

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: June 27, 2023

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB23-0607. North Beach Nuisance Uses – Regulations Massage Therapy Centers.**

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 a proposed amendment regarding commercial district use regulations in North Beach (C4 X) to the Land Use and Sustainability Committee (LUSC) and the Planning Board. On March 1, 2023, the LUSC discussed a proposed ordinance regulating certain uses in North Beach and moved it to the Planning Board. On April 25, 2023, the Planning Board reviewed this ordinance and transmitted it to the City Commission with a favorable recommendation.

The LUSC also bi-furcated and continued the discussion pertaining to potential regulations for massage therapy centers to the May 10, 2023 LUSC meeting. On May 10, 2023, the LUSC endorsed the proposed ordinance pertaining to the regulation of massage therapy centers in North Beach and recommended that the Planning Board transmit the 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 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.

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 ensure that potential negative impacts from massage therapy centers are minimized 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.

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.

ANALYSIS

Massage therapy centers are defined as follows under the Land Development Regulations (LDRs) of the City Code:

Massage therapy center means an establishment that offers, sells, or provides manipulations of the tissues or other tactile stimulation of the human body with the hand, foot, arm, leg, elbow, or part of the torso, whether or not aided by any electrical or mechanical device; and may include bathing, hydrotherapy, thermal therapy, or application of chemicals, oils, lotions, or similar preparations to the human body.

The current regulations in the Art Deco/MiMo Commercial Character Overlay incorporate regulations that are applicable to the Ocean Terrace/Harding Town Site area of the overlay which limit the hours massage therapy centers from 7:00 a.m. to 9:00 p.m., in order to minimize potential negative impacts from such establishments.

The proposed ordinance would make the restrictions on hours applicable to the entire North Beach Commercial Character Overlay. In addition, the ordinance provides additional regulations regarding the permitted locations of massage therapy centers as follows:

Permitted Locations

1. State certified schools for obtaining a massage therapy license.
2. Multi-family residential buildings, apartment hotels, suite hotels or hotels with at least 50 rooms, as an accessory use.
3. Fitness centers, gyms and wellness centers, as a component of the main use.
4. State licensed medical offices and clinics, such as physical therapy centers.

Conditional Locations

1. Within office buildings located in a commercial district, TC district, or TC-C district, provided the massage therapy center is located above the first floor.
2. Within multi-family residential buildings, apartment hotels, suite hotels or hotels with less than 50 units.

In all other locations of North Beach, massage therapy centers would be prohibited.

When properly regulated and operated, massage therapy centers provide beneficial services to the community, and the proposed regulations are intended to better define locations for massage therapy centers to operate. Staff is supportive of the proposal and recommends that the Planning Board transmit the ordinance to the City Commission with a favorable recommendation.

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.

North Beach Use Regulations – Massage Therapy Centers

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 7.3.10, ENTITLED “NORTH BEACH COMMERCIAL CHARACTER OVERLAY” TO ESTABLISH REGULATIONS AND REQUIREMENTS FOR MASSAGE THERAPY CENTERS WITHIN THE OVERLAY; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

WHEREAS, The North Beach area of the City is located to the north of 63rd 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 73rd and 75th Streets are within the Harding Townsite historic district and the North Shore National Register historic district; and

WHEREAS, Properties fronting Harding Avenue between 73rd and 75th 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, Massage therapy centers may impact the overlay areas if not properly controlled; and

WHEREAS, It is the intent of the city to establish regulations pertaining to allowable locations for massage therapy centers in the overlay; 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 7.3.10, “North Beach Commercial Character Overlay District,” is hereby amended as follows:

7.3.10 NORTH BEACH COMMERCIAL CHARACTER OVERLAY DISTRICT

* * *

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:

* * *

v. Massage therapy centers shall comply with the following regulations:

1. Such establishment shall not operate between 9:00 pm and 7:00 am in the Ocean Terrace/Harding Townsite Overlay Area.
2. Such establishments shall be considered a permitted use in accordance with the following:
 - a. State certified schools for obtaining a massage therapy license.
 - b. Multi-family residential buildings, apartment hotels, suite hotels or hotels, with at least 50 units, as an accessory use.
 - c. Fitness centers, gyms and wellness centers, as a component of the main use.
 - d. State licensed medical offices and clinics, such as physical therapy centers.
3. Such establishment shall be only permitted as a conditional use as follows:
 - a. Within office buildings located in a commercial district, TC district, or TC-C district, provided the massage therapy center is located above the first floor.
 - b. Within multi-family residential buildings, apartment hotels, suite hotels, or hotels, with less than 50 units.

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 re-numbered or re-lettered 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 _____.

Dan Gelber, Mayor

ATTEST:

Rafael E. Granado, City Clerk

First Reading: July 26, 2023
Second Reading: September 13, 2023

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

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