

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Planning Board

TO: Chairperson and Members
Planning Board

DATE: January 24, 2017

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB 16-0084. Rehearing and Appeal Procedures**

REQUESTS

PB 16-0084. REHEARING AND APPEAL PROCEDURES. AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING SECTION 118-9, ENTITLED "APPEAL AND REHEARING PROCEDURES"; IN ORDER TO REMOVE ANY CONFLICTS WITH ARTICLE I, SECTION 2 OF THE RELATED SPECIAL ACTS BY STRIKING CONFLICTING LANGUAGE FROM THE LAND DEVELOPMENT CODE AUTHORIZING ADMINISTRATIVE APPEALS BEFORE ANY BOARDS OTHER THAN THE BOARD OF ADJUSTMENT; AND CLARIFYING THE STANDARDS STANDARD OF REVIEW OF ADMINISTRATIVE APPEALS; AMENDING SECTIONS 118-395, 118-397, 118-563, AND 118-609 TO ENSURE ALL ADMINISTRATIVE APPEALS ARE BEFORE THE BOARD OF ADJUSTMENT; DEFINING THE STANDARD FOR REVIEW OF AN ADMINISTRATIVE APPEAL; CLARIFYING THAT AN ADMINISTRATIVE APPEAL IS OF THE PLANNING DIRECTOR, OR HIS DESIGNEE; AND PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

RECOMMENDATION

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

HISTORY/ BACKGROUND

On December 14, 2016, at the request of the Office of the City Attorney, the City Commission referred this item to the Land Use and Development Committee and Planning Board (Item C4 L). The Land Use Committee is scheduled to discuss the item on January 18, 2017.

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 uses proposed modifications 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.**

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.**

Not Applicable – The proposed Ordinance will not modify the scale of development.

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.**

Not Applicable – The existing boundaries are not proposed to be modified by the proposed Ordinance.

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

Consistent – The need to ensure consistency between the City Charter and the City Code makes passage of the proposed change necessary.

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

Consistent – The proposed change will not adversely affect living conditions in the neighborhood, and is intended to safeguard commercial areas from potential impacts of liquor stores.

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 impact the levels of service set forth in the Comprehensive Plan.

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

Consistent – The proposal does not modify the scale of development and 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 proposal will not be a deterrent to the improvement or development of adjacent property.

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.

ANALYSIS

The Related Special Acts, which are considered part of the City's Charter, provide that the "board of adjustment shall hear and decide appeals from, and review, any order, requirements, decision or determination made by an administrative official charged with the enforcement of the Zoning Ordinance of the City of Miami Beach." This provision requires that all administrative appeals be heard by the Board of Adjustment (BOA).

Over the past 30 years, every time the City has sought to amend provisions in the Related Special Acts pertaining to the BOA, the City has issued a referendum question to the voters. The decision to go to referendum is consistent with the opinion of the Florida Attorney General, in interpreting Section 166.021(4), Florida Statutes, which provides that Special Act and Charter provisions relating to appointive boards can only be amended by referendum.

Notwithstanding, over time, certain provisions in the City's land development regulations (LDR) were enacted which may conflict with the Related Special Acts provisions addressing the BOA's powers and duties. The City has historically equated the Related Special Acts as having equal dignity, or as being analogous, to the City Charter, and provisions in the former take precedence over the City Code. Therefore, those provisions in the LDR's that conflict with the BOA provisions in the Special Acts should be stricken.

The City Attorney's Office requested a dual referral to the Land Use and Development Committee and Planning Board so that the City's Land Development Regulations can be amended to remove any conflict with BOA provisions in the Related Special Acts. Specifically,

the Code is proposed to be amended to provide that, prospectively, all administrative appeals shall be heard by the Board of Adjustment.

In addition to the above, while reviewing the appeals section of the Code, the City Attorney and Planning Department also recommend the following edits:

1. The land development regulations specifically delineate the appellate standard of review for appeals of determinations from the Planning Board, Design Review Board, Historic Preservation Board and Board of Adjustment - *as relating to quasi-judicial proceedings*. There is no standard of review delineated in the Code for administrative appeals. Historically, the City has used a "de novo" review (meaning, review from the beginning, as if new). Therefore, the City Attorney and Planning Director recommend codifying the review standard.
2. Currently in the Code, the City has established different appeal periods, ranging from 15 to 30 days, for administrative appeals. To ensure consistency (and to ensure there is no confusion) one appeal period should be delineated. A 15 day appeal period for any administrative appeal is recommended.
3. Throughout the Land Development Regulations there is a reference to an administrative appeal of the applicable "administrative official." This language mirrors the Related Special Acts ["an administrative official charged with the enforcement of the Zoning Ordinance of the City of Miami Beach"]. In application, this administrative official has always been interpreted as the planning director. To avoid any confusion, the provision in the code should be modified to reflect the "planning director." Moreover, at section 118-9(b)(2), there is a reference to an appeal of the administrative determination of the building official. This reference should be stricken, as under the Florida Building Code, an appeal of the building official is to the Board of Rules and Appeals. These revisions will ensure clarity in apply the Code.
4. Finally, when filing an administrative appeal, all documents, and evidence, must be submitted at the time of filing the appeal. The language proposed to be inserted at 118-9(b)(2)C(v), and shall read as follows: "The appeal may not be supplemented after the initial filing. All documents, evidence, witnesses must be identified in the administrative appeal filing."

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/RAM

Rehearing and Appeal Procedures

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING SECTION 118-9, ENTITLED "APPEAL AND REHEARING PROCEDURES"; IN ORDER TO REMOVE ANY CONFLICTS WITH ARTICLE I, SECTION 2 OF THE RELATED SPECIAL ACTS BY STRIKING CONFLICTING LANGUAGE FROM THE LAND DEVELOPMENT CODE AUTHORIZING ADMINISTRATIVE APPEALS BEFORE ANY BOARDS OTHER THAN THE BOARD OF ADJUSTMENT; AND CLARIFYING THE STANDARDS STANDARD OF REVIEW OF ADMINISTRATIVE APPEALS; AMENDING SECTIONS 118-395, 118-397, 118-563, AND 118-609 TO ENSURE ALL ADMINISTRATIVE APPEALS ARE BEFORE THE BOARD OF ADJUSTMENT; DEFINING THE STANDARD FOR REVIEW OF AN ADMINISTRATIVE APPEAL; CLARIFYING THAT AN ADMINISTRATIVE APPEAL IS OF THE PLANNING DIRECTOR, OR HIS DESIGNEE; AND PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

WHEREAS, the Related Special Acts, which are considered part of the City's Charter provides that the "board of adjustment shall hear and decide appeals from, and review, any order, requirements, decision or determination made by an administrative official charged with the enforcement of the Zoning Ordinance of the City of Miami Beach;" and

WHEREAS, the Related Special Acts requires all administrative appeals be heard by the Board of Adjustment; and

WHEREAS, over the past 30 years, every time the City has desired to amend the Related Special Acts, the City has issued a referendum question to the voters; and

WHEREAS, The decision to go to referendum is consistent with the opinion of the Florida Attorney General, in interpreting section 166.021(4), Florida Statutes, which provides that Special Acts and Charters relating to Boards can only be amended by referendum; and

WHEREAS, it appears that over time there have been certain land development regulations enacted that conflict with the Related Special Acts, and should be removed from the Code; and

WHEREAS, as the Related Special Acts, are analogous to the charter, due to the voter referendum on those provisions, conflicting provisions in our code cannot be implemented, and should be stricken; and

WHEREAS, the City also desires to delineate the standard of review of an administrative appeal, as *de novo*, which is consistent with City practice but not actually delineated in the City Code; and

WHEREAS, the land development code references an administrative appeal of the "administrative official" making the determination, and elsewhere references the Building Official, however, the planning director is the final interpreter of the land development code, and

appeals of the building official are to the Board of Rules and Appeals, as such, the land development regulations should be made clear, that an administrative interpretation or action of the planning director, or his designee, is appealed to the board of adjustment; and

WHEREAS, the revisions to section 118-9, shall ensure all conflicting provisions are removed from the Code.

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

SECTION 1. That Chapter 118 "Administration And Review Procedures," Article I "In General" at Section 118-9, "Rehearing and appeal procedures", is hereby amended:

* * *

CHAPTER 118 - ADMINISTRATION AND REVIEW PROCEDURES

ARTICLE I. - IN GENERAL

* * *

Sec. 118-9 Rehearing and appeal procedures.

The following requirements shall apply to all rehearings and appeals to or from the City's by land development boards unless otherwise more specifically provided for in these land development regulations, and applicable fees and costs shall be paid to the City as required under section 118-7 and Appendix A to the City Code. As used herein, "land use board(s)" shall mean the board of adjustment, design review board, historic preservation board and planning board.

* * *

(b) Board of adjustment - administrative appeal procedures:

~~(1) Decisions eligible for administrative appeals~~

(1) The board of adjustment shall have the exclusive authority to hear and decide all administrative appeals when it is alleged that there is error in any order, requirement, decision, or determination made by an administrative official (the planning director or his designee) in the enforcement of these land development regulations.

~~A. **Planning Board Conditional Use Applications.** An eligible party may appeal a decision of the planning director to the planning board regarding a decision reached on a conditional use application.~~

~~B. **Board of Adjustment administrative appeals.**~~

- ~~(i) With the exception of these items expressly identified within this section for appeals of administrative decisions specifically delegated to the other land use boards, the board of adjustment shall have the power and duty to hear and decide appeals when it is alleged that there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of these land development regulations.~~
- ~~(ii) An administrative appeal pursuant to subsection 118-397(b) "Existence of a nonconforming building or use."~~

~~**C. Historic preservation board administrative appeals.** An eligible party may appeal a decision of the planning director regarding the following to the historic preservation board:~~

- ~~(i) An administrative appeal pursuant to subsection 118-563(d)(1) or (3), "Review procedure."~~
- ~~(ii) An administrative appeal pursuant to subsection 118-565 "Special review procedure," or~~
- ~~(iii) An administrative appeal pursuant to section 118-609 "Completion of work."~~

~~**B. Design review board administrative appeals.** An eligible party may appeal a decision of the planning director regarding the following administrative determinations to the design board:~~

- ~~(i) An administrative appeal pursuant to subsection 118-395 "Repair and/or rehabilitation of nonconforming buildings and uses,"~~
- ~~(ii) An administrative appeal pursuant to subsection 118-260 "Special review procedure," or~~
- ~~(iii) An administrative appeal pursuant to subsection 142-108 "Provisions for the demolition of single family homes located outside of historic districts."~~

(2) Eligible administrative appeals shall be filed in accordance with the process as outlined in subsections A through D below:

~~**A. Timeframe to file:** A petition for an administrative appeal shall be submitted to the planning director on or before the 15th day after the date of the publication of a refusal of a permit by, notice of violation, ruling, decision or determination of the building official, planning director, his designee, or other administrative official.~~

- ~~(i) Planning board. A petition for an administrative appeal shall be submitted to the planning director published a decision on the conditional use application on or within 15 days after the date on which the director or designee published a decision reached on a Conditional Use application. For this section of the code, published shall mean the ruling being released, in writing, and distributed by the planning director, or his designee.~~
- ~~(ii) Board of adjustment. A petition for an administrative appeal shall be submitted to the planning director on or before the 30th day after the date~~

of the publication of a refusal of a permit by, notice of violation, ruling, decision or determination of, the building official or other administrative official.

~~(iii) Historic preservation board. A petition for an administrative appeal shall be submitted to the planning director on or before the 15th day after the date on which the director or designee published a decision on applications submitted pursuant to subsection 118-563(d)(1) "Review procedure," pertaining to ground level additions to existing structures, and subsection 118-563(d)(3) "Review procedure," pertaining to façade and building restoration.~~

~~(iv) Design review board. Administrative appeals shall be submitted to the planning director on or before the 15th day after the date on which the decision is published pursuant to either subsections 118-395 "Repair and/or rehabilitation of nonconforming buildings and uses," or 142-108 "Provisions for the demolition of single-family homes located outside of historic districts."~~

B. Eligible parties. Parties eligible to file an application for an administrative appeal to the Board of Adjustment are limited to the following:

- (i) Original applicant / property owner
- (ii) The city manager on behalf of the city administration, except for administrative appeals pursuant to sections 118-260 "Special review procedure," 118-395 "Repair and/or rehabilitation of nonconforming buildings and uses," 118-609 "Completion of work," and 142-108 "Provisions for the demolition of single-family homes located outside of historic districts".
- (iii) An affected person, which for purposes of this section shall mean a person owning property within 375 feet of the site or application which is the subject of the administrative appeal, except for administrative appeals pursuant to sections 118-260 "Special review procedure," 118-395 "Repair and/or rehabilitation of nonconforming buildings and uses," 118-609 "Completion of work," and 118-260 "Special review procedure."
- (iv) Miami Design Preservation League, except for administrative appeals pursuant to sections 118-260 "Special review procedure," 118-395 "Repair and/or rehabilitation of nonconforming buildings and uses," 118-260 "Special review procedure," 118-609 "Completion of work," and 142-108 "Provisions for the demolition of single-family homes located outside of historic districts."
- (v) Dade Heritage Trust, except for administrative appeals pursuant to sections 118-260 "Special review procedure," 118-395 "Repair and/or rehabilitation of nonconforming buildings and uses," 118-260 "Special review procedure," 118-609 "Completion of work," and 142-108 "Provisions for the demolition of single-family homes located outside of historic districts."

C. Application requirements. The following shall be required for all applications for administrative appeals:

- (i) The petition to the board shall be in writing; and
- (ii) Shall be submitted by or on behalf of an eligible party; and
- (iii) shall set forth the factual, technical, architectural, historic and legal bases for the appeal; and
- (iv) The party filing the appeal shall be responsible for providing all plans and exhibits, subject to planning department procedures, as well as the duplication of all pertinent plans and exhibits.
- (v) The appeal may not be supplemented after the initial filing. All documents, evidence, witnesses must be identified in the administrative appeal filing.

D. Notice requirements. All ~~land-use board~~ applications eligible to request an administrative appeal are subject to the same noticing requirements as an application for a public hearing, in accordance with section 118-8 "Notice Procedures for Quasi-Judicial Land Use Board Actions, and for Administrative Decisions Requiring Notice." The rehearing applicant shall be responsible for all associated costs and fees.

E. Standard of Review. The appeal shall be "de novo," meaning that the party appealing the administrative decision bears burden of going forward with evidence and of persuasion at the Board of Adjustment administrative appeal proceeding. Witnesses and testimony may be considered during the hearing. The hearing is considered quasi-judicial in nature, and public hearing is required. Consistent with state law, the administrative interpretation by the planning director, who is charged with administrating is entitled to judicial deference, and should not be overturned as long as the interpretation is in the range of permissible interpretations.

- (3) **Outside Counsel to the Planning Department.** In the event of an administrative appeal to the ~~applicable land-use board of adjustment~~, the planning director may engage the services of an attorney, or utilize a separate, independent, attorney from the city attorney's office, for the purpose of representing the planning director, administrative officer who made the decision that is the subject of the appeal.
- (4) **Board of Adjustment Decisions on Administrative Appeals.** The ~~board of adjustment applicable land-use board~~ may, upon appeal, reverse or affirm, wholly or partly, the order, requirement, decision, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of five members of the board of adjustment applicable land-use board shall be necessary to reverse any order, requirement, decision, or determination of the planning director any such administrative official or to decide in favor of the applicant on any matter upon which the board of adjustment applicable land-use board is required to pass under these land development regulations.

No permit shall be issued for work prior to expiration of the appeal period or final disposition of any appeal.

- (5) **Stay of Work and Proceedings on Appeal.** An administrative appeal to the Board of Adjustment applicable board stays all work on the premises and all proceedings in furtherance of the action appealed from, unless one of the exceptions below applies:

A. ~~The official from whom the appeal was taken, the planning director,~~ shall certify to the ~~board of adjustment applicable land use board~~ that, by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such a case, proceedings or work shall not be stayed except by a restraining order, which may be granted by the board or by a court of competent jurisdiction, upon application, with notice to the officer from whom the appeal is taken and for good cause shown; or

B. If the appeal arises from a quasi-judicial public hearing before a land use board, the hearing before the board to which application was made may proceed, provided any approval does not vest. The final order shall contain appropriate conditions to stay its effectiveness until the final resolution of all administrative and court proceedings. No building permit, or certificate of occupancy, or business tax receipt, dependent upon such hearing approval, shall be issued until the final resolution of all administrative and court proceedings as certified by the city attorney. The applicant for such land use board hearing shall hold the city harmless and agree to indemnify the city from any liability or loss resulting from such proceedings. Notice of the final resolution of administrative and court proceedings shall be provided as required for notice of hearings under these land development regulations.

* * *

SECTION 2. That Chapter 118, Section 118-260, entitled "Administration Review Procedures," is amended as follows:

CHAPTER 118 - ADMINISTRATION AND REVIEW PROCEDURES

ARTICLE VI. - DESIGN REVIEW PROCEDURES

* * *

Sec. 118-260. - Administrative review procedures.

(a) The planning director or designated representative, shall have the authority to approve, approve with conditions or deny an application on behalf of the board, for the following:

(1) Ground level additions to existing structures, not to exceed two stories in height, which are not substantially visible from the public right-of-way, any waterfront or public park. For those lots which are greater than 10,000 square feet, the floor area of the proposed addition may not exceed ten percent of the floor area of the existing structure or primary lot, whichever is less, with a maximum total floor area not to exceed 5,000 square feet.

(2) Replacement of windows, doors, storefront frames and windows, or the approval of awnings, canopies, exterior surface colors, storm shutters and signs.

(3) Facade and building alterations, renovations and restorations which are minor in nature.

(4) Minor demolition and alterations to address accessibility, life safety, mechanical and other applicable code requirements.

~~(5) Minor demolition and alterations to rear and secondary facades to accommodate utilities, refuse disposal and storage.~~

(6) Minor work associated with the public interiors of buildings and those interior portions of commercial structures which front a street or sidewalk.

(7) Minor work involving public improvements upon public rights-of-way and easements.

(8) Minor work which is associated with rehabilitations and additions to existing buildings, or the construction, repair, or rehabilitation of new or existing walls, at-grade parking lots, fences.

The planning director's decision shall be based upon the criteria listed in this article. The applicant may appeal a decision of the planning director ~~to the design review board~~, pursuant to the procedural requirements of Section 118-9.

* * *

SECTION 3. That Chapter 118, Section 118-395, entitled "Repair and/or rehabilitation of nonconforming buildings and uses," is amended as follows:

CHAPTER 118 - ADMINISTRATION AND REVIEW PROCEDURES

ARTICLE IX. – NONCONFORMANCES

* * *

Sec. 118-395. - Repair and/or rehabilitation of nonconforming buildings and uses.

(b) Nonconforming buildings.

* * *

(2) Nonconforming buildings which are repaired or rehabilitated by more than 50 percent of the value of the building as determined by the building official, shall be subject to the following conditions:

* * *

e. Development regulations for buildings not located within a designated historic district and not an historic site.

1. Buildings constructed prior to 1965 and determined to be architecturally significant by the planning director, or designee, may

retain the existing floor area ratio, height, setbacks and parking credits, if the following portions of the building remain intact and are retained, preserved and restored:

- i. At least 75 percent of the front and street side facades;
- ii. At least 75 percent of the original first floor slab;
- iii. At least 50 percent of all upper level floor plates; and
- iv. At least 50 percent of the interior sidewalls.

2. For buildings satisfying the above criteria, and whose lot size is less than 20,000 square feet, the parking impact fee program may be utilized, provided that all repairs and rehabilitations, and any new additions or new construction is approved by the design review board and that any existing, required parking, that is conforming, shall not be removed.

3. For purposes of this subsection, the planning director, or designee shall make a determination as to whether a building is architecturally significant according to the following criteria:

- i. The subject structure is characteristic of a specific architectural style constructed in the city prior to 1965, including, but not limited to, vernacular, Mediterranean revival, art deco, streamline modern, post-war modern, or variations thereof;
- ii. 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 an irreversible manner; and
- iii. Exterior architectural characteristics, features, or details of the subject structure remain intact.

A property owner may appeal any determination of the planning director, or designee relative to the architectural significance of a building constructed prior to 1965 ~~to the design review board~~, in accordance with the requirements and procedures pursuant to the requirements of Section 118-9.

* * *

SECTION 4. That Chapter 118, Section 118-563, entitled "Review Procedure," is amended as follows:

CHAPTER 118 - ADMINISTRATION AND REVIEW PROCEDURES

ARTICLE X. - HISTORIC PRESERVATION

DIVISION 3. - ISSUANCE OF CERTIFICATE OF APPROPRIATENESS/CERTIFICATE TO DIG/CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION

* * *

Sec. 118-563 - Review procedure.

Any applicant requesting a public hearing on any application pursuant to this section shall pay, upon submission, the applicable fees in section 118-7. No application shall be considered complete until all requested information has been submitted and all applicable fees paid.

* * *

(d) Notwithstanding subsections 118-563 (a) through (c) above, all applications for certificates of appropriateness involving minor repairs, demolition, alterations and improvements (as defined below and by additional design guidelines to be adopted by the board in consultation with the planning director or designee) shall be reviewed by the staff of the board. The staff shall approve, approve with conditions, or deny a certificate of appropriateness or a certificate to dig after the date of receipt of a completed application. Such minor repairs, alterations and improvements include the following:

(1) Ground level additions to existing structures, not to exceed two stories in height, which are not substantially visible from the public right-of-way (excluding rear alleys), any waterfront or public parks, provided such ground level additions do not require the demolition or alteration of architecturally significant portions of a building or structure. For those lots under 5,000 square feet, the floor area of the proposed addition may not exceed 30 percent of the floor area of the existing structure or primary lot, whichever is less, with a maximum total floor area not to exceed 1,500 square feet. For those lots between 5,000 square feet and 10,000 square feet, the floor area of the proposed addition may not exceed 20 percent of the floor area of the existing structure or primary lot, whichever is less, with a maximum total floor area not to exceed 2,000 square feet. For those lots greater than 10,000 square feet, the floor area of the proposed addition may not exceed 10 percent of the floor area of the existing structure or primary lot, whichever is less, with a maximum total floor area not to exceed 5,000 square feet.

(2) Replacement of windows, doors, storefront frames and windows, or the approval of awnings, canopies, exterior surface colors, storm shutters and signs.

(3) Facade and building restorations, recommended by staff, 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.

(4) Minor 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.

(5) Minor demolition and alterations to rear and secondary facades to ~~accommodate utilities, refuse disposal and storage, 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) Any decision of the planning director staff regarding subsections 118-563(d)(1) and 118-563(d)(3), may be appealed ~~to the historic preservation board~~ pursuant to the requirements of Section 118-9.

* * *

SECTION 5. 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 6. REPEALER.

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

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 _____, 2017.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO

FORM AND LANGUAGE
& FOR EXECUTION

De C. J. 11/29/16
City Attorney Date

First Reading: October 14, 2015

Second Reading:

Verified by: Thomas R. Mooney, AICP
Planning Director

Underscore denotes new language

~~Strikethrough~~ denotes removed language

T:\AGENDA\2015\December\PLANNING\Rehearing and Appeal Procedures - Second Reading
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