet of the south side of 6th Street, outdoor restaurant and/or bar seating shall not exceed 100 seats, and only when associated with an indoor venue. Additionally, such outdoor seating shall only be permitted until 10:00 p.m. The Planning Board, pursuant to the Conditional Use criteria, may allow an increase in the number of seats, but not to exceed 200 seats.
  - e. Within 200 feet of the south side of 6th Street, outdoor restaurant and/or bar seating located above the ground floor shall not exceed 100 seats, and only when associated with an indoor venue. Additionally, such outdoor seating shall only be permitted until 10:00 p.m. Notwithstanding the foregoing, the Planning Board, pursuant to the Conditional Use criteria, may allow for the following as it pertains to outdoor restaurant and/or bar seating located above the ground floor:
    - i. For outdoor restaurant and/or bar seating located within 100 feet of the south side of 6th Street, the Planning Board may allow for an increase in the number of seats, but not to exceed 200 seats.
    - ii. For outdoor restaurant and/or bar seating that is more than 100 feet from the south side of 6th Street, but less than 200 feet from the south side of 6th Street, the Planning

Board may allow for an increase in the number of seats, but not to exceed 300 seats, as well allow for an increase in the permitted hours of operation, not to exceed 12:00 am.

4. Outdoor music, whether amplified or nonamplified, and television sets, shall be prohibited within 100 feet of the south side of 6th Street.
5. For properties with frontage on 6th Street, entry and exit doors, as well as access points (with the exception of required emergency egress) to hotels, apartment hotels and suite hotels, and food and beverage establishments serving alcohol, shall be subject to the following regulations:
  - a. Entry and exit doors, as well as access points, shall not be permitted on 6th Street.
  - b. A minimum setback of 20 feet from the south side of 6th Street, for all such entry and exit doors, as well as access points, shall be required.
  - c. For properties which contain 200 feet or more of frontage along Euclid, Meridian, Jefferson, Michigan or Lennox Avenues, all entry and exit doors, as well as access points shall be setback a minimum setback of 100 feet from the south side of 6th Street.
  - d. Subject to the approval of the Historic Preservation Board, for existing contributing structures the minimum setbacks from the south side of 6th Street may be waived or modified by the Historic Preservation Board, and the location of such entry and exit doors, and access points, may be permitted on 6th Street.
6. For properties with frontage on 6th Street, the storage or parking of vehicles above the ground level shall be setback a minimum of 100 feet from the south side of 6th Street.
7. The following uses shall be prohibited:
  - a. The sale, lease or rental of any motor vehicles, including, but not limited to, automobiles, golf carts, low-speed vehicles, mopeds, motorcycles, motorized bicycles, and motorized scooters.
  - b. Hostels.
  - c. Convenience stores.
  - d. Smoke shops and vape stores.
  - e. Package stores and the retail sale of alcohol for off premise consumption.
8. The maximum permitted height within the first two platted lots south of 6th Street shall not exceed 50 feet, regardless of property use.
9. A minimum setback of five (5') feet shall be required along all front and side facing a street

yards, in order to provide a clear pedestrian path that exceeds the width of the abutting sidewalk. This requirement may be waived by the Historic Preservation Board for portions of a property containing a contributing building.

10. If an alley exists, no front or street side curb cut shall be permitted. If no alley exists, any curb-cut required shall not exceed 12 feet in width.
11. Notwithstanding the provisions of section 142-1161 of these land development regulations, roof-top additions shall not exceed the applicable maximum building height set forth in the C-PS2 district.

Staff believes that the proposed overlay, as drafted, represents a tailored set of regulations that provides an appropriate transition area along 6<sup>th</sup> Street. The subject ordinance achieves a careful balance between protecting the quality of life for residents in the RM-1 district to the north of 6<sup>th</sup> Street, while allowing for the development and improvement of properties within the overlay south of 6<sup>th</sup> Street.

#### **UPDATE**

On April 25, 2023, the Planning Board briefly discussed and continued this item to the May 23, 2023 meeting. The Flamingo Park Neighborhood Association (FPNA) also requested that the matter be continued and that the FPNA would be providing more specific information regarding their concerns with the current draft of the ordinance. The concerns primarily relate to creating an appropriate massing transition and further limits on “high-impact commercial uses”.

In regard to an appropriate massing transition, the proposed ordinance provides for a height limit of 50 feet within the first 100 feet located south of 6<sup>th</sup> Street (first two platted lots south of fifth street) regardless of use. Currently, the height limit is 75 feet for residential and mixed-use buildings and 50 feet for commercial uses. FPNA would like to see the height restricted further. Staff has previously expressed concerns that restricting the height further would not allow sites that are entirely located within the first 100 feet south of 6<sup>th</sup> Street to fully develop based on the 2.0 FAR limit. For reference the RM-1 residential district to the north of 6<sup>th</sup> Street has a height limit of 35 feet; however, the FAR is limited to 1.25.

In regard to “high-impact commercial uses,” FPNA would like to see additional limitations placed on such uses. Staff believes that the current proposal provides significant new limits that would minimize the impacts of alcoholic beverage establishments and incentivize such uses to be closer towards 5<sup>th</sup> Street, away from the residential areas to the north.

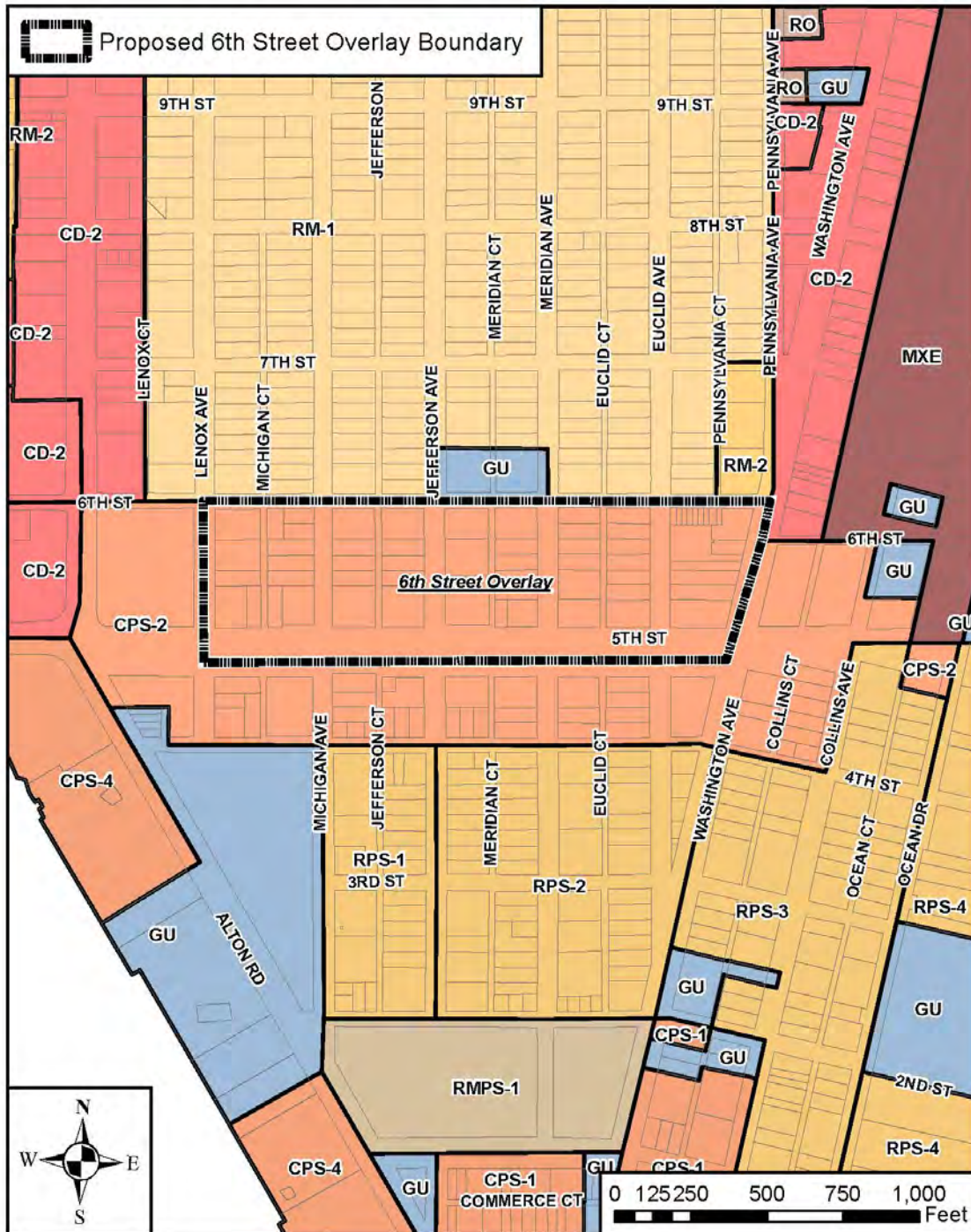
In summary, staff continues to believe that the proposed ordinance achieves a good balance between protecting the quality of life of residents north of 6<sup>th</sup> Street and the ability to develop commercial uses south of 6<sup>th</sup> Street. It is also important to note that the attached ordinance, which was also recommended by the LUSC, is the version referred to the Planning Board by the City Commission. Should the Planning Board recommend significant changes to the ordinance, a new referral by the City Commission may be required.



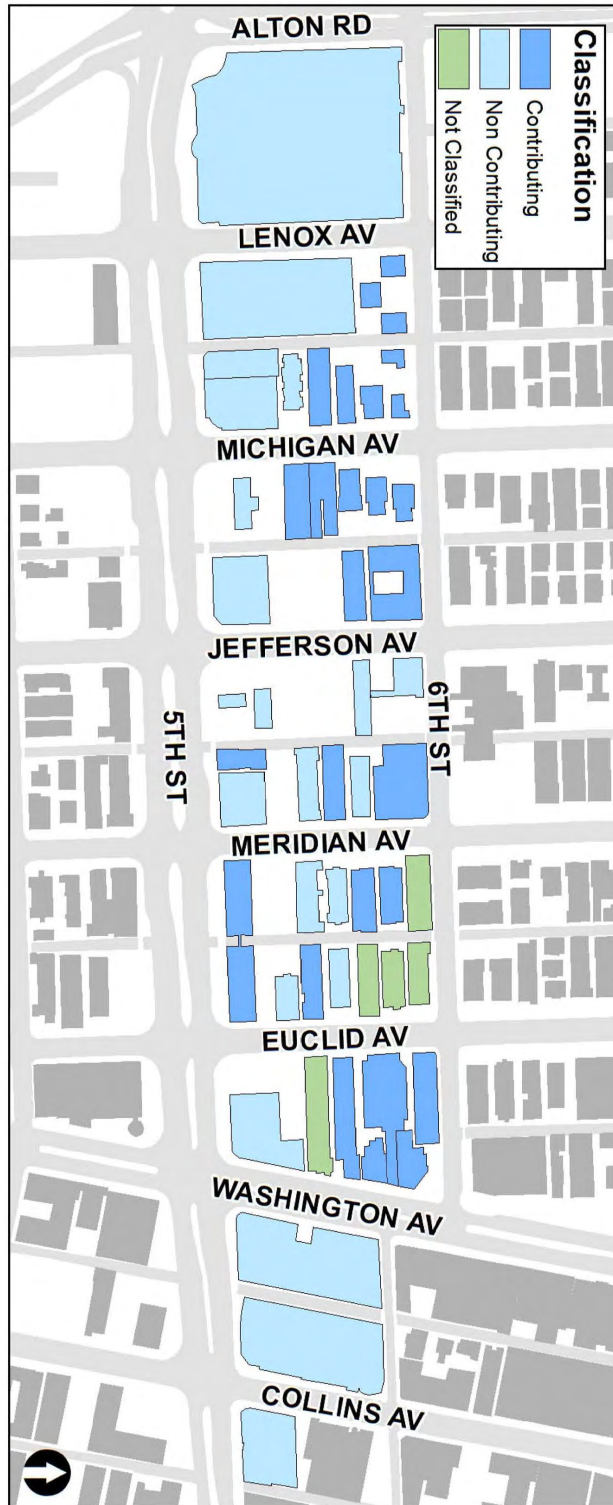
**RECOMMENDATION**

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.

## 6th Street Overlay - Zoning Districts Map



### Contributing Properties to the Flamingo Park Historic District



### Properties Under Unified Ownership



**6th Street Overlay - C-PS2 Development Regulations**

**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 18, ENTITLED "PS PERFORMANCE STANDARD DISTRICT," BY AMENDING SECTION 142-693, ENTITLED "PERMITTED USES," TO AMEND PERMITTED USES WITHIN THE C-PS2 ZONING DISTRICT; BY AMENDING SECTION 142-698, ENTITLED "COMMERCIAL PERFORMANCE STANDARD AREA REQUIREMENTS," BY AMENDING MAXIMUM PERMITTED HEIGHT WITHIN THE C-PS2 ZONING DISTRICT; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE**

**WHEREAS**, the properties located on the south side of 6<sup>th</sup> Street that area east of Lenox Avenue are located in the Flamingo Park Historic district.

**WHEREAS**, residents of the Flamingo Park Historic District have expressed concerns with recent development trends along 6<sup>th</sup> Street that have impacted their neighborhood; and

**WHEREAS**, 5<sup>th</sup> Street has been designated as a transit corridor by the Miami-Dade County SMART plan; and

**WHEREAS**, the proposed "6<sup>th</sup> Street Overlay" is intended to provide an appropriate transition between the higher intensity 5<sup>th</sup> Street commercial corridor and the Flamingo Park Historic District residential neighborhood on the north side of 6<sup>th</sup> Street, while still allowing for new development to take place; and

**WHEREAS**, the proposed "6<sup>th</sup> Street Overlay" is intended to minimize the impact of certain commercial uses on nearby residential areas; and

**WHEREAS**, these regulations will ensure that the public health, safety, welfare, and morals will be preserved; 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, "Zoning Districts and Regulations," at Article II, entitled "District Regulations," at Division 18, entitled "PS Performance Standard District" of the Land Development Regulations of the Code of the City of Miami Beach, Florida is hereby amended as follows:

**Sec. 142-693. Permitted uses.**

\* \* \*

- (b) For purposes of this section, a car wash, filling station and any use that sells gasoline, automobiles or automotive or related repair uses are considered as industrial uses and are not permitted within any R-PS or C-PS district in the redevelopment area.
- (c) For purposes of this section, pawnshops ~~and dance halls and entertainment establishments~~ are not permitted as a main permitted or accessory use within any R-PS or C-PS district south of Fifth Street.
- (d) For purposes of this section, dance halls and entertainment establishments, including outdoor entertainment establishments and open air entertainment establishments, shall not be permitted as a main permitted or accessory use within any R-PS or C-PS district, except for properties fronting directly on Washington Avenue as of January 1, 2022 and located north of Fifth Street.

\* \* \*

(j). The following additional regulations shall apply to properties located from 5th Street to 6th Street, between the east side of Lenox Avenue and the west side of Washington Avenue, within the C-PS2 district, except for those lots with frontage on Washington Avenue as of January 1, 2022; where there is conflict within this division, the following shall control:

- (1) In the event a lot with frontage on Washington Avenue is unified with a lot that does not have frontage on Washington Avenue, such unified site shall therein after be subject to the regulations herein.
- (2) The following additional regulations shall apply to alcoholic beverage establishments, whether as a main use, conditional use, or accessory use:
  - (i) Operations in outdoor or open-air areas of an alcoholic beverage establishment shall cease no later than 12:00 a.m., except as otherwise provided herein.
  - (ii) Alcoholic beverage establishments with sidewalk cafe permits shall not be permitted to have outdoor speakers abutting or adjacent to any public sidewalks.
  - (iii) Outdoor bar counters shall be prohibited within 200 feet of the south side of 6<sup>th</sup> Street.
  - (iv) Within 100 feet of the south side of 6<sup>th</sup> Street, outdoor restaurant and/or bar seating shall not exceed 100 seats, and only when associated with an indoor venue. Additionally, such outdoor seating shall only be permitted until 10:00 p.m. The Planning Board, pursuant to the Conditional Use criteria, may allow an increase in the number of seats, but not to exceed 200 seats
  - (v) Within 200 feet of the south side of 6<sup>th</sup> Street, outdoor restaurant and/or bar seating located above the ground floor shall not exceed 100 seats, and only when associated with an indoor venue. Additionally, such outdoor seating shall only be permitted until 10:00 p.m. Notwithstanding the foregoing, the Planning Board, pursuant to the Conditional Use criteria, may allow for the following as it pertains to outdoor restaurant and/or bar seating located above the ground floor:
    - a. For outdoor restaurant and/or bar seating located within 100 feet of the south side of 6<sup>th</sup> Street, the Planning Board may allow for an increase in the number of seats, but not to exceed 200 seats.
    - b. For outdoor restaurant and/or bar seating that is more than 100 feet from the south side of 6<sup>th</sup> Street, but less than 200 feet from the south side of 6<sup>th</sup> Street, the Planning Board may allow for an increase in the number of seats, but not to exceed 300 seats, as well allow for an increase in the permitted hours of operation, not to exceed 12:00 am.

(3) Outdoor music, whether amplified or nonamplified, and television sets, shall be prohibited within 100 feet of the south side of 6<sup>th</sup> Street.

(4) For properties with frontage on 6<sup>th</sup> Street, with the exception of required emergency egress, all entry and exit doors, as well as access points to hotels, apartment hotels and suite hotels, and food and beverage establishments serving alcohol, shall not be permitted on 6<sup>th</sup> Street. Additionally, a minimum setback of 20 feet from the south side of 6<sup>th</sup> Street, for all such entry and exit doors, as well as access points, shall be required. Notwithstanding the foregoing, subject to the approval of the Historic Preservation Board, the location of such entry and exit doors, and access points, may be permitted on 6<sup>th</sup> Street for existing contributing structures.

(5) For properties with frontage on 6<sup>th</sup> Street, which contain 200 feet or more of frontage along Euclid, Meridian, Jefferson, Michigan or Lennox Avenues, with the exception of emergency egress, all entry and exit doors, as well as access points to hotels, apartment hotels and suite hotels, and food and beverage establishments serving alcohol, shall not be permitted on 6<sup>th</sup> Street. Additionally, a minimum setback of 100 feet from the south side of 6<sup>th</sup> Street, for all such entry and exit doors, as well as access points, shall be required. Notwithstanding the foregoing, subject to the approval of the Historic Preservation Board, the location of such entry and exit doors, and access points, may be permitted on 6<sup>th</sup> Street for existing contributing structures, and the minimum setback of 100 feet from the south side of 6<sup>th</sup> Street may be waived or modified by the Historic Preservation Board.

(6) For properties with frontage on 6<sup>th</sup> Street, the storage or parking of vehicles above the ground level shall be setback a minimum of 100 feet from the south side of 6<sup>th</sup> Street.

(7) The following uses shall be prohibited:

- (i) The sale, lease or rental of any motor vehicles, including, but not limited to, automobiles, golf carts, low-speed vehicles, mopeds, motorcycles, motorized bicycles, and motorized scooters.
- (ii) Hostels.
- (iii) Convenience stores.
- (iv) Smoke shops and vape stores.
- (v) Package stores and the retail sale of alcohol for off premise consumption.

\* \* \*

**Sec. 142-698. Commercial performance standard area requirements.**

\* \* \*

(e) Notwithstanding the above, the following regulations shall apply to properties located between 5th Street and 6th Street, within the C-PS2 district, except for those lots with frontage on Washington Avenue as of January 1, 2022; where there is a conflict within this division, the following shall control:

- (1) In the event a lot with frontage on Washington Avenue is unified with a lot that does not have frontage on Washington Avenue, such unified site shall therein after be subject to the regulations herein.
- (2) The maximum permitted height within the first two platted lots south of 6th Street shall not exceed 50 feet, regardless of property use.

- (3) A minimum setback of five (5') feet shall be required along all front and side facing a street yards, in order to provide a clear pedestrian path that exceeds the width of the abutting sidewalk. This requirement may be waived by the Historic Preservation Board for portions of a property containing a contributing building.
- (4) If an alley exists, no front or street side curb cut shall be permitted. If no alley exists, any curb-cut required shall not exceed 12 feet in width.
- (5) Notwithstanding the provisions of section 142-1161 of these land development regulations, roof-top additions shall not exceed the applicable maximum building height setforth in the C-PS2 district.

**SECTION 2. REPEALER.**

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith be and the same 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 2023

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

ATTEST:

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

APPROVED AS TO FORM AND  
LANGUAGE AND FOR EXECUTION

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

\_\_\_\_\_  
Date

First Reading: \_\_\_\_\_, 2023

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

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