

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: September 9, 2025

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

SUBJECT: **PB25-0786. 40th Street Overlay LDR Amendments**

RECOMMENDATION

Transmit the proposed ordinance amendment to the Mayor and City Commission (City Commission) with a favorable recommendation.

HISTORY

On May 15, 2024, at the request of Mayor Steven Meiner, the City Commission referred a discussion (C4 AS) regarding potential amendments to the 40th Street overlay to the Land Use and Sustainability Committee (LUSC). On June 10, 2024, the LUSC discussed and continued the item to the September 5, 2024, LUSC meeting with direction for staff to meet with the project architect and for a draft ordinance to be prepared, subject to the approval of the item sponsor.

On September 5, 2024, the item was deferred to the October 10, 2024, LUSC meeting, with no discussion. The October 10, 2024, LUSC meeting was rescheduled to October 14, 2024, where the item was deferred to the November 25, 2024, LUSC meeting, with no discussion. Additionally, to ensure adequate public outreach, a community workshop with affected residents and homeowner organizations took place on November 19, 2024, at which time area residents were able to further discuss the proposal. On November 25, 2024, the item was deferred to a future date, with no discussion.

On June 10, 2025, the LUSC discussed the proposed draft ordinance and recommended that the City Commission refer an amendment to the Land Development Regulations of the City Code (LDRs) to the Planning Board, in accordance with the recommendations in the LUSC memo, and the following additional changes:

1. Clarify that roof-top access and uses will not be permitted.
2. Clarify that the expanded regulations shall only be applicable to sites that contain at least two platted lots.
3. Include a limit on the number of beds proposed for the dormitory units.

Since the LDR amendments authorize dormitories as part of a conditional use, it was determined that a comprehensive plan amendment is not required.

On July 23, 2025, at the request of Mayor Steven Meiner, the City Commission referred the ordinance to the Planning Board (C4 A).

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 LDR amendment 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 isolated districts.

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

Consistent - The proposed ordinance amendment is not out of scale with the needs of the neighborhood.

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

Consistent – The proposed amendment should not tax the existing load on public facilities and infrastructure. Infrastructure impacts and analysis will be reviewed as part of any required conditional use application.

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

Not Applicable

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

Consistent – The desire to provide increased accessory uses as part of religious uses, 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 should not adversely affect living conditions.

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

Consistent – The proposed change will not create or excessively increase traffic congestion beyond the levels of service as set forth in the comprehensive plan or otherwise affect public safety.

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

Consistent – The proposed change should not seriously 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 proposed change should not be a deterrent to the improvement or development of properties in the City.

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.

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

Consistent – Any new construction will be required to comply with the city’s resiliency standards.

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

Consistent – The proposal is compatible with the City’s sea level rise mitigation and resiliency efforts.

ANALYSIS

Background

The 40th Street overlay, which was established in 2010, applies to religious institutions in the Residential Single Family (RS) district that is located on the south side of 40th Street between Chase Avenue to the west and Pine Tree Drive to the east. The overlay allows pedestrian-friendly religious institutional uses, through the conditional use permit process, at eligible properties. The intent of the overlay has been to serve the surrounding residential uses, and any future expansion of the district is only permitted by amending the overlay regulations.

The highlighted area in red below, denotes the properties south of 40th Street which are part of the existing religious overlay district:



Proposed Ordinance

The attached draft ordinance proposes amendments the LDRs that are specific to the 40th Street Overlay. The following is a summary of the modifications proposed for the overlay:

- The introduction of dormitory and standalone school as an allowable use. The total number of dormitories would not exceed four (4) dormitory units per platted lot and each dormitory unit would have a limit of up to four (beds).
- A requirement for Design Review Board (DRB) approval for sites containing 2 or more platted lots.
- The maximum unit size has been increased from 50% to 100%.
- The maximum lot coverage for a home exceeding 2 stories has been increased from 30% to 50%.
- Covered stairs and walkways would be exempt from unit size and lot coverage calculations.
- The minimum front setback has been reduced from 30 feet to 20 feet.
- The minimum street side setback has been reduced from 10 feet to 5 feet.
- The maximum number of stories has been increased from 2 stories to 3 stories.

- The maximum building height has been increased for flat roof structures from 24 feet to 36 feet and for sloped roof structures from 27 feet to 39 feet.
- The open space and extended setback requirements for homes exceeding 2 stories would not apply to projects in the 40th Street Overlay.
- The limitation of two (2) contiguous lots has been expanded allow up to three (3) contiguous lots to be aggregated 40th Street overlay.
- Roof-top access and uses on the roof would not be permitted.

Summary

The proposed amendments to the LDRs would allow for new construction and the expansion of existing homes located within the overlay, both in terms of permitted uses, as well as the height and intensity of the structures. The subject overlay is a transitional area from the more intense commercial properties to the north of 40th Street, and the established single-family homes immediately south of the overlay boundaries.

Similar transition areas in the city typically have either Residential Office (RO) or Low Intensity Multi-Family (RM-1) zoning as an interface between single family districts and more intense commercial districts. In this regard, the increased height and intensity proposed in the LDR amendment would not be inconsistent with the regulations in the RM-1 district. Additionally, both DRB and Planning Board approval would be required for new developments.

The RS development regulations applicable to the existing transitional overlay, which have been in place since 2010, are sensitive to and compatible with the established single-family homes to the immediate south. Although transient uses are generally not permitted in the RM-1 and RO districts, the limited number of dormitories proposed is not expected to adversely impact the surrounding area, as they would need to be connected to religious institution uses in the overlay.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the Planning Board transmit the proposed ordinance to the City Commission with a favorable recommendation.