MIAMI BEACH
PLANNING DEPARTMENT

Staff Report & Recommendation — PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: January 30, 2024

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: **PB23-0645. Land Use Board Water Expert Alternative Requirement.**

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

HISTORY
On December 13, 2023, at the request of Commissioner Tanya K. Bhatt, the City Commission referred the proposed amendment to the Planning Board (Item C4 W).

REVIEW CRITERIA
Pursuant to Section 2.4.2 of the Resiliency Code, in reviewing a request for an amendment to these land development regulations (LDRs), 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 not modify the scale of development, as such, it is not out of scale with the needs of the neighborhood.

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 maximum floor area ratio (FAR) is not modified.

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 – Difficulty in recruiting qualified candidates to the water management expert position on the City's land use boards makes the 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 ordinance will not impact traffic congestion or otherwise affect public safety.

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

Consistent – The proposed change will not impact light and air on 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 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 LDRs 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.

Inconsistent – The proposal will not increase 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.

Partially consistent – The proposal will not seriously impact the City's sea level rise mitigation and resiliency efforts.

BACKGROUND

In April of 2018, the Urban Land Institute (ULI) Miami Beach Advisory Services Panel released the Stormwater Management and Climate Adaption Review Report. One of the recommendations in the report was for the city to add climate or water management experts to the land use boards.

On June 5, 2019, the City Commission adopted Ordinance No. 2019-4279, amending the composition of the Design Review Board, Historic Preservation Board, and Planning Board to include a category for a water management expert on each board. To qualify for the position, an applicant must be one of the following:

A. A licensed professional engineer, licensed professional architect, or licensed professional landscape architect with expertise in water resources;

B. A person licensed by the State of Florida in hydrology, water or wastewater treatment;

C. A person with a degree from an accredited college or university in a field of study related to water resources; or

D. A floodplain manager or a principal community administrator responsible for the daily implementation of flood loss reduction activities including enforcing a community's flood damage prevention ordinance, updating flood maps, plans, and policies of the community, and any of the activities related to administration of the National Flood Insurance Program (NFIP) (a "water management expert").

ANALYSIS

While the land use boards, applicants, and the City's residents all benefit from the experience and participation of a water management expert in each board's deliberations, it can be challenging to recruit qualified individuals for these positions. The proposed ordinance amends the composition of the Planning Board, Historic Preservation Board, and Design Review Board to provide that the water management expert seat may, in the alternative, be filled by a resident at large.

The City’s land development regulations and public works requirements contain many standards that address resiliency in the city. This includes sea level rise and resiliency review criteria that must be addressed by each application for new development and for amendments to the Land Development Regulations. Therefore, in the absence of a qualified subject matter expert, the interests of the City with regards to resiliency will continue to be addressed.

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.

LAND USE BOARD WATER EXPERT ALTERNATIVE REQUIREMENT

ORDINANCE NO._____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE MIAMI BEACH RESILIENCY CODE, BY AMENDING CHAPTER 2, ENTITLED "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE I, ENTITLED "LAND USE BOARDS," SECTION 2.1.2 ENTITLED "PLANNING BOARD," AT SUBSECTION 2.1.2.2, ENTITLED "MEMBERSHIP AND APPOINTMENT;" SECTION 2.1.3 ENTITLED "DESIGN REVIEW BOARD," AT SUBSECTION 2.1.3.2, ENTITLED "MEMBERSHIP AND APPOINTMENT;" AND SECTION 2.1.4 ENTITLED "HISTORIC PRESERVATION BOARD," AT SUBSECTION 2.1.4.3, ENTITLED "MEMBERSHIP AND APPOINTMENT;" TO PROVIDE THAT THE WATER MANAGEMENT EXPERT POSITION ON THE LAND USE BOARD MAY ALTERNATIVELY BE OCCUPIED BY A PERSON WHO IS A RESIDENT AT-LARGE AND CURRENTLY RESIDES IN THE CITY AND HAS RESIDED IN THE CITY FOR AT LEAST THREE CONSECUTIVE YEARS AT THE TIME OF APPOINTMENT OR REAPPOINTMENT; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the Planning Board, Design Review Board, and Historic Preservation Board currently have a requirement that one of the seven appointed members have experience in issues related to water recourses, hydrology, or floodplain management; and

WHEREAS, it has been challenging to recruit qualified individuals to serve in the water expert role on the City's Land Use Boards; and

WHEREAS, the City proposes to allow residents at-large as an alternative to the water expert in order to ensure that the City's Land Use Boards have all positions filled; 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 2, entitled "Administration and Review Procedures," Article I, entitled "Land Use Boards," Section 2.1.2 entitled "Planning Board," at Subsection 2.1.2.2, entitled "Membership and appointment," is hereby amended as follows:

2.1.2.2 Membership and appointment

a. The planning board shall be composed of seven regular voting members. Each regular member shall be appointed with the concurrence of at least four members of the city commission. The planning director or designee, and city attorney or designee, shall serve in an advisory capacity.

b. All regular voting members of the board shall have considerable experience in general business, land development, land development practices or land use issues; however, the board shall at a minimum be comprised of:

* * *

6. One of the following:

   A. A licensed professional engineer, licensed professional architect, or licensed professional landscape architect with expertise in water resources;

   B. A person licensed by the State of Florida in hydrology, water or wastewater treatment;

   C. A person with a degree from an accredited college or university in a field of study related to water resources; or

   D. A floodplain manager or a principal community administrator responsible for the daily implementation of flood loss reduction activities including enforcing a community's flood damage prevention ordinance, updating flood maps, plans, and policies of the community, and any of the activities related to administration of the National Flood Insurance Program (NFIP) (a "water management expert").

   E. A person who is a resident at-large and currently resides in the city and has resided in the city for at least three consecutive years at the time of appointment or reappointment.

c. Except as provided in subsection (b)(5), no person except a resident of the city, who has resided in the city for at least one year, shall be eligible for appointment to the planning board. The residency requirement in this subsection (c) shall not apply to the water resource expert appointed to the planning board pursuant to subsection (b)(6)(A-D).

SECTION 2. Chapter 2, entitled “Administration and Review Procedures,” Article I, entitled “Land Use Boards,” Section 2.1.3 entitled “Design Review Board,” at Subsection 2.1.3.2, entitled “Membership and appointment,” is hereby amended as follows:

2.1.3.2 Membership and appointment

a. The Design Review Board shall be composed of seven regular voting members. Each regular member shall be appointed with the concurrence of at least four members of the city commission. One person appointed by the city manager from an eligibility list provided by the disability access committee shall serve in an advisory capacity with no voting authority. The planning director or designee, and city attorney or designee, shall serve in an advisory capacity.

b. The Design Review Board shall consist of the following seven regular members:

* * *

6. One of the following:

   A. A licensed professional engineer, licensed professional architect, or licensed professional landscape architect with expertise in water resources;

B. A person licensed by the State of Florida in hydrology, water or wastewater treatment;

C. A person with a degree from an accredited college or university in a field of study related to water resources; or

D. A floodplain manager or a principal community administrator responsible for the daily implementation of flood loss reduction activities including enforcing a community's flood damage prevention ordinance, updating flood maps, plans, and policies of the community, and any of the activities related to administration of the National Flood Insurance Program (NFIP) (a "water management expert").

E. A person who is a resident at-large and currently resides in the city and has resided in the city for at least three consecutive years at the time of appointment or reappointment.

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d. *Residency and place of business*. All regular members shall reside in or have their primary place of business in the county, except for the water management expert appointed pursuant to subsection (b)(6)(A-D), who need not reside in or have a principal place of business in the county, and except as otherwise provided in subsection (b)(5). The two resident at-large members and one of the registered landscape architects, registered architects, or professionals practicing in the fields of architectural or urban design or urban planning shall be residents of the city.

SECTION 3. Chapter 2, entitled “Administration and Review Procedures,” Article I, entitled “Land Use Boards,” Section 2.1.4 entitled “Historic Preservation Board,” at Subsection 2.1.4.3, entitled “Membership and appointment,” is hereby amended as follows:

2.1.4.3 Membership and appointment

a. The Historic Preservation Board shall be composed of the following seven members, appointed with the concurrence of at least four members of the City Commission:

* * *

5. One of the following:

A. A licensed professional engineer, licensed professional architect, or licensed professional landscape architect with expertise in water resources;

B. A person licensed by the State of Florida in hydrology, water or wastewater treatment;

C. A person with a degree from an accredited college or university in a field of study related to water resources; or

D. A floodplain manager or a principal community administrator responsible for the daily implementation of flood loss reduction activities including enforcing a community's flood damage prevention ordinance, updating flood maps, plans, and policies of the community, and any of the activities related to administration of the National Flood Insurance Program (NFIP) (a "water management

expert"), each of the foregoing with professional experience and demonstrated interest in historic preservation.

E. A person who is a resident at-large and currently resides in the city and has resided in the city for at least three consecutive years at the time of appointment or reappointment.

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b. All members of the board except the architect, university faculty member, and water management expert shall be residents of the city; provided, however, that the City Commission may waive the residency requirement (if applicable) by a 5/7ths vote, in the event a person not meeting the residency requirements is available to serve on the board and is exceptionally qualified by training or experience in historic preservation matters. All appointments shall be made on the basis of civic pride, integrity, experience and interest in the field of historic preservation.

SECTION 4. REPEALER.

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

SECTION 5. 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 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 _____, 2024

_____
Steven Meiner, Mayor

ATTEST:

_____
Rafael E. Granado, City Clerk.

APPROVED AS TO FORM AND
LANGUAGE AND FOR EXECUTION

_____
City Attorney Date

First Reading: _____, 2024
Second Reading: _____, 2024

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

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