

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Planning Board

TO: Chairperson and Members
Planning Board

DATE: April 25, 2017

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB 17-0103. MODIFICATIONS TO THE WEST AVENUE BAY FRONT OVERLAY**

REQUESTS

PB 17-0103. MODIFICATIONS TO THE WEST AVENUE BAY FRONT OVERLAY – AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, BY AMENDING CHAPTER 114, "GENERAL PROVISIONS," SECTION 114-1, "DEFINITIONS," TO DEFINE "HOSTEL" AND TO AMEND THE DEFINITION OF "RESTAURANT"; AND AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE III, "OVERLAY DISTRICTS," DIVISION 5, "WEST AVENUE BAY FRONT OVERLAY," SECTION 142-845, "SUITE HOTEL AND BED AND BREAKFAST INN OVERLAY," TO AMEND THE CRITERIA FOR SUITE HOTEL UNITS AND ACCESSORY DINING ROOMS, AND TO PROHIBIT HOSTELS; 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

On November 9, 2016, at the request of Commissioner Joy Malakoff, the City Commission referred this item (item C4J) to the Land Use and Development Committee (LUDC). On November 16, 2016, the LUDC continued the item to a date certain of December 12, 2016.

On December 12, 2016, the LUDC discussed the item and directed staff to prepare a draft Ordinance for the January 18, 2017 Land Use Committee meeting. On January 18, 2017, the Land Use Committee recommended that the City Commission refer the attached ordinance to the Planning Board for consideration.

On February 8, 2017, the Mayor and City Commission referred this item to the Planning Board for consideration (item C4H.)

BACKGROUND

In 2002, the West Avenue Bay Front Overlay was created, which includes properties lying within the RM-1, RM-2 and RM-3 zoning districts generally bounded by the Collins Canal on the north, the south side of 11th Street on the south, and between the centerline of Alton Court (alley west of Alton Road) on the east and the Biscayne Bay on the west; this overlay also includes the boundaries of the Gilbert Fein Neighborhood Conservation District (NCD).

At the time the overlay was established, the City Code permitted hotels uses in the RM-2 and RM-3 districts within the boundaries of the overlay. However, hotels were prohibited in the RM-1 district. In order to incentivize the retention and adaptive re-use of the lower scale structures in the RM-1 district, the overlay allows for Suite Hotels and Bed and Breakfast Inns for existing structures in the overlay area. Additionally, the overlay regulations allow stand-alone residential offices with existing structures within the overlay boundaries.

In 2013, the City Code was amended to prohibit hotels in the RM-2 and RM-3 areas of the West Avenue corridor. However, Sec 142-845 of the City Code was not amended, and Suite Hotels and Bed and Breakfast Inns remained as an allowable uses in existing buildings within the West Avenue Bay Front Overlay.

Recently, residents within the West Avenue Bay Front Overlay area have expressed concerns with the conversions of existing apartment buildings into Suite Hotels, particularly in light of the prohibition on hotels adopted in 2013. Most of these concerns center on the operation of allowable accessory uses and the number of guests occupying individual unit in suite hotels.

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 increase in demand of economy accommodations in Miami Beach have affected the quality of life for residents in traditionally residential zoning districts which 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 residential areas from potential negative impacts.

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 following is the current ordinance text regarding Suite Hotels and Bed & Breakfast Inns within the West Avenue Bay Front Overlay:

Sec. 142-845. - Suites Hotel and Bed and Breakfast Inn Overlay Area.

- (a) The Suites Hotel and Bed and Breakfast Inn Overlay Area is designed to accommodate the adaptive reuse of existing single-family and multi-family residential structures as of (the effective date of this ordinance) to allow for lodging and guest amenities as main permitted uses.*
 - (1) Suites hotels and bed breakfast inns in the Overlay Area shall not be permitted to have dance halls, entertainment establishments, neighborhood impact establishments, outdoor entertainment establishments or open air entertainment establishments.*
 - (2) The building identification sign for a suites hotel or bed and breakfast inn shall be the same as allowed for an apartment building in the underlying zoning district in which it is located.*
 - (3) The building(s) shall have central air conditioning or flush-mounted wall units; however no air conditioning equipment may face a street or the Bay.*
 - (4) The maximum amount of time that any person other than the owner may stay in a suites hotel or bed and breakfast inn during a one-year period shall not exceed six months.*
- (b) Suites hotels are permitted in existing multi-family structures and in single-family structures, including those that have been combined with adjacent multi-family or single-family structures through unity of title, subject to the following conditions:*
 - (1) Suites hotels may have full cooking facilities in units with a minimum of 400 square feet.*
 - (2) The building shall be maintained and operated as a hotel, with a registration desk and a lobby.*
 - (3) Should the facility convert from a suites hotel to a multifamily/single-family residential building, the minimum average unit size and all other zoning requirements for the underlying district shall be met.*
 - (4) Suites hotels located in the subject district may have accessory uses based upon the below criteria:*
 - a. A dining room operated solely for registered hotel guests and their visitors, located inside the building, with no exterior signs, entrances or exits except as required by the South Florida Building Code.*
 - b. Other accessory uses customarily associated with the operation of an apartment*

building, as referenced in subsection 142-902(2), for the use of registered hotel guests and their visitors only.

Also for clarification, the following are the current definitions of 'hotel', 'hotel unit', 'dining room', and 'restaurant' from the city code, section 114.1:

Hotel means a building occupied or intended to be occupied by transient residents, with all residents occupying hotel units and where ingress or egress may or may not be through a common lobby or office that is supervised by a person in charge at all times

Hotel unit means a room, or group of rooms, with ingress or egress which may or may not be through a common lobby, intended for rental to transients on a day-to-day, week-to-week, or month-to-month basis, not intended for use or used as a permanent dwelling and without cooking facilities. (This term includes a suite hotel unit, see section 142-1105.)

Dining room, accessory means a portion of a building devoted exclusively to the serving of food and refreshment for consumption on the premises by occupants.

Restaurant means a commercial establishment where refreshments or meals may be purchased by the public and which conducts the business of serving of food to be consumed on or off the premises.

Currently, the City Code does not have a definition for 'hostel' and therefore they are treated the same as a hotel, or a suite hotel when the unit contains a kitchen as far as zoning regulations. The main difference between a hotel and a hostel is booking the entire room or booking a bed space in a room occupied by other people who have done the same. In order to better define these types of uses, a definition has been proposed for hostels.

A hostel is a budget-oriented, shared-room ("dormitory") accommodation that accepts individual travelers (typically backpackers) or groups for short-term stays, and that provides common areas and communal facilities. To be considered a **hostel**, the property must provide short-term, shared (dormitory-style) accommodation for individual travelers, though many hostels also provide private rooms. The word "dormitory" refers to a room where travelers independently book individual beds in a shared room as opposed to booking entire rooms like in a hotel or guesthouse.

Additionally, since hotels and suite hotels do not have a maximum occupancy, a request was made to create a definition for 'hostel' so that they can be better regulated throughout the City and prohibited in the West Avenue Bay Front Overlay.

SUMMARY

Pursuant to the direction of the Land Use Committee, the attached ordinance amends parts of the West Avenue Bay Front Overlay section of the city code and the definitions section of the code. The following is a summary of the proposed legislation:

1. Creating a definition for 'hostel';
2. Making hostels a prohibited use in the West Avenue Bay Front overlay;

3. Establishing maximum occupancies in hostel and suite hotel rooms based on the square footage of a unit;
4. Tightening up the provisions for allowable 'dining rooms' in the West Avenue Bay Front overlay, in order to ensure they do not operate as commercial restaurants.
5. Further clarifying the distinction between a 'restaurant' and a 'dining room', by revising the definition of 'restaurant' in the definition section of the City Code.

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/TUI

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MODIFICATIONS TO THE WEST AVENUE BAY FRONT OVERLAY

ORDINANCE NO. 2017-_____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, BY AMENDING CHAPTER 114, "GENERAL PROVISIONS," SECTION 114-1, "DEFINITIONS," TO DEFINE "HOSTEL" AND TO AMEND THE DEFINITION OF "RESTAURANT"; AND AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE III, "OVERLAY DISTRICTS," DIVISION 5, "WEST AVENUE BAY FRONT OVERLAY," SECTION 142-845, "SUITE HOTEL AND BED AND BREAKFAST INN OVERLAY," TO AMEND THE CRITERIA FOR SUITE HOTEL UNITS AND ACCESSORY DINING ROOMS, AND TO PROHIBIT HOSTELS; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the West Avenue neighborhood is primarily comprised of residential uses; and

WHEREAS, Objective 2 of the Land Use Element of the City's Comprehensive Plan provides that "[l]and development regulations will be used to address the location, type, size and intensity of land uses and to ensure adequate land use compatibility between residential and non-residential land uses"; and

WHEREAS, the Mayor and City Commission desire to encourage uses that are compatible with the low scale character of the West Avenue neighborhood; and

WHEREAS, Division 5 of Article III of Chapter 142 of the City Code sets forth overlay zoning regulations for the West Avenue Bay Front Overlay; and

WHEREAS, under certain conditions, suite hotels and bed and breakfast inns are currently allowable uses in the West Ave Bay Front overlay district; however, hotels and apartment hotels are prohibited; and

WHEREAS, ~~hostels and other high occupancy transient uses, like hotels and apartment hotels, are more intense than bed and breakfasts and suite hotels, and are therefore incompatible with low scale residential neighborhoods; and~~

WHEREAS, just as hostels, hotels, and apartment hotels are more intense uses than bed and breakfasts and suite hotels, the accessory uses to hostels, hotels, and suite hotels (e.g., restaurants and bars) are less compatible with low scale residential neighborhoods than the accessory uses allowed to bed and breakfasts and suite hotels (e.g., dining rooms); and

WHEREAS, suite hotels can be used as high occupancy transient uses, like hotels and apartment hotels and are therefore incompatible with low scale residential neighborhoods without occupancy regulations; and

WHEREAS, the amendment set forth below is necessary to accomplish the above objectives.

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

SECTION 1. Chapter 114, entitled "General Provisions," is amended as follows:

**CHAPTER 114
GENERAL PROVISIONS**

Sec. 114-1. Definitions.

* * *

Hostel means a building occupied or intended to be occupied by transient residents, where ingress or egress may or may not be through a common lobby or office that is supervised by a person in charge at all times. A hostel provides communal or dormitory-style accommodations where transient residents can rent a bed, usually a bunk bed (as opposed to renting an entire unit, as in a hotel or suite hotel), and share a bathroom, lounge, and sometimes a kitchen. Rooms can be mixed or single-sex, although private rooms may also be available. The transient resident occupancy of a hostel shall not exceed the following limits per individual unit:

- (a) For units between 300 and 335 square feet, occupancy shall be limited to four (4) persons.
- (b) For units between 336 and 485 square feet, occupancy shall be limited to six (6) persons.
- (c) For units larger than 486 square feet, occupancy shall be limited to eight (8) persons. No hostel unit may be occupied by more than eight (8) persons.

* * *

Restaurant means a commercial establishment where refreshments or meals may be purchased by the public and which conducts the business of serving of food to be consumed on or off the premises, whose principal business is the preparation, serving, and selling of food, to the customer for consumed on or off the premises. Food shall be continuously ready to be prepared, served, and sold during all business operational hours for a restaurant use. All restaurants shall be appropriately licensed as a restaurant or similar food service-type use by all applicable agencies.

SECTION 2. Chapter 142, entitled "Zoning Districts and Regulations" is amended, as follows:

* * *

ARTICLE III. - OVERLAY DISTRICTS

* * *

DIVISION 5. - WEST AVENUE BAY FRONT OVERLAY

* * *

Sec. 142-845. - Suites Hotel and Bed and Breakfast Inn Overlay Area.

* * *

(b) Suites hotels are permitted in existing multi-family structures and in single-family structures, including those that have been combined with adjacent multi-family or single-family structures through unity of title, subject to the following conditions: The maximum occupancy of such suite hotel units shall be limited to 4 persons for units less than 500 square feet and 6 persons for units greater than 500 square feet. Additionally, suite hotels shall be subject to the following conditions:

* * *

(4) Suites hotels located in the subject district may have accessory uses based upon the below criteria:

a. A dining room operated solely for registered hotel guests and their visitors, located inside the building, with no exterior signs, entrances or exits except as required by the South Florida Building Code. Such dining room shall not be licensed separately, nor licensed as a restaurant, and shall not be permitted to have a commercial kitchen, but may have separate areas for food preparation and storage, provided there are no cook-tops, stoves, ovens or broilers, and exterior kitchen ventilation is not required.

* * *

(d) Hostels shall be prohibited within the subject Overlay Area.

SECTION 3. 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 4. REPEALER.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 5. SEVERABILITY.

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

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and ADOPTED this _____ day of _____, 2017.

Philip Levine
Mayor

Rafael E. Granado
City Clerk

Verified by: _____
Thomas Mooney, AICP
Planning Director

Underscore denotes new language
~~Strikethrough~~ denotes removed language

(Sponsored by Commissioner Joy Malakoff)

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

City Attorney _____
Date

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

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