

# MIAMIBEACH

## PLANNING DEPARTMENT

Staff Report & Recommendation

Planning Board

TO: Chairperson and Members  
Planning Board

DATE: February 23, 2016

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: **Ordinance Amendment**  
**Concurrency Exemption for Parklets**

### **REQUEST**

**File No. 2310. CONCURRENCY EXCEPTION – PARKLETS. AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CITY CODE, BY AMENDING CHAPTER 122, "CONCURRENCY MANAGEMENT," BY AMENDING SECTION 122.5, "EXEMPTIONS FROM CONCURRENCY," TO AUTHORIZE THE CITY COMMISSION TO EXEMPT, BY RESOLUTION, TEMPORARY USES IN PUBLIC RIGHTS-OF-WAY FROM THE CITY'S CONCURRENCY REQUIREMENTS, AND TO REQUIRE THE CITY COMMISSION TO SET FORTH THE GEOGRAPHIC AREAS, CRITERIA, AND DURATION FOR ANY SUCH EXEMPTION; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.**

### **RECOMMENDATION**

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

### **HISTORY/ BACKGROUND**

On April 29, 2015, the Washington Avenue Blue Ribbon Panel presented its final report and recommendations to the Mayor and City Commission. Following the presentation, the Mayor and City Commission held a discussion regarding the potential expansion of sidewalk cafés into the existing parking lane to create an opportunity for outdoor cafés in "parklets." The Mayor and City Commission directed staff to establish a program and guidelines for the design and approval of parklets on a temporary basis.

At the December 9, 2015 City Commission meeting, the Mayor and City Commission approved a Washington Avenue Pilot Parklet Program, to be administered by the Public Works Department. In addition, the City Commission directed the Administration to prepare the necessary ordinances to waive concurrency and sidewalk café fees for the Washington Avenue Pilot Parklet Program. The proposed Ordinance amendment abates sidewalk café permit fees for the Washington Avenue Pilot Parklet Program.

On January 13, 2016 the City Commission approved the proposed Ordinance amendment on First Reading. Commissioner Malakoff is sponsoring the proposed Ordinance.

## **REVIEW CRITERIA**

Pursuant to Section 118-163 of the City Code, in reviewing a request for an amendment to these land development regulations, 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 policies in 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 does not affect the scale of development.

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

**Consistent** – The proposed change is not expected to tax existing loads 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 change does not modify existing district boundaries.

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

**Consistent** – The need to encourage the revitalization of Washington Avenue 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.

- 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 should not create or increase traffic congestion. Additional review and limitations will occur concurrently with approval of the required resolution that must be approved by the City Commission for the parklet program and concurrency exemption to take effect.

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

**Consistent** – The proposed ordinance 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 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.**

**ANALYSIS**

The concurrency fee is a one-time fee and is not assessed yearly, but runs with the use as long as it continues. The concurrency fee is based on the number of trips to the establishment generated pursuant to the trip generation rates in the Institute of Traffic Engineers (ITE) Trip Generation Manual. The concurrency fee is based on the costs to the City to mitigate traffic to the area and is divided into three geographical areas: South Beach, below Dade Boulevard; Middle Beach, below 63<sup>rd</sup> Street to Dade Boulevard; and North Beach, below the City Line to 63<sup>rd</sup> Street.

Currently, Section 122-5 of the Land Development Regulations of the City Code contains nine specific exemptions from obtaining a preliminary concurrency determination or a final concurrency reservation certificate. The proposed Ordinance amendment affects the ninth exemption that currently states the following:

*(9) Temporary uses in public rights-of-way, as determined by the City Commission by resolution, specifying geographic areas, criteria, and duration of exemption, where such uses front on or are north of 63<sup>rd</sup> Street.*

The ninth exemption currently allows for the City Commission to waive concurrency fees for temporary uses, such as sidewalk cafés and parklets, by resolution, provided they are located north of 63<sup>rd</sup> Street.

The proposed Ordinance would modify the ninth exemption as follows:

(9) *Temporary uses in public rights-of-way, as determined by the City Commission by resolution, specifying geographic areas, criteria, and duration of exemption., where such uses front on or are north of 63<sup>rd</sup> Street, or on Washington Avenue from 6<sup>th</sup> Street to Lincoln Road.*

If adopted, the proposed modification would allow the City Commission to authorize similar exemptions for projects located along Washington Avenue between 6<sup>th</sup> Street and Lincoln Road. Upon adopting the Ordinance, the City Commission could authorize an exemption to concurrency review for sidewalk cafés located in parklets along Washington Avenue, through a Resolution.

The proposed amendment would positively impact the Washington Avenue corridor by incentivizing and encouraging economic growth. The further activation of storefronts and sidewalks will create more activity on the street, which cuts down on petty crime and provides a more walkable area that promotes dining and shopping.

#### **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/RAM

## CONCURRENCY EXEMPTION

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CITY CODE, BY AMENDING CHAPTER 122, "CONCURRENCY MANAGEMENT," BY AMENDING SECTION 122-5, "EXEMPTIONS FROM CONCURRENCY," TO AUTHORIZE THE CITY COMMISSION TO EXEMPT, BY RESOLUTION, TEMPORARY USES IN PUBLIC RIGHTS-OF-WAY FROM THE CITY'S CONCURRENCY REQUIREMENTS, AND TO REQUIRE THE CITY COMMISSION TO SET FORTH THE GEOGRAPHIC AREAS, CRITERIA, AND DURATION FOR ANY SUCH EXEMPTION; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Miami Beach ("City") Land Development Regulations, at Chapter 122, establish the City's procedure for concurrency management; and

**WHEREAS**, Section 122-5 of the City Code creates exemptions from the City's concurrency requirements for certain developments and uses; and

**WHEREAS**, such exempt developments and uses are not required to obtain a preliminary concurrency determination or a final concurrency reservation certificate from the City; and

**WHEREAS**, a parklet is a small "park," plaza, or creative public space that is physically installed in an on-street parking space; and

**WHEREAS**, pursuant to the recommendations of the Mayor's Blue Ribbon Panel for Washington Avenue, the Mayor and City Commission seek to encourage the establishment of parklets along Washington Avenue in order to stimulate economic development and further activate the Washington Avenue corridor; and

**WHEREAS**, on December 9, 2015, the Mayor and City Commission approved the creation of the Washington Avenue Pilot Parklet Program, in order to allow businesses located along Washington Avenue to install parklets in public rights-of-way on a temporary basis, subject to certain requirements and criteria; and

**WHEREAS**, currently, Section 122-5 authorizes the City Commission to create, by resolution, an exemption from the City's concurrency requirements for temporary uses in public rights-of-way that are located on or are north of 63rd Street; and

**WHEREAS**, the Mayor and City Commission desire to expand such exemption, so that the Mayor and City Commission may, by resolution, create an exemption from the City's concurrency requirements for temporary uses in public rights-of-way that are located anywhere in the City, including, without limitation, for the Washington Avenue Pilot Parklet Program; and

**WHEREAS**, this proposed amendment does not decrease the quality of life for the residents.

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

**SECTION 1.** Chapter 122, "Concurrency Management," Section 122-5, "Exemptions from concurrency," of the Land Development Regulations, is hereby amended to read as follows:

**CHAPTER 122  
CONCURRENCY MANAGEMENT**

\* \* \*

**Sec. 122-5. - Exemptions from concurrency.**

The following types of development are not required to obtain a preliminary concurrency determination or a final concurrency reservation certificate:

- (1) Any development undertaken by the city that does not require a rezoning, does not increase in intensity, does not have an associated change of use or that increases the city's ability to provide essential services and facilities related to health and safety concerns (fire, police, etc.).
- (2) An application requesting modification(s) of a previously approved development order where the concurrency management division has determined that the impacts on the prescribed levels of service imposed by the requested modification(s) will be no greater than the impacts imposed by the previously approved development order or the previously existing use.
- (3) An application for the renovation of an historic structure, provided that the use of the historic structure is not intensified.
- (4) An application to develop a parcel of land for single family purposes if no change in the zoning map is required to accommodate the development.
- (5) An application for addition, renovation or reconstruction of a residential dwelling that does not increase the number of dwelling units existing or approved for the property.
- (6) An application for the construction of, an addition to or renovation of a guest house, garage apartment or other similar accessory units on parcels zoned to permit such uses.
- (7) An application for a development order for property which is subject to a valid development order approved as a development of regional impact prior to January 1, 2000, pursuant to F.S. Ch. 380.
- (8) A valid, unexpired final development order approved prior to the adoption of this chapter.
- (9) Temporary uses in public rights-of-way, as determined by the City Commission by resolution, specifying geographic areas, criteria, and duration of exemption, where such uses front on or are north of 63<sup>rd</sup> Street, or on Washington Avenue from 6<sup>th</sup> Street to Lincoln Road.

**SECTION 2. REPEALER.**

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith 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 \_\_\_\_\_, 2016.

\_\_\_\_\_  
Philip Levine, Mayor

**ATTEST:**

\_\_\_\_\_  
Rafael E. Granado, City Clerk

APPROVED AS TO  
FORM AND LANGUAGE  
& FOR EXECUTION

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date

First Reading: January 13, 2016  
Second Reading: February \_\_, 2016

Verified by: \_\_\_\_\_  
Thomas R. Mooney, AICP  
Planning Director

Underscore denotes new language  
~~Strike through~~ denotes deletions

(Sponsored by Commissioner Joy Malakoff)