

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Jimmy L. Morales, City Manager
DATE: October 18, 2017

First Reading

SUBJECT: 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

The Administration recommends that the City Commission consider the Ordinance at First Reading and, if approved, set a Second Reading Public Hearing for December 13, 2017.

ANALYSIS

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.

PLANNING 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 containing a building that exceeds the current maximum number of stories. 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 (600 Alton Road), located on Alton Road and 6th Street, which is ten (10) stories, and approximately 125 feet.

- The proposed Ordinance would not increase maximum FAR, and would only permit a redistribution of allowable FAR. As originally drafted, by the owner of 600 Alton Road, Planning staff had concerns that the additional height could be located anywhere within the parcel, or a future unified development site. Additionally, as originally drafted, there were no limits on the building footprint, thus potentially allowing the mass of a new building to 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, additional safeguards were recommended for the ordinance, in order to minimize the impact on adjacent properties. In order to address the concerns expressed by Planning staff, the owner of the parcel at 600 Alton Road proposed the following revised text at the Planning Board hearing:

Subject to the review and approval of the planning board, sites outside of historic districts greater than 50,000 square feet in area that are developed with a single building existing as of January 1, 2017 that is nonconforming as to height and/or number of stories of the existing building, may be redeveloped with a single building at the same height and/or number of stories as long as: (1) the footprint of the new building does not exceed two and one quarter (2.25) times the footprint of the existing building; and (2) the redevelopment of the site does not exceed the maximum floor area ratio permitted under these regulations.

This text would place a physical limit on the footprint of any new building that may be eligible for a building height in excess of 60 feet. The specific limit is 2.25 times the footprint of the existing building that already exceeds the maximum building height.

PLANNING BOARD REVIEW

On December 20, 2016, the Planning Board transmitted the proposed Ordinance Amendment to the City Commission, with a favorable recommendation. The ordinance transmitted by the Planning Board includes the following revisions, which were proposed by the property owner at 600 Alton Road:

1. A physical limit (2.25 times the footprint of the existing building) on the footprint of any new building, as noted above; and
2. A requirement for the Planning Board to review and approve the proposed increase in height above the maximum permitted in the underlying zoning district.

These revisions are included in the attached draft for First Reading.

SUMMARY

The footprint limits proposed by the Planning Board will play an important role in ensuring that any future development project does not negatively impact the surrounding area. In this regard, however, it will be critical for the Design Review Board (DRB) to carefully review any future application, particularly as it pertains to the distribution of allowable scale, mass and height.

In order to ensure that the footprint limit applies only to that portion of the building exceeding 60 feet in height, and that that Planning Board review is pursuant to the Conditional Use requirements in the code, the following minor modifications (**in bold strike-thru and double underscore**) are suggested if the ordinance should move forward:

Subject to ~~the review and conditional use~~ approval ~~of from~~ the planning board, sites outside of historic districts greater than 50,000 square feet in area that are developed with a single building existing as of January 1, 2017 that is nonconforming as to height and/or number of stories of the existing building, may be

redeveloped with a single building at the same height and/or number of stories as long as: (1) the footprint of the **portion of the** new building **exceeding 60 feet in height** does not exceed two and one quarter (2.25) times the footprint of the existing building; and (2) the redevelopment of the site does not exceed the maximum floor area ratio permitted under these regulations.

UPDATE

On February 8, 2017, the subject ordinance was opened and continued at First Reading to a date certain of March 1, 2017. On March 1, 2017 the matter was continued to April 26, 2017. On April 26, 2017, the item was deferred to the July 26, 2017 Commission meeting. On July 26, 2017 the item was deferred to September 13, 2017. The items on the September 13, 2017 agenda were moved to September 25, 2017. On September 25, 2017 the item was deferred to October 18, 2017.

CONCLUSION

The Administration recommends that the City Commission consider the Ordinance at First Reading and, if approved, set a Second Reading Public Hearing for December 13, 2017. It is further recommended that if the Ordinance is set for Second Reading, it include the following modification (**in bold double underscore**):

Subject to ~~the review and conditional use~~ approval ~~of from~~ the planning board, sites outside of historic districts greater than 50,000 square feet in area that are developed with a single building existing as of January 1, 2017 that is nonconforming as to height and/or number of stories of the existing building, may be redeveloped with a single building at the same height and/or number of stories as long as: (1) the footprint of the **portion of the** new building **exceeding 60 feet in height** does not exceed two and one quarter (2.25) times the footprint of the existing building; and (2) the redevelopment of the site does not exceed the maximum floor area ratio permitted under these regulations.

Legislative Tracking

Planning

Sponsor

Vice-Mayor Ricky Arriola

ATTACHMENTS:

Description

- ▢ Form Approved Ord

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 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 December 20, 2017 by a vote of 7-0 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 Area	Minimum Lot Area (Square	Minimum Lot Width (Feet)	Minimum Apartment Unit Size (Square	Average Apartment Unit Size	Maximum Building Height	Maximum Number of
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Ratio	Feet)		Feet)	(Square Feet)	(Feet)	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 with the Secretary of the Interior Standards and Guidelines for the Rehabilitation	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

			<p>on of Historic Structures as amended, retaining the existing room configuratio n shall be permitted, provided all rooms are a minimum of 200 square feet. Additionally, existing room configuratio ns for the above described hotel structures may be modified to address applicable life-safety and accessibility regulations, provided the 200 square feet minimum unit size is maintained.</p>		
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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.

Subject to the review and approval of the planning board, sites outside of historic districts greater than 50,000 square feet in area that are developed with a single building existing as of January 1, 2017 that is nonconforming as to height and/or number of stories of the existing building, may be redeveloped with a single building at the same height and/or

number of stories as long as: (1) the footprint of the new building does not exceed two and one quarter (2.25) times the footprint of the existing building; and (2) the redevelopment of the site does not 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

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

De Orl 4-4-17
City Attorney Date

First Reading: April 26, 2017
Second Reading: May 17, 2017
Verified by: Thomas R. Mooney
Thomas R. Mooney, AICP
Planning Director