

# MIAMI BEACH

## PLANNING DEPARTMENT

Staff Report & Recommendation

Planning Board

TO: Chairperson and Members  
Planning Board

DATE: March 28, 2017

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: **PB 17-0105. Lincoln Road Interior and Exterior Speaker Locations**

### **REQUEST**

**PB 17-0105. LINCOLN ROAD INTERIOR AND 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 6, "CD-3 COMMERCIAL, HIGH INTENSITY DISTRICT," BY AMENDING SECTION 142-336 THEREOF, ENTITLED "LINCOLN ROAD REQUIREMENTS," TO CREATE REGULATIONS PERTAINING TO INTERIOR AND EXTERIOR SPEAKERS ON LOTS FRONTING LINCOLN ROAD; 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 January 18, 2017, at the request of Commissioner Joy Malakoff, the Land Use and Development Committee (LUDC) recommended that the City Commission formally refer an ordinance specific to indoor and outdoor speakers on Lincoln Road to the LUDC.

On February 8, 2017, at the request of Commissioner Malakoff, the Mayor and City Commission referred the subject ordinance to the LUDC for discussion and recommendation (item C4I). On February 15, 2017, the LUDC discussed the ordinance and recommended that the City Commission refer the item to the Planning Board for consideration.

On March 1, 2017, the City Commission referred the proposed ordinance to the Planning Board (Item C4E).

### **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**

The attached draft ordinance would prohibit interior and exterior speakers within 20 feet of the property's boundary on Lincoln Road, unless music is 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, CUP approval is already required for any exterior speakers playing music above ambient levels on Lincoln Road, regardless of location, as that is considered outdoor or open-air entertainment. The proposal herein does not modify this requirement.

A similar ordinance for Ocean Drive, which prohibits speakers within 20 feet of a property's boundary facing a street, unless music is being played at ambient levels, was transmitted by the Planning Board to the City Commission with a favorable recommendation at the January 24, 2017 Planning Board meeting.

### **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/TUI

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**Lincoln Road – Interior and 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 6, "CD-3 COMMERCIAL, HIGH INTENSITY DISTRICT," BY AMENDING SECTION 142-336 THEREOF, ENTITLED "LINCOLN ROAD REQUIREMENTS," TO CREATE REGULATIONS PERTAINING TO INTERIOR AND EXTERIOR SPEAKERS ON LOTS FRONTING LINCOLN ROAD; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

**WHEREAS**, Lincoln Road is a premier street in Miami Beach providing residents and visitors with a unique cultural, retail, and dining experience which are vital to Miami Beach's economy, especially the tourism industry; and

**WHEREAS**, the City recently adopted the new Lincoln Road Master Plan, and in order to ensure compliance with the Master Plan and ensure the integrity of Lincoln Road the City Commission recommends the regulation of noise generated from indoor and outdoor speakers ; and

**WHEREAS**, the amendments set forth below are necessary to accomplish the objectives identified herein; and

**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 6, "CD-3 Commercial, High Intensity District," Is amended as follows:

**Sec. 142-336. - Lincoln Road requirements.**

The following additional regulations shall apply to the portion of Lincoln Road that is closed to vehicular traffic:

- a) Apartments, apartment/hotels, hotels and the conditional uses, as described in this division, ~~which are located on that portion of Lincoln Road that is closed to traffic,~~ may have first floor entrances and lobbies occupying up to 20 percent of their total street frontage(s). The remainder of their first floor frontage shall consist solely of commercial uses, extending back at least 75 feet from the street frontage(s).
- b) The following requirements shall apply for speakers:
  - 1) All exterior speakers, and interior speakers within 20 feet of the property boundary facing Lincoln Road or a side street shall be prohibited.
  - 2) Notwithstanding the above, interior speakers may be permitted within the first 20 feet of the boundary facing Lincoln Road or within the first 20 feet of the

boundary of a side street, provided any music being played does not exceed ambient levels. Additionally, music played indoors must be inaudible from the exterior of the premises at all times.

3) In the event that the doors of an establishment are open to the sidewalk, only ambient music shall be permitted within the premises.

4) No variances shall be granted from the requirements of this section 142-336(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