

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: **PB23-0584. Residential Office Regulations in CD-2 Districts.**

RECOMMENDATION

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

HISTORY

On February 1, 2023, at the request of Commissioner Laura Dominguez, the City Commission referred the proposed amendment (item C4 B), to the Land Use and Sustainability Committee (LUSC) and the Planning Board.

On March 1, 2023, the LUSC deferred the item to the April 19, 2023 meeting. On April 19, 2023, the LUSC deferred the item to the May 10, 2023 meeting. On May 10, 2023 the LUSC discussed the proposal and recommended in favor of the proposed ordinance.

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 does modify the scale of development, 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 impact to the floor area ratio (FAR) is minimal.

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 facilitate live and work options to enhance the ability for residents to live, work, and play in the same area 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 should not adversely affect living conditions in the 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 impact to the development capacity is minimal.

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

Consistent – The proposed change will not affect 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.**

Consistent – The proposal should improve the resiliency of the City with respect to sea level rise by encouraging development that is more resilient.

- (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 CD-2 (Commercial, Medium Intensity) zoning district permits a range of medium intensity commercial uses, including office, retail, restaurants, and personal service, as well as residential and hotel uses. The maximum floor area ratio (FAR) permitted in the CD-2 district is 1.5, and up to .5 bonus FAR is available for residential or hotel uses. This .5 bonus was originally drafted to encourage and incentivize a mix of residential or hotel uses within the CD-2 district.

ANALYSIS

The Land Development Regulations of the City Code (LDRs) defines live-work as follows:

Live-work shall mean residential dwelling unit that contains a commercial or office component which is limited to a maximum of 70 percent of the dwelling unit area.

Although live-work units are a hybrid of an office and residential unit, under the CD-2 regulations,

they do not qualify as a residential use for purposes of the .5 FAR bonus. The proposed ordinance creates a new definition for residential office use in Section 114-1 as follows:

Residential office unit shall mean a residential dwelling unit which may be used jointly for residential living space together with office use, provided that such unit includes living space that is contiguous with the office space and contains separate bedrooms, as well as an abutting bathroom, full kitchen with a cook-top, refrigerator, sink and range, as well as a dining area. Additionally, the following shall be applicable:

1. For units that are 4,000 square feet or less in size, at least 1,000 square feet shall be dedicated to residential use and contain a minimum of one bedroom.
2. For units that are greater than 4,000 square feet in size, at least 25% of the unit shall be dedicated to residential use and contain a minimum of two bedrooms.

Additionally, the following revised text amendment has been proposed to allow for residential office to be included in the .5 FAR bonus in the CD-2 district:

Section 142-307 - Development Regulations (CD-2)

* * *

(d) Mixed use buildings: Calculation of floor area ratio:

* * *

(1) Floor area ratio. When more than 25 percent of the total area of a building is used for residential, residential office, or hotel units, the floor area ratio range shall be as set forth in the RM-2 district. New development or redevelopment that includes residential office units may only be eligible for the floor area ratio range as set forth in the RM-2 district in the event that the property owner elects, at the owner's sole discretion, to voluntarily execute a restrictive covenant running with the land, in a form approved by the city attorney affirming that, in perpetuity, none of the residential office units on the property shall be leased or rented for a period of less than six months and one day.

The attached draft ordinance contains both amendments.

Currently, either live-work units, or the proposed new definition of residential office units, can occupy up to 1.5 FAR in buildings located in the CD-2 district. However, since both types of units are separate and apart from residential and hotel uses, they are not currently eligible for the .5 FAR bonus.

Staff is supportive of the proposed LDR amendment, as it would further the city's goals of promoting live-work options for residents. However, it is important to note that by their nature, residential office units are potentially less of a residential use and could be more oriented toward office use, as up to 75% of the unit could be occupied by office space. This is germane to the discussion as the proposed amendment would allow the .5 FAR bonus in the CD-2 district to be shifted away from purely residential or hotel uses and used for a more office-oriented hybrid.

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.

CD-2 Live Work Amendment

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 114 OF THE CITY CODE ENTITLED “DEFINITIONS” BY CREATING AND DEFINING “RESIDENTIAL OFFICE UNIT,” AND 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 SECTION 142-307, ENTITLED “SETBACK REQUIREMENTS,” TO CLARIFY THAT RESIDENTIAL OFFICE UNITS ARE AMONG THE RESIDENTIAL USES THAT QUALIFY FOR THE FLOOR AREA RATIO AS SET FORTH IN THE RM-2 DISTRICT, 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, the CD-2 commercial, medium intensity district provides for commercial activities, services, offices and related activities which serve the entire city; and

WHEREAS, diverse combinations of residential lifestyles and unique commercial services are encouraged in mixed use development and in certain neighborhoods and town center districts in furtherance of the City’s public policy; and

WHEREAS, in the case of mixed use buildings in the CD-2 commercial, medium intensity district, section 142-307(d)(1) of the City’s code provides that when more than 25 percent of the total area of a building is used for residential or hotel units, the floor area ratio range shall be as set forth in the RM-2 district; and

WHEREAS, the City’s code presently provides no definition for “residential office unit” that refers to a residential dwelling unit that contains a commercial or office component and certain defined minimum residential features and characteristics; and

WHEREAS, in order to encourage dynamic mixed use development and avoid possible uncertainty and ambiguity, the creation of “residential office unit” and confirmation that residential office units are residential units for purposes of FAR calculation in the CD-2 commercial, medium intensity district, is necessary and desirable; and

WHEREAS, the amendments set forth below are necessary to clarify that residential office units are residential units for purposes of section 142-307 in accordance with all of the above objectives.

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

SECTION 1. Chapter 114, "General Provisions," at Section 114-1 entitled "Definitions," of the Land Development Regulations of the Code of the City of Miami Beach, Florida is hereby amended as follows:

Sec. 114-1. –Definitions.

The following words, terms and phrases when used in this subpart B, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

* * * *

Residential office unit shall mean a residential dwelling unit which may be used jointly for residential living space together with office use, provided that such unit includes living space that is contiguous with the office space and contains separate bedrooms, as well as an abutting bathroom, full kitchen with a cook-top, refrigerator, sink and range, as well as a dining area. Additionally, the following shall be applicable:

1. For units that are 4,000 square feet or less in size, at least 1,000 square feet shall be dedicated to residential use and contain a minimum of one bedroom.

2. For units that are greater than 4,000 square feet in size, at least 25% of the unit shall be dedicated to residential use and contain a minimum of two bedrooms.

SECTION 2. Chapter 142, "Zoning Districts and Regulations," at Article II, entitled "District Regulations," at Division 5, entitled "CD-2 Commercial, Medium Intensity District" of the Land Development Regulations of the Code of the City of Miami Beach, Florida is hereby amended as follows:

Sec. 142-307. – Setback requirements.

(a)The setback requirements for the CD-2 commercial, medium intensity district are as follows:

	Front	Side, Interior	Side, Facing a Street	Rear
At-grade parking lot on the same lot	5 feet	5 feet	5 feet	5 feet If abutting an alley—0 feet
Subterranean, pedestal and tower (non-oceanfront)	0 feet	10 feet when abutting a residential district, otherwise none. Notwithstanding the foregoing,	10 feet when abutting a residential district, unless separated by a street or	5 feet 10 feet when abutting a residential district unless separated by a street or

		rooftop additions to contributing structures in a historic district and individually designated historic buildings may follow existing nonconforming rear pedestal setbacks.	waterway otherwise none	waterway in which case it shall be 0 feet. Notwithstanding the foregoing, rooftop additions to non-oceanfront contributing structures in a historic district and individually designated historic buildings may follow existing nonconforming rear pedestal setbacks.
Subterranean, pedestal and tower (oceanfront)	Pedestal—15 feet Tower—20 feet + 1 foot for every 1 foot increase in height above 50 feet, to a maximum of 50 feet, then shall remain constant.	Notwithstanding the foregoing, rooftop additions to contributing structures in a historic district and individually designated historic buildings may follow existing nonconforming rear pedestal setbacks.	10 feet	25% of lot depth, 75 feet minimum from the bulkhead line whichever is greater

(b) The tower setback shall not be less than the pedestal setback.

(c) Parking lots and garages: If located on the same lot as the main structure the above setbacks shall apply. If primary use the setbacks are listed in subsection 142-1132(n).

(d) Mixed use buildings: Calculation of floor area ratio:

(1) Floor area ratio. When more than 25 percent of the total area of a building is used for residential, residential office, or hotel units, the floor area ratio range shall be as set forth in the RM-2 district. New development or redevelopment of residential office units may only be eligible for the floor area ratio range as set forth in the RM-2 district in the event that the

property owner elects, at the owner's sole discretion, to voluntarily execute a restrictive covenant running with the land, in a form approved by the city attorney affirming that, in perpetuity, none of the residential office units on the property shall be leased or rented for a period of less than six months and one day.

(2) The maximum floor area ratio (FAR) for self-storage warehouses shall be 1.5. The floor area ratio provision for mixed use buildings in section 142-307(d)(2) above shall not apply to self-storage warehouse development.

(e) Notwithstanding the above setback regulations, "self-storage warehouse" in this district shall have the following setbacks:

- (1) Front—Five feet;
- (2) Side facing a street—Five feet;
- (3) Interior side—Seven and one-half feet or eight percent of the lot width, whichever is greater;
- (4) Rear—For lots with a rear property line abutting a residential district the rear yard setback shall be a minimum of 25 feet; for lots with a rear property line abutting an alley the rear setback shall be a minimum of seven and one-half feet.

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. 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 Miami Beach City Code. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect on the _____ day of _____ 2023.

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: June 28, 2023

Second Reading: July 26, 2023

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

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