

MIAMI BEACH


PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: February 26, 2019

FROM: Thomas R. Mooney, AICP 
Planning Director

SUBJECT: **PB 19-0262. Historic Preservation Board review of GU Height Waivers.**

REQUEST

PB 19-0262. Historic Preservation Board review of GU Height Waivers. 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, BY AMENDING CHAPTER 142, ENTITLED "ZONING DISTRICTS AND REGULATIONS", ARTICLE II, ENTITLED "DISTRICT REGULATIONS", DIVISION 9, ENTITLED "GU GOVERNMENT USE DISTRICT," BY AMENDING SECTION 142-425, ENTITLED "DEVELOPMENT REGULATIONS" TO MODIFY THE REVIEW PROCEDURES FOR HEIGHT WAIVERS ON LOTS WITH A GU ZONING DESIGNATION; PROVIDING FOR REPEALER, CODIFICATION, 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 Michael Gongora, the City Commission referred a discussion item (C4A) to the Land Use and Development Committee (LUDC) pertaining to an Ordinance amendment to provide for a recommendation by the Historic Preservation Board, prior to any GU waiver of development regulations within a local historic district.

On October 31, 2018 the item was deferred to the November 28, 2018 LUDC meeting. On November 28, 2018 the LUDC discussed the item and recommended that the City Commission refer a draft Ordinance Amendment to the Land Development Regulations to the Planning Board.

On January 16, 2019, at the request of Vice-Mayor Michael Gongora, the City Commission referred the attached Ordinance to the Planning Board (Item C4W).

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.**

Consistent - 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 formally require that the Historic Preservation Board review and provide a recommendation on waivers of building heights for GU zoned properties within local historic districts

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.

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

Not Applicable.

ANALYSIS

As proposed, the draft ordinance would amend Section 142-425 of the City Code by requiring that waivers of height regulations for properties zoned GU (Government Use), and which are also located within an historic district, be referred to the historic preservation board for review and recommendation. In order to address timing and not delay the waiver process, the proposed amendment requires that the referral be placed on the next available agenda of the

historic preservation board, and that the board review the height waiver and provide a recommendation to the City Commission within 45 days of such referral. If the historic preservation board does not provide a recommendation to the City Commission within this 45 day period, for any reason, it shall result in the satisfaction of this recommendation requirement.

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

HISTORIC PRESERVATION REVIEW OF GU HEIGHT WAIVERS

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, BY AMENDING CHAPTER 142, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS," DIVISION 9, ENTITLED "GU GOVERNMENT USE DISTRICT," BY AMENDING SECTION 142-425, ENTITLED "DEVELOPMENT REGULATIONS," TO MODIFY THE REVIEW PROCEDURES FOR WAIVERS OF HEIGHT REQUIREMENTS ON LOTS WITH A GU ZONING DESIGNATION; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Mayor and City Commission of the City of Miami Beach (the "City") seek to obtain input from applicable land use boards on issues pertaining to height and relationship to building context, pertaining to properties with a government use ("GU") zoning designation; and

WHEREAS, the Mayor and City Commission desire to amend the City Code to provide a mechanism for input from the Historic Preservation Board on proposed waivers of height requirements for properties located in GU districts; 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 142 of the City Code, entitled "Zoning Districts and Regulations," Article II, entitled "District Regulations," Division 9, entitled "GU Government Use District" is hereby amended as follows:

CHAPTER 142 ZONING DISTRICTS AND REGULATIONS

* * *

ARTICLE II. DISTRICT REGULATIONS

* * *

Division 9. GU Government Use District

* * *

Sec. 142-425. - Development regulations.

- (a) The development regulations (setbacks, floor area ratio, signs, parking, etc.) in the GU government use district shall be the average of the requirements contained in the

surrounding zoning districts as determined by the planning and zoning director, which shall be approved by the city commission.

- (b) Upon the sale of GU property, the zoning district classification shall be determined, after public hearing with notice pursuant to Florida Statutes, by the city commission in a manner consistent with the comprehensive plan. Upon the expiration of a lease to the city or other government agency, the district shall revert to the zoning district and its regulations in effect at the initiation of the lease.
- (c) Setback regulations for parking lots and garages when they are the main permitted use are listed in subsection 142-1132(n).
- (d) Following a public hearing, the development regulations required by these land development regulations, except for the historic preservation and design review processes, may be waived by a five-sevenths vote of the city commission for developments pertaining to governmental owned or leased buildings, uses and sites which are wholly used by, open and accessible to the general public, or used by not-for-profit, educational, or cultural organizations, or for convention center hotels, or convention center hotel accessory garages, or city utilized parking lots, provided they are continually used for such purposes.

Notwithstanding the above, no GU property may be used in a manner inconsistent with the comprehensive plan.

In all cases involving the use of GU property by the private sector, or joint government/private use, development shall conform to all development regulations in addition to all applicable sections contained in these land development regulations and shall be reviewed by the planning board prior to approval by the city commission. All such private or joint government/private uses are allowed to apply for any permittee permitted variances but and shall not be eligible to waive for a waiver of any regulations as described in this paragraph. However, not-for-profit, educational, or cultural organizations as forth herein, shall be eligible for a city commission waiver of development regulations as described in this paragraph, except for the historic preservation and design review processes.

Additionally, private uses on the GU lots fronting Collins Avenue between 79th and 87th Streets approved by the city commission for a period of less than ten years shall be eligible for a city commission waiver of the development regulations, as described in this paragraph, for temporary structures only. Such waivers applicable to GU lots fronting Collins Avenue between 79th and 87th Streets may include, but not be limited to, the design review process, provided the city commission, as part of the waiver process, evaluates and considers all applicable design review requirements and criteria in chapter 118 of the land development regulations.

If a waiver for eligible GU property under this subsection pertains to building height, and the subject property is within a local historic district, the city commission shall first refer the proposed height waiver to the historic preservation board, for review and an advisory

recommendation. The historic preservation board shall review and provide an advisory recommendation within 45 days of such referral. The board's failure to provide a recommendation to the City Commission within the 45-day period, for any reason whatsoever, shall result in the satisfaction of this recommendation requirement.

SECTION 2. REPEALER

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith are hereby repealed.

SECTION 3. 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 re-numbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

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.

ATTEST:

Dan Gelber, Mayor

Rafael E. Granado, City Clerk

(Sponsored by: Vice-Mayor Michael Gongora)

First Reading: _____, 2019

Second Reading: _____, 2019

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