

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: April 25, 2024

FROM: Thomas R. Mooney, AICP  for TRM
Planning Director

SUBJECT: **PB24-0663: Repeal of Co-Living Incentives**

RECOMMENDATION

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

HISTORY

On December 13, 2023, at the request of Commissioner Alex Fernandez, the City Commission referred a discussion item (C4 T) pertaining to co-living units to the Land Use and Sustainability Committee (LUSC) and the Planning Board. Commissioners Tanya K. Bhatt and Joseph Magazine are co-sponsors of the proposal.

On February 5, 2024, the LUSC recommended that the Planning Board transmit the ordinance to the City Commission with a favorable recommendation.

REVIEW CRITERIA

Pursuant to Section 2.4.2 of the Resiliency Code, in reviewing a request for an amendment to these land development regulations (LDRs), 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.**

Consistent – The proposed amendment does not create an isolated district unrelated to adjacent or nearby districts.

3. **Whether the change suggested is out of scale with the needs of the neighborhood**

or the city.

Consistent - 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 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 desire to minimize the number of co-living units in the city, and mitigate possible negative impacts, makes the 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 city.

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 ordinance 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 affect light and ar.

10. Whether the proposed change will adversely affect property values in the adjacent area.

Consistent – The proposed change will not adversely affect property values in 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 will not be a deterrent to the improvement or development of adjacent properties.

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 7.1.2.4 of the LDRs 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.**

Consistent – The proposal does affect areas that are vulnerable to the impacts of sea level rise in the long term, but has not impact on sea level rise.

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

Not Applicable

- (3) **Whether the proposal is compatible with the City's sea level rise mitigation and resiliency efforts.**

Not Applicable

ANALYSIS

Co-living units, which were introduced pursuant to the creation of the North Beach Town Center Central Core District (TC-C) in 2018, are defined as follows:

Co-living shall mean a small multi-family residential dwelling unit that includes sanitary facilities and provides access to kitchen facilities; however, such facilities may be shared by multiple units. Additionally, co-living buildings shall contain amenities that are shared by all users.

Currently, co-living units are only permitted along limited portions of Washington Avenue, and in the North Beach Town Center. Specifically, in South Beach, co-living is only permitted on the west side of Washington Avenue between 6th Street and 15th Street, and on both sides of Washington Avenue between 15th Street and 16th Street. In North Beach, co-living is only permitted in the TC-C district and is subject to a limit of 550 co-living units throughout the entire district.

The only co-living project previously approved on Washington Avenue was located at 1234-1260 Washington Avenue. Although a demolition permit was issued for the project, and demolition commenced, a full building permit was never issued. A previous application for co-living units on

the east side of Washington Avenue (1500 block) never received approval and has been converted to an application for a hotel development with accessory uses.

The following is a summary of co-living units in the North Beach TC-C district that have obtained a building permit process number as of October 1, 2023:

<u>Project Address</u>	<u>Co-Living Units</u>
7118-7114 Collins Avenue	168
7125-7145 Carlyle Avenue	121
6970 Collins Avenue	20
409 71st Street	139
6973 Indian Creek Drive	81
Total Units Proposed	529
Units Previously Remaining	21

Co-living units in the TC-C district are only permitted for projects that have obtained a building permit process number by October 1, 2023. As such the 21 co-living units shown above as previously remaining can longer be utilized. Additionally, if any of the permits for the above noted projects become inactive or expire, the associated co-living units would expire and could not be re-activated.

The proposed ordinance removes the ability for any co-living units on Washington Avenue, repealing all references to such use in the Washington Avenue corridor. This would likely have a negligible impact as the previously approved proposal, as noted above, does not appear to be moving forward.

Regarding the TC-C district, no additional co-living units beyond the 529 units currently permitted would be allowed in the district. As proposed, the ordinance would reduce the number of co-living units from the current cap of 550 to 529.

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.

REPEAL OF CD-2 CO-LIVING INCENTIVES AND REDUCE TC-C CO-LIVING CAP

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE MIAMI BEACH RESILIENCY CODE, BY AMENDING CHAPTER 7, ENTITLED “ZONING DISTRICTS AND REGULATIONS,” ARTICLE II, ENTITLED “ZONING DISTRICT REGULATIONS,” AT SECTION 7.2.11, ENTITLED “CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT,” AT SUBSECTION 7.2.11.5, ENTITLED “WASHINGTON AVENUE (CD-2),” BY REPEALING CO-LIVING UNITS AS AN ALLOWABLE USE AND ELIMINATING ALL REFERENCES TO SUCH; AND BY AMENDING SECTION 7.2.14, ENTITLED “NORTH BEACH TOWN CENTER CORE DISTRICT (TC),” AND SUBSECTION 7.2.14.6, ENTITLED “TOWN CENTER-CENTRAL CORE (TC-C) DISTRICT,” BY REDUCING THE MAXIMUM NUMBER OF CO-LIVING UNITS THAT MAY BE BUILT WITHIN THE DISTRICT; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the proliferation of co-living units may exacerbate housing affordability issues by reducing the availability of traditional rental housing options for families and individuals; and

WHEREAS, repealing co-living unit regulations in the Washington Avenue corridor would enable the implementation of more equitable and comprehensive housing policies that prioritize the well-being and stability of all residents; and

WHEREAS, the current trend towards co-living arrangements may undermine the sense of community and social cohesion within neighborhoods by fostering transient and temporary living situations rather than long-term residency and neighborhood investment; 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 7, entitled “Zoning Districts and Regulations,” Article II, entitled “Zoning District Regulations,” Section 7.2.11, entitled “CD-2 Commercial, Medium Intensity District,” at Subsection 7.2.11.5, entitled “Washington Avenue (CD-2),” is hereby amended as follows:

CHAPTER 7 ZONING DISTRICTS AND REGULATIONS

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ARTICLE II: DISTRICT REGULATIONS

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7.2.11 CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT

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7.2.11.5 WASHINGTON AVENUE (CD-2)

~~a. Location and Purpose (Washington Ave – CD-2)~~

~~The following regulations shall apply to properties that front Washington Avenue between 6th Street and 16th Street (MAP EXHIBIT-3).~~

b. Development Regulations (Washington Ave – CD-2)

The following regulations shall apply to properties that front Washington Avenue between 6th Street and 15th Street, referred to herein as "South Washington Avenue," and between 15th Street and 16th Street, referred to herein as "North Washington Avenue," (MAP EXHIBIT-3); in the event of a conflict within this division, the regulations below shall apply:

* * *

c. Additional Regulations (Washington Ave – CD-2)

1. The maximum frontage for nightclubs and dance halls, located at the ground level shall not exceed 25 feet in width unless such a space has a certificate of use for nightclub or dance hall, or unless a valid license was issued after January 1, 2011, and before the date of adoption of the ordinance codified in this section for the use of such space as a nightclub or dance hall.
2. For new hotel construction or conversion to hotel use, the minimum hotel room unit size may be 175 square feet, provided that:
 - A. A minimum of 20 percent (20%) of the gross floor area of the hotel consists of hotel amenity space that is physically connected to and directly accessed from the hotel. Hotel amenity space includes the following types of uses, whether indoor or outdoor, including roof decks: restaurants; bars; cafes; hotel business center; hotel retail; screening rooms; fitness center; spas; gyms; pools; pool decks; and other similar uses customarily associated with a hotel. Bars and restaurants shall count no more than 50 percent (50%) of the total hotel amenity space requirements.
 - B. Windows shall be required in all hotel rooms and shall be of dimensions that allow adequate natural lighting, as determined by the historic preservation board.
- ~~3. Co-living or micro residential units are permitted as a voluntary development incentive in South Washington Avenue and North Washington (as defined in this section) subject to the following regulations:~~
 - ~~A. For co-living or micro residential units, the minimum unit size may be 275 square feet, provided that a minimum of 20 percent (20%) of the gross floor area consists of amenity space on the same unified development site. Amenity space includes the following types of uses: Common area kitchens; club rooms; business center; retail; screening rooms; fitness center; wellness center; spas; gyms; pools; pool decks; roof decks, and other similar uses whether operated by a condominium or cooperative association or another operator. Fitness centers, wellness centers, spas, and gyms located on the ground floor shall be open to the public. These amenities may be combined with the amenities for hotel units on the same unified development site, provided that residents and hotel guests have access to such amenities.~~
 - ~~B. Each unit shall be fully furnished and shall have an individual bathroom.~~

- ~~C. All one-bedroom co-living units shall have a washer and dryer machine located within the unit, and coliving units with two or more bedrooms shall, at a minimum, install a washer and dryer in the common area of the unit.~~
- ~~D. Each co-living unit may contain a maximum of six (6) bedrooms.~~
- ~~E. A maximum of 50 percent (50%) of the floor area within the unified development site may consists of coliving or micro units.~~
- ~~F. Formula commercial establishments and formula restaurants, as defined in section 7.3.9.2.a, are prohibited on a unified development site with co-living or micro units.~~
- ~~G. The owner/operator shall submit a covenant running with the land, in a form acceptable to the city attorney, agreeing that any owner/operator of co-living or micro units within the unified development site shall be obligated to clean and maintain (or arrange to have cleaned and maintained) each unit.~~
- ~~H. The owner/operator shall submit a covenant running with the land, in a form acceptable to the city attorney, agreeing that any owner/operator of co-living or micro units within the unified development site shall be required to perform background screening investigations of all tenants of co-living or micro units.~~
- ~~I. Any owner/operator of co-living or micro units must provide onsite security guards 24 hours a day, seven days a week.~~
- ~~J. All exterior windows in any hotel, co-living, or micro units on the unified development site shall contain double pane glass and/or laminated windows.~~
- ~~K. Ground floor uses fronting on Washington Avenue shall be limited to retail, restaurant, bar, or gym/fitness center. Residential uses fronting Washington Avenue shall be prohibited on the ground floor, except for the lobby and any required vertical circulation.~~
- ~~L. Each co-living unit must include a dining, kitchen, and living area, unless a dining, kitchen, and living area is provided on the same floor.~~
- ~~M. A rooftop seating area, pool, and garden shall be provided within the unified development site.~~
- ~~N. A wellness center shall be provided within a unified development site containing co-living or micro units, which wellness center shall have both self-service and personal training offerings such as strength training, yoga, stretching, recovery, mindfulness, cardiovascular equipment, and nutritional planning.~~

~~No variances shall be permitted from the provisions of this section 7.2.11.5.c.3.~~

- ~~4. In addition to the foregoing, the following additional regulations shall apply to co-living or micro residential units in South Washington Avenue:~~
 - ~~A. Within the same unified development site, office uses with a minimum of 10,000 square feet shall be provided.~~

- ~~B. Co-living units may only be located on the west side of Washington Avenue. In addition, the western lot line of the unified development site must front on a street with an RM-1 or RO zoning designation.~~
- ~~C. A rooftop seating area, pool, and garden shall be provided within the unified development site.~~
- ~~D. A building permit for co-living or micro residential units in South Washington Avenue must be obtained within one (1) year from the effective date of this section.~~

~~No variances shall be permitted from the provisions of this subsection (6).~~

- ~~5. In addition to the foregoing, for development projects in North Washington Avenue containing co-living or micro residential units, the following additional regulations shall apply: a. Hotel, suite hotel, apartment hotel and/or hostels shall be prohibited. b. Retail use shall not be permitted as required amenity space. c. The inclusion of co-living or micro residential units in North Washington Avenue is a voluntary development incentive that shall only be permitted if the property owner elects, at the owner's sole discretion, to voluntarily execute a restrictive covenant running with the land, in a form approved by the city attorney, affirming and agreeing to the following restrictions on the subject development site, in perpetuity: 1. A minimum of 20 percent of the total number of co-living or micro residential units shall be set aside for workforce housing, as defined in chapter 58, article VI of General Ordinances of the Code of the City of Miami Beach. 2. The minimum rental period for any co-living or micro residential unit on the development site shall be no less than six months and one day. 4 d. For development projects that comply with the foregoing regulations, a maximum of 80 percent of the floor area within the unified development site may consist of co-living or micro units. e. A building permit for co-living or micro residential units in North Washington Avenue must be obtained within three (3) years from the effective date of this section. No variances shall be permitted from the provisions of this subsection (7).~~
- 6. For lots that have a frontage that is greater than 100 feet, the following shall apply:
 - A. Maximum building length. Unless otherwise approved by the historic preservation board at its sole discretion, no plane of a building, above the ground floor façade facing Washington Avenue, shall continue for greater than 100 feet without incorporating an offset of a minimum 5 feet in depth from the setback line. The total offset widths shall total no less than 20 percent (20%) of the entire building frontage.
 - B. Physical separation between buildings. Unless otherwise approved by the historic preservation board at its sole discretion, a physical separation must be provided between buildings greater than 200 feet in length and at/or above 35 feet in height from the ground floor. Notwithstanding the foregoing, for building sites with a lot frontage in excess of 500 feet, no physical separation is required if:
 - I. the length of the building at/or above 35 feet in height from the ground floor does not exceed 50 percent (50%) of the length of the frontage of the property; and

- II. the offsets required in section 7.2.11.5.c.4.A., above, are a minimum of 20 feet in depth from the setback line and the combined offset widths total no less than 30 percent (30%) of the entire building frontage.

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SECTION 2. Chapter 7, entitled “Zoning Districts and Regulations,” Article II, entitled “Zoning District Regulations,” Section 7.2.14, entitled “North Beach Town Center Core District (TC),” at Subsection 7.2.14.6, entitled “Town Center-Central Core (TC-C) District,” is hereby amended as follows:

CHAPTER 7
ZONING DISTRICTS AND REGULATIONS

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ARTICLE II: DISTRICT REGULATIONS

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7.2.14 NORTH BEACH TOWN CENTER CORE DISTRICT (TC-C)

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7.2.14.6 Town Center-Central Core (TC-C) District

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2. Supplemental Use Regulations (TC-C)

- A. The following supplemental regulations shall apply to specific uses in the TC-C district:

- I. There shall be no variances regarding the regulations for permitted, prohibited, accessory, exception, special exception, and conditional uses in section 7.2.14.6.b.1; and the supplemental regulations of such uses in section 7.2.14.6.b.2.

- II. Use limitations.

1. The following limits shall apply for residential and hotel uses:

- i. *Hotel rooms.* There shall be a limit of 1,762 hotel units within the TC-C district.
- ii. *Apartments.* There shall be a limit of 500 apartment units built within the TC-C district over and above the maximum allowable density and intensity, prior to the adoption of the FAR increase approved on November 7, 2017. This limit shall not authorize exceeding the maximum density authorized within the adopted comprehensive plan.
- iii. *Workforce and affordable housing and co-living units.* There shall be a combined limit of 500 workforce housing, affordable housing, or co-living units built within the TC-C district over and above the maximum allowable density prior to the adoption of the FAR increase approved on November 7, 2017. However, a co-living unit that is less than 550

square feet shall count as half of a unit for the purposes of calculating the maximum number of units. This limit shall not authorize exceeding the maximum density authorized within the adopted comprehensive plan.

- iv. *Co-living units.* Notwithstanding the foregoing limitations, there shall be a limit of ~~550~~ 529 co-living units built within the TC-C district. Additionally, co-living units shall only be permitted for projects that have obtained a building permit process number by October 1, 2023.
2. Units for the uses identified in sections 7.2.14.6.b.2.A.II.(1).i-iii above, shall be applied for and allocated on a first-come, first-served basis concurrent with the earlier of a completed application for land use board approval or completed application for building permit that includes the proposed number of units, and meets all applicable requirements of the land development regulations, as determined by the planning director. Any allocation of units pursuant to this subsection shall be subject to the following additional provisions:
 - i. In the event that a land use board application is not approved by the applicable board, or in the event that an applicant with an approved land use board order fails to obtain a building permit before the board order expires, all units allocated pursuant to the filing of the completed land use board application shall be released to the pool and shall become available to new applicants.
 - ii. Upon the issuance of a building permit for units approved pursuant to a land use board order, the allocation of such units shall remain reserved. If the building permit or building permit application expires or is abandoned, any units allocated pursuant to the building permit application shall be released to the pool; and shall become available to new applicants. Prior to reactivating an expired or abandoned building permit or building permit application, an applicant shall first be required to obtain written confirmation from the planning department that sufficient units remain available.
 - iii. If the use for which credits are allocated pursuant to a land use board order or building permit changes to a use that does not require an allocation of units, the allocation of units shall be released and shall become available to new applicants.
3. Units for the uses identified in section 7.2.14.6.b.2.A.II.(1).iv. above, shall be applied for and allocated on a first-come, first-served basis concurrent with a completed application for land use board approval that includes the proposed number of units, and meets all requirements of the land development regulations, as determined by the planning director.

Any allocation of units pursuant to this subsection shall be subject to the following additional provisions:

- i. In the event that a land use board application is not approved by the applicable board, or in the event that an applicant with an approved land use board order fails to obtain a building permit before the board order expires. all units allocated pursuant to the filing of the completed land use board application shall be released to the pool and shall become available to new applicants.
 - ii. Upon the issuance of a building permit for units approved pursuant to a land use board order, the allocation of such units shall remain reserved. In the event that the building permit expires or is abandoned, any units allocated pursuant to the building permit shall be released to the pool, and shall become available to new applicants. Prior to reactivating an expired or abandoned building permit or building permit application, an applicant shall first be required to obtain written confirmation from the planning department that sufficient units remain available.
 - iii. If the use for which credits are allocated pursuant to a land use board order changes to a use that does not require an allocation of units. the allocation of units shall be released and shall become available to new applicants.
4. Any such units permitted the boundaries of the TC-C district, after November 7, 2017 shall be counted towards the maximum limit established herein.
 5. Notwithstanding the use limitations in sections 7.2.14.6.b.2.A.II.(1).i-iii. above, the planning director or designee may permit simultaneous increase and decreases in the above described uses, provided that the impacts of the changes will not exceed originally approved impacts, as measured by total weekday peak hour (of adjacent street traffic, one hour between 4:00 p.m. and 6:00 p.m.) vehicle trips, pursuant to the Institute of Transportation Engineers Trip Generation Manual, as may be amended from time to time.

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SECTION 3. 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 4. 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 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 _____, 2024

Steven Meiner, Mayor

ATTEST:

Rafael E. Granado, City Clerk.

APPROVED AS TO FORM AND
LANGUAGE AND FOR EXECUTION

City Attorney

Date

First Reading: _____, 2024
Second Reading: _____, 2024

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