

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: March 22, 2022

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB22-0491 – ORD – Collins Avenue MXE Height Amendments.**

RECOMMENDATION

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

HISTORY

On October 14, 2020, at the request of Mayor Dan Gelber, the City Commission referred the proposed draft ordinance to the Land Use and Sustainability Committee (LUSC) and the Planning Board (item C4I). This Ordinance was part of the recommendations presented at the special workshop of the LUSC on September 17, 2020.

On November 24, 2020, the LUSC discussed the draft Ordinance and continued the matter to the January 2021 LUSC meeting, with the following direction:

1. Refer all of the proposed Ordinances to the City Commission workshop scheduled for December 4th, 2020.
2. Obtain feedback on the proposed Amendments from the City's Ocean Drive consultant, Zyscovich.

On January 20, 2021 the item was deferred to the February 17, 2021 LUSC, to allow time for input from Zyscovich and the Mayor's Art Deco Cultural District (ADCD) Panel. The Administration presented the LDR Amendment proposal to the ADCD Panel on January 22, 2021. The panel members indicated that they would like to review the proposal in more detail and would provide specific comments and recommendations at their February 12, 2021 meeting.

On February 12, 2021 the ADCD Panel discussed the proposal and deferred any formal recommendation until June. On February 17, 2021, the LUSC deferred the item to the June 21, 2021 LUSC meeting.

On June 18, 2021 the ADCD Panel discussed the proposed LDR Amendment, as part of a global discussion on recommendations put together by Zyscovich but did not make any specific recommendations. On June 21, 2021, the item was deferred to the September 14, 2021 LUSC.

On September 14, 2021, the item was deferred to the October 19, 2021 LUSC. On October 19, 2021 the item was deferred to the December 2021 LUSC. The December 2021 LUSC meeting was not scheduled, and the matter was moved to the first available LUSC agenda in 2022.

On February 11, 2022, the LUSC recommended that the Planning Board transmit the proposed Ordinance to the City Commission with a favorable recommendation.

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 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 amendment modestly increases the maximum height for a limited area. However, the proposed ordinance includes several safeguards to ensure that additional height does not negatively impact surrounding properties. Given the scale of the surrounding neighborhood, the additional height for office uses is not out of scale with the needs of the neighborhood or the city.

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 as the maximum floor area ratio (FAR) is not modified.

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

Consistent – The proposed amendment does not modify district boundaries.

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

Consistent – Changes in tourism that have impact the quality of life of residents in the City makes passage of the proposed change necessary in order to improve the quality of

the historic buildings along Collins Avenue and the greater MXE district.

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 neighborhood as it is intended to incentivize uses that would not negatively impact the quality of life of nearby residents.

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 increase traffic congestion from what is currently permitted, as the FAR is not being modified by this ordinance and the intensity of uses is not proposed to be increased.

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

Consistent – The proposed change does allow a modest increase in height for properties along Collins Avenue. However, this change would minimally reduce light and air to adjacent areas due to safeguards that have been incorporated into the ordinance to minimize the impacts to surrounding properties.

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 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 will 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 133-50(b) of the Land Development Regulations 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.

Partially 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.

Partially Consistent – The proposal will increase the resiliency of the City with respect to sea level rise by encouraging the rehabilitation of historic buildings in a manner that increase their resiliency.

(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.

BACKGROUND

The MXE district regulations were developed in the early 1980s, as part of the first master plan for Ocean Drive from 5th to 15th Streets. These regulations were intended to incentivize the replacement of dated apartment regulations with active uses that incentivized hotel uses. In addition to the code regulations adopted, the physical make-up of the street was modified dramatically by introducing wider sidewalks and significantly improving Lummus Park.

These City sponsored changes coincided with the placement of the Miami Beach Architectural District on the National Register of Historic Places in 1979. The placement of the Architectural District on the National Register was significant, because at that time it was the first National Register nomination consisting solely of 20th century architecture. More importantly, the National Register nomination set forth a path leading to local historic designation and the creation of a unique brand for Miami Beach, which is still known worldwide today.

The original intent of the MXE district regulations was to foster the renovation, restoration and preservation of the historic buildings in the district. Café, entertainment, restaurant and retail uses were required to be accessory to hotel or residential uses. Exceptions to this were made for buildings fronting Collins Avenue, as well as buildings that were two (2) stories or less on Ocean Drive. The widening of the sidewalk provided an opportunity for sidewalk seating to engage and interact with seating on private property and become a mechanism for people watching and experiencing the architecture of the district, as well as the natural environment across the street in Lummus Park.

While exceeding expectations, over the past decade Ocean Drive, and the larger MXE district, have experienced increasing challenges associated with alcoholic beverage and entertainment uses, all of which were intended to be subordinate to the main use of residential or hotel. To rediscover the beauty and intent of the National Register Architectural District, a re-focus on district priorities is recommended. This will entail a multi-prong approach, including updating

regulations, incentivizing a renaissance of the original plan for Ocean Drive, stepping up enforcement, and creating ways to balance vehicular and pedestrian mobility.

In early August 2020, the Administration convened a working group of internal staff to take a comprehensive look at all aspects of Ocean Drive and the larger MXE district. This working group included key staff from the City Manager's Office, Economic Development, Police, Fire, Planning, Transportation, Public Works, Tourism and Culture, Parking and Communications. This working group put together a comprehensive analysis and draft visioning for Ocean Drive titled "The Art Deco Cultural District Reimagined". Collectively, the purpose of the recommendations is not to curate taste, cuisine or entertainment, but to revitalize the district and recapture its successful foundation as an Architectural District.

The following are the specific strategies that resulted from the working group, in addition to the legislative referrals from the July 29, 2020 City Commission meeting:

1. Safety/Security
2. Activation
3. Target Industries/Incentives
4. Branding
5. Transportation/Transit
6. Zoning Amendments (Including July 29, 2020 Commission Referrals)

The concept behind these strategies is to establish a foundation of information to allow for more detailed planning efforts needed to address the district, and potentially beyond. Each of these strategies, all of which have short- and long-term recommendations, were discussed at length during the September 17, 2020 LUSC workshop.

ANALYSIS

The proposed amendment pertains to multi-story additions and overall building height for specific projects on Collins Avenue. Currently, the Land Development Regulations limit habitable rooftop additions to existing buildings located within the MXE district along Collins Avenue to 1-story with a maximum floor to ceiling height of 12'-0". Since the maximum permitted height within this portion of Collins Avenue is 50'-0", this regulation has had the unintended consequence of requiring additional demolition of contributing buildings in order to accommodate 4 and 5-story new rear additions.

In order to incentivize a higher caliber of hotel, residential or office additions and uses, some latitude in the distribution of allowable FAR within properties along Collins Avenue is recommended. In this regard, the ability to build more than a one-story addition would be predicated upon meeting certain standards and definable, operational benchmarks.

The proposed amendment would give the Historic Preservation Board (HPB) the authority to approve multi-story rooftop additions for existing buildings on the east side of Collins Avenue. This would likely encourage the retention and restoration of portions of contributing buildings that may otherwise be proposed for demolition. Additionally, it could foster connections over Ocean Court to properties on Ocean Drive.

The proposed amendment would allow for the maximum height of a building with any addition to exceed 50 feet, but not exceed 75 feet, in accordance with the following:

7. The main use on the property shall be residential, office or hotel; non-office commercial uses would not be permitted as a main use if the additional height is sought.
8. Residential apartment uses shall agree, via recorded covenant, not to engage in short term rentals.
9. The property shall contain at least one contributing building. Any contributing building shall be renovated in accordance with the Secretary of Interior's Standards for Rehabilitation, including public interior spaces and all guest rooms.
10. The building shall have central air conditioning or flush-mounted wall units; however, no air conditioning equipment may face a street.
11. All non-impact resistant windows and doors shall be replaced with impact resistant windows and doors.
12. Any proposed building height in excess of 50 feet shall be at the discretion of the historic preservation board and shall not be visible when viewed from the east side of Ocean Drive.
13. All additions proposed pursuant to this subsection shall be evaluated in accordance with the Certificate of Appropriateness criteria in chapter 118 of these land development regulations, as well as the following: (i) the addition enhances the architectural contextual balance of the surrounding area; (ii) the addition is appropriate to the scale and architecture of the existing building; (iii) the addition maintains the architectural character of the existing building in an appropriate manner; and (iv) the addition minimizes the impact of existing mechanical equipment or other rooftop elements.
14. There shall be no variances from this provision.

The HPB would evaluate each individual proposal in accordance with the Certificate of Appropriateness criteria, as well the additional criteria specific to the individual building and the surrounding area. Additionally, any multi-story rooftop addition for a property located along the east side of Collins Avenue would not be permitted to be visible when viewed from the east side of Ocean Drive.

It is also important to note that the ground floor elevation of many contributing buildings along Collins Avenue are below the currently required base flood elevation plus freeboard. As such, ground floors may be converted to non-habitable or accessory commercial uses. This will further

incentivize the retention and restoration of contributing buildings.

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.

Collins Avenue MXE Height Amendments

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, SUBPART B, ENTITLED, "LAND DEVELOPMENT REGULATIONS," BY AMENDING CHAPTER 142, ENTITLED "ZONING DISTRICTS AND REGULATIONS," BY AMENDING ARTICLE II, ENTITLED "DISTRICT REGULATIONS," AT DIVISION 13, ENTITLED "MXE MIXED USE ENTERTAINMENT DISTRICT," TO AMEND SECTION 142-545, ENTITLED "DEVELOPMENT REGULATIONS," TO MODIFY THE MAXIMUM BUILDING HEIGHT REQUIREMENTS ALONG COLLINS AVENUE; BY AMENDING ARTICLE IV, ENTITLED "SUPPLEMENTARY DISTRICT REGULATIONS," AT DIVISION 5, ENTITLED "HEIGHT REGULATIONS," TO AMEND SECTION 142-1161 TO MODIFY THE REQUIREMENTS FOR ROOF TOP ADDITIONS ON COLLINS AVENUE; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach has the authority to enact laws which promote the public health, safety and general welfare of its citizens; 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, entitled "Zoning Districts and Regulations," Article II, entitled "District Regulations," at Division 13, entitled "MXE Mixed Use Entertainment District," of the Land Development Regulations of the Code of the City of Miami Beach, Florida is hereby amended as follows:

Sec. 142-545. - Development regulations.

(a) The development regulations in the MXE mixed use entertainment district are as follows:

Maximum Floor Area Ratio	Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)	Minimum Unit Size (Square Feet)	Average Unit Size (Square Feet)	Maximum Building Height (Feet)
All uses—2.0 Except convention hotel development (as set forth in	N/A	N/A	Existing structures: Apartment units—400 Non-elderly and elderly low and	Existing structures: Apartment units—550 Hotel units— N/A New	Architectural district: Oceanfront—150 Non-oceanfront—50 (except as

section 142-841)—3.5			<p>moderate income housing—400</p> <p>Workforce housing—400</p> <p>Hotel units— in a local historic district/site— 200</p> <p>Otherwise:</p> <p>15%: 300— 335</p> <p>85%: 335+ New construction:</p> <p>Apartment units—550</p> <p>Hotel units:</p> <p>15%: 300— 335</p> <p>85%: 335+. Hotel units within rooftop additions or within ground level additions to contributing structures in a historic district and individually designated historic buildings— 200.</p>	<p>construction:</p> <p>Apartment units—800</p> <p>Hotel units— N/A</p>	<p>provided in section 142-1161)</p> <p>All other areas—75 (except as provided in section 142-1161)</p> <p>Notwithstanding the above, the design review board or historic preservation board, in accordance with the applicable review criteria, may allow up to an additional five feet of height, as measured from the base flood elevation plus maximum freeboard, to the top of the second floor slab.</p>
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(b) Height regulations for properties along Collins Avenue. Notwithstanding the foregoing height limitations, the Historic Preservation Board, at its sole discretion, may approve new construction, including ground level additions and multi-story rooftop additions, for existing buildings on the east side of Collins Avenue, that exceed 50 feet, but not to exceed 75 feet, in accordance with the following:

- 1) The main use on the property shall be residential, office or hotel; non-office commercial uses shall not be permitted as a main use.
- 2) Residential apartment uses shall agree, via recorded covenant, not to engage in short term rentals.
- 3) The property shall contain at least one contributing building. Any contributing building shall be renovated in accordance with the Secretary of Interior's Standards for Rehabilitation, including public interior spaces and all guest rooms.
- 4) The building shall have central air conditioning or flush-mounted wall units; however, no air conditioning equipment may face a street.
- 5) All non-impact resistant windows and doors shall be replaced with impact resistant windows and doors.
- 6) Any proposed building height in excess of 50 feet shall not be visible when viewed from the east side of Ocean Drive.
- 7) All additions proposed pursuant to this subsection shall be evaluated in accordance with the Certificate of Appropriateness criteria in chapter 118 of these land development regulations, as well as the following: (i) the addition enhances the architectural contextual balance of the surrounding area; (ii) the addition is appropriate to the scale and architecture of the existing building; (iii) the addition maintains the architectural character of the existing building in an appropriate manner; and (iv) the addition minimizes the impact of existing mechanical equipment or other rooftop elements.
- 8) There shall be no variances from this provision.

SECTION 2. Chapter 142, entitled "Zoning Districts and Regulations," Article IV, entitled "Supplementary District Regulations," at Division 5, entitled "Height Regulation Exceptions," of the Land Development Regulations of the Code of the City of Miami Beach, Florida is hereby amended as follows:

Sec. 142-1161. Height regulation exceptions.

For all districts, except RS-1, 2, 3 and 4 (single-family residential districts).

* * *

(d) Rooftop additions.

- (1) *Restrictions.* There shall be no rooftop additions to existing structures in the following areas: oceanfront lots within the Miami Beach Architectural District in the RM-3 or CD-3 zoning districts; non-oceanfront lots fronting Ocean Drive in the MXE zoning district. No variance from this provision shall be granted.
- (2) *Additional regulations.* Existing structures within an historic district shall only be permitted to have habitable one-story rooftop additions (whether attached or detached), with a maximum floor to ceiling height of 12 feet except as hereinafter provided. No variance from this provision shall be granted. The additions shall not be visible when viewed at eye level (5'—6" from grade) from the opposite side of the adjacent right-of-way; for corner properties, said additions shall also not be visible

when viewed at eye level from the diagonal corner at the opposite side of the right-of-way and from the opposite side of the side street right-of-way. Notwithstanding the foregoing, the line-of-sight requirement may be modified as deemed appropriate by the historic preservation board based upon the following criteria: (i) the addition enhances the architectural contextual balance of the surrounding area; (ii) the addition is appropriate to the scale and architecture of the existing building; (iii) the addition maintains the architectural character of the existing building in an appropriate manner; and (iv) the addition minimizes the impact of existing mechanical equipment or other rooftop elements.

- (3) Collins Avenue additions. Multi-story roof-top additions may be permitted in accordance with the requirements and standards set forth in Section 142-545(b).

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 _____, 2022.

Dan Gelber, Mayor

ATTEST:

Rafael E. Granado, City Clerk

APPROVED AS TO FORM
AND LANGUAGE
AND FOR EXECUTION

City Attorney

Date

First Reading: _____, 2022

Second Reading: _____, 2022

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

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