

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: **PB23-0601. Alton Road Historic Overlay Setback and Pharmacy Requirements – Governmental and Institutional Use Modifications.**

RECOMMENDATION

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

HISTORY

On February 1, 2023, at the request of Commissioner Alex Fernandez, the City Commission referred the subject ordinance amendment, pursuant to item C4 AF, to the Land Use and Sustainability Committee (LUSC) and the Planning Board.

On April 19, 2023, the LUSC endorsed the proposal and recommended that the Planning Board transmit the ordinance to the City Commission with a favorable recommendation. Additionally, the LUSC requested that the Administration work with Miami-Dade County to ensure that there will be no medical cannabis dispensaries at the proposed community health center.

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 there is no impact to the maximum floor area ratio (FAR).

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 for an improved community health center and library 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.

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 providing for new public facilities built with current resiliency standards.

- (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 August 23, 2022, the following ballot question was approved by 77.59 percent of the City's voters:

Alton Road Gateway Area - Increase Maximum Floor Area Ratio (FAR) from 2.0 to 2.6

City Charter requires voter approval before increasing a property's floor area ratio ("FAR") (City's method of regulating building size). The Alton Road Gateway Area, located between 5th and 8th Streets, from Alton Road to West Avenue, has maximum FAR of 2.0.

Shall City increase maximum FAR in above area from 2.0 to 2.6, only if existing community

health center at 710 Alton Road is relocated to another site, with new health facilities and public library?

The voter approved FAR increase is part of a larger development proposal that would relocate the existing Miami-Dade County community health center from its current location on the west side of Alton Road (710 Alton Road) across the street to the southeast corner of Alton Road and 7th Street (663 Alton Road). Additionally, the Alton Road Gateway development regulations are proposed to be extended north to 8th Street, to accommodate a new mixed-use structure to the north and east of the existing park.

ANALYSIS

At the request of the developer of the Alton Gateway project, the attached amendment to the Land Development Regulations of the City Code (LDR's) has been proposed, to accommodate the construction of a new community health center and library facility on the east side of Alton Road, at the southeast corner of 7th Street (663 Alton Road). The following is a summary of the proposed amendments:

Sec. 7.2.11.8: ALTON ROAD - HISTORIC DISTRICT BUFFER OVERLAY (CD-2)

1. Currently there is a minimum setback requirement of five feet along the front and street sides of properties located in the overlay. The proposal would remove the front and side street setback regulations of this section for properties located south of 7th Street that contain solely governmental and/or institutional uses, and do not exceed a maximum building height of 30 feet.

Sec. 7.5.5.8: CONTROLLED SUBSTANCES REGULATIONS AND USE

1. Currently, medical cannabis treatment centers and pharmacy stores are prohibited uses on all GU sites. The proposal would create an exception and allow medical cannabis treatment centers or pharmacies to be operated as accessory uses to a health care clinic or similar use on properties zoned GU, provided the building contains solely governmental and/or institutional uses and is located south of 7th Street.
2. Currently medical cannabis treatment centers and pharmacies have a minimum distance separation of 1,200 feet from the same use. The proposal would allow medical cannabis treatment centers and pharmacies to forgo this minimum distance separation requirement, provided they are operated as accessory uses to a health care clinics or similar uses on properties containing solely governmental and/or institutional uses and located south of 7th Street.
3. Currently, a glass barrier is required to be installed around the area holding prescription pharmaceuticals or medical cannabis, to separate and secure these areas from the general public. The proposal would remove the requirement for a glass barrier wall for medical cannabis treatment centers or pharmacies that are operated as accessory uses to health care clinics or similar uses on properties containing solely governmental and/or institutional uses, provided the security plan demonstrates that adequate measures will be in place to exclude the general public from these storage areas.

Staff is supportive of the proposed amendments as they are limited in scope and necessary to accommodate the needs of the proposed new location for the community health center. In particular, the setback relief would allow for a lower-scale building which minimizes potential impacts on the adjacent community.

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.

Alton Road Historic Overlay Setback and Pharmacy Requirements – Governmental and Institutional Use Modifications

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING SECTION 7.2.11.8 “ALTON ROAD HISTORIC OVERLAY,” BY AMENDING SECTION 7.2.11.8(C), “ DEVELOPMENT REGULATIONS (ALTON ROAD HISTORIC DISTRICT BUFFER OVERLAY CD-2)” TO EXEMPT GOVERNMENTAL AND INSTITUTIONAL USES SOUTH OF 7TH STREET FROM CERTAIN SETBACK REQUIREMENTS; BY AMENDING SECTION 7.5.5.8 “CONTROLLED SUBSTANCES REGULATIONS AND USE” TO PROVIDE REGULATIONS FOR ACCESSORY PHARMACY USES ON PROPERTIES ZONED “CIVIC GOVERNMENT USE” (GU) CONTAINING SOLELY GOVERNMENTAL AND/OR INSTITUTIONAL USES; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

WHEREAS, the Alton Road Historic District Buffer Overlay Regulations establish a set of supplemental standards governing development within three areas of the east side of Alton Road, extending from 5th Street on the south to the Collins Canal; and

WHEREAS, the Buffer Overlay establishes additional setback, height, and building separation requirements for new development and further restrict permitted uses in the land within the Overlay; and

WHEREAS, the Buffer Overlay Regulations provide that no variances are available from setback limits; and

WHEREAS, the east side of Alton Road between 6th Street and 7th Street is an area that offers unique benefits for potential government or institutional uses serving the South Beach community, with superior access to transit, safe pedestrian access from the Flamingo Park neighborhood, and the proximity of a large publicly-accessible parking garage; and

WHEREAS, the City intends to encourage the location of governmental and/institutional uses in this area; and

WHEREAS, the development of governmental and/or institutional uses will support the Buffer Overlay’s goals of avoiding intense retail and restaurant uses in this area of the City; and

WHEREAS, the limitations of the Buffer Overlay Regulations may make it impossible to accommodate government and/or institutional uses serving the residents of South Beach; and

WHEREAS, the City desires to encourage the development of public health facilities on government-owned land;

WHEREAS, an important element of public health facilities is the ability to offer pharmacy services;

WHEREAS, the City’s regulations currently prohibit development of accessory pharmacy uses on land zoned “Civic and Government Use” (GU); 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. That Section 7.2.11.8, “Alton Road Historic Overlay,” Section 7.2.11.8(c), “Development Regulations (Alton Road Historic District Buffer Overlay CD-2)” is hereby amended as follows:

Sec. 7.2.11.8 ALTON ROAD - HISTORIC DISTRICT BUFFER OVERLAY (CD-2)

* * *

c. Development Regulations (Alton Road Historic District Buffer Overlay CD-2)

DEVELOPMENT REGULATIONS TABLE (ALTON ROAD HISTORIC DISTRICT BUFFER OVERLAY – CD-2)	
BUILDING SETBACKS	
Front Setback	5 feet (1)(4) (See Section 7.1.2.2)
Side, Facing a Street Setback	5 feet (1)(4) (See Section 7.1.2.2)
Side, Interior Setback	0 feet (1)
Rear Setback	7.5 feet (1)
For lots with a rear property line abutting an RM-1 or an RS-4 district	25 feet (1)
For lots with a rear property line abutting an alley (Lenox Court)	5 feet (1)

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| <ol style="list-style-type: none"> 1. There shall be no variances for building setbacks, except for triangular lots. 2. Notwithstanding the above regulations, the maximum floor area ratio (FAR) for self-storage warehouses shall be 1.5. The floor area ratio provision for mixed use buildings on this table shall not apply to self-storage warehouse development. 3. No variances for building height allowed. 4. <u>The front and side street setback regulations of this section shall not apply to properties containing solely governmental and/or institutional uses with a maximum building height of 30 feet located south of 7th Street.</u> |
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SECTION 2. That Section 7.5.5.8. “Controlled Substances Regulations and Use,” is hereby amended as follows:

7.5.5.8 CONTROLLED SUBSTANCES REGULATIONS AND USE

c. Zoning districts allowing medical cannabis treatment centers, pharmacy stores, and related uses, prohibited locations, and nonconforming uses.

* * *

ii. *Location of uses.*

1. Medical cannabis treatment centers or pharmacy stores shall be prohibited in all zoning districts and areas not described in subsection (i), above.
2. Medical cannabis treatment centers and pharmacy stores shall be considered prohibited uses on all GU sites, except treatment centers or pharmacies operated as accessory uses to a health care clinics or similar uses on properties containing solely governmental and/or institutional uses located south of 7th Street.
3. No medical cannabis treatment center shall be located within 500 feet of a public or private elementary, middle or secondary school. The minimum distance separation requirement shall be determined by measuring a straight line from the entrance and exit of the medical cannabis treatment center to the nearest point of the property line of the school.
4. No medical cannabis treatment center shall be located within 1,200 feet of another medical cannabis treatment center. This shall not apply to treatment centers operated as accessory uses to a health care clinics or similar uses on properties containing solely governmental and/or institutional uses located south of 7th Street.
5. No pharmacy store shall be located within 1,200 feet of another pharmacy. This shall not apply to pharmacies operated as accessory uses to a health care clinics or similar uses on properties containing solely governmental and/or institutional uses located south of 7th Street.
6. The minimum distance separation requirements set forth in subsections 4 and 5 shall be determined by measuring a straight line from the entrance and exit of each business.

SECTION 3. That Section 7.5.5.8. “Controlled Substances Regulations and Use,” is hereby amended as follows:

7.5.5.8 CONTROLLED SUBSTANCES REGULATIONS AND USE

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e. *Specific additional criteria.*

A general security plan shall be provided. The plan must sufficiently demonstrate enhanced security measures in excess of the minimum requirements set forth in state regulations. The enhanced security measures include, but are not limited to, steel security doors, improved video surveillance system capability, advanced alarm systems, improved fire safety systems, natural disaster security, packaging of dispensed products, procedures for waste removal, and other measures, such as the use of hurricane impact windows. If the facility is located below the base flood elevation plus City of Miami Beach Freeboard, the plan should incorporate floodproofing measures to ensure the continued functioning of security devices in the event of a natural disaster and sea level rise. The plan must be reviewed and approved by the City of Miami Beach Police Department before it can be considered by planning staff. Both uses should protect its window and have an alarm system and strong locks on the doors: To harden the establishment by doing things that make it less attractive to the potential criminal. There should be physical barrier to protect the pharmacist or medical marijuana treatment center employee from the general public

and ensure that the narcotics or medical cannabis is not accessible to a person under the influence of opioids or other narcotics. A glass barrier wall shall be installed around the area holding the prescription pharmaceuticals or the medical cannabis and the general public. A glass barrier wall shall not be required for treatment centers or pharmacies operated as accessory uses to health care clinics or similar uses on properties containing solely governmental and/or institutional uses as long the security plan otherwise demonstrates that adequate measures will be in place to exclude the general public from storage areas.

SECTION 4. 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 5. REPEALER.

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

SECTION 6. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 7. 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