

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Planning Board

TO: Chairperson and Members
Planning Board

DATE: April 19, 2016

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: **Ordinance Amendment**
Revisions to Chapter 126 and 46 Pertaining to Landscaping

REQUEST

File No. 2322. CITY OF MIAMI BEACH LANDSCAPE ORDINANCE. AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS (LDR'S) OF THE CITY CODE, BY AMENDING CHAPTER 126, "LANDSCAPING," BY EXPANDING THE APPLICABILITY, SUBMITTAL REQUIREMENTS FOR LANDSCAPE PLANS, EXPANDING MINIMUM LANDSCAPE STANDARDS, DETAILING MAINTENANCE REQUIREMENTS FOR REQUIRED LANDSCAPING, AND ESTABLISHING A TREE TRUST FUND FOR THE DEPOSIT OF FUNDS GENERATED FROM NOT COMPLYING WITH LANDSCAPE REQUIREMENTS; BY AMENDING CHAPTER 130, ENTITLED "OFF-STREET PARKING," ARTICLE III, ENTITLED "DESIGN STANDARDS," TO INCORPORATE LANDSCAPE STANDARDS FOR TEMPORARY AND PROVISIONAL PARKING LOTS INTO THE CITY OF MIAMI BEACH LANDSCAPE ORDINANCE; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

File No. 2323. CITY OF MIAMI BEACH NON-SPECIMEN TREES. AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS (LDR'S) OF THE CITY CODE, BY AMENDING CHAPTER 46, "ENVIRONMENT", ARTICLE II, "CARE AND MAINTENANCE OF TREES AND PLANTS", DIVISION 2, "TREE PRESERVATION AND PROTECTION," BY TO MODIFY THE DIAMETER AT BREAST HEIGHT OF NON-SPECIMEN TREES; PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY AND AN EFFECTIVE DATE.

RECOMMENDATION

Transmit the proposed ordinance amendment related to the land development regulations (File No. 2322) to the City Commission with a favorable recommendation.

HISTORY/ BACKGROUND

On June 10, 2015, at the request of Commissioner Malakoff, the City Commission referred the subject Ordinance amendment (Item C4I) to the Land Use and Development Committee. Additionally, the matter was referred to the Planning Board.

On June 17, 2015, the Land Use and Development Committee discussed the item and continued it to the July 29, 2015 meeting. The Committee directed the Administration to prepare an ordinance amendment to Chapter 126 and to Chapter 46, so that the two chapters of the Code are consistent.

On July 29, 2015, the Land Use and Development Committee requested that recommendations from the Greenspace/Tree Advocacy Group (GTAG) be incorporated into the Ordinance and continued the item to the September 9, 2015 meeting.

On September 9, 2015, the Land Use and Development Committee continued the item to the November 18, 2015 meeting. The November 18, 2015 and December 2, 2015 meetings of the Land Use and Development Committee were cancelled; therefore, the item was continued to the January 20, 2016 meeting. On January 20, 2016, the Land Use and Development Committee discussed the proposed ordinance and continued it to the February 17, 2016 meeting.

On February 17, 2016, the Land Use and Development Committee recommended that the ordinance be sent to the Planning Board with a favorable recommendation, including the current requirement that homeowners maintain swale trees.

On March 9, 2016, the City Commission referred the subject ordinance amendment (Item C4B) to the Planning Board.

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 amendment 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.**

Not applicable – The proposed amendment does not modify district boundaries.

3. **Whether the change suggested is out of scale with the needs of the neighborhood or the city.**

Not applicable – The proposed Ordinance does not affect the overall scale of development.

4. **Whether the proposed change would tax the existing load on public facilities and infrastructure.**

Consistent – The proposed ordinance will not increase the level of intensity of development and will not affect the load on public facilities.

5. **Whether existing district boundaries are illogically drawn in relation to existing**

conditions on the property proposed for change.

Not applicable – The proposed change does not modify existing district boundaries.

- 6. Whether changed or changing conditions make the passage of the proposed change necessary.**

Consistent – The need to protect and increase the City's tree canopy makes the passage of the proposed change necessary.

- 7. Whether the proposed change will adversely influence living conditions in the neighborhood.**

Consistent – The proposed change 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.

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

Consistent – The proposed ordinance will not reduce light and air to adjacent areas, and will allow for additional flexibility which could allow for minimizing negative impacts to light and air.

- 10. Whether the proposed change will adversely affect property values in the adjacent area.**

Consistent – The proposed change should 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 should 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.

ANALYSIS

According to the U.S. Department of Agriculture (USDA) Forest Service trees are a valuable worth three times their initial investment. They reduce carbon dioxide and air pollutants, reduce energy costs by providing shade, and increase the frequency of shopping and amount spent in commercial areas by creating a more comfortable atmosphere, and increase property values, among other benefits.

Chapter 126 of the Land Development Regulations (LDR's) provides the City's existing minimum landscape standards for private properties. The requirements of the landscape regulations are applicable to all building permits for new construction, substantial rehabilitation or additions to existing buildings when located in areas designated for design review, conditional use or variance procedures and property in the redevelopment area. Additionally, permits for demolition require a landscape survey to insure that valuable existing trees are not damaged or destroyed. Trees that have a trunk diameter of eight or more inches may not be removed without the approval of the Environment and Sustainability Division, Urban Forester.

These standards are generally consistent with the minimum landscape standards of Miami-Dade County. However, these standards are currently insufficient to achieve many of the benefits described by the USDA and desired by the City.

As the need to protect existing tree species has become more apparent, revisions to Chapter 126 of the LDR's are in order, to compliment and be consistent with the requirements of Chapter 46, Article II of the City Code pertaining to the care and maintenance of trees and plants. The attached ordinances propose updates to Chapter 126 of the LDR's, as well as to Chapter 46 of the City Code, to be consistent with established policy goals of enhanced landscaping and the preservation of existing tree canopy in the City. These modifications will complement the City's other efforts in tree protection, such as assuming the responsibility for tree removal permits from Miami-Dade County, which occurred on June 15, 2015. The analysis that follows details the proposed modifications.

City of Miami Beach Landscape Ordinance

Staff has developed a draft landscape ordinance that establishes minimum landscape standards utilizing best practices for South Florida in order to accomplish the following:

- Enhance, improve, and maintain the quality of landscape.
- Prevent the destruction of the City's existing tree canopy and promote its expansion.
- Improve the aesthetic appearance of new development and protecting designated historic landscapes.
- Promote sound landscaping principles through the use of drought and salt tolerant plant species and also to promote planting the right tree and plant in the right place.
- Promote the use of trees and shrubs for energy conservation, thereby helping to offset global warming and local heat island effects.

Submittal Requirements

The proposed ordinance establishes that the following types of plans must be submitted with building permit applications for new construction, substantial rehabilitation or additions to existing buildings, as well as applications submitted for land use board approval:

- Vegetation Survey

- Tree Disposition Plan
- Landscape Plan
- Irrigation Plan
- Site and Landscape Lighting Plan

The ordinance requires that the vegetation survey be prepared by a professional land surveyor licensed to practice in the state of Florida. It also requires that the landscape plans be prepared by a landscape architect licensed to practice in the State of Florida. In addition, it requires that irrigation plans and the site and landscape lighting plans be prepared by a landscape architect or other persons authorized by Chapter 481, Florida statutes.

The proposal also requires that no permit for development activity be issued unless any necessary tree removal permits have been obtained or it has been determined that no tree removal permit is required pursuant to the tree preservation and protection criteria described in Chapter 46 of the City Code.

Minimum Standards

The proposed ordinance establishes minimum standards for the following criteria:

- Trees
- Lawn Grass/Sod Area
- Minimum Number of Trees
- Large Shrubs or Small Trees
- Shrubs
- Vines
- Groundcover and Grasses
- Soil
- Fertilizer
- Mulch
- Plant Quality
- Buffers between dissimilar Land Uses
- Landscaped Areas in Permanent Parking Lots
- Temporary and Provisional Parking Lot Standards
- Landscape Installation
- Irrigation
- Landscape Maintenance

The existing landscaping standards generally require that there be one canopy tree or grouping of three palms for every 25 linear feet of frontage in required yards. The proposed ordinance includes more specific criteria as to the dimensions, spacing, and types of trees. A table indicates the number of trees per lot in each of the various zoning districts throughout the City. In an effort to improve the City's canopy and increase shade, the proposed ordinance indicates that, although permitted, palm trees do not count towards meeting the minimum tree canopy requirements.

The proposed ordinance also establishes a Tree Trust Fund. Should an applicant not be able to accommodate the required landscaping onsite or offsite in a public space approved by the City, the applicant has the option of paying into the Tree Trust. The revenue in the fund can be used

for projects such as street tree plantings, tree plantings in public lands, and projects that restore and enhance the City's tree canopy.

The standards for soil, fertilizer, mulch, plant quality, installation, irrigation, and maintenance are intended to ensure that landscaping that is planted within the City survives and thrive. It requires that if a tree that is used to satisfy the minimum requirements of the code dies, that it be replaced with the same type of landscape material or an approved substitute.

In an effort to improve sustainability and reduce groundwater withdrawals, the standards encourage the use of treated brown and grey water for the use of irrigation in order to conserve potable water. The ordinance proposes that guides and standards be created by the City in order to encourage and regulate them.

Modifications to Chapter 46 are also proposed, as a separate ordinance, in order to be consistent with the revisions to Chapter 126. The modifications include reducing the minimum review caliper from 12 inches to six inches.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the Planning Board transmit the proposed ordinance amendment related to the land development regulations (File No. 2322) to the City Commission with a favorable recommendation.

TRM/MAB/RAM