

TO: Land Use and Sustainability Committee Members
FROM: Eric Carpenter, City Manager
DATE: September 5, 2024
TITLE: **DISCUSS PROPOSED 6TH STREET OVERLAY**

RECOMMENDATION

The Administration recommends that the Land Use and Sustainability Committee discuss the item and provide an applicable recommendation to the Mayor and City Commission (City Commission).

BACKGROUND/HISTORY

On July 28, 2021, at the request of then Commissioner, now Mayor Steven Meiner, the City Commission referred a discussion item (C4 T) pertaining to the creation of a 6th Street Overlay between Washington Avenue and Alton Road, to the Land Use and Sustainability Committee (LUSC). On September 14, 2021, the LUSC discussed the item and continued it to the October 19, 2021 LUSC meeting.

On October 19, 2021, the item was deferred to the December 2021 LUSC meeting. The December 2021 LUSC meeting did not take place and the item was automatically deferred to the first available meeting of 2022.

On March 4, 2022, the LUSC discussed and continued the item to the May 13, 2022 LUSC meeting with the following direction:

1. Engage in follow-up outreach to the affected stakeholders and provide a summary of the applicable comments and input.
2. Modify the northeast boundary of the overlay to remove Washington Avenue.

On May 13, 2022, the item was deferred to the June 6, 2022, LUSC meeting, with no discussion. On June 6, 2022, the item was deferred to the July 7, 2022, LUSC meeting, with no discussion. On July 7, 2022, the item was deferred to the September 28, 2022 LUSC meeting, with no discussion.

On September 28, 2022, the LUSC discussed the proposal, including additional revisions to the draft overlay, and continued the item to the November 18, 2022 LUSC meeting with direction to further explore allowable uses within the proposed overlay, as well as hold a publicly noticed community meeting in the neighborhood. On November 18, 2022, the item was deferred to the January 25, 2023, LUSC meeting, with no discussion.

On January 25, 2023, the item was discussed and continued to the March 1, 2023 LUSC with direction to the Administration to develop incentives to transfer allowable intensity from the south side of 6th Street closer to 5th Street. On March 1, 2023, the LUSC recommended that the City

Commission refer the Administration version of the proposed overlay ordinance to the Planning Board.

On March 27, 2023, the City Commission referred the attached ordinance to the Planning Board (Item C4 B).

On April 25, 2023, the Planning Board discussed the item and continued it to the May 23, 2023 meeting. On May 23, 2023, the Planning Board discussed the item and continued it to the June 27, 2023 meeting. On June 27, 2023, the Planning Board continued the item to the September 26, 2023 meeting.

Prior to the September 26, 2023 Planning Board meeting, the item sponsor requested that the proposal be removed from the Planning Board agenda and placed on the next available City Commission agenda for a new referral to the LUSC. The purpose of referring the item back to the LUSC is to allow for additional study, as well as further input from affected residents and property owners. On October 18, 2023, the City Commission referred the item to the LUSC (C4 A). Additionally, Commissioner Laura Dominguez became a co-sponsor.

On February 26, 2024, the LUSC discussed the proposed overlay and continued the item to the March 19, 2024 meeting. On March 19, 2024, the item was deferred to a future meeting, with no discussion, for the Administration to meet with affected stakeholders.

On July 9, 2024, the LUSC discussed the proposed overlay and continued the item to a future date with the direction to the Administration to include the recommendations from the Flamingo Park Neighborhood Association regarding hotel prohibition and height restrictions in the proposed ordinance.

ANALYSIS

Background

The area between 5th and 6th Street, from Washington Avenue to Alton Road, is currently zoned C-PS2 (commercial performance general mixed-use). The C-PS2 district permits a range of business, commercial, office and hotel use, as well as medium density residential development.

As noted on the attached map, the north side of 6th Street between Washington Avenue and Alton Road is comprised of the following zoning districts: RM-2, residential multifamily medium intensity (between Washington Avenue and Pennsylvania Court); GU, government use (between Meridian Avenue and Jefferson Avenue); CD-2, commercial medium intensity (between Lenox Court and Alton Road), with the remainder RM-1, residential multifamily low intensity.

The south side of 6th Street between Washington Avenue and Alton Road is comprised of C-PS2, general mixed-use commercial (between Washington Avenue and Alton Road). The center line of 6th Street between Washington Avenue and Lenox Court serves as the boundary for the Flamingo Park Historic District to the north and the Ocean Beach Historic District to the south.

The Flamingo Park neighborhood is bounded on the south by 6th Street, and on the north by Lincoln Lane south, and is generally between Alton Road and Washington Avenue. The Flamingo Park neighborhood is within a designated local historic district, and is composed predominantly of low scale, multi-family residential apartment buildings.

The low scale residential neighborhood within Flamingo Park is currently buffered from the higher intensity zoning CD-2 district on the west (Washington Avenue) by the RO (Residential Office) zoning district on Pennsylvania and Drexel Avenues. Additionally, in 2014, the Alton Road Historic District Buffer Overlay was created along the east side of Alton Road, in order to create a transition zone between that CD-2 commercial district. Over time, these transition areas have helped to mitigate the impacts of higher intensity commercial uses adjacent to lower intensity residential uses on the east and west sides of the Flamingo Park neighborhood.

Planning Analysis

Recently there have been several large, high intensity projects approved within the C-PS2 area between 5th and 6th Streets, from Alton Road to Meridian Avenue. Most recently, a new hotel with a rooftop amenity deck and accessory outdoor café was approved for the property located at the southeast corner of 6th Street and Lenox Avenue. Given that there are a number of non-contributing properties, including several surface parking lots, in this area, as well as the designation of 5th Street as a major transit corridor, it is likely the City will see an increase in new development proposals in this C-PS2 area.

In order to ensure that future development proposals within the C-PS2 area north of 5th Street are compatible with and sensitive to the established, low scale area of Flamingo Park north of 6th Street, additional development regulations have been proposed. To this end, the proposed amendments to the Land Development Regulations (LDRs) are intended for properties and uses that front on or are near the south side of 6th Street. The intention of such regulations, as part of an overlay, is to foster a more compatible relationship in terms of scale, massing and land uses between the 6th Street corridor and the Flamingo Park residential neighborhood.

The proposed overlay is intended to create a meaningful buffer along the 6th Street corridor and should be carefully shaped, as the make-up of existing properties between 5th and 6th Streets is unique and includes variations in overall lot sizes and unified development sites. Also, this area contains several less than desirable uses, including surface parking lots, gas stations and other automobile related uses, and the overlay for this area must consider the ability for multiple lots to be developed in a tangible manner.

Attached are additional maps showing the following:

1. Existing unified development sites (current property owners map); and
2. Existing properties with buildings classified as 'contributing' in the City's historic properties database (contributing buildings map).

These maps show how dispersed the area between 5th and 6th Street is both from a property ownership and unified site standpoint. Additionally, there is no strong concentration of contributing structures along 5th Street and the mid portions of most blocks.

In light of this, the overlay regulations have been drafted so as to not create a barrier to establishing desirable unified sites, even if some of the lots within a unified site are close to or fronting 6th Street. Additionally, as 5th Street is a dedicated transit corridor there is an opportunity to maximize the development potential of these properties, including unification efforts with properties immediately north of 5th Street. Currently there are a number of highly underutilized parcels fronting on and north of 5th Street, as well as a number of uses that would be better suited elsewhere.

The following is a summary of the attached overlay regulations:

1. The overlay would apply to properties bounded by 6th Street to the north and 5th Street to the south, between the west side of Michigan Avenue and the west side of Washington Avenue.
2. Properties with frontage on Washington Avenue as of January 1, 2022 have been removed from the overlay. However, in the future, if a lot with frontage on Washington Avenue is unified with a lot that does not have frontage on Washington Avenue, such unified site shall therein after be subject to the overlay regulations.
3. The following shall apply to alcoholic beverage establishments within the proposed overlay:

- a. Operations in outdoor or open-air areas of an alcoholic beverage establishment shall cease no later than 12:00 a.m., except as otherwise provided herein.
 - b. Alcoholic beverage establishments participating in the Outdoor Dining Concession Program shall not be permitted to have outdoor speakers abutting or adjacent to any public sidewalks.
 - c. Outdoor bar counters shall be prohibited within the overlay.
 - d. Outdoor restaurant seating would be limited to 100 seats within 200 feet of the south side of 6th Street.
 - e. Outdoor seating above the ground floor (rooftop seating) within 200 feet of the south side of 6th Street would be prohibited.
4. Outdoor music, whether amplified or nonamplified, and television sets, shall be prohibited within 200 feet of the south side of 6th Street.
 5. For properties with frontage on 6th Street, entry and exit doors, as well as access points (with the exception of required emergency egress) to hotels, apartment hotels and suite hotels, and food and beverage establishments serving alcohol, shall be subject to the following regulations:
 - a. Entry and exit doors, as well as access points, shall not be permitted on 6th Street.
 - b. A minimum setback of 20 feet from the south side of 6th Street, for all such entry and exit doors, as well as access points, shall be required.
 - c. For properties which contain 200 feet or more of frontage along Euclid, Meridian, Jefferson, Michigan or Lennox Avenues, all entry and exit doors, as well as access points shall be setback a minimum setback of 100 feet from the south side of 6th Street.
 - d. Subject to the approval of the Historic Preservation Board, for existing contributing structures the minimum setbacks from the south side of 6th Street may be waived or modified by the Historic Preservation Board, and the location of such entry and exit doors, and access points, may be permitted on 6th Street.
 6. For properties with frontage on 6th Street, the storage or parking of vehicles above the ground level shall be setback a minimum of 100 feet from the south side of 6th Street.
 7. The following uses shall be prohibited:
 - a. The sale, lease or rental of any motor vehicles, including, but not limited to, automobiles, golf carts, low-speed vehicles, mopeds, motorcycles, motorized bicycles, and motorized scooters.
 - b. Hostels.
 - c. Convenience stores.
 - d. Smoke shops and vape stores.
 - e. Package stores and the retail sale of alcohol for off premise consumption.
 - f. Hotels within 200 feet of the south side of 6th Street.
 8. The maximum permitted height within the first 100 feet south of 6th Street shall not exceed 28 feet, regardless of property use, and the maximum permitted height between 100 feet and 140 feet south of 6th Street shall not exceed 40 feet. This height limit may be waived by the Historic Preservation Board to preserve contributing buildings or for a development whose primary use is affordable, workforce, or senior housing.
 9. A minimum setback of five (5) feet shall be required along all front and side facing a street yard, in order to provide a clear pedestrian path that exceeds the width of the abutting sidewalk. This requirement may be waived by the Historic Preservation Board for portions of a property containing a contributing building.
 10. If an alley exists, no front or street side curb-cut shall be permitted. If no alley exists, any curb-cut required shall not exceed 12 feet in width.

11. Notwithstanding the provisions of section 142-1161 of these land development regulations, roof-top additions shall not exceed the applicable maximum building height set forth in the C-PS2 district.

Community Meeting

At the previous direction of the LUSC, on December 19, 2022, the City held an evening public meeting at the Miami Beach Police Department Community Room within the Flamingo Park neighborhood. The hybrid meeting was advertised and well attended by residents and property owners both in person and via Zoom.

After a brief presentation, some residents expressed concerns regarding potential proliferation of transient and commercial uses along the south side of 6th Street across from the Flamingo Park residential neighborhood. More specifically, the members of the public requested that the City explore the following:

- Prohibit the introduction of balconies facing 6th Street or any side street, for transient uses;
- Explore the introduction of zoning incentives that would encourage residential development; and
- Explore the possibility of rezoning the south side of 6th Street to the RM-1 zoning district.

As noted previously at the LUSC, the Administration does not recommend incorporating limits on balconies within new construction based solely on transient uses. The use of a property evolves over time and such a regulation would be difficult to administer. The Administration also does not recommend a rezoning of the area south of 6th Street to residential only, as it would create non-conforming uses and subject the City to potential legal and financial exposure.

With regard to incentivizing residential development, one option would be to consider, on a separate path, an increase in maximum FAR and residential density, for development projects consisting substantially of residential uses. As part of this incentive, there could also be limits placed on transient rentals, as well as the amount and type of accessory uses permitted. In addition to being an effective option in terms of incentivizing the development of non-transient residential uses, an FAR increase within the area bounded by 5th and 6th Street would be consistent with the City's long term mobility goals, as this area fronts a transit corridor and has been identified for potential future transit-oriented development (TOD) regulations.

UPDATE (July 9, 2024 LUSC)

Subsequent to the March 19, 2024 LUSC meeting, and at the request of the item co-sponsor, the Administration met with representatives of the Flamingo Park Neighborhood Association (FPNA) to discuss potential amendments to the proposed ordinance, as provided by the FPNA. In response to these discussions, the Administration modified the alcoholic beverage establishment use restrictions portion of the ordinance. The following is a summary of these revisions:

- Outdoor ambient music and television sets would be prohibited within 200 feet of the south side of 6th Street.
- Outdoor restaurant seating would be limited to 100 seats within 200 feet of the south side of 6th Street.
- Outdoor seating above the ground floor (rooftop seating) within 200 feet of the south side of 6th Street would be prohibited.
- Outdoor bar counters within the overlay district would be prohibited.

Additional amendments proposed by the FPNA pertained to building height, as well as transient use regulations and exceptions. Below is a summary of the Administration's previous recommendations regarding these amendments.

Building Height

The FPNA is recommending the following regarding maximum building height:

1. The maximum permitted height within the first 100 feet south of 6th Street shall not exceed 28 feet, regardless of property use.
2. The maximum permitted height between 100 feet and 140 feet south of 6th Street shall not exceed 40 feet.
3. These height limits may be waived by the Historic Preservation Board to preserve contributing buildings or for a development whose primary use is affordable, workforce, or senior housing.

To address the potential future issues of context along the south side of 6th Street, the attached ordinance limits the maximum overall building height to 50 feet within the first 2 platted lots on the south side of 6th Street, regardless of use. A maximum height of 50 feet within this portion of the overlay would still allow for an appropriate and sensible distribution of the maximum FAR of 2.0. Additionally, under the certificate of appropriateness criteria in the Code, the Historic Preservation Board has significant latitude in requiring adjustments to overall building height, massing, and the distribution of allowable building volume.

The Administration does not recommend limiting building height to anything less than 50 feet within any portion of the proposed overlay, as it could disproportionately affect smaller lots and development sites that do not have enough area to distribute the maximum allowable FAR. In this regard properties within the C-PS2 district have a maximum FAR of 2.0. As such, some flexibility in terms of overall building height is needed to allow for adequate architectural latitude in the distribution of this allowable volume.

Transient Uses/Housing

FPNA is recommending that hotel use be prohibited within the 200 feet of the south side of 6th Street and that a Conditional Use Permit (CUP) be required for any short-term rental proposed within 200 feet from the south side of 6th Street. The proposal to require a CUP for short-term rental units would need additional study as it may conflict with State law limiting local authority over short-term rental regulations. Additionally, the Administration believes a prohibition on hotel use may encourage the short-term rental of apartment units, which often have less on-site supervision and less stringent operational plans. As such, the Administration is not supportive of this recommendation.

The Administration continues to believe that an incentive-based approach would be most effective for encouraging housing and reducing transient uses. In this regard, the Administration supports FPNA's recommendation to explore a reduction or elimination of required parking for projects based on the number of committed affordable housing units. Additionally, an incentive-based increase in intensity (FAR) and density could also be explored.

Exceptions

The proposed overlay along 6th Street would be prospective (existing uses and developments would be grandfathered, including any future development that has been issued a Building Permit or Land Use Board approval). This would include the hotel project approved by the Historic Preservation Board located on southeast corner of 6th Street and Lenox Avenue.

FPNA is recommending certain exceptions for this property, as well as the property located at the southeast corner of 6th Street and Jefferson Avenue. The Administration does not recommend exception provisions that could create property specific conforming uses that would otherwise be non-conforming under the proposed regulations.

UPDATE (September 5, 2024 LUSC)

Pursuant to the direction of the LUSC on July 9, 2024, the Administration has updated the proposed 6th Street Overlay ordinance (attached) to include the recommendations of the FPNA.

Specifically, there is now a hotel prohibition within the 200 feet of the south side of 6th Street and the maximum building height for properties near 6th Street has been modified.

The Administration remains concerned about limiting building height to anything less than 50 feet within the proposed overlay and would continue to urge caution regarding this modification. However, height limits on properties closer to 6th Street, which are part of larger unified development sites, would be appropriate, as they would result in a higher level of compatibility between new construction and the lower scale Flamingo Park Neighborhood to the north. As such, the Administration would recommend that the proposed height regulations be applicable to unified development sites that consist of more than five platted lots, to not disproportionately affect smaller lots and development sites that do not have enough area to distribute the maximum allowable FAR. Specifically, the following is recommended:

- *The maximum permitted height within the first two platted lots south of 6th Street shall not exceed 50 feet, regardless of property use.*
- *Notwithstanding the building height regulations set forth above, for a unified development site consisting of more than 5 platted lots, the maximum permitted height within 100 feet of the south side of 6th Street shall not exceed 28 feet and the maximum permitted height between 100 feet and 140 feet from the south side of 6th Street shall not exceed 40 feet.*

As it pertains to the applicability of properties fronting Lenox Avenue, the following draft revisions to Section 7.2.15.3.c are provided for consideration:

The following additional regulations shall apply to properties located from 5th Street to 6th Street, between the east side of Lenox Avenue and the west side of Washington Avenue, within the C-PS2 district, except for those lots with frontage on Lenox Avenue and Washington Avenue as of January 1, 2022; where there is conflict within this division, the following shall control:

I. In the event a lot with frontage on Washington Avenue is unified with a lot that does not have frontage on Washington Avenue, such unified site shall therein after be subject to the regulations herein.

II. In the event a lot with frontage on Lenox Avenue is unified with another lot, such unified site shall therein after be subject to the regulations herein.

If there is consensus on the proposed draft ordinance, including any additional modifications that may be recommended by the LUSC, the proposal would need to be referred to the Planning Board by the City Commission.

FISCAL IMPACT STATEMENT

No Fiscal Impact

Does this Ordinance require a Business Impact Estimate? No
(FOR ORDINANCES ONLY)

The Business Impact Estimate (BIE) was published on .
See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notice/>

FINANCIAL INFORMATION

N/A

CONCLUSION

The Administration recommends that the Land Use and Sustainability Committee discuss the item and provide an applicable recommendation to the City Commission.

Applicable Area

South Beach

Is this a “Residents Right to Know” item, pursuant to City Code Section 2-17?

Yes

Is this item related to a G.O. Bond Project?

No

Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying? No

If so, specify the name of lobbyist(s) and principal(s):

Department

Planning

Sponsor(s)

Mayor Steven Meiner
Commissioner Laura Dominguez

Co-sponsor(s)

Condensed Title

Discuss Proposed 6th Street Overlay