

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: July 25, 2023

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB23-0618. Bed and Breakfast Exception – West Avenue Overlay.**

RECOMMENDATION

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

HISTORY

On March 27, 2023, at the request of Commissioner Laura Dominguez, the City Commission referred the subject proposal (Item C4 D) to the Land Use and Sustainability Committee (LUSC). On April 19, 2023 the LUSC discussed the proposal and recommended that the City Commission refer an ordinance to the Planning Board in accordance with the following:

1. The applicability be limited solely to bed and breakfast inns.
2. The exception be based on the date of a previously issued building permit.

On May 17, 2023, the City Commission referred the proposed ordinance to the Planning Board (Item C4 D).

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 allow for the continuation of previously made investments in light of changed land development regulations 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.

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 West Avenue Bayfront Overlay District (Overlay District or Overlay) is comprised of RM-1, residential multifamily low intensity and RM-2, residential multifamily medium intensity zoning districts (see attached map). There are no historic districts or individually designated historic sites within the Overlay District.

The City Commission adopted the Overlay District on June 19, 2002, pursuant to Ordinance No. 2002-3374. The primary reason for the creation of the Overlay District was to preserve the character and quality of the neighborhoods surrounding West Avenue, which was being impacted by infill development that did not reflect the cohesive low scale character of the area. The Overlay

District expanded the list of main permitted uses for existing low-scale buildings in the neighborhood to include offices, suite hotels and bed and breakfast inns. The rationale for including these uses was to provide incentives to retain and adaptively re-use existing single family and/or multifamily buildings that are no more than three (3) stories in height. Additionally, the parking regulations were modified to include the allowance for a limited number of parking spaces within required front yards.

Prior to the creation of the Overlay District, hotels, apartment-hotels, and suite hotels were permitted uses in the RM-2 and RM-3 zoning districts in the neighborhood. In the RM-1 zoning district before creation of the Overlay District, and within the subject area, only single-family homes, townhomes, apartments and bed and breakfast inns were permitted. The creation of the Overlay District expanded the list of main permitted uses within the RM-1 zoning district to include suite hotels and offices consistent with the regulations for the RO, residential office zoning district.

On October 16, 2013, the City Commission adopted Ordinance No. 2013-3820, prohibiting hotel uses within the West Avenue area. This applied to the properties zoned RM-2 and RM-3, as hotels were already prohibited in the RM-1 district. Elsewhere in the City, hotels are a main permitted use within RM-2 and RM-3 zoning districts.

On October 14, 2020 the City Commission adopted Ordinance No. 2020-4364, which removed suite hotels as an allowable use within the Overlay District. Office, as well as bed & breakfast inns within existing single-family homes, were still permitted as part of the renovation of existing structures in the Overlay. However, on September 17, 2021 the City Commission adopted Ordinance No. 2021-4443, which prohibited any future bed and breakfast inns within the Overlay.

Separate from the Overlay District there are citywide regulations pertaining to bed and breakfast inns. When the Overlay District was created in 2002, more specific regulations for bed and breakfast inns were included, which were tailored for the neighborhood.

ANALYSIS

The attached draft ordinance would provide an exception from the prohibition of bed and breakfast inns within the West Avenue overlay. The exception would apply narrowly to a property that obtained a building permit process number on or before October 1, 2021 for the conversion of an existing single-family residence to a bed and breakfast inn.

Additionally, the permit process number, as well as subsequent building permit, for a bed and breakfast inn, must remain active. If the permit process number and/or the subsequent permit issued pursuant to such permit process number, is abandoned, expires or becomes inactive, for any reason, the bed and breakfast inn use would no longer be permitted, and the property must convert to a conforming use.

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.

Bed & Breakfast Prohibition Exception – West Avenue Overlay

ORDINANCE NO. 2023-_____

AMENDING THE RESILIENCY CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 7, ENTITLED “ZONING DISTRICTS AND REGULATIONS, ARTICLE III, ENTITLED “OVERLAY DISTRICTS,” AT SECTION 7.3.3 ENTITLED “WEST AVENUE BAY FRONT OVERLAY,” TO PROVIDE AN EXCEPTION FOR BED AND BREAKFAST INNS IN THE WEST AVENUE BAY FRONT OVERLAY; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the West Avenue neighborhood is primarily comprised of residential uses; and

WHEREAS, Objective RLU 1.3, entitled “Land Use Compatibility,” of the Resilient Land Use and Development Element of the City’s 2040 Comprehensive Plan provides that “[I]and development regulations will be used to address the location, type, size, and intensity of land uses and to ensure adequate land use compatibility between residential and non-residential land uses”; and

WHEREAS, the Mayor and City Commission desire to encourage uses that are compatible with the low-scale character of the West Avenue neighborhood; and

WHEREAS, Division 5 of Article III of Chapter 142 of the City Code sets forth zoning regulations for the West Avenue Bay Front Overlay district; and

WHEREAS, on September 17, 2021 the City Commission adopted Ordinance No. 2021-4443, which prohibited any future bed and breakfast inns within the Overlay; 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 7, entitled “Zoning Districts and Regulations, Article III, entitled “Overlay Districts,” at Section 7.3.3 Entitled “West Avenue Bay Front Overlay,” is hereby amended, as follows:

CHAPTER 7: ZONING DISTRICTS AND REGULATIONS

* * *

ARTICLE III: OVERLAY DISTRICTS

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7.3.3 WEST AVENUE BAY FRONT OVERLAY

* * *

7.3.3.4 Legal nonconforming and other transient uses (West Avenue Bay Front Overlay).

- 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:
 - i. 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.
 - ii. 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.
 - iii. 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.
 - iv. 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 (6) months.
- c. Existing, legal nonconforming bed and breakfast inns, as well as properties that were issued a building permit process number on or before October 1, 2021 for the conversion of an existing single family residence to a bed and breakfast inn, and which permit process number and/or subsequent building permit associated with the permit process number for a bed and breakfast inn remains active, shall be subject to the following conditions:
 - i. The owner/operator of the bed and breakfast inn shall permanently reside in the structure.
 - ii. 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.
 - iii. The structure shall maintain main public rooms (living room/dining room) for use of the guests.
 - iv. 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.
 - v. There shall be no cooking facilities/equipment in guestrooms. One small refrigerator with maximum capacity of 5 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.

- vi. 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 Section 7.5.5.5.a.ix). The meal service is not considered an accessory use and is not entitled to an outside sign.
- vii. Permitted meals may be served in areas outside of the building under the following conditions:
 - 1. 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.
 - 2. 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.
- viii. In the event a permit process number issued prior to October 1, 2021 for the conversion of a single family home to a bed and breakfast inn, and/or the subsequent permit issued pursuant to such permit process number, is abandoned, expires or becomes inactive, for any reason, the bed and breakfast inn use shall no longer be permitted and the property must convert to a conforming use.

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 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 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: July 26, 2023
Second Reading: September 13, 2023

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

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