

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: **PB23-0614. ADU Regulations in the Palm View Historic District.**

RECOMMENDATION

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

HISTORY

On February 22, 2023, at the request of Commissioner Ricky Arriola, the City Commission referred a discussion item (C4 D) regarding accessory dwelling units (ADU's) in the Palm View district to the Land Use and Sustainability Committee (LUSC). On April 19, 2023, the item was deferred to the May 10, 2023 LUSC meeting, with no discussion.

On May 10, 2023, the LUSC recommended that the City Commission refer the proposed ordinance to the Planning Board with the following amendments:

1. The size of an accessory dwelling unit (ADU) be increased from 400 square feet to 600 square feet, to better accommodate smaller lots.
2. The requirements for property ownership shall not be limited to homesteaded properties.
3. Entrance visibility on corner lots shall be further studied.

The above noted recommendations have been incorporated into the attached draft ordinance.

The LUSC also recommend that the City Commission refer a separate ordinance to the Planning Board to allow for administrative review of ADU's in local historic districts. On June 28, 2023, the City Commission referred this ordinance to the Planning Board.

On June 28, 2023, the City Commission referred the proposed ordinance pertaining to ADU's in the Palm View district to the Planning Board (Item C4 I).

REVIEW CRITERIA

Pursuant to Section 2.4.2 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 attainable housing 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 7.1.2.4 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 additional income to homeowners to make enhancements to their properties.

(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 October 16, 2019, the City Commission adopted Ordinance No. 2019-4305, which amended the Land Development Regulations of the City Code (LDRs) to allow for the development of ADUs in single family districts. Previously, the LDRs authorized the construction of “guest/servant quarters” that were similar in nature to ADUs. The amendment also authorized the lease of ADUs to families unrelated to the family occupying the primary dwelling if the primary dwelling is owner-occupied and located between Dade Boulevard and Pine Tree Circle and provided the ADU received a certificate of occupancy prior to October 26, 2019.

ANALYSIS

ADUs are small living units that have their own kitchen and bathroom facilities and are on the same property as a single-family home. They are often rented out to provide a family with extra income or made available to a relative looking for additional privacy. Such units can either be attached or detached from the home, and they are sometimes referred to as granny flats, cottage houses, or secondary dwelling units. It was popular to include such units as part of single-family homes in the early 20th century, including within Miami Beach. However, ADUs fell into disfavor after World War II when development patterns shifted to a more suburban style, and many cities began to prohibit them.

With rising housing costs in urban areas, many cities are reintroducing the ability to build ADUs in single family areas. This is intended to provide housing that is more attainable to the workforce and to provide homeowners an extra source of income which can help them maintain their homes. The following cities in the United States currently allow ADUs in some form:

- Austin, TX;
- Boulder, CO;
- Miami, FL;
- Miami-Dade County, FL (Unincorporated area);
- Minneapolis, MN;
- Portland, OR;
- Seattle, WA; and
- Tampa, FL

Additionally, all cities in California are required to allow for the construction of ADUs. The Florida Legislature authorizes local governments to permit ADUs, pursuant Florida Statute 163.31771, and has recognized the benefits of ADUs as it relates to providing housing for low to moderate income persons. As mentioned in the background section, although the City of Miami Beach LDRs allow for the construction of ADUs, for much of the City, ADUs are for the exclusive use of the family that occupies the primary dwelling unit and cannot be rented out to another family.

The proposed ordinance would add the Palm View Historic District to the list of areas where the rental of an ADU to a family unrelated to the family in the primary dwelling unit would be allowed. The ordinance would require that the primary dwelling be owner occupied; however, it would allow for the lease of existing or newly constructed ADUs. The property owner would be required to comply with all other applicable regulations related to ADUs. As short-term rentals are already

prohibited in single family zoning districts, the subject ordinance would not allow for short-term rentals of ADUs.

This proposal is consistent with the recommendations in the 2020 Palm View Neighborhood Study, which encourage allowing ADUs for the purpose of providing property owners with an extra income stream that could be utilized to make resiliency improvements to the primary dwellings. Miami-Dade County recently approved legislation permitting accessory dwelling units and guesthouses in certain residential zoning districts under certain circumstances, while prohibiting the use of accessory dwelling units and guesthouses as vacation or short-term rentals.

Under the current regulations in the LDR's of the City Code, ADUs may only be developed on lots where the primary dwelling is 2,000 square feet or larger. This is due to the current requirement that an ADU not exceed ten percent (10%) of the size of the primary dwelling. Although the minimum area requirement for an ADU is 200 square feet, such threshold can only be attained, under the current code, if the main home is greater than 2,000 square feet.

This restriction limits the effectiveness of the ADU regulations, in particular due to the relatively small size of existing residences in the historic Palm View neighborhood. To address this issue, the attached draft ordinance has been revised to allow for the construction of ADUs on sites where the primary dwelling is smaller than 2,000 square feet.

Under this proposal, property owners would be allowed to build at least a 600 square foot ADU regardless of the size of the primary dwelling and provided there is available unit size within the site. On lots with primary dwellings that exceed 4,000 square feet, larger ADUs could be built, but the maximum size of an ADU, as a percentage of the lot size, cannot exceed 1,500 square feet.

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.

Accessory Dwelling Units (ADU) Revisions for Palm View Historic District

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 “MIAMI BEACH RESILIENCY CODE,” CHAPTER 7, ENTITLED “ZONING DISTRICTS AND REGULATIONS,” SECTION 7.5.4.13, ENTITLED “ACCESSORY USES,” AT SUBSECTION D. ENTITLED “PERMITTED ACCESSORY USES IN SINGLE-FAMILY DISTRICTS,” TO PERMIT THE RENTAL OF ACCESSORY DWELLING UNITS TO A FAMILY UNRELATED TO THE FAMILY OCCUPYING THE PRIMARY DWELLING UNIT WITHIN THE PALM VIEW HISTORIC DISTRICT UNDER IF SPECIFIC CRITERIA IS MET; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the Land Use and Housing Elements of the Miami Beach Comprehensive Plan include policies to incentivize the development and retention of workforce and affordable housing; and

WHEREAS, the City of Miami Beach (the “City”) finds that there is a shortage of affordable rentals within the City limits; and

WHEREAS, an “accessory dwelling unit” is an independent living quarter that is accessory to a single-family detached dwelling; and

WHEREAS, the City of Miami Beach finds that allowing accessory dwelling units in single-family residential areas, subject to certain specified conditions, provides additional housing opportunities, including workforce and affordable housing, while providing an extra source of income to homeowners; and

WHEREAS, the Palm View Neighborhood Study that was prepared in 2020 recommends allowing accessory dwelling units within the Palm View Neighborhood; 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 7 of the Miami Beach Resiliency Code, entitled “Zoning Districts and Regulations,” section 7.5.4.13, entitled “Accessory Uses,” at subsection d. entitled “Permitted accessory uses in single-family districts,” is hereby amended as follows:

d. Permitted accessory uses in single-family districts.

- i. Generally. Permitted accessory uses in single-family districts are those uses which are customarily associated with single-family houses and limited to the occupants of the home. Such uses include, but are not limited to, marine structures and decks for the storage of watercraft, swimming pools, spas, tennis courts and, where permitted, accessory dwelling units.
- ii. Permitted accessory uses. The following are permitted accessory uses in single-family districts:

* * *

3. An accessory dwelling unit (ADU) is permitted pursuant to the following requirements:

- I. *Maximum number.* No more than one ADU shall be permitted per single-family lot.
- II. *Maximum area.* The area of an ADU shall be included in the overall unit size calculation for the site. In no instance shall the total size of the ADU exceed 600 square feet or ten percent (10%) of the size of the main home on the subject site, whichever is greater. ~~or Notwithstanding the foregoing, the maximum size of an ADU shall not exceed 1,500 square feet, whichever is less.~~
- III. *Minimum area.* An ADU shall be a minimum of 200 square feet. ~~However, this minimum standard shall not authorize an ADU to exceed the maximum area identified in subsection 7.5.4.13.d.ii.3.II, above. If the minimum area requirement of 200 feet exceeds the maximum area requirement pursuant to 7.5.4.13.d.ii.3, an ADU shall be prohibited on the site.~~
- IV. *Existing accessory structures.* For existing accessory structures, built prior to January 1, 2019, the aforementioned maximum and minimum areas shall not be applicable to an ADU, unless the unit is expanded in size.
- V. *Location.* An ADU may be attached to the primary residence with a separate entrance that is secondary to the entrance to the main home ~~not visible from public rights of way~~, subject to the any limitations on the primary structure as set forth in the land development regulations. Additionally, the entire site shall maintain the external appearance of a single-family home. Alternatively, an ADU may be located in an accessory building, subject to the requirements and limitations for accessory buildings in single-family districts identified in Section 7.2.2.3.b.xi.1.
- VI. *Kitchens.* An ADU may contain a full kitchen facility.
- VII. *Utilities.* A separate electric meter may be provided for an ADU.
- VIII. *Lease.* Any lease of an ADU shall be subject to the following requirements:
 - [i] Unless otherwise provided herein, the use of an ADU shall be limited to the use of the family occupying the primary dwelling, temporary guests, or servants of the occupants of the primary dwelling, and shall not be rented or leased.

- [ii] The lease of an ADU to a family unrelated to the family occupying the primary dwelling unit shall only be permitted as follows:
 - [1] ~~w~~Within an ADU that was issued a certificate of occupancy on or before October 26, 2019, and ~~shall only be permitted~~ on properties that are owner-occupied and located between Dade Boulevard on the south and Pine Tree Drive Circle on the north.
 - [2] Within an ADU located on properties that are owner-occupied and located in the Palm View Historic District.
 - [3] Each year, evidence of a property's ~~homestead exemption~~ ownership shall be provided to the planning director, subject to the director's approval, in order to confirm the property's eligibility for the rental of an ADU. If a property ceases to be owner-occupied, the renewal of a lease for an ADU shall be prohibited, and residents of the ADU shall vacate the premises upon termination of the lease. It shall be the responsibility of the ~~applicant~~ property owner to satisfy the yearly requirement for providing evidence as to ownership and to notify the city of any change to the status of the property's ~~homestead exemption~~ ownership.
- [iii] The lease of an ADU to a family (as defined in Section 1.2.2) unrelated to the family occupying the primary dwelling unit for a period less than six (6) months and one (1) day, including extensions for lesser periods of leases permitted under Section 7.5.4.13.d.ii.3.II. to original leaseholders, shall be prohibited.
- [iv] Property owners seeking to allow for the lease of an ADU unit to a family unrelated to the family occupying the primary dwelling unit must obtain all applicable fire and building permits, and a certificate of use, as applicable, permitting the lease of the ADU, subject to the requirements listed above. The application shall provide proof of compliance with the requirements of this Section 7.5.4.13.d.ii.3. Additionally, the applicant shall provide an affidavit agreeing to and affirming the applicant's understanding of the requirements in this Section 7.5.4.13.d.ii.3.
- [v] A violation of these requirements shall be subject to the enforcement and enhanced penalty provisions for leases of single-family homes set forth in subsection 7.5.4.13.d.ii.5.
- [vi] Tracking. The planning director shall maintain a database of all approved ADUs in the city, including statistics relating to the number of certificates of use issued, and any violations issued pursuant to this Section 7.5.4.13.d.ii.3.

SECTION 2. REPEALER.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith 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.

ATTEST:

Dan Gelber, Mayor

Rafael E. Granado, City Clerk

First Reading: _____

Second Reading: _____

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