

MIAMI BEACH

PLANNING DEPARTMENT

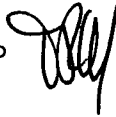
Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: September 24, 2019

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB 19-0318. Pre-1942 Single Family Modifications.**

REQUEST

PB 19-0318. Pre-1942 Single Family Modifications. AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, SUBPART B, ENTITLED "LAND DEVELOPMENT REGULATIONS," BY AMENDING CHAPTER 142, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, ENTITLED "DISTRICT REGULATIONS," DIVISION 2, ENTITLED "RS-1, RS-2, RS-3, RS-4 SINGLE-FAMILY RESIDENTIAL DISTRICTS," SECTION 142-108, ENTITLED "PROVISIONS FOR THE DEMOLITION OF SINGLE-FAMILY HOMES LOCATED OUTSIDE OF HISTORIC DISTRICTS," TO CLARIFY DEMOLITION PROCEDURES AND TO MODIFY THE REQUIREMENTS FOR THE ISSUANCE OF DEMOLITION PERMITS FOR ARCHITECTURALLY SIGNIFICANT SINGLE-FAMILY HOMES; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

RECOMMENDATION

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

HISTORY

In order to ensure that the City's regulations and processes relating to private development projects are fair, balanced and efficient, the city solicited proposals from qualified firms to provide data-driven regulatory and process reviews, peer and best practice recommendations and recommendations for process improvement (both administrative and legislative). The goal of this comprehensive effort is to ensure that the regulations and processes affecting private development are efficient and streamlined. Specifically, the goals are to:

- Attract sustainable and resilient development;
- Safeguard quality of life within neighborhoods;
- Promote historic preservation;
- Improve both the customer experience and staff process.

The Matrix Consulting Group, LLC was chosen to review the City's regulations and processes

related to private development.

On May 22, 2019, the Land Use Development Committee (LUDC) reviewed the report of the Matrix Group and recommended that the City Commission accept the recommendations of the administration, and requested that the administration provide a timeline for the recommendations moving forward. On June 5, 2019 the City Commission adopted Resolution No. 2019-30863 endorsing the administrations recommendations based on the Matrix study.

The adoption of this resolution included a referral of the work plan to the LUDC. Additionally, any required amendments to the LDR's were referred to the LUDC and Planning Board.

On July 24, 2019, the LUDC discussed the item and recommend that the Planning Board review the Ordinance in September.

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 need to streamline development processes makes passage of the proposed change necessary.

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.

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 in the long term.

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

Consistent – The proposal will allow for more streamlined development review, which encourages development that is more resilient with respect to sea level rise due to new code requirements.

(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 Matrix study contained 33 initial recommendations, five of which staff has recommended not move forward. 11 of the initial recommendations have already been implemented by staff. Several of the recommendations require amendments to the Land Development Regulations. The subject ordinance to increasing the types of projects which can be reviewed administratively.

Currently, the City's Land Development Regulations require Design Review Board (DRB) approval for new homes replacing pre-42 architecturally significant single-family homes. These projects often makeup a large portion of the monthly DRB agendas. Staff is proposing to modify this requirement for DRB approval, and allow for new construction to be reviewed by DRB staff, if the proposed replacement home is designed with a reduced lot coverage and unit size.

Under the current code, new homes may have a lot coverage of up to 30% and a unit size of up to 50%. The proposed amendment would allow new homes replacing pre-1942 homes to be reviewed administratively, provided the lot coverage of the new house is no more than 25%, and the unit size is no more than 40%. Properties that take advantage of this reduced lot coverage and unit size would be required to obtain DRB approval in the future if a subsequent addition increases the lot coverage and or unit size.

The following is a summary of pre-1942 single-family home applications reviewed by the DRB over the last two years.

- 2019: 13 applications, of which 2 had BOTH 24% or less lot coverage AND 39% or less unit size.
 - DRB18-0334, 40 West Rivo Alto Drive. 28% | 50%
 - DRB18-0343, 3746-3750 Royal Palm Avenue. 39% | 46%
 - **DRB18-0348, 790 Lakeview Drive. 23% | 32%**
 - **DRB18-0350, 1844 West 23rd Street. 15% | 15%**
 - DRB18-0323, 4354 Alton Road (SOUTH PARCEL). 24.9% | 46%
 - DRB18-0322, 4354 Alton Road (NORTH PARCEL). 24.9% | 48%
 - DRB18-0360 266-270 South Hibiscus Drive 26% | 46%
 - DRB19-0363, 2192 Alton Road. 28% | 50%
 - DRB19-0364, 1420 West 23rd Street. 30% | 50%
 - DRB19-0370, 2360 Alton Road. 29% | 49%
 - DRB19-0374, 5324 Pine Tree Drive. 30% | 50%
 - DRB19-0373, 2726 Alton Road. 29% | 50%
 - DRB19-0394, 3167 Royal Palm Avenue. 29% 50%

- 2018: 29 applications, of which 3 had BOTH 24% or less lot coverage AND 39% or less unit size.
 - DRB18-0332, 4747 North Bay Road. 23% | 44%
 - DRB18-0310, 2499 North Meridian Avenue. 30% | 50%
 - DRB18-0301, 121 4th San Marino Terrace. 30% | 48%
 - DRB18-0331, 1030 West 47th Street. 38% | 36%
 - DRB18-0325, 15 East San Marino Drive. 24.9% | 49%
 - DRB18-0324, 10 West San Marino Drive. 29% | 49%
 - DRB18-0321, 544 West 49th Street. 30% | 50%
 - **DRB18-0319, 6431 Allison Road (SOUTH PARCEL). 23% | 40%**
 - **DRB18-0318, 6431 Allison Road (NORTH PARCEL). 22% | 40%**
 - DRB18-0295, 114 4th San Marino Terrace. 30% | 50%
 - DRB18-0293, 4430 Nautilus Drive. 29% | 49%
 - DRB18-0278, 3136 Prairie Avenue. 24.9% | 50%
 - DRB18-0273, 5470 La Gorce Drive. 29.3% | 50%
 - DRB18-0288, 2421 North Bay Road. 25.5% | 49.3%
 - DRB18-0277, 200 West Rivo Alto Drive. 24.2% | 49.5%
 - DRB18-0274 (aka DRB17-0201), 64 Palm Avenue. 28% | 47%
 - DRB18-0272, 1635 West 22nd Street. 29.5% | 44.7%
 - DRB18-0211, 4700 Alton Road. 30% | 50%
 - DRB17-0209, 55 East San Marino Drive. 29.9% | 44%
 - DRB18-0246 (aka DRB16-0073), 802 West DiLido Drive. 28.5% | 50%
 - **DRB18-0241, 6089 Alton Road. 23.4% | 26.15%**
 - DRB18-0222, 205 South Hibiscus Drive. 26.4% | 49%
 - DRB18-0220, 204 West Dilido Drive. 24.9% | 49.5%
 - DRB17-0215, 345 West 46th Street. 30% | 50%
 - DRB17-0199, 5465 Pine Tree Drive. 29.2% | 49%
 - DRB17-0202, 6300 North Bay Road. 53% | 36%
 - DRB17-0208, 5288 Alton Road. 28% | 36%
 - DRB17-0206, 244 West Rivo Alto Drive. 29% | 50%
 - DRB17-0153, 40 West Rivo Alto Drive. 29.5% | 49.3%

As you will note only 5 homes (12%) would have qualified for administrative review. Additionally, the proposal herein would encourage and incentivize small replacement homes, which is more consistent with the scale, character and context of single-family districts prior to 1942.

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.

Matrix Recommendations - Pre-42 Single-Family Home Regulations

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, SUBPART B, ENTITLED "LAND DEVELOPMENT REGULATIONS," BY AMENDING CHAPTER 142, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, ENTITLED "DISTRICT REGULATIONS," DIVISION 2, ENTITLED "RS-1, RS-2, RS-3, RS-4 SINGLE-FAMILY RESIDENTIAL DISTRICTS," SECTION 142-108, ENTITLED "PROVISIONS FOR THE DEMOLITION OF SINGLE-FAMILY HOMES LOCATED OUTSIDE OF HISTORIC DISTRICTS," TO CLARIFY DEMOLITION PROCEDURES AND TO MODIFY THE REQUIREMENTS FOR THE ISSUANCE OF DEMOLITION PERMITS FOR ARCHITECTURALLY SIGNIFICANT SINGLE-FAMILY HOMES; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

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

WHEREAS, the City Commission desires to adopt to regulations and processes associated with private development applications that are fair, balanced, and efficient; and

WHEREAS, the City has solicited proposals from qualified firms to provide data-driven regulatory and process reviews, peer reviews and best practice recommendations, and recommendations for process improvements; and

WHEREAS, the process to obtain approval from to demolish an architecturally signification pre-1942 single-family home often takes three or more months; and

WHEREAS, it has been recommended by Matrix Group that the City's process for demolishing a pre-42 single-family home should be simplified; and

WHEREAS, the City believes that allowing admirative approvals for the demolition of such homes under certain circumstances would streamline and improve the development process; 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, entitled "Zoning Districts and Regulations," Article II, entitled "District Regulations," at Division 2, entitled "RS-1, RS-2, RS-3, RS-4 Single-Family Residential Districts," is hereby amended as follows:

Chapter 142 - ZONING DISTRICTS AND REGULATIONS

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ARTICLE II. - DISTRICT REGULATIONS

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DIVISION 2. - RS-1, RS-2, RS-3, RS-4 SINGLE-FAMILY RESIDENTIAL DISTRICTS

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Sec. 142-108. - Provisions for the demolition of single-family homes located outside of historic districts.

(a) *Criteria for the demolition of an architecturally significant home.* Pursuant to a request for a permit for partial or total demolition of a home constructed prior to 1942, the planning director, or designee, shall; or independently may, make a determination whether the home is architecturally significant according to the following criteria:

- (1) The subject structure is characteristic of a specific architectural style constructed in the city prior to 1942, including, but not limited to, Vernacular, Mediterranean Revival, Art Deco, Streamline Moderne, or variations thereof.
- (2) The exterior of the structure is recognizable as an example of its style and/or period, and its architectural design integrity has not been modified in a manner that cannot be reversed without unreasonable expense.
- (3) Significant exterior architectural characteristics, features, or details of the subject structure remain intact.
- (4) The subject structure embodies the scale, character and massing of the built context of its immediate area.

The date of construction shall be the date on which the original building permit for the existing structure was issued, according to the City of Miami Beach Building Permit Records. If no city building permit record exists, the date of construction shall be as determined by the Miami-Dade County Property Appraiser.

Any applicant requesting a determination as to the architectural significance of any single-family home constructed prior to 1942 shall pay upon submission [of] all applicable fees in section 118-7. No application shall be considered complete until all requested information has been submitted and all applicable fees paid. Public notice shall be required in accordance with section 118-8, subsections (b) Mail notice, and (c) Posting. Within ten days of posting any required notice, interested persons may submit information to the planning director to take into consideration in evaluating the application. The director shall file the determination with the city clerk no later than five (5) days after the decision is made.

(b) *Appeals.* The decision of the planning director, or designee, which shall bear the presumption of correctness, pertaining to the architectural significance of a single-family home, may be appealed to the board of adjustment, pursuant to the requirements of section 118-9. No demolition permit may be issued within any appeal period, and if an appeal is filed, while the appeal is pending.

(c) *[Pre-application conference.]* An applicant may have a pre-application conference with the planning director, or designee, prior to the submission of a request or an application to discuss any aspect of this section. Such pre-application conference and any statements by

the planning director, or designee, shall not create any waiver of, or estoppel on, the requirements of, or any determination to be made, under this section.

(d) *Total demolition procedures for a pre-1942 home.*

- (1) A building permit for the total demolition of any single-family home constructed prior to 1942 shall only be issued following the final determination (after the expiration of time or exhaustion of all appeals) by the planning director, or designee, or the DRB, that the subject structure is not an architecturally significant home. A property owner may proceed directly to the DRB, pursuant to subsection 142-108(g); in this instance, a demolition permit shall only be issued in accordance with subsection 142-108(f).
- (2) A request for such determination by the planning director, or designee, shall be processed by the planning department within ten business days of its submission.
- (3) In the event the planning director, or designee, determines that a single-family home constructed prior to 1942 is architecturally significant, ~~a demolition permit shall require the review of the DRB. The DRB, if required to review a replacement structure pursuant to subsection (f)(2)(a), may~~ shall explore with the property owner reasonable alternatives to demolition such as, but not limited to, reducing the cost of renovations, minimizing the impact of meeting flood elevation requirements, and designating the property as an historic structure or site. The DRB shall not have the authority to deny a request for demolition.

(e) *Partial demolition procedures for an architecturally significant home.*

- (1) A building permit for partial demolition to accommodate additions or modifications to the exterior of any architecturally significant single-family home constructed prior to 1942 shall be issued only upon the prior final approval by the planning director, or designee, unless appealed as provided in subsection (3) below. In the event an architecturally significant single-family home is proposed to be substantially retained, the mail notice requirements in subsection 142-108(a) shall not be required and a property owner may proceed directly to the design review board, pursuant to subsection 142-108(g), or agree to have the partial demolition reviewed and approved by staff, pursuant to subsection 142-108(e)(4); in either instance, a demolition permit shall only be issued in accordance with subsection 142-108(f).
- (2) An application for such approval shall be processed by the planning department, as part of the building permit process.
- (3) An appeal of any decision of the planning department on such applications shall be limited to the applicant, shall be in writing, shall set forth the factual and legal bases for the appeal, and shall be to the DRB.
- (4) Review of applications for partial demolition shall be limited to the actual portion of the structure that is proposed to be modified, demolished or altered. Repairs, demolition, alterations and improvements defined below shall be subject to the review and approval of the staff of the design review board. Such repairs, alterations and improvements include the following:
 - a. Ground level additions to existing structures, not to exceed two stories in height, which do not substantially impact the architectural scale, character and design of the existing structure, when viewed from the public right-of-way, any waterfront or public parks, and provided such ground level additions
 1. Do not require the demolition or alteration of architecturally significant portions of a building or structure;

2. Are designed, sited and massed in a manner that is sensitive to and compatible with the existing structure; and
 3. Are compatible with the as-built scale and character of the surrounding single-family residential neighborhood.
- b. Roof-top additions to existing structures, as applicable under the maximum height requirements specified in chapter 142 of these land development regulations, which do not substantially impact the architectural scale, character and design of the existing structure, when viewed from the public right-of-way, any waterfront or public parks, and provided such roof-top additions:
 1. Do not require the demolition or alteration of architecturally significant portions of a building or structure;
 2. Are designed, sited and massed in a manner that is sensitive to and compatible with the existing structure; and
 3. Are compatible with the as-built scale and character of the surrounding single-family residential neighborhood.
 - c. Replacement of windows, doors, roof tiles, and similar exterior features or the approval of awnings, canopies, exterior surface colors, storm shutters and exterior surface finishes, provided the general design, scale, massing, arrangement, texture, material and color of such alterations and/or improvements are compatible with the as-built scale and character of the subject home and the surrounding single-family residential neighborhood. Demolition associated with facade and building restorations shall be permitted, consistent with historic documentation.
 - d. Facade and building restorations, which are consistent with historic documentation, provided the degree of demolition proposed is not substantial or significant and does not require the demolition or alteration of architecturally significant portions of a building or structure.
 - e. Demolition and alterations to address accessibility, life safety, mechanical and other applicable code requirements, provided the degree of demolition proposed is not substantial or significant and does not require the demolition or alteration of architecturally significant portions of a building or structure.
 - f. The demolition and alteration of rear and secondary facades to accommodate utilities, refuse disposal and storage, provided the degree of demolition proposed does not require the demolition or alteration of architecturally significant portions of a building or structure.
 - g. The demolition of non-architecturally significant accessory buildings.
- (f) *Issuance of demolition permits for architecturally significant single-family homes.*
- (1) Emergency demolition orders. This section shall not supersede the requirements of the applicable building code with regard to unsafe structures and the issuance of emergency demolition orders, as determined by the building official.
 - (2) A demolition permit for the total demolition of an architecturally significant single-family home constructed prior to 1942, shall not be issued unless all of the following criteria are satisfied:
 - a. Approval of the Design Review Board has been obtained for the replacement construction. However, if a new home is proposed with a lot coverage of 25% or

less and unit size of 40% or less, Design Review Board approval shall not be required.

b. The issuance of a building permit process number for new construction;

b-c. The building permit application and all required plans for the new construction shall be reviewed and approved by the planning department;

e-d. All applicable fees for the new construction shall be paid, including, but not limited to, building permit and impact fees, as well as applicable concurrency and parking impact fees;

d-e. A tree survey, if required, shall be submitted and a replacement plan, if required, shall be reviewed and approved by urban forestry in the environment and sustainability department.

(3) The demolition permit shall require that all debris associated with the demolition of the structure shall be re-cycled, in accordance with the applicable requirements of the Florida Building Code.

(g) *New construction requirements for properties containing a single-family home constructed prior to 1942.*

(1) In addition to the development regulations and area requirements of section 142-105, as well as section 118-252, of the land development regulations of the City Code, the following regulations shall apply in the event the owner proposes to fully or substantially demolish an architecturally significant single-family home constructed prior to 1942, inclusive of those portions of a structure fronting a street or waterway. In the event of a conflict between the provisions of section 142-105 and section 118-252, and the regulations below, the provisions herein shall control:

a. The design review board (DRB) shall review and approve all new construction on the subject site, in accordance with the applicable criteria and requirements of chapter 118, article VI, section 118-251(a)1—12 of the land development regulations of the City Code.

b. The DRB review of any new structure, in accordance with the requirements of chapter 118, article VI, shall include consideration of the scale, massing, building orientation and siting of the existing structure on the subject site, as well as the established building context within the immediate area.

c. The overall lot coverage of proposed new buildings or structures shall not exceed the maximum limits set forth in section 142-105.

d. Lot coverage requirements for a single story home. In the event a new home does not exceed one-story in height, the lot coverage shall not exceed 35 percent of the lot area; at the discretion of the DRB, the lot coverage may be increased to a maximum of 50 percent of the lot area, if the DRB concludes that the one-story structure proposed results in a more contextually compatible new home. For purposes of this section, a one-story structure shall not exceed 18 feet in height as measured from minimum flood elevation. A restrictive covenant, in a form acceptable to the city attorney, shall be required, ensuring, for the life of the structure, that a second story is not added.

e. Lot coverage requirements for lot splits and lot aggregations. The above regulations shall also be a limitation on development in all lots within a single site

that may be split into multiple lots or multiple lots that are aggregated into a single site, at a future date. When lots are aggregated, the greater of the footprint permitted by the lot coverage regulations, or the footprint of the larger home, shall apply.

- f. Notwithstanding the above, if a new home is proposed with a lot coverage of 25% or less and a unit size of 40% or less, Design Review Board approval shall not be required for the construction of the new home. Any subsequent addition exceeding 25% lot coverage and /or 40% unit size shall require the review and approval of the DRB.

- (2) *Regulations for additions to architecturally significant homes which are substantially retained and preserved.* In addition to the development regulations and area requirements of section 142-105, of the land development regulations of the City Code, the following shall apply in the event an architecturally significant single-family home constructed prior to 1942 is substantially retained and preserved. In the event of a conflict between the provisions of section 142-105, 142-106 and section 118-252, and the regulations below, the provisions herein shall control:

- a. *Review criteria.* The proposed addition and modifications to the existing structure may be reviewed at the administrative level, provided that the review criteria in section 142-105 have been satisfied, as determined by the planning director or designee. The design of any addition to the existing structure shall take into consideration the scale, massing, building orientation and siting of the original structure on the subject site.
- b. *Lot coverage.* The total lot coverage may be increased to, but shall not exceed 40 percent, and may be approved at the administrative level, provided that the review criteria in section 142-105 have been satisfied, as determined by the planning director or designee. In the event the lot coverage of the existing structure exceeds 40 percent, no variance shall be required to retain and preserve the existing lot coverage and a second level addition shall be permitted, provided it does not exceed 60 percent of the footprint of the existing structure; no lot coverage variance shall be required for such addition.
- c. *Unit size.* The total unit size may be increased to, but shall not exceed 60 percent, and may be approved at the administrative level, provided that the review criteria in section 142-105 have been satisfied, as determined by the planning director or designee.
- d. *Heights for RS-3 and RS-4.* For lots zoned RS-4 with a minimum lot width of 60 feet, or lots zoned RS-3, the height for ground level additions not to exceed 50 percent of the lot coverage proposed, may be increased up to 26 feet for a flat roofed structure and 29 feet for a sloped roof structure (as measured to the mid-point of the slope) above the minimum required flood elevation, and may be approved at the administrative level, provided that the review criteria in section 142-105 have been satisfied, as determined by the planning director or designee.
- e. *Heights for RS-1 and RS-2.* For lots zoned RS-1 or RS-2, the height for ground level additions not to exceed 50 percent of the lot coverage proposed may be increased up to 30 feet for a flat roofed structure and 33 feet for a sloped roof structure (as measured to the mid-point of the slope) above the minimum required flood elevation, and may be approved at the administrative level, provided that the

review criteria in section 142-105 have been satisfied, as determined by the planning director or designee.

- f. *Courtyards.* The minimum courtyard requirements specified in subsection 142-106(2)d. may be waived at the administrative level, provided that the review criteria in section 142-105 have been satisfied, as determined by the planning director or designee.
 - g. *Front setback.* Two-story structures or the second floor may encroach forward to the 20-foot front setback line, and may be approved at the administrative level, provided that the review criteria in section 142-105 have been satisfied, as determined by the planning director or designee.
 - h. *Second floor requirements.* The maximum second floor area of 70 percent specified in subsection 142-105(b)(3)c may be waived at the administrative level, provided that the review criteria in section 142-105 have been satisfied, as determined by the planning director or designee.
 - i. *Two-story ground level additions.* The construction of a ground floor addition of more than one story shall be allowed to follow the existing interior building lines, provided a minimum side setback of five feet is met, and may be approved at the administrative level, provided that the review criteria in section 142-105 have been satisfied, as determined by the planning director or designee.
 - j. *Projections.* Habitable additions to, as well as the relocation of, architecturally significant structures, may project into a required rear or side yard for a distance not to exceed 25 percent of the required yard, up to the following maximum projections:
 - 1. Interior side yard: Five feet.
 - 2. Street side yard: Seven feet six inches.
 - 3. Rear yard: Fifteen feet.
 - k. *Fees.* The property owner shall not be required to pay any city planning or public works department fees associated with the renovation and restoration of the existing single-family home; except that any and all non-city impact fees and other fees shall still be required.
 - l. *[Applicability.]* The above regulations shall also be applicable to:
 - 1. Any single-family home designated as an historic structure by the historic preservation board, and not located within a locally designated historic district.
 - 2. Any single-family home constructed prior to 1966, if the owner voluntarily seeks a determination of architectural significance and if such home has been determined to be architecturally significant in accordance with section 142-108(a).
- (3) *Appeals.* An appeal of any decision of the DRB shall be to a special master appointed by the city commission, in accordance with the procedures set forth in subsection 118-537(b) of these land development regulations. Thereafter review shall be by certiorari to the circuit court.
- (h) *Exceptions.* The following areas of work shall not require determinations of the planning director, or designee, under this section: interior demolitions including plumbing, electrical

and mechanical systems, and renovations to the exterior of nonarchitecturally significant structures.

- (i) *New construction procedures for single-family homes demolished without required approvals or permits.* For those properties where a single-family home constructed before 1942 was demolished without prior approval of the planning department, the design review board or the single-family residential review panel, and without the required permits from the building official, in addition to any other applicable law in this Code or other codes, the following shall apply prior to the issuance of any building permit for any new construction on the subject site:

- (1) Purpose. The purpose of this subsection is to ensure that any new construction on the site where a single-family home constructed prior to 1942 was demolished without required approvals or permits is consistent with the scale, massing, density, location and height of that structure which previously existed on site prior to the unpermitted demolition. Where used in this section, the words "without all required permits," "without prior approval," "without required permits or approval" shall not be defined to include demolition as a result of forces beyond the control of the landowner such as, for example, windstorm, flood, or other natural disaster.
- (2) The design review board shall have jurisdiction to review and approve all new construction on the subject site, in accordance with the criteria listed in section 118-251 and this section.
- (3) Upon the finding that the demolition of any single-family home constructed prior to 1942 was without following the procedures of this section or without all required permits, any new construction on the same site shall be limited to the overall square footage, building footprint, height and location of that which previously existed on site prior to the unpermitted demolition, to the greatest extent possible in accordance with the applicable building and zoning codes.
- (4) In the event the design review board determines that the single-family home demolished without required approval or permits was architecturally significant, based upon the criteria in subsections 142-108(a)(1)—(3) herein, the board shall require that the new structure be designed and constructed to match the exterior design and architectural details of the original structure demolished to the greatest extent possible in the same location, in accordance with all available documentation and in accordance with the applicable building and zoning codes.
- (5) In the event the applicant endeavors to construct a new home on multiple, combined lots, and one of the lots contained the subject building demolished without required permits and approval, construction of the new home to match the exterior design and architectural details of the original home shall only occur on the lot on which the demolished home was situated. Separate new homes, which are not attached in any way to the lot on which the demolished home was situated, may be constructed on the remaining lots without approval from the design review board.
- (6) In the event the owner of a single-family home constructed prior to 1942, which has been demolished without required permits or approvals, can establish good cause, the design review board may relieve the property owner of some or all of the limitations on new construction herein. The requirement of good cause shall be satisfied where the unauthorized demolition was solely the result of intentional or negligent acts of a duly licensed contractor or other third parties, and the owner had no role in and knowledge of the unauthorized demolition.

- (7) In the event a single-family home constructed prior to 1942 is demolished without prior approval of the planning department, the design review board or the single-family residential review panel, and without the required permits from the building official, in addition to any other applicable law in this code or other codes, the city shall document such demolition, and the applicable requirements and procedures for any new construction delineated herein, for recording in the public records of Miami-Dade County, to give notice to subsequent purchasers of the property.
- (8) No variances shall be granted by the board of adjustment from the requirements of section 142-108 except those variances which may be required to reconstruct the original structure demolished without required approvals or permits.
- (j) *Issuance of demolition permits for single-family homes that are not architecturally significant.*
- (1) Emergency demolition orders. This section shall not supersede the requirements of the applicable building code with regard to unsafe structures and the issuance of emergency demolition orders, as determined by the building official.
- (2) A demolition permit for the total demolition of any single-family home that is not architecturally significant, regardless of year of construction, shall not be issued unless all of the following criteria are satisfied:
- a. Obtain a building permit process number, which shall require:
- (i) A building permit process number for new construction;
 - (ii) The building permit application and all required plans for the new construction, or proposed improvements to a lot that is abutting an aggregated lot with an existing single-family home, shall be reviewed and approved by the planning department;
 - (iii) All applicable fees for the new construction, or proposed improvements to a lot that is abutting an aggregated lot with an existing single-family home, shall be paid, including, but not limited to, building permit and impact fees, as well as applicable concurrency and parking impact fees;
 - (iv) A tree survey, if required, shall be submitted and a replacement plan, if required, shall be reviewed and approved by the urban forestry in the environment and sustainability department.
- b. Or, alternatively, be required to comply with the following:
- (i) A tree survey, if required, shall be submitted and a replacement plan, if required, shall be reviewed and approved by the urban forestry in the environment and sustainability department.
 - (ii) The demolition permit shall indicate that the entire property shall be raised to sidewalk grade, or the crown of the road, upon the completion of demolition, with approved base material.
 - (iii) The demolition permit shall indicate that drought and salt tolerant sod, such as bahia sod or seashore paspalum sod shall be installed on the entire site and hedge material shall be installed along the entire perimeter of the property.
 - (iv) Fencing for the property, if any, shall only consist of aluminum picket along the entire perimeter of the property.

- (v) The raising of the site to sidewalk grade and the installation of all required landscaping must be completed within ten days of the completion of demolition.
 - (vi) All landscaping required herein shall be installed and maintained as required by the demolition permit and the city's landscaping code, until such time as new construction is authorized and commences.
- (3) Penalties and enforcement. The code compliance department is empowered and authorized to require compliance with this section within 30 days of written notice to violators.
- (4) The following civil fines shall be imposed for a violation of subsection 142-108(j)(2)b:
 - a. First violation within a 12-month period: \$2,500.00;
 - b. Second violation within a 12-month period: \$5,000.00;
 - c. Third violation within a 12-month period: \$7,500.00;
 - d. Fourth or subsequent violation within a 12-month period: \$10,000.00.
- (5) Enforcement of subsection 142-108(j)(2)b. The code compliance department shall enforce subsection 142-108(j)(2)b. The notice of violation shall inform the violator of the nature of the violation, amount of fine for which the violator is liable, instructions and due date for paying the fine, that the violation may be appealed by requesting an administrative hearing before a special master within ten days after service of the notice of violation, and that the failure to appeal the violation within ten days of service shall constitute an admission of the violation and a waiver of the right to a hearing.
- (6) Rights of violators of subsection 142-108(j)(2)b; payment of fine; right to appear; failure to pay civil fine or to appeal; appeals from decisions of the special master.
 - a. A violator who has been served with a notice of violation must elect to either:
 - (i) Pay the civil fine in the manner indicated on the notice of violation; or
 - (ii) Request an administrative hearing before a special master to appeal the notice of violation, which must be requested within ten days of the service of the notice of violation.
 - b. The procedures for appeal by administrative hearing of the notice of violation shall be as set forth in sections 30-72 and 30-73 of this Code. Applications for hearings must be accompanied by a fee as approved by a resolution of the city commission, which shall be refunded if the named violator prevails in the appeal.
 - c. The failure to pay the civil fine, or to timely request an administrative hearing before a special master, shall constitute a waiver of the violator's right to an administrative hearing before the special master, and shall be treated as an admission of the violation, for which fines and penalties shall be assessed accordingly.
 - d. A certified copy of an order imposing a fine may be recorded in the public records, and thereafter shall constitute a lien upon any real or personal property owned by the violator, which may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the violator's real or personal property, but shall not be deemed to be a court judgment except for enforcement purposes. Three months after the recording of any such lien which remains

unpaid, the city may foreclose or otherwise execute upon the lien, for the amount of the lien plus accrued interest.

- e. The special master shall be prohibited from hearing the merits of the notice of violation or considering the timeliness of a request for an administrative hearing if the violator has failed to request an administrative hearing within ten days of the service of the notice of violation.
- f. The special master shall not have discretion to alter the penalties prescribed in this section.
- g. Any party aggrieved by a decision of a special master may appeal that decision to a court of competent jurisdiction.

SECTION 5. Repealer.

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

SECTION 6. 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 7. Severability.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 8. 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 AS TO FORM
AND LANGUAGE
AND FOR EXECUTION

City Attorney

Date

First Reading: October 16, 2019

Second Reading: October 30, 2019

Verified By: _____

Thomas R. Mooney, AICP
Planning Director

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