

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: **PB18-0236. WASHINGTON AVENUE INTERIOR SETBACKS**

REQUEST

PB 18-0236. WASHINGTON AVENUE INTERIOR SETBACKS. 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 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS," DIVISION 5, "CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT," BY AMENDING SECTION 13-309, "WASHINGTON AVENUE DEVELOPMENT REGULATIONS AND AREA REQUIREMENTS," TO MODIFY THE DEVELOPMENT REGULATIONS PERTAINING TO INTERIOR SIDE YARDS; BY AMENDING CHAPTER 130, "OFF-STREET PARKING," ARTICLE II, "DISTRICTS; REQUIREMENTS," TO MODIFY THE PARKING REQUIREMENTS IN PARKING DISTRICT NO. 7; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

RECOMMENDATION

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

HISTORY/ BACKGROUND

On July 25, 2018, at the request of Commissioner Michael Gongora, the City Commission referred the item to the Land Use and Development Committee (Item C4L). On September 28, 2018, the Land Use Committee discussed the proposal and recommended that the City Commission refer the attached draft Ordinance to the Planning Board.

On October 17, 2018, at the request of Commissioner Michael Gongora, the City Commission referred the attached Ordinance to the Planning Board (Item C4B).

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 – The proposed ordinance is necessary to be more consistent with the denser, more compact urban environment.

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.**

Partially Consistent – Although the proposed setbacks are reduced, the minimum of 7.5 feet for interior side setbacks and the minimum sum of the side yard setback of 16% will ensure proper light and air to adjacent properties.

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 – 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.

Partially 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.

Not Applicable – The proposal will not affect 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 does not diminish and is compatible with the City's sea level rise mitigation and resiliency efforts.

ANALYSIS

The attached Ordinance would amend Section 142-309 of the Land Development Regulations, regarding minimum setback requirements for residential uses within the Washington Avenue overlay, from 6th to 17th Streets.

The existing interior side setback regulations were designed for broader, water or beachside properties, as they set forth a large sum of the side yard requirement, particularly for aggregated lots. As development sites with larger numbers of individual lots are aggregated, the sum of the side yard requirement increases significantly for residential and hotel uses.

These larger interior side setback requirements are not consistent with the denser, more compact urban environment that defines Washington Avenue from 5th to 17th Street. Additionally, as this stretch of Washington Avenue is within a locally designated historic district, the strategic placement of limited infill construction consisting of residential or hotel uses is made more challenging by the current interior setback regulations.

The proposed text amendment maintains a baseline minimum of 7.5 feet for interior side setbacks for lots that have a frontage greater than 100 feet in this corridor. However, the requirement for a minimum interior side setback of 8% of the lot width has been stricken, as this percentage threshold is impacting larger lot aggregations (those in excess of 100 feet of frontage). The minimum sum of the side yard setback requirement of 16% is maintained, so as to ensure adequate light and air on very wide sites for the upper levels. Also, most projects will have commercial uses on the first level, thus allowing the continuous street wall at a zero side setback, which would not be affected.

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

WASHINGTON AVENUE INTERIOR SETBACKS

ORDINANCE NO. _____

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 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS," DIVISION 5, "CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT," BY AMENDING SECTION 13-309 ENTITLED "WASHINGTON AVENUE DEVELOPMENT REGULATIONS AND AREA REQUIREMENTS," TO MODIFY THE DEVELOPMENT REGULATIONS PERTAINING TO INTERIOR SIDE YARDS; AND BY AMENDING CHAPTER 130, "OFF-STREET PARKING," ARTICLE II, "DISTRICTS; REQUIREMENTS," TO MODIFY THE PARKING REQUIREMENTS IN PARKING DISTRICT NO. 7; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach has the authority to enact laws which promote the public health, safety and general welfare of its citizens; and

WHEREAS, the City previously created development regulations specific to Washington Avenue pursuant to the input and recommendations of the Mayor's Washington Avenue Blue Ribbon Task Force; and

WHEREAS, the City has reviewed the conditions of Washington Avenue and the concerns raised by residents, property owners, and businesses as it relates to the condition of Washington Avenue; and

WHEREAS, there appears to be some deterioration of the area and the businesses and property owners are concerned with the quality of life and quality of the streets within the Historic District; and

WHEREAS, the City has studied various mechanisms for improving the quality of life and quality of business improvements within the area; and

WHEREAS, the City of Miami Beach Land Development Regulations ("LDRs") provides for the regulation of land within the City; and

WHEREAS, as development sites with larger numbers of individual lots are aggregated, the sum of the side yard requirement increases significantly for residential and hotel uses; and

WHEREAS, these larger interior side setbacks are not consistent with the denser more compact urban environment on Washington Avenue between 5th to 17th Streets; and

WHEREAS, this portion of Washington Avenue is within a locally designated Historic District and the placement of limited infill construction consisting of residential or hotel uses is made more challenging by the current interior setback requirements; and

WHEREAS, the proposed amendment maintains the minimum setback for lots that have a frontage greater than 100 feet, and the minimum sum of the side yard setback of 16% is maintained so as to ensure adequate light and air on very wide sites; and

WHEREAS, the amendments set forth below are necessary to accomplish the above objectives.

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

SECTION 1. Chapter 142, "Zoning Districts and Regulations," Article II, "District Regulations," Division 5, "CD-2 Commercial, Medium Intensity District," of the Land Development Regulations of the Code of the City of Miami Beach, Florida is hereby amended as follows:

* * *

Sec. 142-309 – Washington Avenue development regulations and area requirements:

The following regulations shall apply to properties that front Washington Avenue between 6th Street and 16th Street; where there is conflict within this division, the criteria below shall apply:

- (1) The maximum building height shall be 55 feet, except for lots that have a frontage equal to or greater than 200 feet, in which case the maximum building height shall be 75 feet; however, main use parking garages shall not exceed 55 feet, regardless of the amount of lot frontage. Notwithstanding the foregoing, the maximum building height shall be 75 feet for lots that have a platted frontage equal to or greater than 100 feet, located on the east side of Washington Avenue and located on or within 250 feet of a cultural institution, as defined under Section 138-139 of the City Code of these land development regulations, provided such cultural institution existed as of the effective date of this Ordinance and contains a minimum of 25,000 square feet of building area. For lots that have a platted frontage equal to or greater than 100 feet, but less than 200 feet, and are eligible for a 75 foot height limit, the sum of the side yards for floors with residential or hotel units shall be no less than 40% of the lot width.
- (2) The maximum number of stories shall be five (5) stories, except for lots that have a frontage equal to or greater than 200 feet, in which case the maximum number of stories shall not exceed seven (7) stories. Notwithstanding the foregoing, the maximum number of stories shall not exceed seven (7) stories for lots that have a platted frontage equal to or greater than 100 feet, located on the east side of Washington Avenue and located on or within 250 feet of a cultural institution, as defined under Section 138-139 of the City Code of these land development regulations, provided such cultural institution existed as of the effective date of this Ordinance and contains a minimum of 25,000 square feet of building area.
- (3) For lots that have a frontage that is equal to or less than 100 feet, the setbacks shall be pursuant to section 142-307. For lots that have a frontage that is greater than 100 feet, the setbacks shall be as follows:
 - a. Front:
 - i. Subterranean: zero (0) feet

- ii. Ground level: zero (0) feet
- iii. Above the ground level up to 35 feet in height:
 - 1. Minimum five (5) feet for parking garages with liners; or
 - 2. Minimum 10 feet for parking garages without liners; or
 - 3. Minimum 15 feet for all other uses.
- iv. Above 35 feet in height:
 - 1. Minimum five (5) feet for parking garages with liners; or
 - 2. Minimum 10 feet for parking garages without liners; or
 - 3. Minimum 30 feet for all other uses.

b. Rear:

- i. Subterranean: zero (0) feet
- ii. Ground level: zero (0) feet
- iii. Above the ground level:
 - 1. Minimum 10 percent of lot depth; or
 - 2. Minimum zero (0) feet for parking garage floors above the minimum truck clearance.

c. Side, facing a street:

- i. Subterranean: Zero feet;
- ii. Non-residential uses: Zero feet;
- iii. Residential and Hotel uses: Sum of the side setbacks shall equal 16 percent of lot width or a minimum of 7½ feet and up to 20 feet.

d. Side, interior:

- i. Subterranean: Zero feet;
- ii. Non-residential uses: Zero feet;
- iii. Residential and Hotel uses: Sum of the side setbacks shall equal 16 percent of lot width or a minimum of 7½ feet or eight percent of lot width, whichever is greater. When abutting a non-residential or non-hotel use, the minimum interior side setback shall be 7 ½ feet, and the minimum sum of the side setbacks shall equal 16 percent of the lot width, up to 20 feet.

(4) The maximum frontage for nightclubs and dance halls, located at the ground level shall not exceed 25 feet in width unless such a space has a certificate of use for nightclub or dance hall, or unless a valid license was issued after January 1, 2011, and before the date of adoption of this ordinance for the use of such space as a nightclub or dance hall.

(5) For new hotel construction or conversion to hotel use, the minimum hotel room unit size may be 175 square feet, provided that:

- a. A minimum of 20 percent of the gross floor area of the hotel consists of hotel amenity space that is physically connected to and directly accessed from the

hotel. Hotel amenity space includes the following types of uses, whether indoor or outdoor, including roof decks: restaurants; bars; cafes; hotel business center; hotel retail; screening rooms; fitness center; spas; gyms; pools; pool decks; and other similar uses customarily associated with a hotel. Bars and restaurants shall count no more than 50 percent of the total hotel amenity space requirements.

- b. Windows shall be required in all hotel rooms and shall be of dimensions that allow adequate natural lighting, as determined by the historic preservation board.

(6) For lots that have a frontage that is greater than 100 feet, the following shall apply:

- a. **Maximum Building Length.** Unless otherwise approved by the Historic Preservation Board at its sole discretion, no plane of a building, above the ground floor façade facing Washington Avenue, shall continue for greater than 100 feet without incorporating an offset of a minimum five feet (5') in depth from the setback line. The total offset widths shall total no less than 20 percent of the entire building frontage.
- b. **Physical Separation between Buildings:** Unless otherwise approved by the Historic Preservation Board at its sole discretion, a physical separation must be provided between buildings greater than 200 feet in length and at/or above 35 feet in height from the ground floor. Notwithstanding the foregoing, for building sites with a lot frontage in excess of 500 feet, no physical separation is required if: (i) the length of the building at/or above 35 feet in height from the ground floor does not exceed 50 percent of the length of the frontage of the property; and (ii) the offsets required in subsection (a), above, are a minimum of twenty feet (20') in depth from the setback line and the combined offset widths total no less than 30 percent of the entire building frontage.

SECTION 2. Chapter 130, "Off-Street Parking," Article II, "Districts; Requirements," of the Land Development Regulations of the Code of the City of Miami Beach, Florida is hereby amended as follows:

Sec. 130-33. - Off-street parking requirements for parking districts nos. 2, 3, 4, 5, 6, and 7.

* * *

- (d) Except as otherwise provided in these land development regulations, when any building or structure is erected or altered in parking district no. 7, off-street automobile parking spaces shall be provided for the building, structure or additional floor area as follows. For uses not listed below, the off-street parking requirement shall be the same as for parking district no. 1 or parking district no. 2, as applicable.

- (1) Hotel and Hostel: No parking requirement. For accessory uses to a hotel or hostel, the minimum parking is as set-forth in parking district no. 1.
- (2) Office: No parking requirement provided a facility with publicly accessible parking spaces is located within 500 feet.

- (3) Retail: Retail existing as of the date of adoption of parking district no. 7 shall have no parking requirement. For new retail construction, one (1) space per 300 square feet of floor area.
- (4) Café, outdoor: No parking requirement.
- (5) Approved parklets shall have no parking requirement.
- (6) Any building or structure erected in parking district no. 7 may provide required parking on site as specified in parking district no. 1. Such required parking, if provided, shall be exempt from FAR, in accordance with the regulations specified in chapter 114 of these land development regulations.

The parking requirements in this subsection 130-33(d)(1)(2)(3)(4) and (5) shall only apply to projects that have obtained a full building permit or business tax receipt by September 1, 2020.

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 _____, 2019.

ATTEST:

Dan Gelber, Mayor

Rafael E. Granado, City Clerk

First Reading: December 12, 2018
Second Reading: January __, 2019

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

Underline denotes new language
~~Strikethrough~~ denotes deleted language

[Sponsored by Commissioner Michael Gongora]

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