

Collins Avenue And Ocean Drive MXE Overlay – LDR Amendment

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 142 OF THE CITY CODE, ENTITLED "ZONING DISTRICTS AND REGULATIONS," AT ARTICLE III, ENTITLED "OVERLAY DISTRICTS," TO ESTABLISH DIVISION 17, ENTITLED "COLLINS AVENUE AND OCEAN DRIVE MXE OVERLAY," TO PROVIDE FLOOR AREA RATIO (FAR), HEIGHT, AND RELATED INCENTIVES FOR THE CONVERSION OF TRANSIENT USES AND APPLICABLE ACCESSORY USES TO RESIDENTIAL AND OFFICE USES AND COMPATIBLE ACCESSORY USES, FOR THE PARCELS LOCATED EAST OF COLLINS AVENUE BETWEEN 5TH STREET AND 16TH STREET; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, properties fronting Ocean Drive and Collins Avenue that have a zoning designation of MXE Mixed Use Entertainment are located in the Ocean Drive/Collins Avenue Historic District, as well as the Miami Beach Architectural National Register Historic District; and

WHEREAS, whereas Ocean Drive has been impacted by a heavy concentration of entertainment establishments and transient uses which when not properly controlled can negatively impact the ability of neighbors to safely and quietly enjoy their property; and

WHEREAS, it is the intent of the City to reduce the number of transient uses and establishments which may negatively impact the neighborhood; and

WHEREAS, the City of Miami Beach has the authority to enact laws which promote the public health, safety, general welfare, and morals of its citizens; and

WHEREAS, the amendment set forth below is necessary to accomplish all of the above objectives.

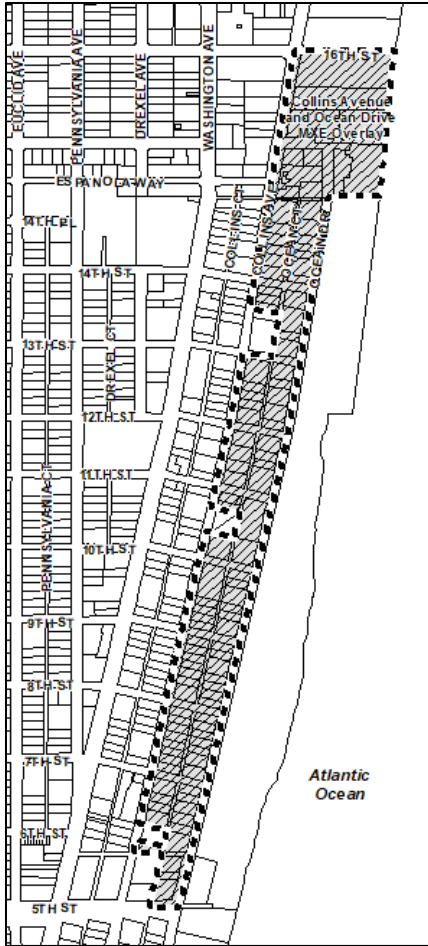
NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

SECTION 1. That Chapter 142, Article III entitled "Overlay Districts", Division 17 "Collins Avenue and Ocean Drive MXE Overlay" is hereby created as follows:

DIVISION 17. COLLINS AVENUE AND OCEAN DRIVE MXE OVERLAY

Sec. 142-870.30. Location and purpose.

- (a) The overlay regulations of this division shall apply to the properties located east of Collins Avenue between 5th Street and 16th Street with an underlying zoning designation of MXE Mixed Use Entertainment District, as identified in the Map below:**



(b) The purpose of this overlay district is to:

- (1) To encourage the development of residential, hotel and office uses to balance and diversify the City's economic base.
- (2) To reduce the number and intensity of high impact outdoor and open air entertainment establishments that negatively impact the overlay area.
- (3) To incentivize the creation of a mixed-use neighborhood that is more balanced in terms of uses and fosters a live, work, and play environment.
- (4) Encourage private property owners to assemble and revitalize properties comprehensively rather than in a piecemeal fashion.
- (5) Improve the pedestrian environment of the neighborhood.
- (6) To facilitate improvements to properties, while maintaining the architectural and historic scale, massing, and character of the existing building typology within the overlay.

Sec. 142-870.31. Compliance with regulations.

The following overlay regulations may apply to properties located within the *Collins Avenue and Ocean Drive MXE Overlay*. All development regulations in the underlying zoning regulations shall apply, except as follows:

(a) Additional Development Incentives described herein, including FAR above 2.0, may be available through the approval a Special Development Plan (SDP) by the City Commission with a recommendation from the Planning Board. SDPs shall be subject to the following:

(1) The SDP shall be consistent with the Comprehensive Plan.

(2) The SDP shall be approved by Ordinance as an appendix to the Land Development Regulations (LDRs), pursuant to the amendment procedures in Chapter 118, Article III of the LDRs, including the payment of applicable fees. Public notice shall be provided pursuant to section 118-164 (3).

(3) The SDP shall contain a minimum of two (2) platted lots.

(4) Each application for an SDP shall be accompanied by a site plan meeting the requirements of section 118-1, and such other information as may be required for a determination of the nature of the proposal and its effect on the Comprehensive Plan, the neighborhood, and surrounding properties.

(5) An SDP shall contain a sunset provision, as may be determined by the City Commission, in which the approved incentives shall no longer be available for the development of the site.

(6) The SDP shall not supersede the Certificate of Appropriateness (COA) processes in Chapter 118, Article X of the LDR's.

(7) The SDP shall not supersede any other Land Use Board process as may be required by the LDRs.

(8) The following incentives may be granted through an SDP:

A. following Floor Area Ratio (FAR) Incentives are available:

i. The maximum FAR shall not exceed 3.0.

ii. For any legally non-conforming development with an FAR that exceeds 3.0, the legal nonconforming floor area may be retained and/or reconstructed. An additional FAR of 0.50 shall be available above the legally nonconforming floor area.

B. The regulations of Section 142-545, entitled "Development Regulations," pertaining to maximum building height, may be waived. The SPD will identify the location and height of all structures proposed.

C. The regulations of Section 142-547, entitled "Setback Requirements" may be waived. The SPD will identify the setbacks of all structures proposed.

- D. The regulations of Section 142-550, entitled “Additional Regulations for New Construction” may be waived. The SPD will identify the location and extent of activation for all structures proposed.
- E. The regulations of Section 142-1132, entitled “Allowable Encroachments Within Required Yards for Districts Other Than Single-Family Districts” may be waived. The SPD will identify the location of all structures proposed.
- F. The regulations of Section 142-1161, entitled “Height Regulation Exceptions” may be waived. The SPD will identify the location and height of all structures proposed.
- G. The regulations of Section 130-32, entitled “Off-street parking requirements for parking district no. 1” may be waived, provided that the development provides for alternative modes of transportation. The SPD will identify the off-street parking requirements.
- H. Unified Development Sites with lots fronting on Ocean Drive and Collins Avenue are encouraged, with a primary intent of facilitating the movement of FAR from properties fronting Ocean Drive to properties fronting Collins Avenue. Unified Development Sites are encouraged through Ocean Court alley vacations as follows:
 - i. The City Commission may grant vacations of the Ocean Court alley, including the sale of air rights, in order to allow for unified development sites that contain properties that front Ocean Drive and Collins Avenue, subject to the requirements of the City Charter and City Code.
 - ii. The vacation shall include a perpetual easement in favor of the City over the ROW, to ensure continued public use of the ROW for City access, pedestrian and vehicular travel, and utilities.
 - iii. The vacated alley shall be improved to enhance the beauty of the neighborhood. Improvements may include enhanced hardscape, lighting, and artistic elements. The vacated alley shall be maintained clean and free from debris.
 - iv. Where feasible, indoor storage areas for deliveries and garbage pickup shall be provided abutting the alley.
 - v. Pedestrian bridges may be allowed to provide physical connections between the unified lots, subject to the review and approval of all applicable City Departments, and provided they do not impede vehicular travel.
- I. An approved SDP may contain any necessary conditions, as determined by the City Commission, to safeguard the quality of life and character of the community from any potential impacts of any incentives that are granted.

(b) For any development approved as an SDP described in subsection (a), above, the following regulations shall apply:

- (1) The main use on the property shall consist of residential, hotel and/or office.
- (2) Outdoor or open air entertainment shall be prohibited anywhere on the property.

- (3) Alcohol sales for consumption on premises shall only be permitted within outdoor areas as part of a restaurant with table service, and such sale of alcohol shall cease no later than 12:00 am midnight, 7 days a week.
 - (4) The property owner or condominium association, as applicable, voluntarily proffers to record a restrictive covenant running with the land, in a form approved by the City Attorney, prohibiting short-term rentals on the property in perpetuity.
 - (5) All legally nonconforming uses shall cease operation.
 - (6) Existing buildings shall be fully renovated.
 - (7) The building shall have central air conditioning or flush-mounted wall units; however, no air conditioning equipment may face a street.
 - (8) All non-impact resistant windows and doors shall be replaced with impact resistant windows and doors.
 - (9) Developments are encouraged to incorporate accessory uses that promote arts and culture.
 - (10) Approval of hotel uses, including all accessory uses to the hotel, shall be at the discretion of the City Commission within the SPD. A detailed hotel and accessory use operations plan shall be provided to the City Commission, and the use of hotel within the SPD shall be at the complete discretion of the City Commission.
- (c) There shall be no variances from these provisions.

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 _____, 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

M:\\$CMB\CCUPDATES\Land Use and Sustainability Committee\2022\7-July\Discuss Development Incentives for Hotel Conversion
in MXE District - ORD July 7 2022 LUSC.docx