

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: Nov 27, 2018

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: **PB18-0235. Single Family Front and Street Side Setback Regulations - Raised Street Harmonization.**

#### **REQUEST**

**PB 18-0235. Single Family Front and Street Side Setback Regulations - Raised Street Harmonization.** AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," DIVISION 2, "RS-1, RS-2, RS-3, RS-4 SINGLE-FAMILY RESIDENTIAL DISTRICTS," AT SECTION 142-106 BY MODIFYING FRONT AND STREET SIDE SETBACK REQUIREMENTS FOR PROPERTIES THAT SEEK TO HARMONIZE EXISTING YARD ELEVATIONS WITH CITY STREET RAISING PROJECTS; PROVIDING CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

#### **RECOMMENDATION**

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

#### **HISTORY/ BACKGROUND**

On September 12, 2018, at the request of Commissioner John Elizabeth Aleman, the City Commission referred the item to the Land Use and Development Committee (LUDC) and the Planning Board (Item C4E).

On October 31, 2018, The Land Use and Development Committee recommended that the City Commission approve the subject Ordinance.

#### **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.**

**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.**

The proposed ordinance amendment is not out of scale with the surrounding 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.

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** – With the City approved street raising projects, the proposed change is necessary to harmonize and allow previously approved homes with less than the currently required 50% pervious area in a front and/or street side yard to maintain a lesser pervious area in conjunction with the raising of the yards to meet the elevation of a new street and sidewalk.

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 as the amount of open space on a site would not be reduced as viewed from neighboring properties.

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 ordinance will not reduce light and air to adjacent areas.

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.**

**Partially Consistent** – There are not any substantial reasons why the properties within this zoning district cannot be used in accordance with the existing zoning; however, in order to incentivize the harmonization of previously approved homes with less than the currently required 50% pervious area in a front and/or street side yard, the approval of this amendment is necessary.

- 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** – The proposed amendment does not affect permitted uses in the district.

#### **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.**

**Consistent** – The proposal does affect areas that are vulnerable to the impacts of sea level rise.

- (2) Whether the proposal will increase the resiliency of the City with respect to sea level rise.**

**Consistent** – The proposal will increase the resiliency of the City with respect to sea level rise allowing front and side yards to be elevated to meet the new sidewalk and street elevations.

- (3) Whether the proposal is compatible with the City's sea level rise mitigation and resiliency efforts.**

**Consistent** – The proposal does not diminish and is compatible with the City's sea level rise mitigation and resiliency efforts.

The attached draft Ordinance would amend Section. 142-106 of the City Code, regarding minimum open space requirements within required front and street yards for single family properties seeking to harmonize with City approved street raising projects. Specifically, the proposal would allow for previously approved homes with less than the currently required 50% pervious area in a front and/or street side yard to maintain a lesser pervious area in conjunction with the raising of the yards to meet the elevation of a new street and sidewalk. However, in no instance could the open space area of a raised yard be less than 30%.

The subject ordinance is intended to encourage properties that are adjacent to raised streets to better harmonize with these types of streetscape projects, if their property allows for it. Since this item was a dual referral, the subject Ordinance was noticed for the November 27, 2018 Planning Board meeting, subject to the recommendation of the LUDC.

**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.

TRM/MAB/AG

**Single Family Front and Street Side Setback Regulations - Raised Street Harmonization**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," DIVISION 2, "RS-1, RS-2, RS-3, RS-4 SINGLE-FAMILY RESIDENTIAL DISTRICTS," AT SECTION 142-106 BY MODIFYING FRONT AND STREET SIDE SETBACK REQUIREMENTS FOR PROPERTIES THAT SEEK TO HARMONIZE EXISTING YARD ELEVATIONS WITH CITY STREET RAISING PROJECTS; PROVIDING CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.**

**WHEREAS**, the regulation of single family districts is necessary in order to ensure compatible development within the built character of the single-family neighborhoods in the City; and

**WHEREAS**, the identity, image and environmental quality of the City should be preserved and protected; and

**WHEREAS**, the privacy, attractive pedestrian streetscapes and human scale and character of the City's single-family neighborhoods, are important qualities to protect; and

**WHEREAS**, the City desires to have single family properties harmonize with adjacent and abutting street raising projects; and

**WHEREAS**, these regulations will accomplish these goals and ensure that the public health, safety and welfare will be preserved in the City's single-family districts.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:**

**SECTION 1.** That Section 142-106, "Setback requirements for a single-family detached dwelling", is hereby amended, as follows:

**142-106. - Setback requirements for a single-family detached dwelling.**

The setback requirements. for a single-family detached dwelling in the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

- (1) *Front yards:* The minimum front yard setback requirement for these districts shall be 20 feet.
  - a. One-story structures may be located at the minimum front yard setback line.
  - b. Two-story structures shall be set back a minimum of ten additional feet from the required front yard setback line.
  - c. [Reserved.]
  - d. At least 50 percent of the required front yard area shall be sodded or landscaped pervious open space. With the exception of driveways and paths leading to the building, paving may not extend any closer than five feet to the front of the building.

e. In the event that an existing single family home has an abutting street raised pursuant to an approved City project, and such home was previously permitted with less than 50 percent of the required front yard area consisting of sodded or landscaped pervious open space, such property may retain the most recent, previously permitted pervious open space if the front yard is raised to meet the new street elevation. However, in no instance shall less than 30% of the required front yard be sodded or landscaped pervious open space.

(2) *Side yards:*

a. The sum of the required side yards shall be at least 25 percent of the lot width.

b. Side, facing a street.

1. Each required side yard facing a street shall be no less than ten percent of the lot width or 15 feet, whichever is greater. Also, at

2. At least 50 percent of the required side yard area facing a street shall be sodded or landscaped pervious open space. With the exception of driveways and paths leading to the building, paving may not extend any closer than five feet to the front of the building.

3. In the event that an existing single family home has an abutting street raised pursuant to an approved City project, and such home was previously permitted with less than 50 percent of the required side yard area facing a street consisting of sodded or landscaped pervious open space, such property may retain the most recent, previously permitted pervious open space if the side yard area facing a street is raised to meet the new street elevation. However, in no instance shall less than 30% of the required side yard area facing a street be sodded or landscaped pervious open space.

c. Interior sides.

1. For lots greater than 60 feet in width ~~each~~ ~~any one~~ interior side yard shall have a minimum of ten percent of the lot width or ten feet, whichever is greater.

2. For lots 60 feet in width or less ~~each~~ ~~any one~~ interior side yard shall have a minimum of seven and one-half feet.

## **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 be and the same 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 \_\_\_\_\_, 2019.

\_\_\_\_\_  
Dan Gelber, Mayor

**ATTEST:**

\_\_\_\_\_  
Rafael E. Granado, City Clerk

APPROVED TO  
FORM AND LANGUAGE  
& FOR EXECUTION

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date

First Reading: December 12, 2018  
Second Reading: January \_\_, 2019

Verified by: \_\_\_\_\_  
Thomas R. Mooney, AICP  
Planning Director

Underscore denotes new language  
~~Strikethrough~~ denotes removed language

M:\\$CMB\CCUPDATES\Land Use and Development Committee\2018\October 31, 2018\SF Setbacks Street Raising - ORD Oct 31  
2018 LUDC.docx