

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Planning Board

TO: Chairperson and Members
Planning Board

DATE: October 14, 2016

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **Ordinance Amendment**
Collins Park Arts District Overlay

REQUEST

PB16-0056. COLLINS PARK ARTS DISTRICT OVERLAY. AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE III, "OVERLAY DISTRICTS," DIVISION 7, "CULTURAL ARTS NEIGHBORHOOD DISTRICT OVERLAY (CANDO)," BY RENAMING THE DISTRICT AS THE "COLLINS PARK ARTS DISTRICT OVERLAY," REDUCING THE BOUNDARIES OF THE OVERLAY DISTRICT, PERMITTING OUTDOOR ENTERTAINMENT ESTABLISHMENTS AS A MAIN PERMITTED USE WITHIN AREAS WITH AN UNDERLYING CD-2 "COMMERCIAL, MEDIUM INTENSITY DISTRICT" AND CD-3 "COMMERCIAL, HIGH INTENSITY DISTRICT" ZONING DESIGNATION, PERMITTING RESTAURANTS, SIDEWALK CAFES, AND OUTDOOR ENTERTAINMENT AS ACCESSORY USES FOR HOTELS WITHIN AREAS WITH AN UNDERLYING RM-2, "RESIDENTIAL MULTIFAMILY, MEDIUM INTENSITY" ZONING DESIGNATION, AND REMOVING REGULATIONS FOR MINIMUM AND AVERAGE UNIT SIZE AND MIXED USE FLOOR AREA RATIO (FAR) INCENTIVES; AMENDING CHAPTER 122 OF THE CITY CODE, ENTITLED "CONCURRENCY MANAGEMENT," AUTHORIZING THE CITY COMMISSION TO EXEMPT TEMPORARY USES IN THE PUBLIC RIGHT OF WAY IN THE COLLINS PARK ARTS DISTRICT OVERLAY FROM CONCURRENCY REQUIREMENTS BY RESOLUTION; AMENDING CHAPTER 82 OF THE CITY CODE, "PUBLIC PROPERTY," ARTICLE IV, "USES IN PUBLIC RIGHTS-OF-WAY," DIVISION 5, "SIDEWALK CAFES," SUBDIVISION II, ENTITLED "PERMIT," EXEMPTING SIDEWALK CAFES LOCATED IN THE COLLINS PARK ARTS DISTRICT OVERLAY FROM SQUARE FOOTAGE SIDEWALK CAFÉ FEES; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; APPLICABILITY; AND AN EFFECTIVE DATE.

RECOMMENDATION

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

HISTORY

On May 11, 2016, at the request of Commissioner Ricky Arriola, the City Commission referred the subject item to the Land Use and Development Committee (Item C4L). On May 18, 2016, the Land Use and Development Committee continued the item to the June 15, 2016 meeting, and directed the administration to bring back a draft ordinance in accordance with the proposal submitted by the Collins Park Neighborhood Association. On June 15, 2016, the Land Use Committee discussed the draft ordinance and recommended that the City Commission refer the item to the Planning Board.

On July 13, 2016, the City Commission referred the proposed Ordinance Amendment to the Planning Board for consideration and recommendation (Item C4H). On September 27, 2016, the Planning Board continued the item due to time constraints.

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 uses proposed by the ordinance amendment are 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 creates an overlay district boundaries that is compatible with and intended enhance the surrounding areas.

3. **Whether the change suggested is out of scale with the needs of the neighborhood or the city.**

Consistent – The proposed Ordinance will not modify the scale of development.

4. **Whether the proposed change would tax the existing load on public facilities and infrastructure.**

Consistent – The proposed will not modify the intensity of development.

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

Consistent – The boundaries of the Cultural Arts Neighborhood District Overlay (CANDO) cover a large area that consists of various distinct neighborhoods. The proposed boundary incorporates a single neighborhood.

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

Consistent – The desire to encourage uses that take advantage of the concentration of cultural institutions in the Collins Park neighborhood and create a vibrant, mixed-use, and pedestrian friendly neighborhood makes the proposed change necessary.

7. **Whether the proposed change will adversely influence living conditions in the neighborhood.**

Consistent – The proposed change will not adversely affect living conditions in the neighborhood as safeguards regarding hours of operation are incorporated into the

proposed ordinance.

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.**

Partially Consistent – The proposed change will allow for additional sidewalk cafes and entertainment uses. However, due to the low intensity of the encouraged uses, it is expected that these will generate additional pedestrian traffic and not create or increase traffic congestion beyond the levels of service set forth in the Comprehensive Plan.

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

Consistent – The proposal will not reduce light and air to adjacent areas.

10. **Whether the proposed change will adversely affect property values in the adjacent area.**

Consistent – The proposed change should 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 proposal will allow for additional uses that will incentivize the improvement properties within the overlay district, which should encourage the improvement of adjacent properties.

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.

BACKGROUND

On October 17, 2007, the City established the Cultural Arts Neighborhood District Overlay (CANDO). The purpose of this overlay district was to provide land-use incentives to property owners, developers and commercial businesses to create affordable housing for cultural workers and encourage arts-related businesses to establish within the district, and to create definitions and mandatory requirements for new construction and rehabilitation of housing units.

However, few developments have taken advantage of the CANDO incentives for cultural arts worker housing. Since the overlay has not fully had the intended effect, the Collins Park Neighborhood Association has suggested the modifications in this memorandum to the overlay in order to further encourage arts and entertainment related uses through different measures.

ANALYSIS

The Collins Park Neighborhood contains some of the City's premier cultural institutions including the Bass Museum of Art, the Miami City Ballet, and the Miami Beach Regional Library. As such, it is an appropriate location to encourage the establishment of arts and entertainment related uses.

The attached ordinance includes several modifications that are intended to encourage arts and entertainment related uses within a smaller area than what is covered by the current CANDO boundaries. Since the change in the boundary will limit the overlay to the Collins Park neighborhood, the Collins Park Neighborhood Association proposed that the overlay be renamed the *Collins Park Arts and Entertainment District Overlay*. Maps of the existing CANDO and the proposed Collins Park Arts and Entertainment District Overlay boundaries are attached to the memorandum.

The City is presently studying potential policy incentives and development regulations for the creation of workforce housing citywide. The proposed amendment, removes existing regulations regarding housing for cultural workers, which to date have not been utilized. However, this will prevent any potential conflicts and redundancy should a citywide workforce-housing policy initiative move forward.

The ordinance amendment proposes the following incentives and regulations to encourage art and entertainment uses within the proposed boundaries:

1. Allow Outdoor Entertainment Establishments as a main permitted or accessory use in areas with an underlying CD-2 or CD-3 zoning designation subject to the following:
 - a. Outdoor entertainment shall commence no earlier than 10:00 a.m.
 - b. Outdoor entertainment shall cease no later than 10:00 p.m. on Sundays through Thursdays, and midnight on Fridays and Saturdays.
 - c. For purposes of this subsection, outdoor entertainment shall be limited to non-amplified, string instruments, or solo vocalists, as well as DJ's playing recorded music at background levels.
2. Allow Restaurants, Sidewalk Cafes, and Outdoor Entertainment as a permitted accessory use to a hotel uses, in areas with an underlying RM-2 zoning designation, subject to the following:
 - a. Sidewalk cafes shall be limited to 30 seats.
 - b. Restaurants shall not exceed 3,000 square feet.
 - c. Outdoor entertainment shall commence no earlier than 10:00 a.m.
 - d. Outdoor entertainment shall cease no later than 10:00 p.m. on Sundays through Thursdays, and midnight on Fridays and Saturdays.
 - e. For purposes of this subsection, outdoor entertainment shall be limited to non-amplified, string instruments, or solo vocalists, as well as DJ's playing recorded music at background levels.
3. Encourage arts related businesses.
4. Exemption of Concurrency Fees for Sidewalk Cafes containing up to 30 seats
5. Exemption of Permit Fees for Sidewalk Cafés containing up to 30 seats

The Land Use Committee was supportive of the draft ordinance and recommended that the boundaries of the CANDO district be revised to extend northward to Collins Canal and Lake Pancoast, and that an accommodation for the inclusion of the existing hotels east of Collins Avenue be explored. Additionally, the Committee recommended that allowable music meeting the definition of 'Entertainment' be played or performed at ambient, background levels and that such music include amplified music.

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.

TRM/MAB/RAM

COLLINS PARK ARTS DISTRICT OVERLAY

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE III, "OVERLAY DISTRICTS," DIVISION 7, "CULTURAL ARTS NEIGHBORHOOD DISTRICT OVERLAY (CANDO)," BY RENAMING THE DISTRICT AS THE "COLLINS PARK ARTS DISTRICT OVERLAY," REDUCING THE BOUNDARIES OF THE OVERLAY DISTRICT, PERMITTING OUTDOOR ENTERTAINMENT ESTABLISHMENTS AS A MAIN PERMITTED USE WITHIN AREAS WITH AN UNDERLYING CD-2 "COMMERCIAL, MEDIUM INTENSITY DISTRICT" AND CD-3 "COMMERCIAL, HIGH INTENSITY DISTRICT" ZONING DESIGNATION, PERMITTING RESTAURANTS, SIDEWALK CAFES, AND OUTDOOR ENTERTAINMENT AS ACCESSORY USES FOR HOTELS WITHIN AREAS WITH AN UNDERLYING RM-2, "RESIDENTIAL MULTIFAMILY, MEDIUM INTENSITY" ZONING DESIGNATION, AND REMOVING REGULATIONS FOR MINIMUM AND AVERAGE UNIT SIZE AND MIXED USE FLOOR AREA RATIO (FAR) INCENTIVES; AMENDING CHAPTER 122 OF THE CITY CODE, ENTITLED "CONCURRENCY MANAGEMENT," AUTHORIZING THE CITY COMMISSION TO EXEMPT TEMPORARY USES IN THE PUBLIC RIGHT OF WAY IN THE COLLINS PARK ARTS DISTRICT OVERLAY FROM CONCURRENCY REQUIREMENTS BY RESOLUTION; AMENDING CHAPTER 82 OF THE CITY CODE, "PUBLIC PROPERTY," ARTICLE IV, "USES IN PUBLIC RIGHTS-OF-WAY;" DIVISION 5, "SIDEWALK CAFES," SUBDIVISION II, ENTITLED "PERMIT," EXEMPTING SIDEWALK CAFES LOCATED IN THE COLLINS PARK ARTS DISTRICT OVERLAY FROM SQUARE FOOTAGE SIDEWALK CAFÉ FEES; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; APPLICABILITY; AND AN EFFECTIVE DATE.

WHEREAS, on October 17, 2007, the City established the Cultural Arts Neighborhood District Overlay (CANDO); and

WHEREAS, few developments have taken advantage of the CANDO incentives for cultural arts worker housing; and

WHEREAS, the Collins Park Neighborhood Association has expressed a desire to further encourage art and entertainment related uses; and

WHEREAS, the City desires to encourage the establishment of arts and entertainment related establishes within the Collins Park Neighborhood within close proximity to the Bass Museum of Art and the Miami City Ballet, which are some of the City's primary cultural institutions; and

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

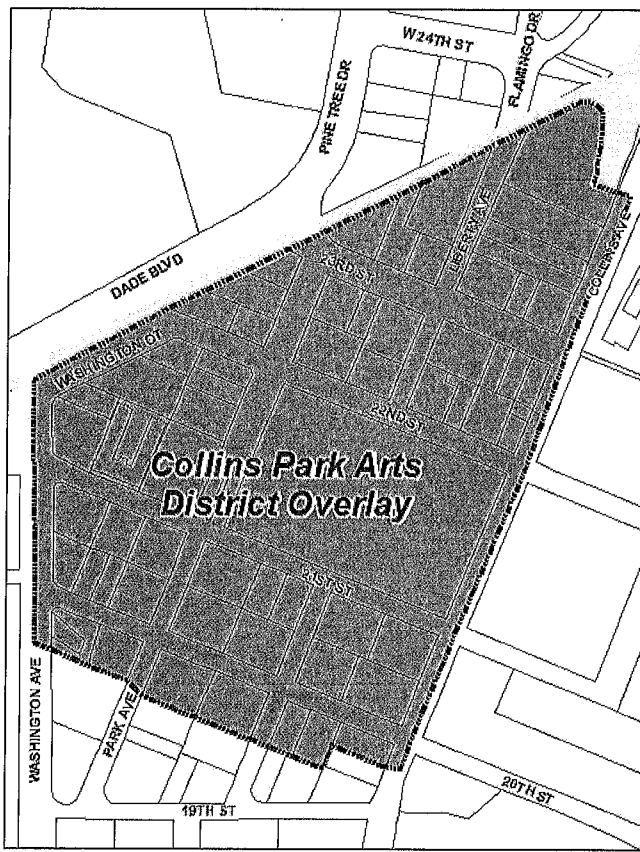
NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

SECTION 1. That Chapter 142 of the City Code, entitled "Zoning Districts and Regulations," Article III, "Overlay Districts," Division 7 is hereby amended as follows:

DIVISION 7. - CULTURAL COLLINS PARK ARTS NEIGHBORHOOD DISTRICT OVERLAY (CANDO)

Sec. 142-854. - Location and purpose.

- (a) The overlay regulations of this division shall apply to properties within the following boundaries, which shall be known as the cultural Collins Park arts neighborhood district overlay (CANDO): 24th Street and North Lincoln Lane on the north; Meridian Avenue and Lenox Avenue on the west; South Lincoln Lane on the south and the Atlantic Ocean on the east. The southern lot lines of properties fronting the south side of 20th Street on the south; Washington Avenue on the west; the Dade Canal and Lake Pancoast on the north; and properties fronting the west side of Collins Avenue on the east; as depicted in the map below.



- (b) The purpose of this overlay district is to provide land-use incentives to property owners, developers and commercial businesses to ~~create affordable housing for cultural workers,~~ encourage arts-related businesses to establish within the district, and to ~~create mandatory requirements for new construction and rehabilitation of housing units.~~

Sec. 142-855. – Definitions Reserved.

~~For purposes for this division, the following definitions shall apply:~~

~~Affordable housing is housing available at a cost of no more than 30 percent of gross household income to households at or below 120 percent of the Area Median Income (AMI), as reported by HUD. However, this does not preclude an individual household with an income less than 120 percent of AMI from devoting more than 30 percent of their income for housing.~~

~~Artist is a person who creates art as an occupation, or who works in an art-related non-profit field, which sponsors, creates or exhibits art or artists as an occupation. This includes any museum, theater or similar institution sponsoring art. Activities shall include but not be limited to drawing, painting, sculpture, acting, dancing, writing, filmmaking, photography and, music—people who use imagination, talent or skill to create works that may be judged to have aesthetic value and, those who produce art within a recognized or recognizable discipline.~~

~~Cultural arts workers is defined as anyone who is an artist, or who works in any capacity within a visual or performing arts organization, who meets United States Department of Housing and Urban Development (HUD) and State of Florida guidelines for income eligibility for affordable housing.~~

Sec. 142-856. - Compliance with regulations.

The following overlay regulations shall apply to the CANDO Collins Park Arts District Overlay district. All development regulations in the underlying zoning district shall apply, except as follows, and for any regulations in conflict, the following shall control:

(a) Outdoor entertainment establishments shall be a main permitted or accessory use in areas with an underlying CD-2 or CD-3 zoning designation, subject to the following regulations:

- (1) Outdoor entertainment shall commence no earlier than 10:00 a.m.
- (2) Outdoor entertainment shall cease no later than 10:00 p.m. on Sundays through Thursdays, and midnight on Fridays and Saturdays.
- (3) For purposes of this subsection, outdoor entertainment shall be limited to non-amplified string instruments, and solo vocalists, as well as disk jockeys playing recorded music. All such aforementioned entertainment and music shall not exceed ambient, background levels, unless otherwise approved by the Planning Board through the Conditional Use process.

(b) Restaurants, sidewalk cafes, and outdoor entertainment shall be a permitted as an accessory use to a hotel uses, in areas with an underlying RM-2 zoning designation, subject to the following regulations:

- (1) Sidewalk cafes shall be limited to 30 seats.
- (2) Restaurants shall not exceed 3,000 square feet.
- (3) Outdoor entertainment shall commence no earlier than 10:00 a.m.
- (4) Outdoor entertainment shall cease no later than 10:00 p.m. on Sundays through Thursdays, and midnight on Fridays and Saturdays.

- (5) For purposes of this subsection, outdoor entertainment shall be limited to non-amplified string instruments and solo vocalists, or disk jockeys playing recorded music. Music shall not exceed ambient, background levels.
- (c) Notwithstanding the requirements of subsections (a) and (b) above, neighborhood impact establishment occupancy thresholds, as defined in Section 142-1361, and if applicable, shall not be exceeded unless approved by the Planning Board.
- ~~(1) Where the underlying zoning district regulations provide for an allowable increase in the floor area ratio (FAR) for mixed use projects, 50 percent of such allowable FAR increase shall be set aside for affordable housing for cultural arts workers.~~
- ~~(2) Existing units being rehabilitated, where the cost of construction would require the units to comply with the minimum of 400 square feet and minimum average size of 550 square feet, shall be exempt from meeting the average unit size of 550 square feet if 25 percent of the units are reserved for affordable housing units for cultural arts workers.~~
- ~~(3) New construction of mixed use projects, where the underlying zoning regulations provide for an allowable increase in FAR for mixed use projects, shall be exempt from meeting the average unit size of 800 square feet if 50 percent of such allowable FAR increase is reserved for affordable housing units for cultural workers.~~
- ~~(4) New construction of "live-work" projects in the CD-2 zoning district shall meet the residential parking requirements for zoning purposes if at least 25 percent of the "live-work" units are reserved for affordable housing units for cultural workers. For purposes of this section, a "live-work" unit is defined as a unit containing both a residential and commercial component within the same unit.~~

Sec. 142-857. - Mandatory criteria.

Developments qualifying for the exceptions under this division shall meet all of the following mandatory criteria:

- ~~(1) At the time of development review, the property owner shall submit a statement of intent to construct affordable housing for cultural arts workers in accordance with this division.~~
- ~~(2) The owner of the property shall execute and record in the public records of Miami-Dade County a covenant running with the land restricting the use of the property for affordable housing for cultural arts workers as provided for in this division for a period of no less than 30 years, approved as to form and content by the city attorney, prior to the issuance of a building permit. The declarations within the covenant are not severable. A condition of the covenant shall preclude parties to it, and their successors, from challenging its validity. The covenant, condominium documents and purchase and sale agreements, shall include these mandatory criteria. If a subsequent judicial determination invalidates the type of population, or the covenant, the city shall not issue a certificate of use and occupancy for the structure until the property owner corrects the invalidity, or satisfies the then applicable unit size regulations under this Code.~~

- ~~(3) Should the property change from affordable housing for cultural arts workers during the covenant period, or other income-eligible population, the property shall comply with all applicable development regulations existing at the time of the proposed change, including but not limited to minimum and average unit sizes and parking requirements.~~
- ~~(4) If after a two-year period, residential units set aside for cultural arts workers have not been rented or sold, they shall be reserved for other income-eligible population.~~
- ~~(5) The profits of the re-sale of residential units sold to cultural arts workers or other income-eligible population shall be restricted to increases in the Consumer Price Index (CPI) from the date of purchase through the date of resale, during the covenant period. Each buyer and seller shall acknowledge compliance with this section in the closing documents.~~

SECTION 2. That Chapter 122 of the City Code, entitled "Concurrency Management," is hereby amended as follows:

Sec. 122-5. - Exemptions from concurrency.

The following types of development are not required to obtain a preliminary concurrency determination or a final concurrency reservation certificate:

- (9) Temporary uses in public rights-of-way, as determined by the city commission by resolution, specifying geographic areas, criteria, and duration of exemption, where such uses front on or are north of 63rd Street, ~~or on Washington Avenue from 6th Street to Lincoln Road,~~ or in the Collins Park Arts District Overlay as defined in Section 142-854.

SECTION 3. That Chapter 82 of the City Code, entitled "Public Property;" Article IV, entitled "Uses in Public Rights-of-Way;" Division 5, entitled "Sidewalk Cafes;" Subdivision II, entitled "Permit;" is hereby amended as follows:

Sec. 82-383. - Permit fee; penalties for late payment; review of fee; exception.

- (a) The annual permit fee for operation of a sidewalk cafe shall be as set forth in appendix A, and shall be based on a per square foot calculation of permitted sidewalk area (including the area between the tables and chairs).

* * *

- ~~(3) No square footage fee as required by this section shall be required for the operation of sidewalk cafes that contain up to 30 seats within the Collins Park Arts District Overlay as defined in Section 142-854 are exempt from paying the square foot fee identified herein.~~

SECTION 4. REPEALER.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith are hereby repealed.

SECTION 5. 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 6. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 7. APPLICABILITY

The limitations in this ordinance shall not apply to any valid, pre-existing permitted use with a valid business tax receipt (BTR) for an open air entertainment establishment or outdoor entertainment establishment that (i) is in application status prior to the effective date of this ordinance; or (ii) issued prior to prior to the effective date of this ordinance; or (iii) to an establishment that has obtained approval for an open air entertainment establishment or outdoor entertainment establishment from a land use board, and which land use board order is active and has not expired, prior to the effective date of this ordinance. Any increase to the approved hours of operation shall meet the requirements of this section.

SECTION 8. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and **ADOPTED** this _____ day of _____, 2016.

Philip Levine
Mayor

ATTEST:

Rafael E. Granado
City Clerk

(Sponsored by Commissioner Ricky Arriola)

Underline denotes additions
~~Strike through~~ denotes deletions

First Reading: _____, 2016
Second Reading: _____, 2016

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

F:\PLAN\PLB\2016\10-14-16\PB16-0056 - ORD - Collins Park Arts District Overlay\PB16-0056 - Collins Park Arts District Overlay -
ORD - PB 10-14-2016.docx