

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Planning Board

TO: Chairperson and Members
Planning Board

DATE: December 20, 2016

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB 16-0074. CD-2 Height and Existing Nonconforming Buildings**

REQUESTS

PB 16-0074. CD-2 HEIGHT AND EXISTING NONCONFORMING BUILDINGS. AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY CODE, BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS", DIVISION 5, "CD-2, COMMERCIAL, MEDIUM-INTENSITY DISTRICT," SECTION 142-306, "DEVELOPMENT REGULATIONS," BY AMENDING THE MAXIMUM PERMITTED HEIGHT AND NUMBER OF STORIES FOR SITES WITH EXISTING NONCONFORMING BUILDINGS; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY, AND AN EFFECTIVE DATE.

RECOMMENDATION:

Continue the proposed ordinance amendment to a future date.

HISTORY/ BACKGROUND

On October 19, 2016, at the request of Commissioner Ricky Arriola, the City Commission referred the proposed Ordinance to the Land Use and Development Committee and Planning Board (Item C4L).

On October 26, 2016, the Land Use and Development Committee discussed the item and transmitted it to the City Commission with no recommendation.

REVIEW CRITERIA

In accordance with Section 118-163 (3), when reviewing a request for an amendment to these land development regulations, the Board shall consider the following where applicable:

- 1. Whether the proposed change is consistent and compatible with the comprehensive plan and any applicable neighborhood or redevelopment plans.**

Consistent – The proposed changes are consistent with the Goals, Objectives, and Policies of the Comprehensive Plan.

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REVIEW CRITERIA

In accordance with Section 118-163 (3), when reviewing a request for an amendment to these land development regulations, the Board shall consider the following where applicable:

- 1. Whether the proposed change is consistent and compatible with the comprehensive plan and any applicable neighborhood or redevelopment plans.**

Consistent – The proposed changes are 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.**

Consistent – 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.**

Not Consistent – As written, the proposed ordinance would allow for the movement and expansion of the mass of new development at the height of a previously existing building with non-conforming height anywhere within a parcel or unified development site. Additional study is required in order to ensure that the proposed changes do not significantly alter the existing scale and context, as well as the needs of the neighborhood.

4. **Whether the proposed change would tax the existing load on public facilities and infrastructure.**

Consistent – The proposed will not modify the intensity of development.

5. **Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.**

Consistent – The proposed amendment does not modify district boundaries.

6. **Whether changed or changing conditions make the passage of the proposed change necessary.**

Not Consistent – There are no changing conditions that make the passage of the proposed changes necessary.

7. **Whether the proposed change will adversely influence living conditions in the neighborhood.**

Not Consistent – The proposed changes may adversely affect living conditions in the neighborhood. The ability to develop new buildings at an increased height without regulating the location and mass of the new building may adversely affect surrounding properties.

8. **Whether the proposed change will create or excessively increase traffic congestion beyond the levels of service as set forth in the comprehensive plan or otherwise affect public safety.**

Consistent – The proposed change will not create or increase traffic congestion.

9. **Whether the proposed change will seriously reduce light and air to adjacent areas.**

Not Consistent – As written, the proposal may reduce light and air to adjacent areas, since the additional building could be located anywhere on a unified development site with a larger mass than the previous non-conforming building.

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 changes should not be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.

12. **Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.**

Not Consistent - There are no substantial reasons why the property cannot be used in accordance with existing zoning.

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.

ANALYSIS

The proposed ordinance provides that CD-2 zoned sites outside of historic districts that contain existing buildings with nonconforming height and/or number of stories as of January 1, 2017 may be redeveloped with new construction at the same height and/or number of stories as the existing nonconforming building. The proposal does not allow any new construction to exceed current FAR limitations.

Currently, the CD-2 district has a height limit 5 stories and 50 feet, or 60 feet on the west side of Alton Road from 6th Street to Collins Canal for mixed-use and commercial buildings that include structured parking. An analysis of existing building heights on CD-2 zoned sites that are not in historic districts, per data from the Property Appraiser, indicates that there is only one site that contains a building that exceeds the current maximum allowable number of stories (See map at the end of this report). This analysis does not consider the actual height of buildings, and the current height limit that is between 50 and 60 feet for the affected areas; however, it provides a good indicator of where non-conforming height exists. The site identified is that of the former South Shore Hospital, located on Alton Road and 6th Street, which is ten (10) stories, and approximately 125 feet.

Although the proposed Ordinance would not increase maximum FAR, and only permit a redistribution of allowable FAR, staff has concerns that, as written, the additional height could be located anywhere within the parcel or a future unified development site. Additionally, as

drafted, the mass of a new building could be greater than the mass of the existing nonconforming building. This could potentially allow the replacement building to be located in an area of the site that blocks views or cast shadows on adjacent property owners beyond the currently permitted levels.

As part of the Planning Board review of the proposed Ordinance, it is suggested that additional safeguards be incorporated into the ordinance in order to minimize the impact on adjacent properties. These safeguards could include the following for buildings proposed to exceed 60 feet in height:

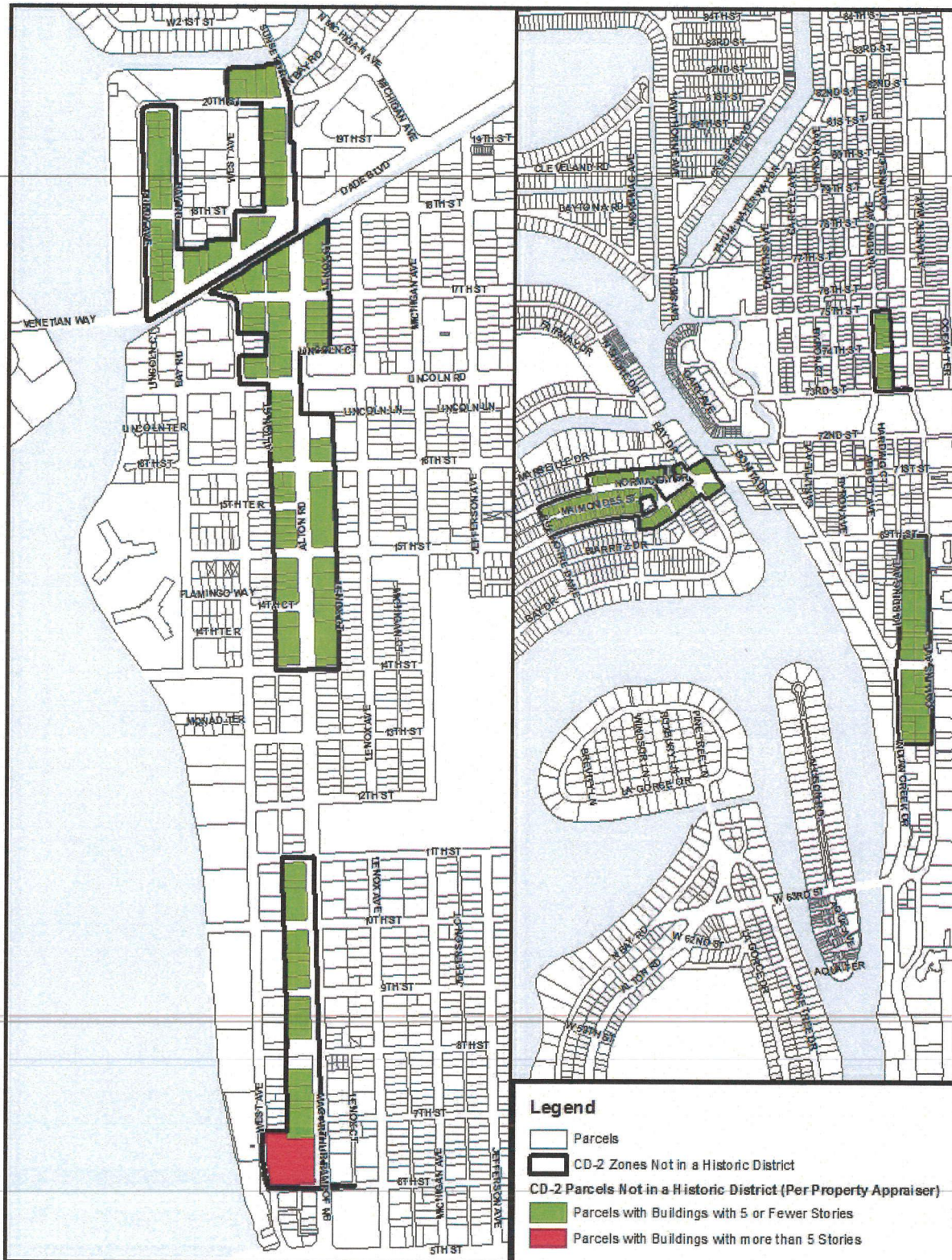
- Increased setbacks;
- Limitations on floorplate size; and
- Mandatory breaks in the building mass, of sufficient width and depth to allow for a more cohesive response to the built environment.

Additionally, staff would suggest that massing studies be provided, which illustrate the potential impact of the proposed height increase. It is important to underscore that the proposal herein is not project specific and could be applicable to any future development project. As such, the aforementioned safeguards would apply to any future development project, and would play an important role in ensuring that any future development project does not negatively impact the surrounding area.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the Planning Board continue the proposed Ordinance amendment to a future date, in order to address the aforementioned concerns. If the Planning Board should move to transmit the proposed Ordinance to the City Commission, staff recommends that such transmittal include the safeguards suggested herein.

TRM/MAB/RAM



CD-2 HEIGHT AND EXISTING NONCONFORMING BUILDINGS

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY CODE, BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS", DIVISION 5, "CD-2, COMMERCIAL, MEDIUM-INTENSITY DISTRICT," SECTION 142-306, "DEVELOPMENT REGULATIONS," BY AMENDING THE MAXIMUM PERMITTED HEIGHT AND NUMBER OF STORIES FOR SITES WITH EXISTING NONCONFORMING BUILDINGS; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach recognizes the unique issues created by the difficulty of renovating nonconforming commercial buildings outside of the City's historic district and sites;

WHEREAS, while nonconforming buildings may be prohibitively expensive to renovate, they often are developed at heights exceeding current code requirements, making their replacement with often economically impossible;

WHEREAS, the City Commission seeks to encourage the redevelopment of sites with nonconforming buildings outside of historic districts by permitting property owners to retain existing nonconforming heights in new construction; and

WHEREAS the Planning Board, at its meeting dated _____, 2017 by a vote of _____ recommended in favor of the Ordinance; 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, "Zoning Districts And Regulations," Article II, "District Regulations", Division 5, "CD-2, Commercial, Medium-Intensity District," Section 142-306, "Development Regulations," is hereby amended as follows:

* * *

Sec. 142-306. - Development regulations.

The development regulations in the CD-2 commercial, medium intensity district are as follows:

Maximum Floor	Minimum Lot Area	Minimum Lot Width	Minimum Apartment	Average Apartment	Maximum Building	Maximum
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Area Ratio	(Square Feet)	(Feet)	Unit Size (Square Feet)	Unit Size (Square Feet)	Height (Feet)	Number of Stories
1.5	Commercial—None Residential—7,000	Commercial—None Residential—50	Commercial—N/A New construction—550 Rehabilitated buildings—400 Non-elderly and elderly low and moderate income housing: See section 142-1183 Hotel unit: 15%: 300—335 85%: 335+ For contributing hotel structures, located within a local historic district or a national register district, which are being renovated in accordance	Commercial—N/A New construction—800 Rehabilitated buildings—550 Non-elderly and elderly low and moderate income housing: See section 142-1183 Hotel units—N/A	50 (except as provided in section 142-1161). Self-storage warehouse - 40 feet, except that the building height shall be limited to 25 feet within 50 feet from the rear property line for lots abutting an alley; and within 60 feet from a residential district for blocks with no alley; Mixed-Use Buildings that include structured parking for properties located on the west side of Alton Road from 6 th Street to Collins Canal - 60 feet.	5 (except as provided in section 142-1161) Self-storage warehouse: 4

				with the Secretary of the Interior Standards and Guidelines for the Rehabilitation of Historic Structures as amended, retaining the existing room configuration shall be permitted, provided all rooms are a minimum of 200 square feet. Additionally, existing room configurations for the above described hotel structures may be modified to address applicable life-safety and accessibility regulations, provided the 200				
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			square feet minimum unit size is maintained.			
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Notwithstanding the above regulations, the maximum floor area ratio (FAR) for self-storage warehouses shall be 1.5. The floor area ratio provision for mixed use buildings in section 142-307(d)(2) shall not apply to self-storage warehouse development.

Sites outside of historic districts developed with buildings existing as of January 1, 2017 that are nonconforming as to height and/or number of stories may be redeveloped with new construction at the same height and/or number of stories. In no event shall that redevelopment exceed the maximum floor area ratio permitted under these regulations.

SECTION 2. 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 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 renumbered or relettered 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 _____, 2017.

Philip Levine
Mayor

ATTEST:

Rafael E. Granado
City Clerk

First Reading: _____, 2017
Second Reading: _____, 2017

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