

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Planning Board

TO: Chairperson and Members
Planning Board

DATE: January 24, 2017

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB 16-0078. Ocean Drive Exterior Speaker Locations**

REQUEST

PB 16-0078. OCEAN DRIVE EXTERIOR SPEAKER LOCATIONS. AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS," DIVISION 13, "MXE - MIXED USE ENTERTAINMENT DISTRICT," BY AMENDING SECTION 142-546 THEREOF, ENTITLED "ADDITIONAL RESTRICTIONS FOR LOTS FRONTING ON OCEAN DRIVE, OCEAN TERRACE AND COLLINS AVENUE," TO CREATE REGULATIONS PERTAINING TO EXTERIOR SPEAKERS ON LOTS FRONTING OCEAN DRIVE; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

RECOMMENDATION:

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

HISTORY/ BACKGROUND

On November 9, 2016, at the request of Commissioner Ricky Arriola, the City Commission referred this item to the Land Use and Development Committee and the Planning Board (Item C4N).

On January 18, 2017, the Land Use and Development Committee discussed the Ordinance and recommended that the Planning Board transmit the item to the City Commission with a favorable recommendation.

REVIEW CRITERIA

In accordance with Section 118-163 (3), when reviewing a request for an amendment to these land development regulations, the Board shall consider the following where applicable:

1. **Whether the proposed change is consistent and compatible with the comprehensive plan and any applicable neighborhood or redevelopment plans.**

Consistent – The proposed modifications 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.**

Not Applicable – The proposed amendment does not modify district boundaries.

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

Not Applicable – 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.**

Not Applicable – The existing boundaries will not be modified by the proposed Ordinance.

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

Consistent – The need to enhance the City's commercial areas makes passage of 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.

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 impact 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 does not modify the scale of development and 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 not be a deterrent to the improvement or development of adjacent property.

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.

ANALYSIS

On September 27, 2016, the Mayor and City Commission adopted Resolution No. 2016- 29590, approving a 10-Point Plan for Ocean Drive. The attached draft ordinance would prohibit speakers within 20 feet of a property's boundary facing a street, unless music is being played at ambient levels. A no variance provision has also been included in the attached draft of the ordinance.

As it pertains to exterior speakers playing music above ambient levels, Conditional Use approval from the Planning Board is already required for any exterior speakers playing music above ambient levels on Ocean Drive, regardless of location, as that would be considered outdoor or open-air entertainment. The proposal herein does not modify this requirement.

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

Ocean Drive – Exterior Speaker Locations

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS," DIVISION 13, "MXE - MIXED USE ENTERTAINMENT DISTRICT," BY AMENDING SECTION 142-546 THEREOF, ENTITLED "ADDITIONAL RESTRICTIONS FOR LOTS FRONTING ON OCEAN DRIVE, OCEAN TERRACE AND COLLINS AVENUE," TO CREATE REGULATIONS PERTAINING TO EXTERIOR SPEAKERS ON LOTS FRONTING OCEAN DRIVE; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS,; and

WHEREAS,; and

WHEREAS,; 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 142, "Zoning Districts and Regulations," Article II, "District Regulations," Division 13, "MXE Mixed Use Entertainment District," Is amended as follows:

Sec. 142-546. - Additional restrictions for lots fronting on Ocean Drive, Ocean Terrace and Collins Avenue.Error! Hyperlink reference not valid.

(a) In the MXE mixed use entertainment district permitted uses in existing buildings at the time of adoption of this section with two stories or less fronting on Ocean Drive or Ocean Terrace and any building fronting on Collins Avenue from Sixth Street to 16th Street shall comply with the following:

- (1) The entire building shall be substantially renovated and comply with the South Florida Building Code, fire prevention safety code and the property maintenance standards. If the building is a historic structure, the plans shall substantially comply with the Secretary of the Interior Standards and Guidelines for Rehabilitating Historic Structures, U.S. Department of the Interior (revised 1983), as amended.

- (2) The buildings may contain offices, retail, food service establishments, alcoholic beverage establishments, and residential uses or any combination thereof. Medical and dental offices shall be prohibited uses in the MXE districts. Commercial uses located above the ground floor shall only have access from the interior of the building; no exterior access shall be permitted, unless a variance from this requirement is granted.
- (3) Required parking may be satisfied through participation in the parking impact fee program as set forth in chapter 130, article V, where applicable under the regulations contained therein.
- (4) No existing building shall be internally reconstructed to change the number of stories except that 20 percent of each floor plate may be removed to create an open area or atrium.
- (5) For existing buildings with two stories or less fronting on Ocean Drive or Ocean Terrace, the addition of a story shall require that commercial uses comply with all provisions of section 142-904 for accessory uses, unless a variance from the provisions of section 142-904 is granted. For purposes of example only, in buildings described in the foregoing sentence, the existence of commercial uses on the ground floor which exceed 25 percent of the floor area shall not, upon the addition of one story, be deemed grandfathered in, and the percentage of commercial uses on the ground floor, upon the addition of one story, must comply with the requirements of section 142-904, except if a variance is granted.
- (6) No variances shall be granted from the requirements of this section 142-546, except as specified in subsections 142-546(2) and 142-546(5).

(b) Commercial establishments fronting Ocean Drive, including, but not limited to, retail, office and eating and drinking venues, shall be prohibited from having speakers within 20 feet of the property boundary facing Ocean Drive or a side street, unless music is being played at ambient levels, or unless the establishment is fully enclosed. Notwithstanding the foregoing, as applicable to retail establishments, no speakers may be installed or placed outdoors, and music played indoors must be inaudible from the exterior of the premises at all times. No variances shall be granted from the requirements of this section 142-546(b).

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** this _____ day of _____, 2017.

Philip Levine
Mayor

ATTEST:

Rafael E. Granado
City Clerk

First Reading: _____, 2017
Second Reading: _____, 2017

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

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