

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: June 21, 2022

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: **PB22-0538. Collins Avenue and Ocean Drive MXE Overlay –
Comprehensive Plan Amendment.**

**PB22-0534. Collins Avenue and Ocean Drive MXE Overlay – LDR
Amendment.**

RECOMMENDATION

Transmit the Comprehensive Plan and Land Development Regulations amendments to the City Commission with a favorable recommendation.

HISTORY

On May 25, 2022, the City Commission referred the subject Ordinance Amendment to the Land Use and Sustainability Committee (LUSC) and the Planning Board (item C4 F). The sponsor of the proposal is Commissioner David Richardson.

The LUSC is expected to consider the item at the July 7, 2022 meeting.

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.**

Partially Consistent – The proposed ordinance is consistent with the goals, objectives, and policies of the Comprehensive Plan as proposed to be amended.

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 amendment does affect the scale of development; however, it contains safeguards, including a public review process for each development which will ensure that any future development 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.

Partially Consistent – The proposed ordinance has the potential to affect the load on public facilities and infrastructure as it does allow for an increased intensity development. However, concurrency reviews and mitigation will be necessary as part of a land use board and building permit review process for any proposed development.

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

Not Applicable – The existing boundaries of the underlying MXE district are not proposed to be modified.

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

Consistent – Challenges associated with transient uses, alcoholic beverage and outdoor entertainment uses in the MXE district 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, as it contains safeguards to minimize the impacts of any potential development utilizing the incentives, and is intended to encourage uses that will improve quality of life.

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 – Since the City is now a transportation concurrency exception area, the proposed change will not create or increase traffic congestion beyond the levels of service set forth in the Comprehensive Plan, or otherwise affect public safety. However, any proposed development will be subject to the payment of Mobility Fee.

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

Partially Consistent – The proposed amendment may reduce light and air to adjacent areas beyond what is currently existing; however, the review process is intended to minimize those impacts, and ensure that any development utilizing the development incentives will be of benefit to the 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.

Consistent – The proposal will improve the resiliency of the City with respect to sea level rise by encouraging the improvements to sites that were developed prior to the adoption of many of the City's resiliency standards.

(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

The MXE district regulations were developed in the early 1980s, as part of the first master plan for Ocean Drive from 5th to 15th Streets. These regulations were intended to incentivize the replacement of dated apartment regulations with active uses that fostered 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 20th century architecture. More importantly, 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.

The original intent of the MXE district regulations was to encourage the renovation, restoration and preservation of the historic buildings in the district. Café, entertainment, restaurant and retail uses were, and still are, required to be accessory to hotel or residential uses. Exceptions to this were made for buildings fronting Collins Avenue, as well as buildings that were two (2) stories or less on Ocean Drive. The widening of the sidewalk 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 exceeding expectations, over the past decade Ocean Drive, and the larger MXE district, have experienced increasing challenges associated with alcoholic beverage and entertainment uses, all of which were intended to be subordinate to the main use of residential or hotel. To rediscover the beauty and intent of the National Register Architectural District, a re-focus on district priorities is being recommended.

PLANNING ANALYSIS

The proposal herein would establish the Collins Avenue and Ocean Drive MXE Overlay. This Overlay would include the properties located east of Collins Avenue (including Ocean Drive), between 5th Street and 16th Street, with an underlying MXE zoning district. See the Future Land Use/Site Map at the end of the report.

This overlay provides tangible incentives to encourage the development of a mix of residential, hotel and office uses to balance and diversify the City's economic base. Additionally the overlay seeks to reduce the number and intensity of high impact outdoor and open air entertainment establishments that negatively impact the overlay area, and transform the neighborhood into one that is more balanced in terms of uses and fosters a live, work, and play environment. The overlay intends to facilitate improvements to properties, while maintaining the architectural and historic character of the existing building typology.

The overlay also offers incentives through the approval of a Special Development Plan (SPD) by the City Commission. The SPD would be subject to the same approval process as an ordinance amendment, including Planning Board review, and would be subject to the following requirements:

- Shall be consistent with the Comprehensive Plan.
- The SDP shall contain a minimum of two (2) platted lots.
- Each application shall be accompanied by a site plan meeting the requirements of section 118-1, and such other information as may be required for a determination of the nature of the proposal and its effect on the Comprehensive Plan, the neighborhood, and surrounding properties.
- Each SDP shall contain a sunset provision, as may be determined by the City Commission, in which the approved incentives shall no longer be available for the development of the site.
- The SDP shall not supersede the Certificate of Appropriateness (COA) processes in Chapter 118, Article X of the LDR's.
- The SDP shall not supersede any other Land Use Board process as may be required by the LDRs.

The primary incentive offered through an SDP is a Floor Area Ratio (FAR) increase. For reference, the underlying FAR in the MXE district is 2.0. The proposed FAR increase is as follows:

- The maximum FAR shall not exceed 3.0.
- For any legally non-conforming development with an FAR that exceeds 3.0, the legal nonconforming floor area may be retained and/or reconstructed. An additional FAR of 0.25 shall be available above the legally nonconforming floor area.

Additionally, as part of the SPD, the City Commission can grant waivers of the following development regulations:

- Maximum Building Height.
- Setback Requirements.
- Additional Regulations for New Construction.
- Allowable Encroachments Within Required Yards.
- Height Regulation Exceptions.
- Off-street parking requirements, provided that the development provides for alternative modes of transportation.

The proposed overlay also encourages unified development sites with lots fronting on Ocean Drive and Collins Avenue. To this end the movement of FAR from properties fronting Ocean Drive to properties fronting Collins Avenue is encouraged through Ocean Court alley vacations as follows:

- The City Commission may grant vacations of the Ocean Court alley, including the sale of air rights, in order to allow for unified development sites that contain properties that front Ocean Drive and Collins Avenue, subject to the requirements of the City Charter and City Code.
- The vacation shall include a perpetual easement in favor of the City over the ROW, to ensure continued public use of the ROW for City access, pedestrian and vehicular travel, and utilities.
- The vacated alley shall be improved to enhance the beauty of the neighborhood. Improvements may include enhanced hardscape, lighting, and artistic elements. The vacated alley shall be maintained clean and free from debris.
- Where feasible, indoor storage areas for deliveries and garbage pickup shall be provided abutting the alley.
- Pedestrian bridges may be allowed to provide physical connections between the unified lots, subject to the review and approval of all applicable City Departments and provided they do not impede vehicular travel.

In order to safeguard the quality of life and character of the community from any potential impacts of these incentives, the City Commission can include any necessary conditions as part of the SDP. Additionally, the FAR and SDP incentives in the would only available to projects that comply with the following regulations:

- The main use on the property shall consist of residential, hotel and/or office.
- Outdoor or open air entertainment shall be prohibited anywhere on the property.
- The property owner or condominium association, as applicable, voluntarily proffers to record a restrictive covenant running with the land, in a form approved by the City Attorney, prohibiting short-term rentals on the property in perpetuity.
- All legally nonconforming uses shall cease operation.
- Existing buildings shall be fully renovated.
- The building shall have central air conditioning or flush-mounted wall units; however, no air conditioning equipment may face a street.

- All non-impact resistant windows and doors shall be replaced with impact resistant windows and doors.
- Developments are encouraged to incorporate accessory uses that promote arts and culture.
- Approval of hotel uses, including all accessory uses to the hotel, shall be at the discretion of the City Commission within the SPD. A detailed hotel and accessory use operations plan shall be provided to the City Commission, and the use of hotel within the SPD shall be at the complete discretion of the City Commission.

The proposed LDR amendment has a companion Comprehensive Plan amendment, to authorize the implementation of the FAR incentives within the MXE future land use category. The remainder of the incentives are consistent with the Comprehensive Plan.

CITY CHARTER ANALYSIS

The proposal to increase the FAR is affected by Section 1.03(c) of the City Charter, which partially states the following:

The floor area ratio of any property or street end within the City of Miami Beach shall not be increased by zoning, transfer, or any other means from its current zone floor area ratio as it exists on the date of adoption of this Charter Amendment (November 7, 2001), including any limitations on floor area ratios which are in effect by virtue of development agreements through the full term of such agreements, unless such increase in zone floor area ratio for any such property shall first be approved by a vote of the electors of the City of Miami Beach.

As the proposed Ordinance requires an affirmative vote of the electorate, only approval at First Reading may take place, prior to a citywide election. If the proposed FAR increase is approved by a majority of City of Miami Beach voters, Second Reading / Adoption of the Ordinance would be scheduled for the next available City Commission meeting after the election.

COMPREHENSIVE PLANNING REVIEW PROCESS

This referral includes a text amendment to the Comprehensive Plan. Under Section 163.3184(2), Florida Statutes, this amendment shall follow the expedited state review process for adoption of comprehensive plan amendments. This process requires a public hearing by the local planning agency (Planning Board), a public transmittal hearing before the City Commission, after which the amendment must be transmitted to several state agencies for a 30-day review period, and a final adoption public hearing before the City Commission. The amendment is effective 31-days after it is adopted if there are no appeals.

SUMMARY

The proposal herein reflects a comprehensive approach to balancing the economic realities of development within the MXE district and maintaining the character defining scale and identity of the City's signature postcard. It is also important to note that any development seeking incentives via an SPD approval will also require the review and approval of the historic preservation board, pursuant to the certificate of appropriateness criteria.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the Planning Board transmit the subject Ordinances, pertaining to the Comprehensive Plan and Land Development Regulations amendments, to the City Commission with a favorable recommendation.

FUTURE LAND USE/SITE MAP

