

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: **PB23-0603. Alton Road Office Height Overlay – Transient Use and Overlay Exceptions.**

RECOMMENDATION

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

HISTORY

On February 22, 2023, at the request of Commissioner Laura Dominguez, the City Commission referred the subject proposal (Item C4E) to the Land Use and Sustainability Committee (LUSC). On April 19, 2023, the LUSC discussed the proposal and recommended that the City Commission refer the attached draft ordinance to the Planning Board.

On April 28, 2023, the City Commission referred the item to the Planning Board (item C4 B).

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.

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 the development of Class A office space in light of changing economic conditions 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.

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, as it relates to a height increase that was previously authorized.

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 facilitating new development that will comply with modern 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 July 28, 2021, the City Commission adopted Ordinance No. 2021-4436, which created the Alton Road office development overlay. Such overlay is inclusive of CD-2 zoned parcels on the west side of Alton Road, between 8th Street and 11th Street, and between 14th Street and 17th Street.

The Alton Road office overlay established a voluntary office height incentive program and allowed for an increase in maximum allowable building height from 60 feet up to 75 feet for office development above the ground and parking levels of the structure. Additionally, residential uses, but not hotel units or the short-term rental of apartment units, may be permitted up to a maximum floor area ratio (FAR) of 2.0, but only if, at a minimum, the floor area associated with an FAR of 1.5 is dedicated to office use and ground floor commercial use.

The following is a summary of the office overlay regulations, which apply to an eligible project seeking to construct a new office building at a building height of up to 75 feet:

1. The development shall consist solely of office use above the ground level of the structure; residential uses, but not hotel units, may be permitted on such properties up to a maximum FAR of 2.0, but only if, at a minimum, the floor area associated with an FAR of 1.5 is dedicated to office use and ground floor commercial use. Additionally, the property owner must voluntarily execute a restrictive covenant affirming that, for a term of 30 years, none of the residential units on the property shall be leased or rented for a period of less than six months and one day.
2. The ground level of the building must consist of active retail, restaurant, personal service or similar uses. Office uses, including, but not limited to, professional offices, banks, and financial services, are not permitted at the ground level.
3. A clear pedestrian path at least ten feet wide is required for all portions of the project abutting a public sidewalk.
4. More limited height regulation exceptions apply to any project in the overlay.
5. Commercial uses of any kind, including, but not limited to restaurants, bars and entertainment, as well as special events of any kind, are prohibited within any outdoor areas above the ground floor.
6. Any outdoor mechanical equipment located above the ground floor including, but not limited to, air conditioning equipment, cooling towers, compressors and generators must be fully screened with sound attenuating materials on all sides.

ANALYSIS

The attached draft ordinance amends Section 142-313 of the Land Development Regulations of the City Code (LDRs), pertaining to the Alton Road office development overlay. The proposed amendment establishes an exemption for existing buildings that are part of a development site that is located between Lincoln Road and 17th Street. This amendment would permit a proposed new office development that seeks to utilize a maximum building height of 75 feet as part of the office overlay to form a unified site with existing, developed properties, and for the existing buildings to be exempt from the overlay regulations.

By including existing buildings that already contain a hotel or residential component within a larger unified site, new construction can utilize more office space as the allowable residential or hotel bonus FAR of .5 is part of the existing buildings. As such, the proposed legislation allows for additional office space within a proposed new project site, while not exceeding the overall maximum FAR of the CD-2 zoning district.

As currently drafted, the proposal only allows existing buildings (constructed prior to January 1, 2023), to be exempt from the office overlay regulations, which are summarized above. Any new construction within the office overlay will still be subject to all applicable overlay regulations, including the prohibition on transient uses.

The increase in height from 60 feet to 75 feet for office uses in the overlay was for the purpose of allowing greater floor to ceiling space within the interior of the office levels of a new building. Under a height limit of 60 feet, it is challenging for office levels to have more than 11 feet to 12 feet of interior height, since portions of the overall allowable height are used up by ground level commercial and parking levels. In addition to incentivizing more Class A office space, the requirements of the Alton Road office overlay, including the prohibition on transient uses, are intended to promote and foster long term residential housing, as part of new office uses. The height allowance of up to 75 feet was also an incentive for more long term, and potentially attainable housing.

Although the proposal herein creates an exception for provisions related to transient uses, as well as other benchmarks including first floor activation, height exceptions and roof-top uses, the exception is narrowly limited to existing buildings, which did not utilize the overlay standards in the first place. Additionally, the proposal is restricted to the one block area north of Lincoln Road, and would result in more office space, which is also a long-term goal of the city, particularly along the Alton Road corridor.

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 Office Height Overlay – Transient Use and Overlay Exceptions

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 142, “ZONING DISTRICTS AND REGULATIONS,” ARTICLE II, “DISTRICT REGULATIONS,” AT DIVISION 5, “CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT,” SECTION 142-313 “ALTON ROAD OFFICE DEVELOPMENT OVERLAY,” TO INCLUDE CERTAIN EXCEPTIONS FOR DEVELOPMENTS LOCATED BETWEEN LINCOLN ROAD AND SEVENTEENTH STREET; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, economic trends indicate that demand has increased for Class A office space within the City, as businesses relocate from other states to Miami Beach; and

WHEREAS, office development marketed as “Class A” tends to require greater floor-to-ceiling heights than other classes of office space; and

WHEREAS, the development of Class A office space will promote the growth, diversification, and resiliency of the City’s economy; and

WHEREAS, the Alton Road corridor is an appropriate area for Class A office space due to its accessibility to the regional transportation network; and

WHEREAS, the proposed changes are necessary to promote the development of Class A office space within the City; and

WHEREAS, the amendments set forth below are necessary to accomplish 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 142, “Zoning Districts and Regulations,” Article II, “District Regulations,” Division 5, “CD-2 Commercial, Medium Intensity District,” is hereby amended as follows:

**CHAPTER 142
ZONING DISTRICTS AND REGULATIONS**

* * *

ARTICLE II. – DISTRICT REGULATIONS

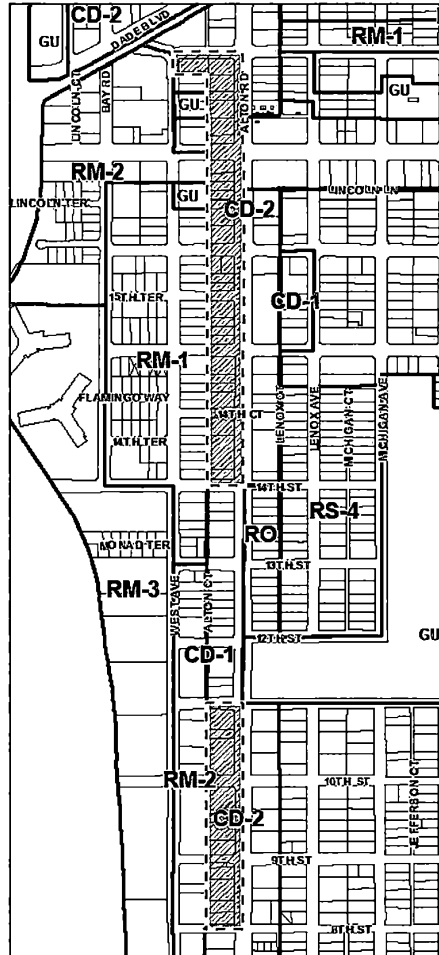
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DIVISION 5. CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT

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Sec. 142-313. Alton Road office development overlay.

- (a) The Alton Road office development overlay includes the parcels on the west side of Alton Road, between 8th Street and 11th Street, and between 14th Street and 17th Street, as depicted in the map below:



- (b) Voluntary office height incentive program. The following regulations shall apply to developments within the Alton Road office development overlay that are proposed to be constructed at a height that exceeds 60 feet:
- (1) *Minimum office requirement.* The development shall consist solely of office use above the ground level of the structure; provided, however, that residential uses, but not hotel units, may be permitted on such properties up to a maximum FAR of 2.0, pursuant to section 142-307(d)(1), but only if, at a minimum, the floor area associated with an FAR of 1.5 is dedicated to office use and ground floor commercial use.
 - (2) *Covenant.* New development may only be eligible for the voluntary office height incentive provided in this subsection (b) if 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, for a term of 30 years, none of the residential units on the property shall be leased or rented for a period of less than six months and one day.

- (3) *Ground level activation.* The ground level of the building shall consist of active retail, restaurant, personal service or similar uses. Office uses, including, but not limited to, professional offices, banks, and financial services, shall not be permitted at the ground level. A lobby may be permitted at the ground level for access to upper floors.
- (4) *Clear pedestrian path.* The applicable standards for a "clear pedestrian path," as established in sections 133-61 and 133-62, shall apply to new development under this section, except as follows:
 - a. The clear pedestrian path shall be at least ten feet wide.
 - b. The design review board may approve a reduction of the clear pedestrian path requirement to no less than a width of five feet in order to accommodate street trees, required utility apparatus, or other street furniture, subject to the design review criteria.
- (5) *Height.* Notwithstanding the requirements of section 142-306, the maximum building height shall be 75 feet for development permitted under this voluntary office height incentive program. Additionally, all portions of the building above 60 feet in height shall be set back a minimum of 20 feet from the rear property line.
- (6) *Height exceptions.* In general, rooftop elements that are exempt from a building's height calculations shall be located in a manner to minimize visual impacts on predominant neighborhood view corridors as viewed from public rights-of-way and waterways. The height regulation exceptions contained in section 142-1161 shall not apply to the Alton Road office development overlay. Instead, only the following rooftop elements shall be excluded from a building's maximum height and, unless otherwise specified, such elements shall not exceed a height of ten feet above the main roof of the structure:
 - a. Roof-top operational and mechanical equipment. This exception shall be limited to essential, non-habitable, building elements such as mechanical rooms/devices, air conditioning and cooling equipment, generators, electrical and plumbing equipment, as well as any required screening. The height of such elements shall not exceed 25 feet above the roof slab.
 - b. Roof-top elevator towers, including code required vestibules, and stair towers, with the height of such structures not exceeding 25 feet above the roof slab. Projecting overhangs at the doorways to elevator vestibules and stair towers required by the Florida Building Code may be permitted, provided the projection does not exceed the minimum size dimensions required under the building code.
 - c. Satellite dishes, antennas, sustainable roofing systems, solar panels and similar elements. Such elements shall be set back a minimum of 15 feet from the roof parapets on street-facing facades.
 - d. Decks located more than six inches above the top of the roof slab, and not exceeding three feet above the roof slab, may be permitted provided the deck area is no more than 50 percent of the enclosed floor area immediately one floor below.
 - e. Rooftop areas that are accessible only to the owners or tenants of office or residential units may have trellises, pergolas or similar structures that have an open roof of cross rafters or latticework. Such structures shall not exceed a combined area of 20 percent of the enclosed floor area immediately one floor below and shall be set back a minimum of 15 feet from the roof parapets on street-facing facades.
 - f. Parapets shall not exceed four feet in height above the main roof.

- g. Exterior speakers required to meet applicable requirements of the life safety or building code.
- (7) *Outdoor uses and special events.* Commercial uses of any kind, including, but not limited to restaurants, bars and entertainment, as well as special events of any kind, shall be prohibited within any outdoor areas above the ground floor.
- (8) *Outdoor mechanical equipment.* Any outdoor mechanical equipment located above the ground floor including, but not limited to, air conditioning equipment, cooling towers, compressors and generators shall be fully screened with sound attenuating materials on all sides.
- (9) Notwithstanding the foregoing conditions above, within a unified development that is located between Lincoln Road and 17th Street above, such conditions shall not be applicable to any buildings existing prior to January 1, 2023. Residential and hotel units may be permitted in buildings existing prior to January 1, 2023; however, the first 1.5 FAR in any unified development site shall consist solely of office use and ground floor commercial.
- (10) *Sunset provision.* The development regulations in this section 142-313 shall only apply to projects that have obtained a full building permit on or before December 31, 2031.

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 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
& FOR EXECUTION

City Attorney

Date

First Reading:
Second Reading:

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

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