

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: Dec 18, 2018

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB18-0247. Enclosed outdoor seating parking requirements**

REQUEST

PB 18-0247. Enclosed outdoor seating parking requirements. AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, SUBPART B, ENTITLED "LAND DEVELOPMENT REGULATIONS," AMENDING THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, BY AMENDING CHAPTER 130, ENTITLED "OFF-STREET PARKING," ARTICLE V, ENTITLED "FEE IN LIEU OF PARKING PROGRAM," BY AMENDING STANDARDS AND PROCEDURES FOR OFF-STREET PARKING REQUIREMENTS IN THE ARCHITECTURAL DISTRICT; 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 a discussion item to the Land Use and Development Committee (Item C4B). On October 31, 2018 the Land Use Committee discussed the item and recommended that the City Commission refer the attached draft Ordinance to the Planning Board.

On November 14, 2018, at the request of Commissioner John Elizabeth Aleman, the City Commission referred the attached Ordinance to the Planning Board (Item C4Q).

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:

- 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 allow for the enclosure of existing outdoor seating areas to satisfy the off-street parking requirement by participation in the annual fee in lieu program.

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.**

Consistent – The proposed change 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.**

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

Under the Land Development Regulations of the City Code, outdoor seating areas that are enclosed to address noise and weather are treated as floor area and counted towards the maximum floor area ratio (FAR) for a site. Within local historic districts, the required parking associated with the new FAR can either be satisfied by providing it onsite, or by paying a one-time impact fee, which is currently \$40,000 per parking space. Currently there is no off-street parking requirement for main or accessory uses associated with buildings that existed prior to October 1, 1993, which are located within the architectural district, however the construction of new enclosed areas does have a parking requirement, depending on the use.

The proposal herein provides another option for addressing the minimum parking requirement for the enclosure of existing outdoor seating areas in the architectural district. In this regard, the enclosure of outdoor seating areas has practical benefits as it pertains to inclement weather, as well as controlling noise, particularly when the outdoor seating area is in close proximity to residential uses.

The proposed draft ordinance would amend Chapter 130 of the Land Development Regulations of the City Code and allow for the enclosure of existing outdoor seating areas to satisfy the off-street parking requirement by participation in the annual fee in lieu program (\$800.00 per year, per required parking space), as opposed to the current requirement of paying a one-time fee (\$40,000.00 per space). The ability to utilize the annual fee in lieu would be limited to those seating areas attached to a contributing building located within the Architectural District. Currently, outdoor seating areas, outside of a local historic district, are eligible to satisfy required parking through the annual fee in lieu program (There is no parking requirement for outdoor seating areas associated with buildings that existed prior to October 1, 1993 in the Architectural District). This option would allow for enclosed seating areas, attached to contributing buildings in the Architectural District, to participate in the annual fee program, as well.

The attached Ordinance limits the scope of the application of this proposal, and there is a rational nexus for allowing some latitude for contributing buildings in the Architectural District. In most instances, contributing buildings in the Architectural District do not have any space on the property to provide off-street parking, and any attempt to create such space could have negative impacts on the architectural integrity of the building and property. Additionally, the actual intensity of the seating would not be increased, as outdoor seating areas associated with buildings that existed prior to October 1, 1993 in the Architectural District do not have a parking requirement. Additionally, there would be no impact on parking, as currently the requirements for enclosed floor area in a historic district can be satisfied by paying a one-time fee. The proposal herein would allow the fee to be paid annually.

SUMMARY

The Land Use Committee recommended the following limitations, all of which are included in the draft ordinance:

1. The ordinance shall be limited to the enclosure of existing outdoor seating areas, which are attached to a contributing building located within the Architectural District.
2. The outdoor seating area shall be located within a rear or interior side area of the lot, and shall not directly front a street.
3. The outdoor seating area shall be adjacent to a residential use.

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.

Enclosed Seating Areas - Off-Street Parking Regulations

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, SUBPART B, ENTITLED "LAND DEVELOPMENT REGULATIONS," AMENDING THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, BY AMENDING CHAPTER 130, ENTITLED "OFF-STREET PARKING," ARTICLE V, ENTITLED "FEE IN LIEU OF PARKING PROGRAM," BY AMENDING STANDARDS AND PROCEDURES FOR OFF-STREET PARKING REQUIREMENTS IN THE ARCHITECTURAL DISTRICT; PROVIDING 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 of Miami Beach Land Development Regulations ("LDRs") provides for the regulation of land within the City; and

WHEREAS, regulation of standards for off-street parking and an amendment to the fee in lieu of parking program to recognize outdoor seating being eligible to participate in the program, for outdoor seating in the Architectural District would assist the businesses in the area and have a beneficial effect on the area; and

WHEREAS, these regulations will accomplish these goals and ensure that the public health, safety and welfare will be preserved in the City.

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

SECTION 1. That Chapter 130, "OFF-STREET PARKING", is hereby amended, as follows:

CHAPTER 130

OFF-STREET PARKING

* * *

ARTICLE V. - FEE IN LIEU OF PARKING PROGRAM

Sec. 130-131. - Generally.

A fee in lieu of providing parking may be paid to the city in lieu of providing required parking on-site, or within 1,200 feet of the site in the architectural district or otherwise within 500 feet of the site, only in the following instances, except that parking requirements for accessory commercial uses in newly constructed buildings within the Collins Waterfront Historic District in an area in

the RM-2 zoning district that is bounded by 41st Street on the south and 44th Street on the north, and for medical cannabis treatment centers and pharmacy stores shall be satisfied by providing the required parking spaces, and may not be satisfied by paying a fee in lieu of providing parking:

- (1) New construction of commercial or residential development and commercial or residential additions to existing buildings whether attached or detached from the main structure within the architectural district or a local historic district.
- (2) When an alteration or rehabilitation within an existing structure results in an increased parking requirement pursuant to subsection 130-132(b).
- (3) New construction of 1,000 square feet or less, or additions of 1,000 square feet or less to existing buildings whether attached or detached from the main structure may fully satisfy the parking requirement by participation in the fee in lieu of providing parking program pursuant to subsection 130-132(a).
- (4) The creation or expansion of an outdoor cafe (except for those which are an accessory use to buildings described in subsection 130-31(b)).
- (5) Commercial or residential additions to existing contributing buildings, whether attached to or detached from the main structure, within the Normandy Isles National Register District or the North Shore National Register District, provided the existing contributing structure is substantially retained, preserved and restored. The proposed commercial or residential additions to the existing structure shall be subject to the review and approval of the design review board or historic preservation board, whichever has jurisdiction, and shall include a renovation plan for the existing structure that is fully consistent with the Secretary of the Interior Guidelines and Standards for the Rehabilitation of Historic Buildings.
- (6) The enclosure of existing outdoor seating areas, attached to a contributing building located within the Architectural District, may fully satisfy the parking requirement by participation in the fee in lieu of providing parking program pursuant to subsection 130-132(b), in accordance with the following:

(A) The outdoor seating area shall be located within a rear or interior side area of the lot, and shall not directly front a street.

(B) The outdoor seating area shall be adjacent to a residential use.

Sec. 130-132. - Fee calculation.

- (a) *New construction.* The fee in lieu of providing parking for new construction shall be satisfied by a one-time payment at the time of issuance of a building permit per parking space. The amount of such one-time fee is set forth in section 118-7.
- (b) *Existing structures, eligible indoor seating areas in the Architectural District and outdoor cafes.* When alteration or rehabilitation of a structure results in an increased parking

requirement, or an outdoor cafe is created or expanded, the fee in lieu of providing parking shall be satisfied by one of the following:

- (1) A one-time payment as set forth in subsection (a) of this section.
- (2) A yearly payment in the amount set forth in 118-7, which shall continue as long as the use exists. (The amount of such payment may vary from year to year in accordance with the determination set forth in subsection (d) of this section.) However, in lieu of continued yearly payments, a one-time redemption payment may be made at any time of the full amount due pursuant to subsection (a) of this section minus the amount of money already paid through yearly payments; such amount shall be based upon the latest determination made pursuant to subsection (d) of this section as of the time of the redemption payment rather than upon the amount which would have been due if the fee had been paid at the time of issuance of the building permit. However, when new floor area is added to the existing building, the fee in lieu shall be as set forth in subsection (a) of this section.

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.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

City Attorney

Date

First Reading: _____, 2019
Second Reading: _____, 2019

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

Underscore denotes new language, ~~Strikethrough~~ denotes removed language.