# MIAMI BEACH
## PLANNING DEPARTMENT

## Staff Report & Recommendation — PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: February 27, 2024

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: **PB23-0646. WD-1 Watercraft Rental and Hotel Requirements.**

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

**HISTORY**
On December 13, 2023, at the request of Commissioner David Suarez, the City Commission referred the proposed amendment to the Planning Board (Item C4 U).

**REVIEW CRITERIA**
Pursuant to Section 2.4.2 of the Resiliency 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 does not 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 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 –** The rental of watercraft has been negatively impacting the quality of life of nearby residents. The need to minimize the impacts of the rental of watercraft on nearby residents 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 FAR is not being modified by this ordinance.

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

**Consistent –** The proposed change will not impact the penetration of air and 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.**

**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 WD-1 Waterway District extends along the east side of the Indian Creek waterway, from approximately 23rd Street to 55th Street (See Zoning/Site Map at the end of this report). Per Section 7.2.21.1 of the Resiliency Code, the purpose of the WD-1 district is to "create a landscaped environment with uses that are of desirable character and in harmony with the waterway and the upland development."

**ANALYSIS**

Currently, the rental of watercraft in the WD-1 district is only permitted within properties associated with an upland hotel with a minimum of 350 units. The only exception to this is for properties located adjacent to Lake Pancoast, which are not required to meet the 350-hotel room requirement. The rental of watercraft in the WD-1 district has the potential to impact homes on the west side of the Indian Creek Waterway, as well as the functionality of the pedestrian and vehicular transportation network along Collins Avenue and Indian Creek Drive.

Watercraft rental uses also have increased potential for excess noise, impacts on safety along the waterway, and other sanitary issues. Additionally, most of the properties in the WD-1 district are not large enough, and do not provide necessary parking or other necessary facilities, to accommodate the rental of watercraft to people that are not guests of upland hotels.

To address these concerns, the proposed ordinance amendment modifies Section 7.2.21.2 of the Land Development Regulations of the City Code (LDR's), regarding uses permitted in the WD-1 district, to prohibit the rental of watercraft, including jet skis and similar uses. The amendment would apply prospectively regarding watercraft rentals along the Indian Creek Waterway, regardless of the size of the property.

For existing watercraft rentals, the proposed ordinance establishes regulations for legal nonconforming watercraft rental uses in section 7.2.21.5, as follows:

1. The watercraft rental use must be associated with a hotel containing a minimum of 350 units that is located immediately east of the rental location, across Collins Avenue or Indian Creek Drive, as applicable, or located adjacent to Lake Pancoast.

2. The rental of motorized personal watercraft, including, but not limited to, jet skis or other similar vessels, shall be prohibited.

3. Except for uses adjacent to Lake Pancoast, eligible watercraft shall only be rented to hotel guests.

4. All existing, legally permitted structures shall meet all applicable building, fire, and property maintenance standards.

5. For uses adjacent to Lake Pancoast, legally established concessions may continue to operate. However, any such concession shall not be enlarged, relocated, or expanded.

Staff is supportive of the proposed amendment as it will help mitigate potential nuisances to nearby residents. It will also reduce the impacts of watercraft rental locations that are north of Lake Pancoast by requiring that watercraft are only rented to hotel guests and not the public.

**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.

## Zoning/Site Map



**WD-1 WATERCRAFT RENTAL AND HOTEL REQUIREMENTS**

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE MIAMI BEACH RESILIENCY CODE, BY AMENDING CHAPTER 7, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, ENTITLED "ZONING DISTRICT REGULATIONS," SECTION 7.2.21, ENTITLED "WD WATERWAY DISTRICT," AT SUBSECTION 7.2.21.2, ENTITLED "USES (WD-1)," TO PROHIBIT THE RENTAL OF WATERCRAFT; AND AT SUBSECTION 7.2.21.5, ENTITLED "ADDITIONAL REGULATIONS (WD-1)," TO CLARIFY EXISTING REQUIREMENTS FOR LEGALLY NONCONFORMING WATERCRAFT RENTAL USES; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the rental of watercraft along the Indian Creek waterway, if not appropriately controlled, is incompatible with surrounding residential properties; and

**WHEREAS**, properties included in the WD-1 district are not large enough, and do not provide appropriate parking or other necessary facilities, to accommodate the rental of watercraft to the general public; and

**WHEREAS**, currently, the rental of watercraft is only permitted in the WD-1 district if it is "associated with an upland hotel with a minimum of 350 units," except that, pursuant to Section 7.2.21.5(e), "properties located adjacent to Lake Pancoast are not required to meet the 350 hotel room requirement and existing structures are permitted" subject to very specific criteria; and

**WHEREAS**, this Ordinance further clarifies existing requirements applicable to the rental of watercraft in the WD-1 district; 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, entitled "Zoning Districts and Regulations," Article II, entitled "Zoning District Regulations," Section 7.2.21, entitled "WD Waterway District," at Subsection 7.2.21.2, entitled "Uses (WD-1)," is hereby amended as follows:

**CHAPTER 7**
**ZONING DISTRICTS AND REGULATIONS**

* * *

**ARTICLE II: DISTRICT REGULATIONS**

* * *

**7.2.21 WD WATERWAY DISTRICT**

* * *

**7.2.21.2 Uses (WD-1)**

| **USES TABLE (WD-1)** | |
|---|---|
| RESIDENTIAL | |
| LODGING | |
| OFFICE | |
| COMMERCIAL | |
| Kiosks | P |
| Alcoholic beverage establishments | Pro * |
| Gambling and Casinos pursuant to section 7.1.8 | Pro |
| Rentals or leases of mopeds, motorcycles, and motorized bicycles pursuant to section 7.1.8 | Pro |
| Neighborhood and Retail Fulfillment Centers pursuant to section 7.1.8 | Pro |
| CIVIC | |
| CIVIL SUPPORT | |
| EDUCATIONAL | |
| INDUSTRIAL | |
| OTHER | |
| Water transportation stops | P |
| Rental of watercraft, ~~ex~~including jet skis and similar uses | Pro |
| Wet dockage of pleasure craft | P |
| Walkways and decks | P |
| **Key**<br>P – Main Permitted Use<br>C - Conditional Use<br>A - Accessory Use<br>Pro - Prohibited Use<br>* See Supplemental use regulations below | |

a. **Supplemental main permitted uses Regulations (WD-1)**

None

b. **Supplemental Conditional uses Regulations (WD-1)**

None

c. **Supplemental Accessory uses Regulations (WD-1)**

The accessory uses in the WD-1 waterway district are as follows:

i. As required in section 7.5.4.13 and as delineated in chapter 6 of the General Ordinances, as it relates to alcoholic beverage establishments.

d. **Supplemental prohibited uses Regulations (WD-1)**

None

**SECTION 2.** Chapter 7, entitled "Zoning Districts and Regulations," Article II, entitled "Zoning District Regulations," Section 7.2.21, entitled "WD Waterway District," at Subsection 7.2.21.5, entitled "Additional Regulations (WD-1)," is hereby amended as follows:

**7.2.21.5 Additional Regulations (WD-1)**

a. Structures in the WD-1 waterway district shall be constructed of concrete block and stucco and have a pitch roof of tile or concrete, and shall be open on all sides. All areas not covered by decks or structures shall be maintained as landscaped area.

b. Structures and rentals of watercraft are only permitted if there is at least 10 feet of lot depth and a minimum of 5 feet of public sidewalk.

c. Landscaped area not including walkways shall be a minimum of 50 percent (50%).

d. The following regulations shall apply to legally established, non-conforming watercraft rental ~~of watercraft shall be~~ uses: ~~that are associated with an upland hotel with a minimum of 350 units;~~.

   1. The legally nonconforming watercraft rental use must be associated with i. a hotel containing a minimum of 350 units that is located immediately east of the rental location, across Collins Avenue or Indian Creek Drive, as applicable; or ii. located adjacent to Lake Pancoast.

   2. The rental of motorized personal watercraft, including but not limited to jet skis or other similar vessels, shall be prohibited.

   3. With the exception of uses adjacent to Lake Pancoast, eligible watercraft shall only be rented to hotel guests.

   4. All existing, legally permitted structures shall meet all applicable building, fire, and property maintenance standards.

   5. For uses adjacent to Lake Pancoast, legally established concessions may continue to operate. However, any such concession shall not be enlarged, relocated or expanded.

~~e. Properties located adjacent to Lake Pancoast are not required to meet the 350 hotel room requirement and existing structures are permitted to be re-opened if they meet all applicable building, fire and property maintenance standards, ordinances and regulations and are approved by the design review board. The permitted uses are limited to concessions, sales or rental of watercraft with the exception of jet skis and other similar motorized uses.~~

f. In the event any dock, boat slips, decks, wharves, dolphin poles, mooring piles, davits, or structures of any kind are proposed to extend greater than 40 feet from a seawall adjacent to or abutting the WD-1 or WD-2 district, conditional use approval from the planning board, in accordance with section 2.5.2 of the Land Development Regulations, shall also be required.

**SECTION 3. 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 4. 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 5. SEVERABILITY.**

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

**SECTION 6. 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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