

# MIAMI BEACH

## PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: May 23, 2023

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: **PB23-0585. North Beach Nuisance Uses.**

### **RECOMMENDATION**

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

### **HISTORY**

On September 14, 2022, at the request of Commissioner Alex Fernandez, the City Commission referred the proposed amendment (C4 X) to the Land Use and Sustainability Committee (LUSC) and the Planning Board. On October 28, 2022, the LUSC discussed and continued the item to the January 25, 2023 LUSC meeting with direction to the Administration to draft an ordinance based upon the geographical boundaries and types of uses identified in the October 28, 2022 LUSC memorandum.

On January 25, 2023, the LUSC discussed the proposed draft ordinance and continued the item to the March 1, 2023, meeting with the following direction:

1. Identify uses that should remain prohibited.
2. Identify those uses that could be regulated by a cap within the area, as well as the application of distance separation standards. These should include check cashing stores, package liquor stores and convenience stores.
3. Create a map of existing uses in North Beach that would be subject to a cap.
4. Under separate review, develop regulations for massage therapy centers in North Beach.

On March 1, 2023, the LUSC recommended the following:

1. Move the ordinance to the Planning Board, with direction to continue to study the cap on the number of allowable convenience stores.
2. Perform public outreach to commercial properties and affected stakeholders in North Beach.

3. Continue the discussion pertaining to potential regulations for massage therapy centers to the May 10, 2023 LUSC meeting.

On April 25, 2023, the Planning Board discussed the item and continued it to the May 23, 2023, meeting. The Planning Board requested additional information on existing convenience stores and distance separation.

### **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 does modify the scale of development, as such the amendment 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 impact to the floor area ratio (FAR) is minimal.

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

**Not applicable** – The proposed amendment does not modify district boundaries.

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

**Consistent** – The need to allow for improvements to the block 1 properties makes passage of the proposed change necessary.

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.

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 impact to the development capacity is minimal.

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

**Consistent** – The proposed change will not affect light and air to adjacent areas.

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 should not impact the resiliency of the City with respect to sea level rise.

**(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**

In 2020 the City Commission adopted Ordinance No. 2020-4339 which, among other things, restricted certain uses along Normandy Drive and 71st Street in the TC-C and CD-2 districts. Specifically, the following uses were added to the list of prohibited uses in these areas:

- Tobacco and vape dealers;
- Package liquor stores;
- Check cashing stores;
- Occult science establishments; and
- Tattoo studios.

In addition to the above uses, the following are other types of uses that have been regulated in other parts of the city, to prevent an over concentration within defined areas:

- Convenience stores;
- Pharmacy stores;
- Marijuana dispensaries;
- Stand-alone bars and/or entertainment uses;
- Vitamin stores; and
- Souvenir and T-shirt stores.

**ANALYSIS**

There are still several commercial districts in North Beach (CD-1, CD-2, TC-1, 2 and 3) where certain nuisance uses are allowed in some form. To regulate these uses within these additional commercial districts, the attached Land Development Regulation (LDR) amendment establishes a new overlay known as the North Beach Commercial Character Overlay, and applies to all areas located north of 63<sup>rd</sup> Street.

The following uses are prohibited within the entirety of the proposed overlay:

- Tobacco and vape dealers;
- Occult science establishments;
- Tattoo studios;
- Vitamin stores;
- Pawn Shops; and
- Souvenir and T-shirt stores.

Other uses have been identified as potentially problematic, particularly when there is an over-concentration of such uses, as the character of commercial areas and the quality of life of residents can be negatively impacted. These uses include package liquor stores, check cashing stores, and convenience stores. However, some of these uses do serve a useful purpose, and provide residents with necessary goods and services. In order to prevent an over-concentration of these types of uses, the following limits on the total number of uses permitted within the overlay is proposed:

- No more than 6 package liquor stores.
- No more than 4 check cashing stores.
- No more than 15 convenience stores.

Attached is a list of existing package liquor stores (6 existing establishments), check cashing stores (2 existing establishments) and convenience stores (approximately 44 establishments) located north of 63<sup>rd</sup> Street. The actual number of convenience stores may be less, as several the establishments initially identified likely do not meet the definition of convenience store.

As it pertains to check cashing and liquor store uses, considering the small number of existing establishments, and their locations, staff recommends a cap for such uses be set, as noted above and in the revised draft ordinance. However, it is not recommended that a distance separation requirement be included, as the proposed cap on the number of these uses is relatively tight. Also, pursuant to the regulations set forth in Chapter 6 of the City Code, a minimum distance separation of 1,500 feet between package liquor stores is already required.

Regarding existing convenience stores, as noted on the attached list there are a fairly large number of such uses, even if it is determined that some of the establishments do not meet the definition of convenience store. As such, setting an appropriate cap on the number of convenience stores is challenging.

Although it may make sense to prohibit any future convenience stores, the draft ordinance includes a limit of 15 convenience stores within the overlay area. Given the number of existing convenience stores, this would, essentially, prohibit any future such uses, at least until there has been a substantial reduction in the number of existing convenience stores. Notwithstanding, given the amount of new development taking place within the North Beach Town Center-Central Core (TC-C) District, it may be beneficial for there to be a limited number of convenience stores to serve those residents. The LUSC has requested that the Planning Board specifically consider the cap on convenience stores and provide a recommendation.

The Art Deco/MiMo Commercial Character Overlay is an overlay that provides similar regulations for the South Beach area, as well as the Ocean Terrace/Harding Townsite Area of North Beach. In order to ensure that there are no overlapping regulations or conflicts, the proposed ordinance removes the Ocean Terrace/Harding Townsite Area and related regulations from the Art Deco/MiMo Commercial Character Overlay and relocates them to the North Beach Commercial Character Overlay. The existing regulations that are applicable to the Ocean Terrace/Harding Townsite Area are not proposed to change.

### **UPDATE**

Pursuant to the request of the Planning Board, staff surveyed businesses north of 63<sup>rd</sup> Street with a Business Tax Receipt (BTR) category of “Merchant Sales” to determine which establishments meet the definition of convenience stores (see the table at the end of this report). Pursuant to the survey, there are approximately 16-19 convenience stores. Additional information regarding the inventory of some of these establishments would be necessary to make a full determination.

The Planning Board had additional questions regarding distance separation. To this end there are several uses proposed to be regulated by this ordinance that currently have distance separation requirements, as noted hereto:

- Tobacco/vape dealers:
  - No tobacco/vape dealer shall be located within 1,200 feet of another tobacco/vape dealer.
  - Tobacco/vape dealers are currently prohibited within 500 feet of any property used as a public or private, elementary, middle, or secondary school.
  - Tobacco/vape dealers are currently prohibited along Normandy Drive and 71<sup>st</sup> Street, within the TC-C North Beach Town Center Central Core district, and within the Ocean Terrace/Harding Townsite Area.
  
- Vitamin stores:
  - Vitamin shops shall not be located within 1,200 feet of another vitamin shop.
  - Vitamin shops are currently prohibited within 500 feet of any property used as a public or private elementary, middle, or secondary school.
  
- Package liquor stores
  - The minimum distance separation between retail stores primarily selling alcoholic beverages for consumption off the premises as a main permitted use shall be 1,500 feet.
  - No alcohol beverage shall be sold within 300 feet of any property used as a public or private school.
  - No alcohol beverage shall be sold within 300 feet of any property used as a place of worship.
  - However, package liquor stores are currently prohibited along Normandy Drive and 71<sup>st</sup> Street, within the TC-C North Beach Town Center Central Core district, and within the Ocean Terrace/Harding Townsite Area.

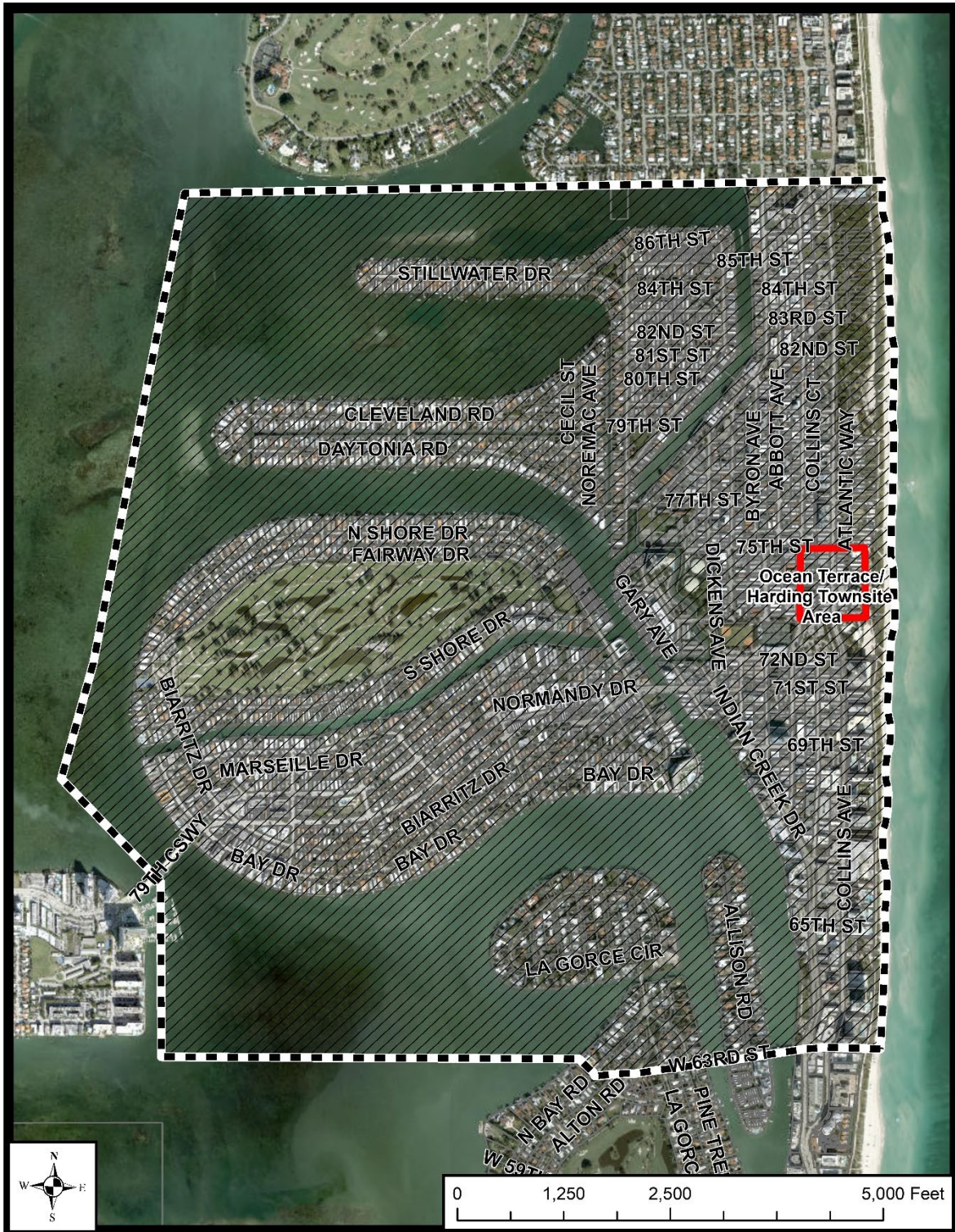
Finally, a revised zoning map has been added to the report. Most of the uses that are regulated by the proposed ordinance are already prohibited along 71<sup>st</sup> Street, Normandy Drive, the North Beach Town Center, and in the Ocean Terrace/Harding Townsite area. The areas that would be most affected by this ordinance are the CD-2 district located between 65<sup>th</sup> Street and 69<sup>th</sup> Street and the RM-3 properties that have accessory commercial uses. Of the uses identified by the ordinance, convenience store is the only use where the existing limit only applies in the Ocean Terrace/Harding Townsite area.

### **RECOMMENDATION**

In view of the foregoing analysis, staff recommends the following:

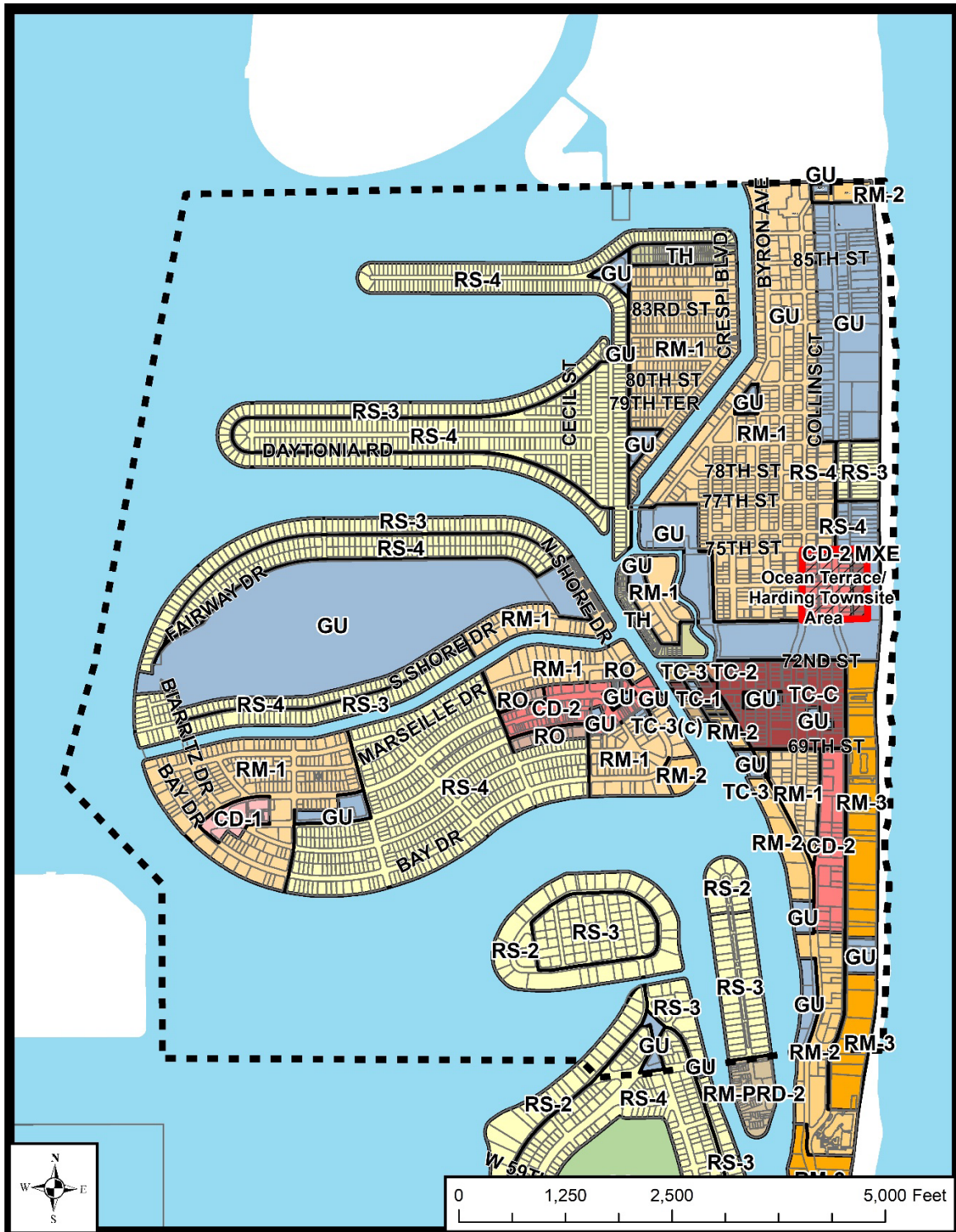
1. The Planning Board transmit the proposed ordinance amendment to the City Commission with a favorable recommendation.
2. The Planning Board provide a recommendation with regard to the proposed cap on the number of convenience stores within the overlay.

### AERIAL





### ZONING



| #   | Business License Number | Address  | Business Name   | DBA   | Business Type   |
|---|-------------------------|--|---|---|-----------------|
| <b>Check Cashing / merchant sales</b>     |                         |  |   |   |                 |
| 1   | RL-96224046             | 950 NORMANDY DR<br>MIAMI BEACH, FL 33141--292              | EASY CASH INC   | EASY CASH INC   | MERCHANTS SALES |
| 2   | RL-10001355             | 7345 COLLINS AVE<br>MIAMI BEACH, FL 3314-1271              | POPULUS FINANCIAL GROUP INC                                     | ACE CASH EXPRESS  | CHECK CASHING   |
| <b>Liquor sales</b>                       |                         |  |   |   |                 |
| 1   | RL-93181895             | 1000 71st Street Miami Beach, FL 33141                     | RUBEN'S LIQUORS CORP  | Based on google street view and online info it appears to be in business. | LIQUOR SALES    |
| 2   | BTR013099-11-2022       | 211 71 ST<br>Miami Beach, FL 33141--321                    | COUSINS SPIRITS STORE CORP                                      | KING'S LIQUOR   | LIQUOR SALES    |
| 3   | RL-10006650             | 7317 COLLINS AVE<br>MIAMI BEACH, FL 33141--271             | COLLINS LIQUOR INC  | Xtra Liquor Miami Beach   | LIQUOR SALES    |
| 4   | RL-10005944             | 6880 COLLINS AVE<br>MIAMI BEACH, FL 33141--324             | PUBLIX SUPER MARKETS, INC C/O ATTAWAY, JOHN A, JR               | PUBLIX SUPER MARKETS, INC   | LIQUOR SALES    |
| 5   | RL-06002615             | 6604 COLLINS AVE<br>MIAMI BEACH, FL 33141--461             | BLUE SKY USA CORP   | BLUE SKY USA CORP   | LIQUOR SALES    |
| 6   | Has yet to apply        | 6700 COLLINS AVE<br>MIAMI BEACH, FL 33141--324             | Walgreens Liquor  |   | LIQUOR SALES    |
| <b>Convenience store / merchant sales</b> |                         |  |   |   |                 |
| 1   | BTR010139-05-2021       | 6345 COLLINS AVE Unit: CU-13<br>Miami Beach, FL 33141--461 | RAMISHA RAIYAN INC  | S.R. MINI MART  | MERCHANTS SALES |
| 2   | RL-03000951             | 7446 COLLINS AVE<br>MIAMI BEACH, FL 33141--271             | M & L FOOD MARKET   | M & L FOOD MARKET   | MERCHANTS SALES |
| 3   | BTR009972-03-2021       | 6638 COLLINS AVE<br>Miami Beach, FL 33141--461             | ALIF MIAMI GARDENS LLC  | Beach Kwik Mart.  | MERCHANTS SALES |
| 4   | RL-02001150             | 7340 COLLINS AVE<br>MIAMI BEACH, FL 33141--271             | WALGREEN CO.  | WALGREEN CO. #05198   | MERCHANTS SALES |
| 5   | RL-10004628             | 2000 NORMANDY DR<br>MIAMI BEACH, FL 33141--272             | WALGREENS #11657  | WALGREENS #11657  | MERCHANTS SALES |
| 6   | RL-87103355             | 6700 COLLINS AVE<br>MIAMI BEACH, FL 33141--324             | WALGREENS #01532  | WALGREENS #01532  | MERCHANTS SALES |
| 8   | RL-10006900             | 2057 71ST ST<br>MIAMI BEACH, FL 33141--446                 | HBOLL56 LLC   | HBOLL56 LLC   | MERCHANTS SALES |
| 9   | RL-03001749             | 1166 NORMANDY DR<br>MIAMI BEACH, FL 33141--281             | FAMILY DOLLAR STORES  | FAMILY DOLLAR STORES  | MERCHANTS SALES |
| 10  | RL-98001043             | 7451 COLLINS AVE<br>MIAMI BEACH, FL 33141--271             | CHRISTAL FOOD STORE INC.  | CHRISTAL FOOD STORE INC.  | MERCHANTS SALES |
| 11  | BTR010515-07-2021       | 6540 COLLINS AVE<br>Miami Beach, FL 33141--469             | VICE 305 LLC  | VICE CONVENIENCE  | MERCHANTS SALES |
| 12  | RL-10007067             | 875 71ST ST<br>MIAMI BEACH, FL 33141--302                  | K & K EXPRESS MART, INC   | K & K EXPRESS MART, INC   | MERCHANTS SALES |
| 13  | RL-10004978             | 7400 COLLINS AVE<br>MIAMI BEACH, FL 33141--271             | HOLIDAY CVS, L.L.C. D/B/A CVS/PHARMACY #3706 C/O CT CORPORATION | CVS/PHARMACY #3706  | MERCHANTS SALES |
| 14  | RL-10001036             | 7335 COLLINS AVE<br>MIAMI BEACH, FL 33141--271             | PRANTA, INC DBA COLLINS FOOD MARKET                             | COLLINS FOOD MARKET   | MERCHANTS SALES |
| 15  | RL-10008082             | 631 71ST ST<br>MIAMI BEACH, FL 33141--301                  | HOLIDAY CVS LLC   | NAVARRO DISCOUNT PHARMACY #10709  | MERCHANTS SALES |
| 16  | RL-10008680             | 401 71ST ST<br>MIAMI BEACH, FL 33141                       | BTI STATIONS LLC.   | PIZZA CAFÉ  | MERCHANTS SALES |

## North Beach Nuisance Uses

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE RESILIENCY CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 7, ENTITLED “ZONING DISTRICTS AND REGULATIONS, ARTICLE 3, ENTITLED “OVERLAY DISTRICTS,” AT SECTION 7.3.7, “ART DECO MIMO COMMERCIAL CHARACTER OVERLAY DISTRICT,” TO REMOVE THE “OCEAN TERRACE/HARDING TOWNSITE AREA” FROM THE BOUNDARIES OF THE OVERLAY; AND BY ESTABLISHING SECTION 7.3.10, ENTITLED “NORTH BEACH COMMERCIAL CHARACTER OVERLAY” (1) TO INCORPORATE THE PRE-EXISTING REGULATIONS FROM THE ART DECO/MIMO COMMERCIAL CHARACTER OVERLAY THAT WERE APPLICABLE TO THE “OCEAN TERRACE/HARDING TOWNSITE AREA,” (2) TO PROVIDE LIMITS ON THE NUMBER OF PACKAGE LIQUOR STORES, CHECK CASHING STORES, AND CONVENIENCE STORES LOCATED NORTH OF 63<sup>RD</sup> STREET, AND (3) TO PROHIBIT TOBACCO AND VAPE DEALERS, OCCULT SCIENCE ESTABLISHMENTS, TATTOO STUDIOS, VITAMIN STORES, PAWN SHOPS, SOUVENIR AND T-SHIRT SHOPS, AND RELATED NUISANCE USES NORTH OF 63<sup>RD</sup> STREET; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.**

**WHEREAS**, The North Beach area of the City is located to the north of 63<sup>rd</sup> Street; and

**WHEREAS**, A large portion of the North Beach area is located within the North Shore National Register District and the Normandy Isles National Register District; and

**WHEREAS**, A large portion of the North Beach area are located within locally designated the Normandy Isles Historic District, North Shore Historic District, Harding Townsite Historic District, Altos Del Mar Historic District, and the North Beach Resort Historic District; and

**WHEREAS**, Properties fronting Ocean Terrace and Collins Avenue between 73<sup>rd</sup> and 75<sup>th</sup> Streets are within the Harding Townsite historic district and the North Shore National Register historic district; and

**WHEREAS**, Properties fronting Harding Avenue between 73<sup>rd</sup> and 75<sup>th</sup> Streets are within North Shore National Register historic district; and

**WHEREAS**, The City of Miami Beach has undertaken a master planning process for the North Beach area that includes the Harding Townsite historic district and North Shore National Register district, in order to encourage the revitalization of the area by improving cultural, retail, and dining experiences for residents and visitors to the area; and

**WHEREAS**, Formula commercial establishments and formula restaurants are establishments with multiple locations and standardized features or a recognizable appearance, where recognition is dependent upon the repetition of the same characteristics of one store in multiple locations; and

**WHEREAS**, Formula commercial establishments and formula restaurants are increasing in number within many historic districts; and

**WHEREAS**, The sameness of formula commercial establishments, while providing clear branding for retailers, conflicts with the city's Vision Statement which includes creating "A Unique Urban and Historic Environment"; and

**WHEREAS**, Notwithstanding the marketability of a retailer's goods or services or the visual attractiveness of the storefront, the standardized architecture, color schemes, decor and signage of many formula commercial establishments detract from the distinctive character and aesthetics of the historic districts; and

**WHEREAS**, The increase of formula commercial establishments hampers the unique cultural, retail, and dining experience in commercial and mixed-use areas of the city's historic districts; and

**WHEREAS**, Specifically, the proliferation of formula commercial establishments may unduly limit or eliminate business establishment opportunities for non-traditional or unique businesses, thereby decreasing the diversity of cultural, retail, and dining services available to residents and visitors; and

**WHEREAS**, The homogenizing effect of formula commercial establishments, based on their reliance on standardized branding, increases if the size of the establishment, the number of locations or size or use of branded elements is greater; and

**WHEREAS**, The increased level of homogeneity detracts from the uniqueness of the historic districts, which thrive on a high level of interest maintained by a mix of cultural, retail, and dining experiences that are not found elsewhere in the country; and

**WHEREAS**, It is not the intent of the city to limit interstate commerce, but rather to maintain the historic character of neighborhoods and promote their unique cultural, retail, and dining experiences that are vital to the city's economy; and

**WHEREAS**, It is the intent of the city that if an establishment that has multiple locations and standardized features or a recognizable appearance seeks to locate within certain areas affected by this division that such establishment provide a distinct array of merchandise, facade, decor, color scheme, uniform apparel, signs, logos, trademarks, and service marks; and

**WHEREAS**, regulations regarding formula commercial establishments and formula restaurants that are applicable to Ocean Terrace were established by the City on September 25, 2017 through ordinance no. 2017-4137; and

**WHEREAS**, this ordinance does not modify the regulations regarding formula commercial establishments and formula restaurants that were established in ordinance no. 2017-4137, but rather relocates those regulations for improved transparency and clarity; and

**WHEREAS**, Convenience stores, pharmacy stores and formula eating establishments have similar impacts to the unique character of this important area of the city as formula stores; and;

**WHEREAS**, Check cashing stores, pawnshops, souvenir and t-shirt shops, tattoo studios, fortune tellers (occult science establishments), massage therapy center, and package liquor stores are uses which negatively affect surrounding areas; and

**WHEREAS**, It is the intent of the city to limit the number of establishments which may negatively affect surrounding areas; and

**WHEREAS**, the City Commission finds that it is in the best interest of its residents, businesses, and visitors to adopt regulations to protect the public health, safety, welfare, and morals; and

**WHEREAS**, the amendments set forth below are necessary to accomplish all of the above objectives.

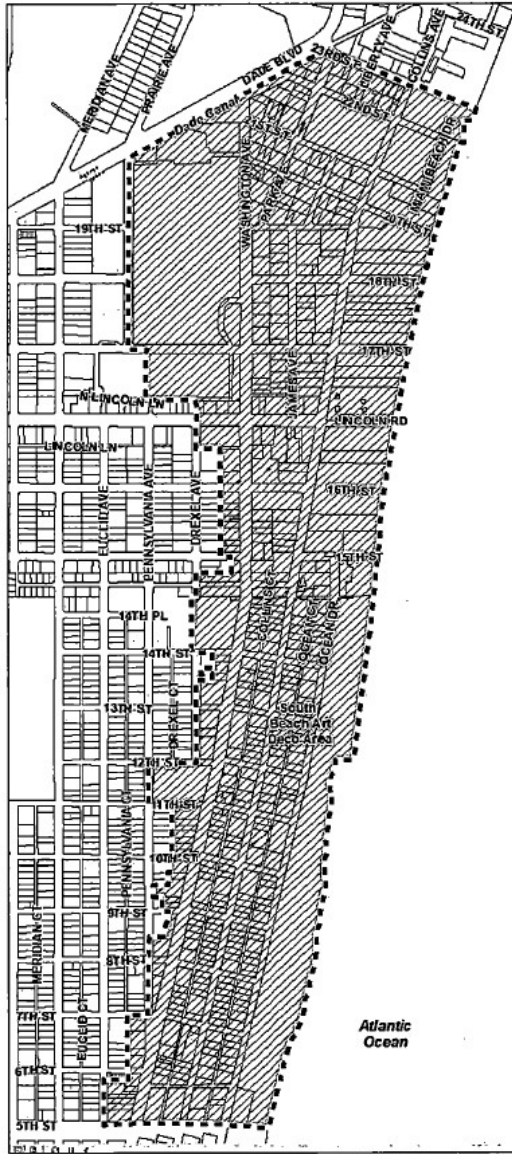
**NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA.**

**SECTION 1.** Chapter 7, entitled “Zoning Districts and Regulations, Article 3, entitled “Overlay Districts,” at Section 7.3.1, “Art Deco MiMo Commercial Character Overlay District,” is hereby amended as follows:

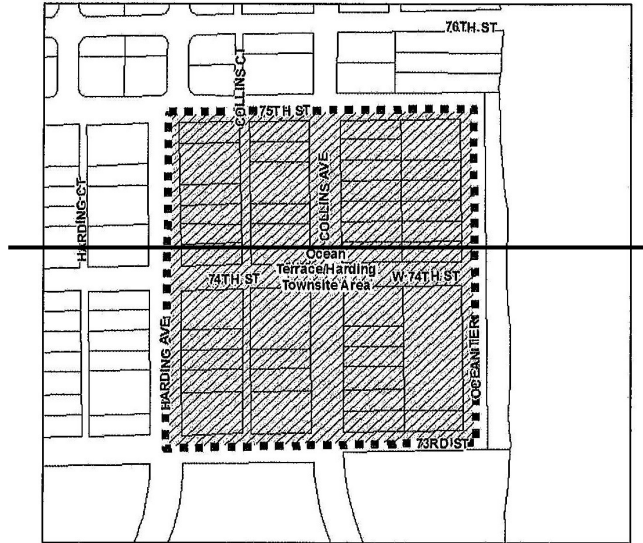
**7.3.1 ART DECO MIMO COMMERCIAL CHARACTER OVERLAY DISTRICT**

**7.3.1.1 Location and purpose (Art Deco ~~MIMO~~ Commercial Character Overlay District).**

- a. There is hereby created the Art Deco/Mimo Commercial Character Overlay District (the "overlay district"). The overlay district consists of the properties in the South Beach Art Deco Area identified in the map below in this subsection (a), ~~and the properties identified in the Ocean Terrace/Harding Townsite Area described in subsection (b) below~~. The South Beach Art Deco Area is generally located east of the western lot lines of properties fronting the west side of Washington Avenue between 5th Street on the south and 23rd street on the north and located west of the ocean:



- b. RESERVED. The Ocean Terrace/Harding Townsite Area is identified in the map below and is generally located between Harding Avenue to the west and Ocean Terrace to the east, between 73rd and 75th Streets (MAP EXHIBIT-2).:



- c. The purpose of this overlay district is to limit the proliferation of uses which may diminish the character of historic commercial areas within the city. This overlay district is designed based on and intended to achieve the following facts and intents:
- i. 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;
  - ii. Properties fronting Washington Avenue that have a zoning designation of CD-2 commercial medium intensity district, are located in the Flamingo Park historic district and the Miami Beach Architectural National Register Historic District;
  - iii. Ocean Drive, Collins Avenue, and Washington Avenue are some of the premier streets in Miami Beach and provide residents and visitors with a unique cultural, retail, and dining experience and are vital to Miami Beach's economy, especially the tourism industry;
  - ~~iv. Properties fronting Ocean Terrace and Collins Avenue between 73rd and 75th Streets are within the Harding Townsite historic district and the North Shore National Register historic district;~~
  - ~~v. Properties fronting Harding Avenue between 73rd and 75th Streets are within North Shore National Register historic district; and~~
  - ~~vi. vi. The City of Miami Beach has undertaken a master planning process for the North Beach area that includes the Harding Townsite historic district and North Shore National Register district, in order to encourage the revitalization of the area by improving cultural, retail, and dining experiences for residents and visitors to the area;~~
  - vii. Formula commercial establishments and formula restaurants are establishments with multiple locations and standardized features or a recognizable appearance,

where recognition is dependent upon the repetition of the same characteristics of one store in multiple locations;

- viii. Formula commercial establishments and formula restaurants are increasing in number along Ocean Drive and within other historic districts;
- ix. The sameness of formula commercial establishments, while providing clear branding for retailers, conflicts with the city's Vision Statement which includes creating "A Unique Urban and Historic Environment";
- x. Notwithstanding the marketability of a retailer's goods or services or the visual attractiveness of the storefront, the standardized architecture, color schemes, decor and signage of many formula commercial establishments detract from the distinctive character and aesthetics of the historic districts;
- xi. The increase of formula commercial establishments hampers the unique cultural, retail, and dining experience in commercial and mixed-use areas of the city's historic districts;
- xii. Specifically, the proliferation of formula commercial establishments may unduly limit or eliminate business establishment opportunities for non-traditional or unique businesses, thereby decreasing the diversity of cultural, retail, and dining services available to residents and visitors;
- xiii. The homogenizing effect of formula commercial establishments, based on their reliance on standardized branding, increases if the size of the establishment, the number of locations or size or use of branded elements is greater;
- xiv. The increased level of homogeneity detracts from the uniqueness of the historic districts, which thrive on a high level of interest maintained by a mix of cultural, retail, and dining experiences that are not found elsewhere in the country;
- xv. Sidewalk cafés are central to the economy of Ocean Drive and enhance the pedestrian experience and historic and cosmopolitan character of the street;
- xvi. It is not the intent of the city to limit interstate commerce, but rather to maintain the historic character of neighborhoods and promote their unique cultural, retail, and dining experiences that are vital to the city's economy;
- xvii. It is the intent of the city that if an establishment that has multiple locations and standardized features or a recognizable appearance seeks to locate within certain areas affected by this division that such establishment provide a distinct array of merchandise, facade, decor, color scheme, uniform apparel, signs, logos, trademarks, and service marks;
- xviii. Convenience stores, pharmacy stores and formula eating establishments have similar impacts to the unique character of this important area of the city as formula stores;
- xix. Check cashing stores, pawnshops, souvenir and t-shirt shops, tattoo studios,



fortune tellers (occult science establishments), massage therapy center, and package liquor stores are uses which negatively affect surrounding areas; and

- xx. It is the intent of the city to limit the number of establishments which may negatively affect surrounding areas.

### **7.3.1.2 Compliance with regulations (Art Deco MIMO Commercial Character Overlay District).**

The following regulations shall apply to the overlay district. There shall be no variances allowed from these regulations. All development regulations in the underlying zoning district and any other applicable overlay regulations shall apply, except as follows:

a. The following limitations shall apply to the commercial uses listed below:

i. Check cashing stores shall comply with the following regulations:

1. Such establishments shall be prohibited on lots fronting Ocean Drive ~~and in the Ocean Terrace Harding Townsite Area.~~
2. In areas of the overlay district not included in Section 7.3.7.1.a above, there shall be no more than two (2) such establishments. Such establishments shall be located no closer than 2,500 feet from any other such establishment.

ii. Convenience stores shall comply with the following regulations:

1. Such establishments shall be prohibited on lots fronting Ocean Drive (MAP EXHIBIT-3).
2. ~~In the Ocean Terrace/Harding Townsite Area, there shall be a limit of one (1) such establishment.~~
3. In areas of the Overlay District not included in Section 7.3.7.1. a and b above, there shall be no more than five (5) such establishments. Such establishments shall be located no closer than 2,500 feet from any other such establishment.

iii. Formula commercial establishments shall comply with the following regulations:

1. Such establishments shall be prohibited on lots fronting Ocean Drive ~~and Ocean Terrace~~ (MAP EXHIBIT-3/4).
2. This subsection shall not apply to any establishments in the South Beach Art Deco Area other than establishments fronting Ocean Drive ~~nor to any establishment in the Ocean Terrace/Harding Townsite Area, other than Ocean Terrace.~~

iv. Formula restaurants shall comply with the following regulations:

1. Such establishments shall be prohibited on lots fronting Ocean Drive ~~and Ocean Terrace~~.

~~Terrace.~~

2. This subsection shall not apply to any establishments in the South Beach Art Deco Area other than establishments fronting Ocean Drive ~~nor to any establishment in the Ocean Terrace/Harding Townsite Area, other than Ocean Terrace.~~
- v. Massage therapy centers shall not operate between 9:00 pm and 7:00 am in the overlay district.
- vi. Marijuana dispensaries shall be prohibited in the overlay district.
- vii. Occult science establishments shall be prohibited in the overlay district.
- viii. Package stores shall comply with the following regulations:
  1. Such establishments shall be prohibited on lots in the South Beach Art Deco Area (MAP EXHIBIT-6) with an underlying MXE zoning designation ~~and in the Ocean Terrace/Harding Townsite Area.~~
  2. In areas of the overlay district not included in Section 7.3.7.1.a above, there shall be no more than three (3) such establishments. Such establishments shall be located no closer than 2,500 feet from any other such establishment.
- ix. Pawnshops shall be prohibited in the overlay district.
- x. Pharmacy stores shall comply with the following regulations:
  1. Such uses shall be prohibited on lots fronting Ocean Drive.
  2. ~~In the Ocean Terrace/Harding Townsite Area, there shall be a limit of one (1) such establishment.~~
  3. In areas of the overlay district not included in Section 7.3.7.1. a and b above, there shall be no more than five (5) such establishments. Such establishments shall be located no closer than 2,500 feet from any other such establishment.
- xi. Souvenir and t-shirt shops shall comply with the following regulations:
  1. Such establishments shall be prohibited on lots fronting Ocean Drive ~~and in the Ocean Terrace/Harding Townsite Area.~~
  2. In areas of the overlay district not included in Section 7.3.7.1.a above, there shall be no more than five (5) such establishments. Such establishments shall be located no closer than 2,500 feet from any other such establishment.
- xii. Tattoo studios shall comply with the following regulations:
  1. Such uses shall be prohibited on lots fronting Ocean Drive ~~and in the Ocean~~

~~Terrace/Harding Townsite Area,~~

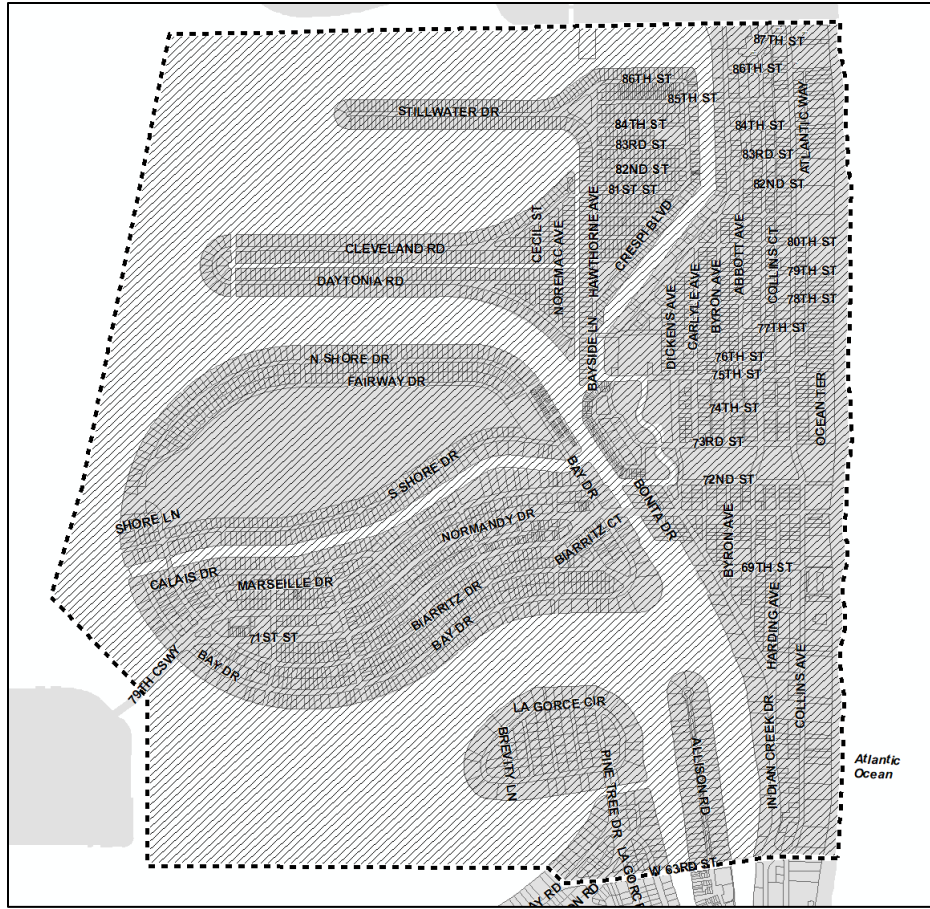
2. In areas of the overlay district not included in Section 7.3.7.1.a above, there shall be no more than three (3) such establishments. Such establishments shall be located no closer than 2,500 feet from any other such establishment.
- xiii. Grocery stores shall comply with the following regulations:
1. Such establishments shall be prohibited on lots fronting Ocean Drive (MAP EXHIBIT-3).
  2. In areas of the overlay district not included in Section 7.3.7.1.a above, there shall be no more than five (5) such establishments. Such establishments shall be located no closer than 2,500 feet from any other such establishment, ~~with the exception of such uses in the Ocean Terrace/Harding Townsite Area~~ (MAP EXHIBIT-4/5).
- xiv. Tobacco/vape dealers shall be prohibited in the overlay district.

**SECTION 2.** Chapter 7, entitled “Zoning Districts and Regulations, Article 3, entitled “Overlay Districts,” at Section 7.3.10, “North Beach Commercial Character Overlay District,” is hereby established as follows:

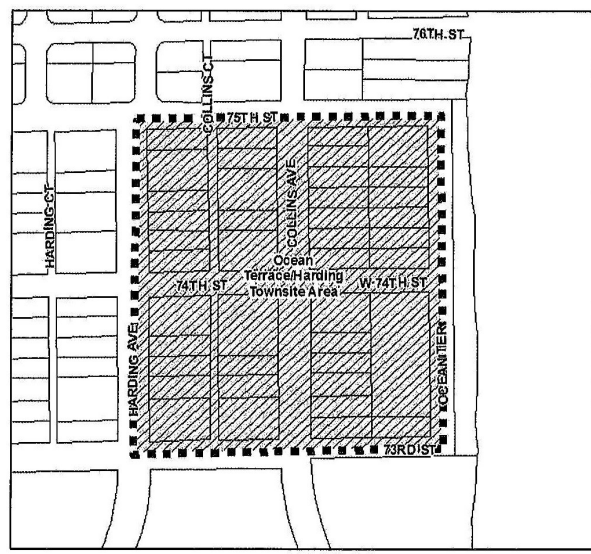
### **7.3.10 NORTH BEACH COMMERCIAL CHARACTER OVERLAY DISTRICT**

#### **7.3.10.1 Location and purpose (North Beach Commercial Character Overlay District).**

- a. There is hereby created the North Beach Commercial Character Overlay District (the "overlay district"). The overlay district consists of the properties located to the north of 63<sup>rd</sup> Street, identified in the map below in this subsection (a). and the properties identified in the Ocean Terrace/Harding Townsite Area described in subsection (b) below:



b. The Ocean Terrace/Harding Townsite Area is identified in the map below and is generally located between Harding Avenue to the west and Ocean Terrace to the east, between 73rd and 75th Streets:



c. The purpose of this overlay district is to limit the proliferation of uses which may diminish

the character of historic commercial areas within the city. This overlay district is designed based on and intended to achieve the following facts and intents:

- i. The North Beach area of the City is located to the north of 63<sup>rd</sup> Street;
- ii. A large portion of the North Beach area is located within the North Shore National Register District and the Normandy Isles National Register District;
- iii. A large portion of the North Beach area are located within locally designated the Normandy Isles Historic District, North Shore Historic District, Harding Townsite Historic District, Altos Del Mar Historic District, and the North Beach Resort Historic District;
- iv. Properties fronting Ocean Terrace and Collins Avenue between 73rd and 75th Streets are within the Harding Townsite historic district and the North Shore National Register historic district;
- v. Properties fronting Harding Avenue between 73rd and 75th Streets are within North Shore National Register historic district;
- vi. The City of Miami Beach has undertaken a master planning process for the North Beach area that includes the Harding Townsite historic district and North Shore National Register district, in order to encourage the revitalization of the area by improving cultural, retail, and dining experiences for residents and visitors to the area;
- vii. Formula commercial establishments and formula restaurants are establishments with multiple locations and standardized features or a recognizable appearance, where recognition is dependent upon the repetition of the same characteristics of one store in multiple locations;
- viii. Formula commercial establishments and formula restaurants are increasing in number within many historic districts;
- ix. The sameness of formula commercial establishments, while providing clear branding for retailers, conflicts with the city's Vision Statement which includes creating "A Unique Urban and Historic Environment";
- x. Notwithstanding the marketability of a retailer's goods or services or the visual attractiveness of the storefront, the standardized architecture, color schemes, decor and signage of many formula commercial establishments detract from the distinctive character and aesthetics of the historic districts;
- xi. The increase of formula commercial establishments hampers the unique cultural, retail, and dining experience in commercial and mixed-use areas of the city's historic districts;
- xii. Specifically, the proliferation of formula commercial establishments may unduly limit or eliminate business establishment opportunities for non-traditional or unique businesses, thereby decreasing the diversity of cultural, retail, and dining services

available to residents and visitors;

- xiii. The homogenizing effect of formula commercial establishments, based on their reliance on standardized branding, increases if the size of the establishment, the number of locations or size or use of branded elements is greater;
- xiv. The increased level of homogeneity detracts from the uniqueness of the historic districts, which thrive on a high level of interest maintained by a mix of cultural, retail, and dining experiences that are not found elsewhere in the country;
- xv. It is not the intent of the city to limit interstate commerce, but rather to maintain the historic character of neighborhoods and promote their unique cultural, retail, and dining experiences that are vital to the city's economy;
- xvi. It is the intent of the city that if an establishment that has multiple locations and standardized features or a recognizable appearance seeks to locate within certain areas affected by this division that such establishment provide a distinct array of merchandise, facade, decor, color scheme, uniform apparel, signs, logos, trademarks, and service marks;
- xvii. Convenience stores, pharmacy stores and formula eating establishments have similar impacts to the unique character of this important area of the city as formula stores;
- xviii. Check cashing stores, pawnshops, souvenir and t-shirt shops, tattoo studios, fortune tellers (occult science establishments), massage therapy center, and package liquor stores are uses which negatively affect surrounding areas; and
- xix. It is the intent of the city to limit the number of establishments which may negatively affect surrounding areas.

#### **7.3.10.2 Compliance with regulations (North Beach Commercial Character Overlay District).**

The following regulations shall apply to the overlay district. There shall be no variances allowed from these regulations. All development regulations in the underlying zoning district and any other applicable overlay regulations shall apply, except as follows:

a. The following limitations shall apply to the commercial uses listed below:

i. Check cashing stores shall comply with the following regulations:

1. Such establishments shall be prohibited on lots fronting in the Ocean Terrace/Harding Townsite Area.
2. In areas of the overlay district not included in Section 7.3.10.1.b above, there shall be no more than four (4) such establishments.

- ii. Convenience stores shall comply with the following regulations:
    - 1. In the Ocean Terrace/Harding Townsite Area, there shall be a limit of one (1) such establishment.
    - 2. In areas of the Overlay District not included in Section 7.3.10.1.b above, there shall be no more than 15 such establishments.
  - iii. Formula commercial establishments shall comply with the following regulations:
    - 1. Such establishments shall be prohibited on lots fronting Ocean Terrace.
    - 2. This subsection shall not apply to any establishments to any establishment in the Ocean Terrace/Harding Townsite Area, other than those fronting Ocean Terrace.
  - iv. Formula restaurants shall comply with the following regulations:
    - 1. Such establishments shall be prohibited on lots fronting Ocean Terrace.
    - 2. This subsection shall not apply to any establishments to any establishment in the Ocean Terrace/Harding Townsite Area, other than those fronting Ocean Terrace.
  - v. Massage therapy centers shall not operate between 9:00 pm and 7:00 am in the Ocean Terrace/Harding Townsite Area.
  - vi. Occult science establishments shall be prohibited in the overlay district.
  - vii. Package stores shall comply with the following regulations:
    - 1. Such establishments shall be prohibited in the Ocean Terrace/Harding Townsite Area.
    - 2. In areas of the Overlay District not included in Section 7.3.10.1.b above, there shall be no more than six (6) such establishments.
  - viii. Pawnshops shall be prohibited in the overlay district.
  - ix. Souvenir and t-shirt shops shall be prohibited in the overlay district.
  - x. Tattoo studios shall be prohibited in the overlay district.
  - xi. Tobacco/vape dealers shall be prohibited in the overlay district.
  - xii. Vitamin stores shall be prohibited in the overlay district.
- b. Review procedures.
- i. Commercial establishments in the overlay district that are not identified in Section 7.3.10.2.a shall comply with the following regulations:
    - 1. A signed affidavit indicating that they are not an establishment that is regulated

by Section 7.3.10.2.a shall be provided to the city as part of the application for obtaining a certificate of use and building permit, as applicable.

2. If the establishment is found not to be in compliance with the applicable requirements of the signed affidavit, the business tax receipt will be revoked and the establishment shall immediately cease operation.
- ii. Commercial establishments in the overlay district that are identified in Section 7.3.10.2.a shall comply with the following regulations:
1. If applicable, the applicant shall provide a signed and sealed survey dated not older than six (6) months, indicating the number, location, name, business tax receipt numbers, and separation of the applicable type of establishments within the overlay district. Distance separation shall be measured as a straight line between the principal means of entrance of each establishment and the proposed establishment.
  2. Establishments existing as of the date of the enactment of this ordinance shall count towards the maximum number of such establishments permitted within Section 7.3.10.2.a.
  3. A signed affidavit indicating compliance with the regulations of Section 7.3.7.10.a for the applicable type of establishment shall be provided prior to obtaining a business tax receipt.
  4. If the establishment is found not to be in compliance with the applicable requirements of the signed affidavit, the business tax receipt will be revoked and the establishment shall immediately cease operation.
  5. If a particular establishment meets more than one definition (i.e., formula commercial establishment and pharmacy store), it must meet the requirements for each use, and if there is a conflict, the more stringent code requirement shall control.

### **SECTION 3. REPEALER.**

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith 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 re-numbered or re-lettered 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** \_\_\_\_\_.

\_\_\_\_\_  
Dan Gelber, Mayor

**ATTEST:**

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

First Reading: May 17, 2023  
Second Reading: June 28, 2023

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

F:\PLAN\PLB\2023\04-25-23\PB23-0585 - Commercial Districts in North Beach Nuisance Uses\North Beach Nuisance Uses.docx