



City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, [www.miamibeachfl.gov](http://www.miamibeachfl.gov)

## COMMISSION MEMORANDUM

TO: Mayor Dan Gelber and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: July 29, 2020

SUBJECT: **Referral to the LUSC and PB – Modifications to Development and Alcohol Regulations on Ocean Drive and the MXE District**

### **ADMINISTRATION RECOMMENDATION**

The administration recommends that the City Commission refer the attached draft ordinances to the Land Use and Sustainability Committee and the Planning Board.

### **BACKGROUND**

The MXE district regulations were developed in the early 1980's, as part of the first master plan for Ocean Drive from 5<sup>th</sup> to 15<sup>th</sup> Street. 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 20<sup>th</sup> century architecture. More importantly, though, 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.

### **PLANNING ANALYSIS**

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 and restaurant uses were intended to activate the district as an accessory to hotel or residential uses. Exceptions to this were made for buildings fronting Collins Avenue, as well as buildings that were 2 stories or less on Ocean Drive. The widening of the sidewalks on Ocean Drive 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 successful beyond everyone's expectations, over the decades Ocean Drive, and the larger MXE district, have experienced growing pains associated with food, beverage and entertainment uses, all of which were intended to be subordinate to the main use of

residential or hotel. In order to help get the district back to its successful foundation as an Architectural District and rediscover the beauty and intent of the National Register Architectural District, a re-focus on district priorities is proposed. This will entail a multi-prong approach, including up to date regulations, stepped up enforcement and creative ways to balance vehicular and pedestrian mobility.

Attached are draft text for amendments to chapter 6 and 46 of the City Code, as well as chapter 142 of the Land Development Regulations. In addition to updating the development regulations for the district, these amendments are intended to facilitate the following:

**1. Re-establish Ocean Drive as a walkable and pedestrian oriented street:**

- Identify Ocean Drive as a non-motor vehicle priority and permanently convert all of Ocean Drive from 5<sup>th</sup> to 15<sup>th</sup> Street as pedestrian.
- In order to accommodate delivery and drop off, each side street adjacent to Ocean Drive will have dedicated loading and delivery spaces.
- Elevate the existing street portions of Ocean Drive to be level with the sidewalks, forming one continuous pedestrian thoroughfare.
- Create, through design and material, dedicated areas for outdoor seating, including standards for tables, chairs, canopies, and back of house fixtures
- As part of transitioning Ocean Drive into a non-motorized vehicle priority zone, the east side (sidewalk and parking spaces) can be re-imagined and better engage Lummus Park. This should include shade, seating and similar elements, like Lincoln Road.
- Develop strategies for better engaging Lummus park and the beach. This will create a mechanism for hotels to offer amenities not otherwise available on site due to the location of the hotel rooms. Most of the hotel rooms along Ocean Drive do not have direct, or even partial, ocean views. Based upon meeting certain criteria (e.g. providing gallery space in the hotel in exchange for beach club privileges through a 3<sup>rd</sup> party concessionaire).

**2. Having the activities of all venues contained within private property and not spill onto the public street and sidewalks**

- Eliminate the noise exemption for ALL properties from 5<sup>th</sup> to 15<sup>th</sup> Streets; no music can be audible outside the confines of each individual property along Ocean Drive.
- Roll back the closing time of non-conforming liquor stores in the area from the current 8:00 pm to 5:00 pm
- Enforce open container regulations.
- Prohibit future stand-alone bars / drinking uses, except for interior hotel lobby bars.
- Limit roof top commercial uses to restaurant only.
- Set forth, through an amendment to Chapter 6, a mandatory closing time of 12:00 am for all alcoholic beverage establishments (existing and future) in the MXE district (except for package stores and retail sales, which would comply with current restrictions).
- Establish a process for alcoholic beverage establishments (except for package stores and retail sales, which would comply with current restrictions) to request a closing time after 12:00 am through an alcoholic beverage control board.
  - This new board process would be like the Planning Board CUP process, as it would have regulatory authority to review each request for expanded hours on a case by case basis, as well as require pertinent material for

review and creating a basis of decision. Such material would include, but not be limited to, operational and circulation plans, sound studies and crowd control. These plans would also be subject to an applicant subsidized peer review.

- The board would have authority to require periodic progress reports, or progress reports as needed, re-consider matters based upon violations and failure to operate in accordance with an approved extension, as well as the authority to revoke or suspend a previously approved extension of hours.
- The board would consist of 5 to 7 members, with expertise in entertainment, alcohol regulations, architecture and planning, and be appointed by the City Commission
- The board would meet multiple times per month, with lesser notice requirements, to provide an expedited process for review of all applications.
- The extension of hours by the board would be good for a fixed period (e.g. 1 year) and would need to be renewed. If the operations of the venue are flawless, the renewal would be pro-forma.

The referral of this draft legislation to the Land Use and Sustainability Committee and the Planning Board is intended to begin the process of addressing the issues identified herein in a proactive, tangible manner. Additionally, the committee and board process will provide an opportunity for all affected stakeholders to engage in constructive dialogue.

### **CONCLUSION**

The Administration recommends that the City Commission refer the attached draft ordinances to the Land Use and Sustainability Committee and the Planning Board .

JLM/EC/TRM

[https://miamibeach-my.sharepoint.com/personal/thomasmooney\\_miamibeachfl\\_gov/Documents/Documents/MiamiBeach/City Commission 2020/7 July Ref to LUSC and PB Development and Alcohol Regulations for Ocean Drive and MXE MEMO.docx](https://miamibeach-my.sharepoint.com/personal/thomasmooney_miamibeachfl_gov/Documents/Documents/MiamiBeach/City Commission 2020/7 July Ref to LUSC and PB Development and Alcohol Regulations for Ocean Drive and MXE MEMO.docx)