

Entertainment Use SOFI

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I. Introduction

The City is currently proposing an amendment that considers whether Entertainment Establishments should be permitted in the City's Commercial Performance Standard (PS) Districts ("South of Fifth Street" or "SoFi").

Over the last two decades the Mayor and the City Commission have adopted a series of land development ordinances that have regulated and ultimately prohibited entertainment establishments South of Fifth Street. (Ordinance Nos. 96-3050, 99-3222, 2003-3417, and 2004-3445)

Previous attempts to regulate Entertainment in SOFI have proved to be ineffective as illustrated by City Commission and Planning Board transcripts, in which the concerns and impacts of Entertainment uses in a residential area have not been attenuated and continue to be voiced.

Today, current regulations allow for limited entertainment in several of the Commercial Performance Standard (PS) Districts, specifically, in the CPS-2 District, non-amplified piano and string instruments are permitted as a conditional use south of Fifth Street between Michigan Avenue and Alton Road.

This document consists of an analysis of the City's regulations, their impact, and a review of regulations in other relevant cities, in order to evaluate whether the proposed Entertainment ordinance is consistent with the intent of the SOFI Performance Standard District to enhance the quality of the residential areas; and that this ordinance is supported by the Goals, Objectives, and Policies of the Comprehensive Plan.

I have examined the problems caused by Entertainment in the past in the SOFI District and the challenges to other neighborhood such as the Entertainment District that Entertainment uses cause today. (See Section C. under Analysis below).

I have examined the ways other cities have attempted to solve the problems (See Section D. under Analysis below) and I have concluded that none of the previously attempted solutions in The City of Miami Beach or the solutions used by other cities would be suitable; therefore I recommend the proposed ordinance.

II. Current Regulations and Timeline

A. South of Fifth Street Timeline of Land Development Regulations and Entertainment Regulations

(Prepared by City of Miami Beach Planning Department)

1989

Ordinance No. 89-2665, effective October 1, 1989, creates the district regulations for the City's performance standard ("PS") districts which are geographically located south of Sixth Street in Miami Beach. The purpose of the new zoning designation is stated in the city code as follows:

"Sec. 142-691. - Purpose.

- (a) *Establishment of district and divisions.* The PS performance standard district is hereby established as shown on the map designated as the city zoning district map. The PS district consists of all land in the redevelopment area and consists of five districts including: a residential performance standard (R-PS) district, a commercial performance standard (C-PS) district, a residential limited mixed use performance standard (M-PS) district (each of which is further subdivided based upon the type and density or intensity of permitted uses), a GU government use district and MR marine recreation district."

* * *

- (c) Commercial performance standards.

- (1) The commercial performance standards districts are designed to accommodate a range of business, commercial, office and hotel uses, as well as medium to high density residential development pursuant to performance standards which control the permissible type, density or intensity, and mix of development. Performance standards development

will allow for modification of requirements affecting certain individual lots; greater flexibility, particularly for large-scale development; large commercial, medium to high density residential and mixed use developments in phases over time where the overall development at a single point in time or in a single instance by private owners would not be practical; providing incentives for provision of certain amenities and for conformance with specified objectives, thereby encouraging more flexible and innovative design and development in accordance with the goals and objectives of the comprehensive plan and the redevelopment plan.

1994

Ordinance No. 94-2908, effective February 26, 1994, amends the district regulations for the City's performance standard ("PS") districts, to prohibit nightclubs in the redevelopment area, except that hotels of 250 rooms or more in the C-PS3 and C-PS4 districts could have nightclubs as an accessory use, with access to the nightclub only from an interior lobby and not from the street.

1995

Ocean Beach Historic District (South of Sixth Street) established

1996

Ordinance No. 96-3050, enacted on July 17, 1996, prohibits outdoor entertainment establishments, open air entertainment establishments, and neighborhood impact establishments ("NIEs") in the R-PS1, 2, 3, and 4 districts, and RM-PS1 district (except that, in the R-PS4 district, these uses were permitted as accessory uses in oceanfront hotels with 250 or more hotel units with access to the establishment only from an interior lobby and not from the street). The Ordinance designated outdoor entertainment establishments, open air entertainment establishments, and NIEs as a conditional use, and only as an accessory use, in the C-PS1, 2, 3, and 4 districts.

1999

Ordinance No. 99-3222, enacted on December 15, 1999, creates a definition for “entertainment establishment” (among other terms), and amended the PS district regulations to prohibit the following uses in the redevelopment area: dance halls and entertainment establishments not also operating as alcoholic beverage establishments and as restaurants with full kitchens and serving full meals. However, in the C-PS3 and C-PS4 districts, dancehalls and entertainment establishments were permitted as accessory uses within hotels of 250 rooms or more with access to the dance hall or entertainment establishment only from the interior lobby and not from the street.

2003

Ordinance No. 2003-3417, enacted on June 11, 2003, prohibits outdoor entertainment establishments and open air entertainment establishments in all PS districts. NIEs remained prohibited in R-PS1, 2, 3, and 4, and RM-PS1 (except that, in the R-PS4 district, NIEs were permitted as an accessory use in oceanfront hotels with 250 or more units, as a conditional use, and with access to the establishment only from the interior lobby of a hotel and not from the street). NIEs were listed as a conditional use in C-PS1, 2, 3, and 4.

2004

Ordinance No. 2004-3445, enacted on May 5, 2004, prohibits all entertainment establishments South of Fifth Street, and eliminated the distinction between (i) standalone entertainment establishments, and (ii) entertainment establishments also operated as alcoholic beverage establishments and as restaurants with full kitchens that served full meals. (Previously, entertainment was permissible if associated with a restaurant.)

April 2011

The City of Miami Beach’s 2025 Comprehensive Plan, adopted on April 13, 2011 states in the future land use element, objective one (1), land use development regulations, policy 1.2, the Limited Mixed Use Commercial “Performance Standard” Category’s (C-PS1) purpose is to provide development opportunities for and to enhance the desirability and quality of existing and/or new residential areas which accommodate a mix of different residential types developed in accordance with flexible design standards. It further states that uses which may be permitted are single family detached dwellings, single family attached

dwellings, townhouse dwellings, apartments, apartment hotels, hotels and commercial uses. Furthermore, other uses which may be permitted are accessory uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to be subordinate to the main use...”

Also, in objective two (2), land use compatibility, policy 2.2, “Development in land use categories which permit both residential and non-residential uses shall be regulated by formalized land development regulations which are designed to ensure adequate land use compatibility.

Compatibility shall be achieved by one or more of the following:

1. Enumeration of special land uses which may be particularly incompatible with Residential uses and may be prohibited in specified areas or zoning districts;”

2015

Ordinance No. 2015-3948, enacted on July 8, 2015, amends the PS district regulations to allow restaurants in the C-PS2 district on the south side of Fifth Street, between Michigan Avenue and Alton Road, to play non-amplified piano or string instruments played at a volume that does not interfere with normal conversation as a conditional use, when full meals are served, and no later than 2:00 am.

November 2016

Ordinance No. 2016-4054, adopted on November 9, 2016, amends the PS district regulations to require alcoholic beverage establishments to close at 2:00 AM. South Fifth Street. The provisions of the ordinance did not apply to any alcoholic beverage establishments with a valid business tax receipt that is in application status or issued prior to June 28, 2016 with hours pat 2:00 AM.

See references in Appendix G.

B. Comprehensive Plan

The State of Florida mandates that all local governments adopt Comprehensive Plan to regulate future development actions. The State of Florida requires that all development regulations and actions be consistent with this adopted plan.

According to Section 163.3194(1)(a), Florida Statutes:

...After a comprehensive plan, or element or portion thereof, has been adopted in conformity with this act, all development undertaken by, and all actions taken in regard to development orders by, governmental agencies in regard to land covered by such plan or element shall be consistent with such plan or element as adopted.

The City's Comprehensive Plan and its Goals and Objectives as well as its Land Development Regulations exist to support the wellbeing and interests of its various citizens. A critical aspect of these is to minimize threats to health, safety, and welfare through regulation of uses of land to ensure the compatibility of adjacent land uses.

The City of Miami Beach defines the Comprehensive plan as the document adopted by the city commission in accordance with the Local Government Comprehensive Planning and Land Development Regulation Act of 1986, as amended, meeting the requirements of F.S. §§ 163.3177 and 163.3178; principles, guidelines, and standards for the orderly and balanced future economic, social, physical, environmental, and fiscal development of the city.

The following section identifies goals, objectives and policies within elements of the Comprehensive Plan that support Land Development Regulations to enhance and protect the character and quality of life in the City of Miami Beach, specifically those goals that support the regulation of Entertainment uses within the SOFI neighborhood.

Vision Statement:

The Vision Statement of the City of Miami Beach recognizes the core value of residential communities as well as importance of tourism and entertainment within the City:

“Cleaner and Safer; Beautiful and Vibrant; a Unique Urban and Historic Environment; a Mature, Stable, Residential Community with Well – improved Infrastructure; A Cultural Entertainment Tourism Capital; and International Center for Innovation and Resources”.

The following elements of the Comprehensive Plan speak directly to the role of the City, through land development regulation, to Enhance, Protect and Preserve the City’s Neighborhoods through the compatibility of land uses.

I. Future Land Use Element

Goal – “Ensure that the character and location of land uses maximize the potential for economic benefit and the enjoyment of natural and man made resources by citizens while minimizing the threat to health, safety, and welfare posed by hazards, nuisances, incompatible land uses and environmental degradation”.

Objective 1 – Land Development Regulations

Future growth and development and rehabilitation will be managed through the land development regulations.

Land Development Regulations implement the Comprehensive Plan and are based on the standards set by the Comprehensive Plan and in accordance to s.163.3202

1. Policy 1.1 (2), (7) and (8)

- *Regulates the use of land to ensure compatibility of adjacent land uses*
- *Ensures safe and convenient traffic flow and addresses parking needs*

- *Mandates that through Development Orders and Permits no reduction of services occur.*

2. Policy 1.2

Land Development Regulations to implement Comprehensive plan - Establishes Limited Mixed Use Commercial 'Performance Standard' Category (C-PSI)

- *The purpose and Intent of this category – “to provide development opportunities for and to enhance the desirability and quality of existing and/or new residential areas which accommodate a mix of different types developed in accordance with flexible design standards”.*
- *“Other Uses” are permitted as accessory in this land use category.*

Objective 2 – Land Use Compatibility

“Land Development Regulations will be used to address location, type, size and intensity of uses to ensure adequate compatibility between residential and non-residential uses”.

1. Policy 2.1

Land Development Regulations will address location and extend of non-residential uses as per the Future Land Use map.

2. Policy 2.2

Development of land use categories, which allow residential and non-residential uses, shall be regulated through land development regulations to ensure compatibility.

Policy 2.2 (1)

States that special land uses may be incompatible with residential uses and may be prohibited.

Objective 7 – Inconsistent Uses

Land Development Regulations will continue to discontinue non-conforming land and building uses, which are incompatible with the Future Land Use map.

1. Policy 7.2 –

- Regulations for buffering incompatible uses shall continue to be enforced through the Land Development Regulations.*

II. Transportation Element

Objective 7 – Enhance, Protect and Preserve the City’s Neighborhoods

1. Policy 7.2 – Neighborhood Protection

- The City shall strive to protect the residential neighborhoods from unnecessary traffic intrusion.*

III. Conservation/Coastal Zone Management Element

Objective 9 – Density Limits

- 1. Policy 9.2 – The City shall not approve future land use plan amendments that could cumulatively increase residential densities.*
- 2. Policy 9.3 – The City shall use the zoning administration process to achieve uses compatible with the City’s twin goals of strong residential neighborhoods and the tourism/visitors economic base.*

C. City of Miami Beach: Land Development Regulations – SOFI Neighborhood

In 1989, supported by the goals, objectives, and policies of the Comprehensive Plan, the City adopted an ordinance creating district regulations for the City's Performance Standard (PS) districts (SOFI neighborhood).

The intent of this regulation is:

“...to provide development opportunities for and to enhance the desirability and quality of existing and/or new residential areas which accommodate a mix of different types developed in accordance with flexible design standards”.

During the last two decades, the City has continued to enact Land Development regulations within the PS districts to more directly address Entertainment Uses in the SOFI neighborhood seeking to protect and enhance the character and the quality of life in the SOFI neighborhood.

The following are excerpts of ordinances and corresponding sections of the Land Development regulations, which have been adopted in accordance with the goals and objectives of the Comprehensive Plan.

I. Performance Standard District

Comprehensive Plan - Future Land Use – Objective 1; Policy 1.1 and 1.2, Objective 2; Policy 2.1 and 2.2, Objective 7; Policy 7.2, support the following Land Development regulations:

Ordinance No. 89-2665, effective October 1989 creates the regulations for the City's Performance Standard (PS) Districts south of Sixth Street.

Code Language:

DIVISION 18 - PS PERFORMANCE STANDARD DISTRICT
Sec. 142-691. - Purpose.

- (a) *Establishment of district and divisions. The PS performance standard district is hereby established as shown on the map designated as the city zoning district map. The PS district consists of all land in the redevelopment area and consists of five districts including: a residential performance standard (R-PS) district, a commercial performance standard (C-PS) district, a residential limited mixed use performance standard (M-PS) district (each of which is further subdivided based upon the type and density or intensity of permitted uses), a GU government use district and MR marine recreation district.*
- (c) *Commercial performance standards.*
- (1) *The commercial performance standards districts are designed to accommodate a range of business, commercial, office and hotel uses, as well as medium to high density residential development pursuant to performance standards which control the permissible type, density or intensity, and mix of development. Performance standards development will allow for modification of requirements affecting certain individual lots; greater flexibility, particularly for large-scale development; large commercial, medium to high density residential and mixed use developments in phases over time where the overall development at a single point in time or in a single instance by private owners would not be practical; providing incentives for provision of certain amenities and for conformance with specified objectives, thereby encouraging more flexible and innovative design and development in accordance with the goals and objectives of the comprehensive plan and the redevelopment plan.*
- (2) *In order to adequately and properly distinguish between types, densities and intensities of uses and mix of permitted commercial development in the redevelopment area, districts are divided as follows:*

<i>C-PS1</i>	<i>Limited mixed-use commercial</i>
<i>C-PS2</i>	<i>General mixed-use commercial</i>
<i>C-PS3</i>	<i>Intensive mixed-use commercial</i>
<i>C-PS4</i>	<i>Intensive mixed-use phased bayside commercial</i>

Sec. 142-692. - Uses permitted by right, uses permitted by conditional use permit and uses not permitted.

No building, structure or land shall be used or occupied except as a main permitted use, a conditional use, or an accessory use to a main permitted use, in accordance with the table and text of permitted uses. A use in any district denoted by the letter "P" is a use permitted by right in such district or subdistrict, provided that all requirements and performance standards applicable to such uses have been met. A use in any district denoted by the letter "C" is permissible as a conditional use in such district or subdistrict, provided that all requirements and performance standards applicable to such use have been met and provided that all requirements of chapter 118, article IV, have been met. A use in any district denoted by the letter "N," or specifically listed as a use not permitted in the text of section 142-693, is not permitted in such district or subdistrict. Uses permitted by right, as a conditional use, or as an accessory use shall be subject to all use regulations and performance standards contained herein and to such other regulations as may be applicable, including site plan review and design review. Uses not listed in the table of permitted uses are not permitted in the district or subdistrict. Notwithstanding any provision of this section, no use is permitted on a parcel, whether listed by right, as a conditional use or as an accessory use in such district, unless it can be located on such parcel in full compliance with all of the performance standards and other requirements of these land development regulations applicable to the specific use and parcel in question.

II. Performance Standard District

Comprehensive Plan - Future Land Use –Objective 2; Policy 2.1 and 2.2, Objective 7; Policy 7.2, Transportation Element – Objective 7; Policy 7.2,, support the following Land Development regulations:

Ordinance No. 96-3050, enacted July 1996, prohibits outdoor establishments, open air establishments and neighborhood impact establishments in R-PS1, 2, 3 and 4 and RM-PS1 (RPS4 –only as accessory uses in oceanfront hotels with 250 units) NIE’s as a conditional Use and only as accessory use in C-PS1, 2, 3, and 4 districts.

Ordinance No. 2003-3417, enacted June 2003, prohibits outdoor entertainment establishments and open air entertainment establishments in all PS districts NIE’s as conditional in C-PS1, 2, 3 and 4.

Code Language:

The following uses are permitted in the performance standard districts: (Please Note: Only selected uses are listed below).

Sec. 142-693. - Permitted uses.

<i>General Use Category</i>	<i>R- PS 1, 2</i>	<i>R-PS 3, 4</i>	<i>C-PS 1, 2, 3, 4</i>	<i>RM- PS1</i>
<i>Accessory outdoor bar counters, provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for an accessory outdoor bar counter which is adjacent to a property with an apartment unit, the accessory outdoor bar counter may not be operated or utilized between 8:00 p.m. and 8:00 a.m.</i>	<i>N</i>	<i>N</i>	<i>p* North of 5th Street only.</i>	<i>N</i>
<i>Outdoor entertainment establishments and open air entertainment establishments</i>	<i>N</i>	<i>N</i>	<i>N</i>	<i>N</i>
<i>Neighborhood impact establishments</i>	<i>N</i>	<i>N However, in the R-PS4 district, this use is permitted, as an accessory use in oceanfront hotels with 250 or more hotel units, as a conditional use. Access to the establishment shall be only from the interior lobby of the hotel and not from the street.</i>	<i>C</i>	<i>N</i>

Please note that the surrounding uses to CPS-1 do not allow outdoor entertainment establishments, open air entertainment, accessory outdoor bar establishments, and neighborhood impact establishments.

III. Performance Standard District

Comprehensive Plan - Future Land Use –Objective 2; Policy 2.1 and 2.2, Objective 7;Policy 7.2, Transportation Element – Objective 7; Policy 7.2, Conservation/Coastal Zone Management Element – Objective 9, Policy 9.2,and 9.3 support the following Land Development regulations.

Ordinance No. 99-3222, enacted Dec 1999, creates the definition for Entertainment Establishment and amends PS district regulations to prohibit from the redevelopment area certain uses including Entertainment Establishments not also operating as alcoholic beverage establishments.

Ordinance No. 2004-3445, enacted May 2004, prohibits all entertainment establishments South of Fifth, and eliminates distinction between standalone entertainment establishment and entertainment establishments also operated as alcoholic beverage establishment.

Code Language:

Sec. 142.693 – Permitted Uses

For purposes of this section, pawnshops and dance halls and entertainment establishments are not permitted as a main permitted or accessory use south of Fifth Street.

IV. Performance Standard District

Comprehensive Plan - Future Land Use – Objective 1; Policy 1.1 and 1.2, Objective 2; Policy 2.1 and 2.2, Objective 7; Policy 7.2, support the following Land Development regulations:

Code Language:

Sec. 142-695. - Performance standard regulations generally.

- (2) To protect the integrity of the comprehensive plan and the redevelopment plan and the relationships between uses and densities that are essential to the viability of these plans and the redevelopment area; and*
- (3) To promote and protect the public health, safety, and general welfare by requiring all development to be consistent with the land use, circulation and amenities components of the redevelopment element of the comprehensive plan and the capital improvements program for the area, as specified in the comprehensive plan.*

III. Proposed Amendment

C-PS2 ENTERTAINMENT

An ordinance amending Ch. 142 of the City of Miami Beach entitled “Zoning Districts and Regulations”, Article II, “District Regulations”, Division 18, “PS Performance Standard District”, Section 142-693, “Permitted Uses” Clarifying that Entertainment is not permitted in the City’s Performance Standard Districts.

The City has historically adopted ordinances to regulate Entertainment uses to address the issues of quality of life in the SOFI neighborhood through land development regulations. These ordinances have been progressively more restrictive in an effort to protect the residential character of this neighborhood.

This ordinance simplifies the language and clarifies the intent of the City’s Performance Standard District regulations that seek to enhance desirability and quality of residential areas.

IV. Analysis

A. History of SOFI Neighborhood

The Ocean Beach Historic District designation report describes the early SOFI neighborhood as follows:

“Situated at the southern tip of present day Miami Beach and surrounded by a magnificent expanse of tropical blue water and boundless sky, Ocean Beach became a magnet for pioneer tourists and adventurous residents of fledgling Miami in the early twentieth century. Today, this sweep of land remains a prime location at the edge of the Miami metropolis, connecting the Atlantic Ocean, Biscayne Bay and the downtown Miami skyline.”

“During the 1920's and 1930's Ocean Beach south of 6th Street became a thriving seaside resort and recreational area. The 1935 Franklin Survey of Miami Beach records several substantial recreational facilities catering to tourists and residents alike...”

The report titled “Economic Impacts of Historic Preservation in Florida Update, 2010,” produced by the Center for Urban Policy Research at Rutgers University, describes the eventual economic decline of South Beach as follows:

“In the 1970s, Miami Beach as a whole began to face a difficult situation. The opening of Walt Disney World in Orlando in 1971 began to shift the attention of Florida bound tourists away from the Miami area, and new Caribbean resorts were attracting more visitors as air travel became easier (Stofik 2005, 19). These new destinations elsewhere were drawing tourists away from Miami Beach, and the community had no other industry to rely on. The city’s newer hotels still attracted visitors, but South Beach had become almost entirely a retirement community for seniors, many of them Jewish and poor. The whole city was beginning to get a reputation as a retirement haven for those of modest means rather than a destination resort ...”

To address this economic decline, in the mid-1970s the Miami Beach Commission created the Miami Beach Redevelopment Agency (RDA) and imposed a construction moratorium for the South Shore area (south of Fifth Street.). This action was taken in response to a finding that “there existed in the City of Miami Beach a blighted area (SOFI) and that the rehabilitation, conservation, or redevelopment ... of said area was necessary in the interest of the public health, safety, morals or welfare of the residents...” (Resolution No. 79-15887)

In 1989, adopting Ordinance No. 89-2665, the City created the district regulations for the City’s performance standard (“PS”) districts which are geographically located south of Sixth Street in Miami Beach. The intent of these district regulations was to “enhance the desirability and quality of existing and/or new residential areas which accommodate a mix of different types developed in accordance with flexible design standards.”

B. Designation of Historic Districts - Original Intent

The following is an account, using the Historic District designation documents, that compare and contrasts the intent behind the creation of the Ocean Drive/ Collins Avenue Historic District versus the Ocean Beach Historic District (South of Sixth Area).

a. Ocean Drive/Collins Avenue Historic District (MXE Area)

According to the Ocean Drive / Collins Avenue Historic Preservation District Designation Report, the Ocean Drive/Collins Avenue Historic District was established in 1986 as an effort to revive the neighborhood using historic preservation as a guiding principle. The plan incorporated a number of public improvements for Ocean Drive. In addition, the zoning and other land use regulations were revised “in order to allow the smaller historic hotels to compete in the current tourist market with placement of outdoor recreation and entertainment uses, cafes and restaurants. The district was established as “a popular historic resort and recreation area (to) attract tourists, day visitors and new residents.

The primary intent in the creation of this District was to enhance the

opportunities for entertainment uses.

b. Ocean Beach Historic District (South of Sixth Area)

In 1995, the Ocean Beach Historic Designation Report established the Ocean Beach Historic District to protect against “the potential loss of significant structures and sites in the South Pointe Redevelopment Area”. Early on, the report refers to the inclusion of buildings which “maintain(ing) the special character of the neighborhood”.

In describing this District, under Present Use the Historic Designation Report states “The predominant current use is residential, followed by commercial, hotel, parks and recreational and institutional use.” Under Present Zoning, the report states, “The majority of the nominated district is zoned residential...”

The Architectural Background section of the Report states:

“As the first recorded subdivision in Miami Beach, the neighborhood within the proposed boundaries of the Ocean Beach Historic District deserves overdue recognition as the birthplace of the City of Miami Beach.”

The Performance Standard District regulations dating prior to 1995 were not amended in this Report. Instead, the regulations existing prior to 1995, which prohibited nightclubs other than hotels, were left in place.

The primary intent of the creation of this District was to preserve the character of the neighborhood, which is predominantly residential, and not to create an entertainment destination.

In conclusion, the analysis of the background of the two Historic Districts indicates that they were created with markedly different intents: The primary intent of the creation of the Ocean Beach Historic District was to preserve the character of the neighborhood, which is predominantly residential. The primary intent in the creation of Ocean Drive / Collins Avenue Historic District was to enhance the opportunities for entertainment uses.

C. Entertainment Districts: Impact on Services

a. Impacts

Category	SOFI	Entertainment District	% Increase
Fire Department Incidents ¹	8,999	31,676	252%
Sanitation - Yearly			
Total Costs	\$321,500	\$2,370,500	738%
Dedicated Crews	5	33	660%
Nighttime Crews	0	10	
Traffic Data ¹			
Vehicle Crashes:	1,406	7,256	416%
Injuries	246	990	302%
Fatalities	2	11	450%
Daylight	923	4,109	345%
Nighttime	412	6,881	1570%
Dancehalls ²	4	29	625%
Code Compliance-Noise ³			
Violations	0	2	
Complaints	4	18	350%
Parking ⁴			
Total Inventory	2,755	7,305	
Public Owned Spaces	1,443	4,166	
Garage Spaces	None	2,424	
Tows ⁵	1,517	13,706	803%
Police Data			
Burglary and Larceny ⁵	713	2,078	191%
Calls for Service ⁶	2,413	9,248	283%

Notes:

- 1) 2010 to 2017
- 2) Grandfathered In
- 3) Week of 12/20/2017 to 12/27/2017
- 4) Studies by Walker Parking Consultants, 2014 and 2015
- 5) Data for 2016, provided by City of Miami Beach Police Department
- 6) Data for the week of 12/20/2017 to 12/27/2017 provided by the City of Miami Beach Police Department

b. Population

	Housing Units	Pop.	Area of Parcels (SF)	Area of Parcels (Acres)	Housing Density (Units/Acre)	Population Density (People/Acre)
South of Fifth	5,782	5,323	6,225,115	142.91	40	37
Entertainment Area	3,222	3,093	5,233,113	120.14	27	26

(Chart prepared by the City of Miami Beach Planning Department)

c. Map of City of Miami Beach – SOFI and Ocean Drive



(Map prepared by the City of Miami Beach Planning Department)
Areas under discussion are depicted in turquoise outline.

d. Observations

The City of Miami Beach has designated specific areas as Entertainment districts to accommodate and enhance the occurrence of Entertainment uses and has allocated additional resources to respond to the needs of Entertainment districts.

As depicted in the charts above, the Ocean Drive Entertainment District has a pronounced impact on City resources as compared to the SOFI neighborhood (PS District). In an area similar in size, the Entertainment District has over twice as many Fire Incidents, seven times the Sanitation costs, four times the number of Vehicle Crashes, fifteen times the number of Traffic Incidents, twice the number of burglary and larceny incidents, and eight times the number of towing Incidents.

Entertainment districts have been commonly acknowledged to create additional impacts which would negatively affect the quality of life in residential neighborhoods. Concerns over policing requirements, noise, traffic congestion, parking and need for additional resources for sanitation often accompany Entertainment districts. This is a primary consideration when cities define areas where Entertainment uses are concentrated. In order to maintain land use compatibility, cities protect residential areas by buffering them from Entertainment districts.

According to a study titled Policing Entertainment Districts, performed by Berkley and Thayer and published by the Responsible Hospitality Institute (RHI),

“Nightclubs and bars create frequent demands for police resources. The main problems are intoxicated, fighting patrons who are ejected by nightclub security onto the sidewalk ... Nightclubs and bars create further problems where they are concentrated in geographic areas. At closing time, intoxicated patrons exit onto the sidewalk and create a crowd-control problem...

Entertainment districts generate noise that impacts nearby residences and hotels. ... Nightclubs produce noise when they have inadequate soundproofing or conduct musical performances with open doors and windows. Cruisers have loud stereo systems and street performers and religious groups can be loud if they are allowed to use amplification. ... Few cities have enforceable noise ordinances. Decibel limits are too low,

ambient noise levels are too high, and it is difficult to attribute noise to sources. Enforcement requires specialized equipment, training and, sometimes, citizen complaints.

Traffic congestion is frequently a problem in entertainment districts. Few entertainment districts are located in areas with sufficient road and parking capacities to accommodate several thousand people arriving and departing within a narrow time frame.

... If parking capacities or parking -structure ingress are inadequate, traffic backs up as people search for parking and people fight over parking spaces. Parking shortages create a need for valet services which in turn create additional impacts. People are forced to park in remote areas; they impose impacts on neighborhood residents and can become victims of crime. In densely populated areas the mere fact that entertainment-district patrons occupy needed on-street parking is a problem. When nightclub and bar patrons return to cars parked in residential areas, they can be loud and boisterous and leave litter and vandalize property.”

According to parking studies done by Walker Parking Consultants, the Ocean Drive Entertainment District, “Overall (parking) demand is projected to reach deficit levels ... the earliest of any of the Zones”. This indicates that the Entertainment District places the highest demand on parking availability of any other Zone in the City of Miami Beach, including the South Point (SOFI) district. Because the area south of Fifth Avenue is primarily residential, it has no parking inventory consisting of parking garages. The available on street parking is predominantly residential.

Additional Sanitation services have been required by the City of Miami Beach in order to cope with the needs of the Ocean Drive Entertainment District. In addition to dedicated crew personnel, they have employed additional mobile sweepers, litter can services, pressure washing crews, and dedicated night shift employees seven days a week.

Together, the numbers in the charts above and the Walker parking studies, provide a strong indication that the character of the SOFI neighborhood would be

adversely impacted by allowing Land Use changes that would encourage the formation of an Entertainment district in the SOFI neighborhood.

D. Alternative Solutions: Examples of District/Use Regulations in Other Cities

Cities and municipalities have used a variety of methodologies to regulate Entertainment uses. I have reviewed a number of these as alternatives to the currently proposed ordinance. However, for various reasons, I do not recommend them for the City of Miami Beach.

Many Cities have used two common types of separation requirements to regulate uses: 1) distance requirements between a specific use and other uses deemed to be sensitive to the effects of that use such as churches, schools, daycares or residential and 2) distance requirements between specific uses which are deemed to have negative effects on their environs if concentrated in a small area.

Some cities have adopted other use-specific requirements for entertainment uses to mitigate potential negative effects on nearby properties. These include soundproofing requirements, location or design standards for outdoor uses, good neighbor plans, and hours of operation restrictions for amplified music.

Other cities have regulated the use of alcohol in order to control Entertainment uses which, in their definition, combine alcohol, live music, or dancing (nightclubs and lounges).

In contrast to the methodologies described above, the City of Miami Beach treats entertainment establishments separately from alcoholic beverage establishments. Instead, the City regulates the uses based on their actual impact to, and compatibility with, nearby properties. (See Section C. Entertainment Districts: Impact on Services under Analysis, above which illustrates the impact of Entertainment uses as compared to the impact of Residential uses.)

In the SOFI neighborhood, through Performance Standard District regulations, the City of Miami Beach seeks to encourage a range of commercial uses that serve the neighborhood, such as restaurants, which may include alcohol uses but prohibits entertainment uses. This methodology accomplishes the goal of preserving the residential character of the SOFI neighborhood.

The examples below illustrate various distance requirements or separation methods used by different cities to regulate entertainment uses. These alternatives would either 1) not be as effective or 2) result in the same restrictions to entertainment.

Depending on the extent of the distance requirements, these solutions may either accomplish the same thing as the Miami Beach regulations or they may create conflicts between existing land uses and may create gaps in the coverage.

In contrast, the method The City of Miami Beach employs, adds clarity and more effectively ensures the intent of the SOFI neighborhood PSD, preserving the residential character of the area.

a. Jefferson Parish, LA

Jefferson Parish requires a distance of two hundred (200) feet between the establishment and any residential district and a Site Plan showing all uses within two hundred (200) feet of any proposed entertainment use.

Code Language:

Definition: nightclub shall refer to any structure or establishment, or part thereof, that provides live entertainment on a regularly scheduled basis, serves alcoholic beverages and offers food prepared on premise in a fully equipped culinary facility.

- 1. Distance requirements. The establishment shall be located at least two hundred (200) feet from any residential district, as measured along the nearest pedestrian walkway or street right-of-way adjacent to the main entrance of the establishment to the nearest residential district line.*
- 2. Site Plan approval requirements for Land use. Land uses within two hundred (200) feet of the proposed nightclub.*

Sec. 40-421. - Purpose.

This district encompasses an area of high density and intensity development situated on principal thoroughfares and represents an urban mixed-use core. The areas of high intensity development contain office, retail, and service uses and represent a local and regional employment and shopping commercial center. They also contain dense residential development as single uses or mixed with commercial uses to create an urban environment with diverse choices for living and working.

Sec. 40-422. - Permitted uses.

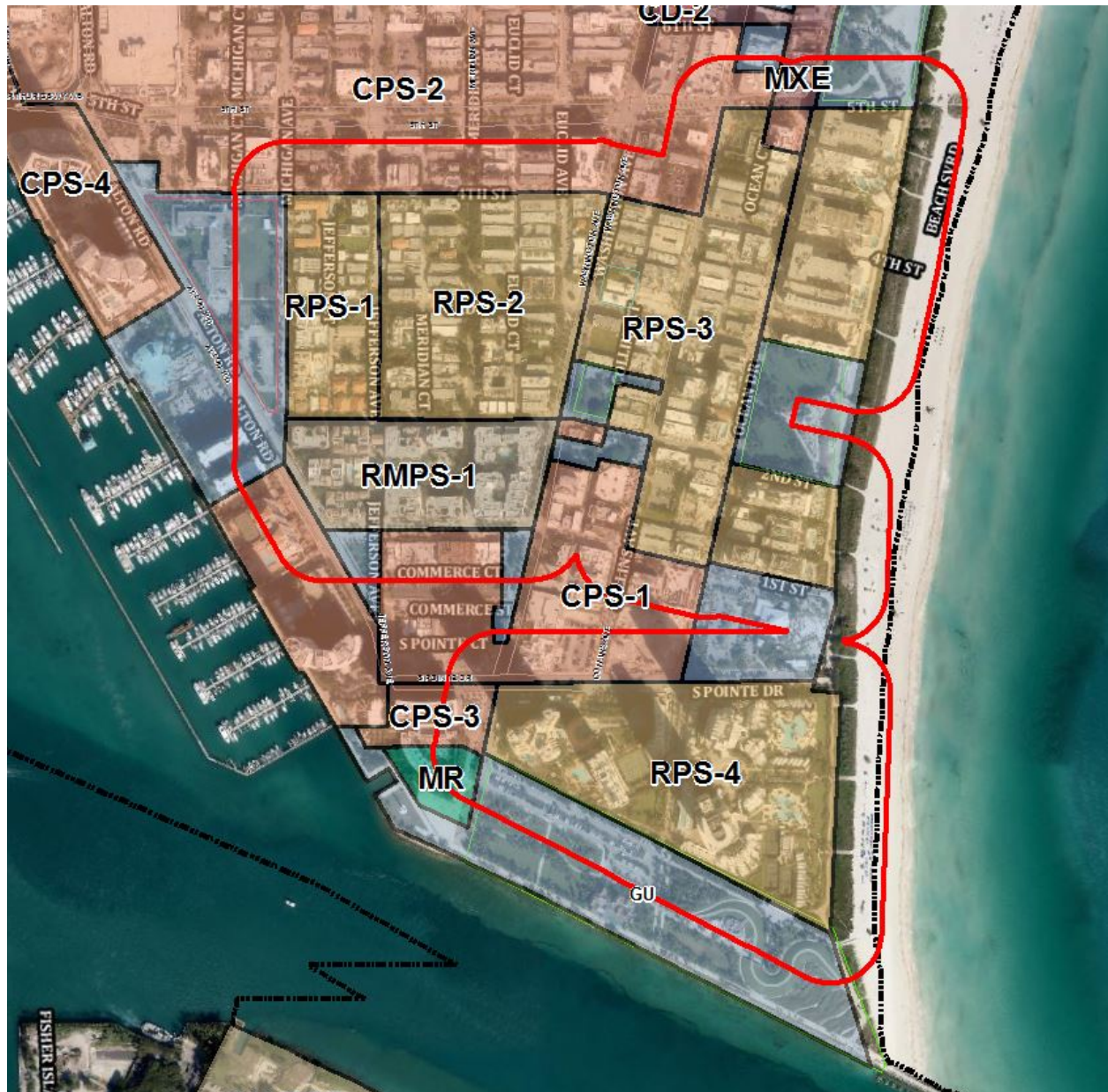
(26) Nightclubs provided the criteria listed below are met.

For purposes of this section a nightclub shall refer to any structure or establishment, or part thereof, that provides live entertainment on a regularly scheduled basis, serves alcoholic beverages and offers food prepared on premise in a fully equipped culinary facility.

- c. *Ingress and egress. Traffic generated by the use shall not be permitted to enter or exit from any portion of the site which is adjacent to or faces a residential district.*
- d. *Distance requirements. The establishment shall be located at least two hundred (200) feet from any residential district, as measured along the nearest pedestrian walkway or street right-of-way adjacent to the main entrance of the establishment to the nearest residential district line.*
- e. *Site plan submittal. The applicant shall provide site plans in accordance with the requirements of section 40-426(c) of this section. In addition, the following information shall also be provided:*
 - 1. *Land use. Land uses within two hundred (200) feet of the proposed nightclub.*
 - 2. *Noise abatement plan. The establishment shall be designed to prevent the intrusion of noise ... In addition, all entrances and exits designed for general use, not to include emergency use only exits, shall not face a residential district. The noise abatement plan shall contain the following minimum information.*
 - i. *The location of all entrance and exit doors;*
 - ii. *The elements of landscaping and building design that will reduce and control noise emissions.*
 - 3. *Litter control plan. The applicant shall provide a litter control plan indicating the method(s) to be used to keep the site and surrounding property free of debris generated by the use.*

I would not recommend this solution for The City of Miami Beach because, although this regulation would restrict entertainment from most of the SOFI Neighborhood, it would still create gaps in the coverage which would result in conflicts between existing land uses. It would in effect allow an entertainment use in areas where new and existing residential uses are present.

Map of SOFI with Jefferson Regulations Applied



(Prepared by City of Miami Beach Planning Department)

b. Orlando, FL

Orlando requires a distance of two hundred (200) feet between an establishment serving alcohol and offering live entertainment and schools and churches in an AC-3At district.

Outside an AC-3At district, eating and drinking establishments, whether or not they have live music, are not allowed in any Residential District, Medium Density/Intensity Mixed Residential Office District, and Low/High Intensity Office Residential District.

They are allowed in other Activity Centers and Mixed Use Corridor Districts only through conditional use for Historic Landmarks within High Density/Intensity Mixed Residential Office District and Medium Intensity Office Residential District.

Code Language:

4B (1). - Alcoholic Beverage Sales Inside the AC-3At District

The sale of alcoholic beverages for on-premise consumption or the package sale of alcoholic beverages shall not be permitted in a place of business within two hundred (200) feet of an established school or church permitted prior to May 20, 1996, except as provided in [Section 58.707](#) of this part. The distance shall be measured by the shortest, most direct bearing and distance from the property line of the church or school grounds in use as part of the church or school facilities to the nearest entrance of the establishment serving alcoholic beverages open to the public during normal business hours.

Sec. 58.707. - Exceptions to Distance Requirements.

The sale of alcoholic beverages for on-premise consumption or the package sale of alcoholic beverages shall be exempt from the provisions of Section 58.705 for the following, as described below:

Full-service restaurants

Bars/nightclubs in hotels or motels where there is no direct access from or to the outside.

(a) Full-Service Restaurants. The provisions of Section 58.705 (above) shall not apply to the sale of alcoholic beverages for on-premise consumption at a full service restaurant. A full-service restaurant is defined as an establishment serving full-course meals and engaged primarily in the service of food and non-alcoholic beverages, with alcoholic beverages generally only consumed or sold in connection with the consumption or sale of food during all hours of operation. A full-service restaurant may have a bar area in which alcoholic beverages are served and consumed without the accompanying sales and consumption of food; however, such bar area shall be no more than twelve percent (12%) of the total gross floor area of the full-service restaurant.

An establishment which contains pool tables, video games, a stage, live entertainment, illuminated or non-illuminated signs advertising alcoholic beverages, permits dancing, or which has live music or plays recorded music at a level above 70 decibels (measured six inches from the source), shall not be considered to be a full-service restaurant. An establishment which charges a cover charge at any time shall not be considered a full-service restaurant. An establishment which advertises anything other than the sale of food shall not be considered a full-service restaurant.

Certain Bars/Nightclubs in Hotels or Motels - The provisions of Section 58.705 (above) shall not apply to the sale of alcoholic beverages for on-premise consumption at an establishment located within a hotel or motel containing 100 or more guest rooms where such establishment in the hotel or motel has no direct entrance or exit on a public street.

B (2). - ALCOHOLIC BEVERAGE SALES OUTSIDE THE AC-3At DISTRICT

Sec. 58.710. - Distance From Churches and Schools.

Except those vendors licensed in accordance with Florida Statutes § 563.02(1)(a) and/or Florida Statutes § 564.02(1)(a) and except as otherwise provided in this Part, no vendor of alcoholic beverages shall maintain a place of business within one thousand (1,000) feet of the real property that comprises a school or church. The distance shall be measured by the shortest, most direct bearing and distance from the property line of the church or school grounds in use as part of the church or school facilities to the nearest entrance of the establishment serving alcoholic beverages open to the public during normal business hours.

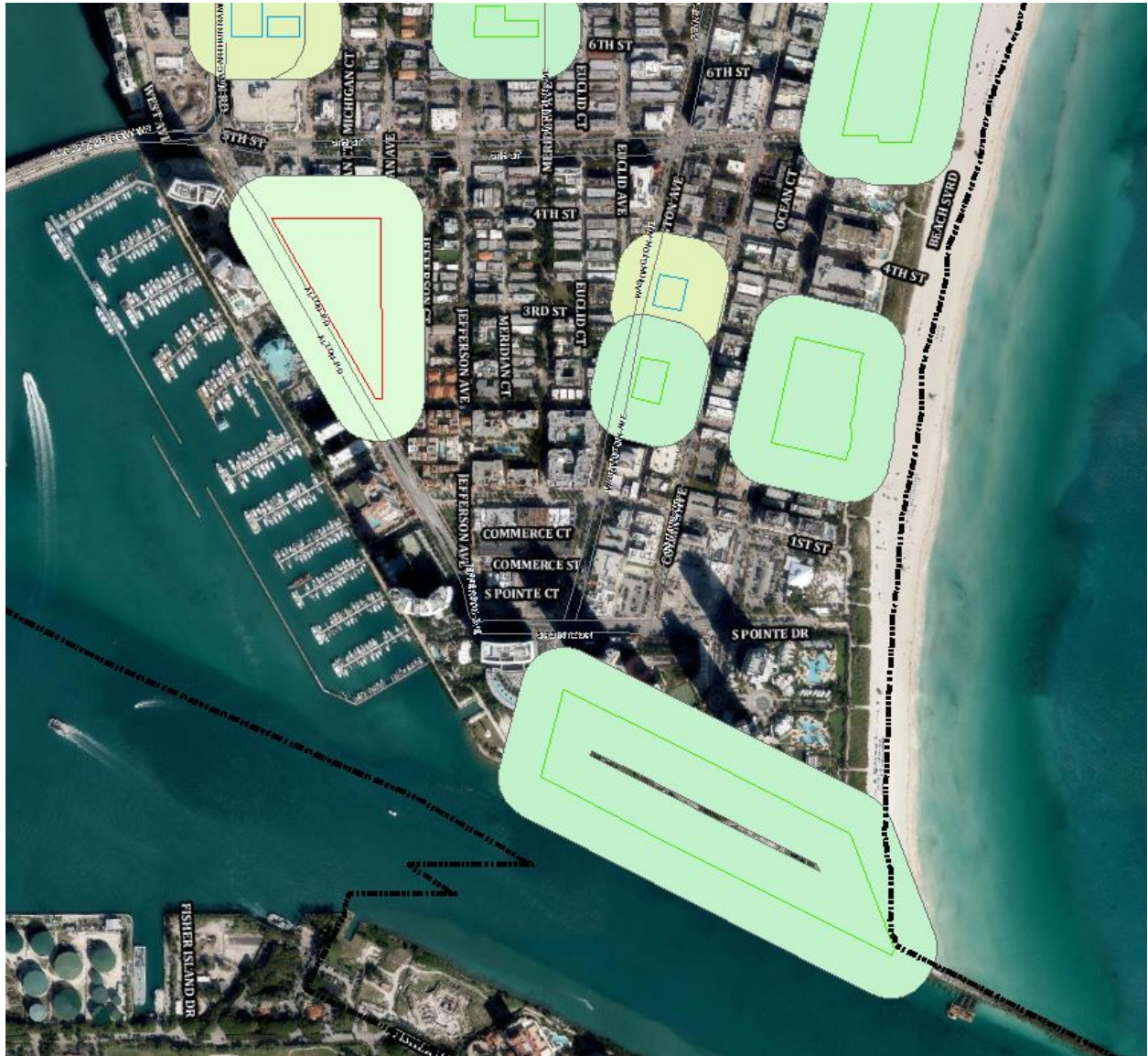
Please Note:

Eating and Drinking Establishments allowed:

1. By Conditional Use for Historic Landmarks in the following districts: High Density Mixed Use Corridor and Medium Intensity Office – Residential.
2. By Conditional Use only when abutting a thoroughfare in the General Industrial District. If not, it is not allowed.
3. Permitted in all Activity Center Districts.

I would recommend the regulation that the City of Miami Beach is considering over this solution because the City of Miami Beach treats entertainment establishments separately from alcoholic beverage establishments. The City of Miami Beach regulates the actual impact of the uses, and the compatibility with, nearby properties, thereby encouraging a range of commercial uses that serve the neighborhood such as restaurants which may serve alcohol.

Map of SOFI with Orlando Regulations Applied (Inside the AC-3At District)



(Prepared by the City of Miami Beach Planning Department)

c. Roseville, CA

Roseville has a 500 foot distance requirement between nightclubs and residential uses.

Code Language:

Chapter 19.49 NIGHTCLUBS

Definition

Eating and Drinking Establishments, includes establishments primarily engaged in the sale of prepared food and beverages for on-premise consumption, but excludes those uses classified under the "Bars and Drinking Places" and "Nightclubs." An Eating and Drinking Establishment that provides amplified live or recorded music and that provides space(s) for dancing or hold public dances under Municipal Code Section 9.40.030.H. shall be considered a Nightclub per Chapter 19.080.090.T. of the Zoning Ordinance.

19.49.010 Purpose

This chapter establishes standards for the location of nightclubs where permitted within any zone district. It is the intent of this chapter to minimize the adverse impacts of nightclubs on residences, neighborhoods and surrounding development by regulating the location of such uses. (Ord. 5428 § 1, 2014.)

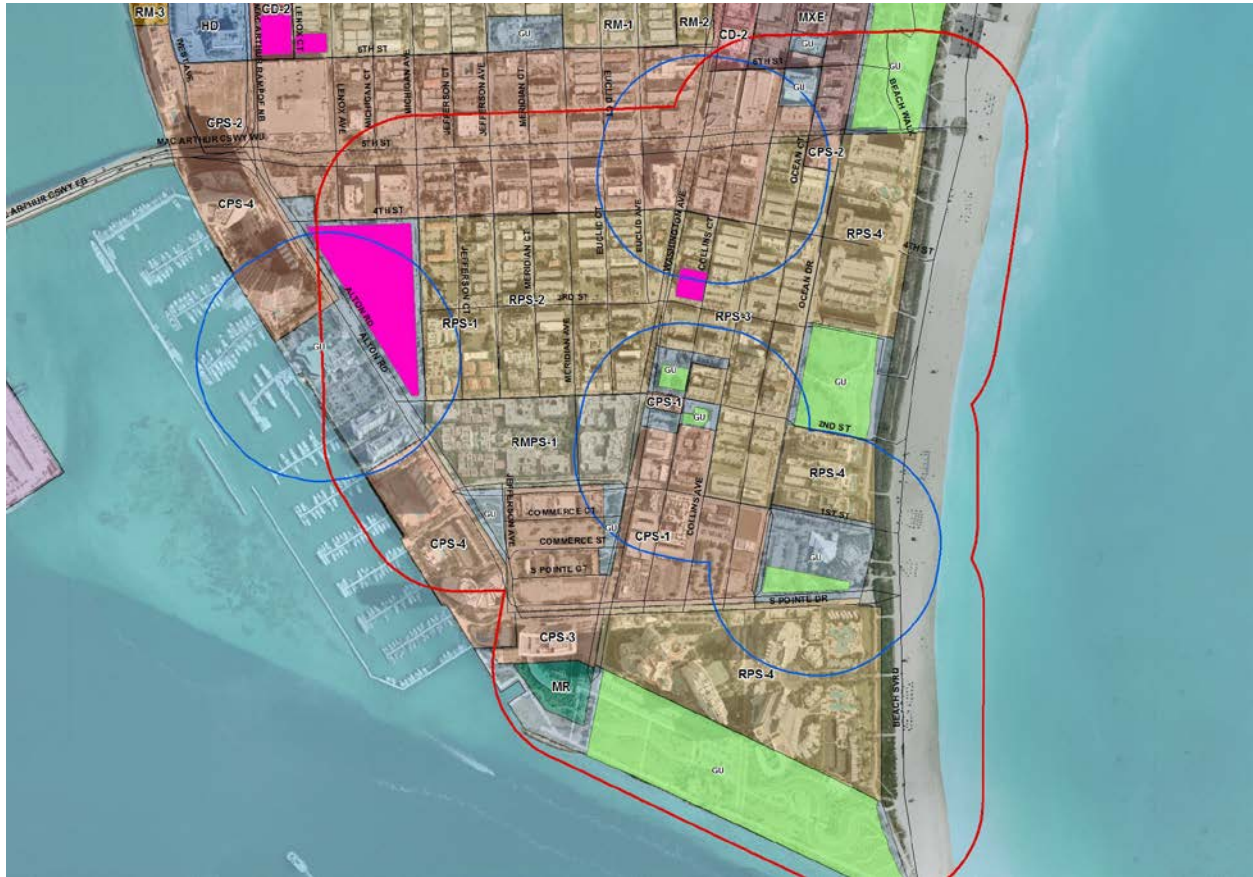
19.49.030 General standards

The following requirement applies to nightclubs where permitted within any zone district (except for nightclubs within the Downtown Specific Plan Area):

Nightclubs are prohibited to be located within 500 feet of a residential zone district as measured from the residential zone district boundary to the structure where the nightclub use is proposed. (Ord. 5428 § 1, 2014.)

I would recommend the regulation proposed by the City of Miami Beach over this one because, although both regulations would have the same effect of restricting entertainment entirely from the SOFI neighborhood, the Miami Beach regulation speaks more clearly to the intent of protecting the neighborhood as a whole.

Map of SOFI with Roseville Regulations Applied



(Prepared by the City of Miami Beach Planning Department)

d. San Francisco, CA

Within the Western SoMa Special Use District, San Francisco does not permit nighttime entertainment within 200 linear feet of any property within Residential or Residential Mixed Use Districts.

Code Language:

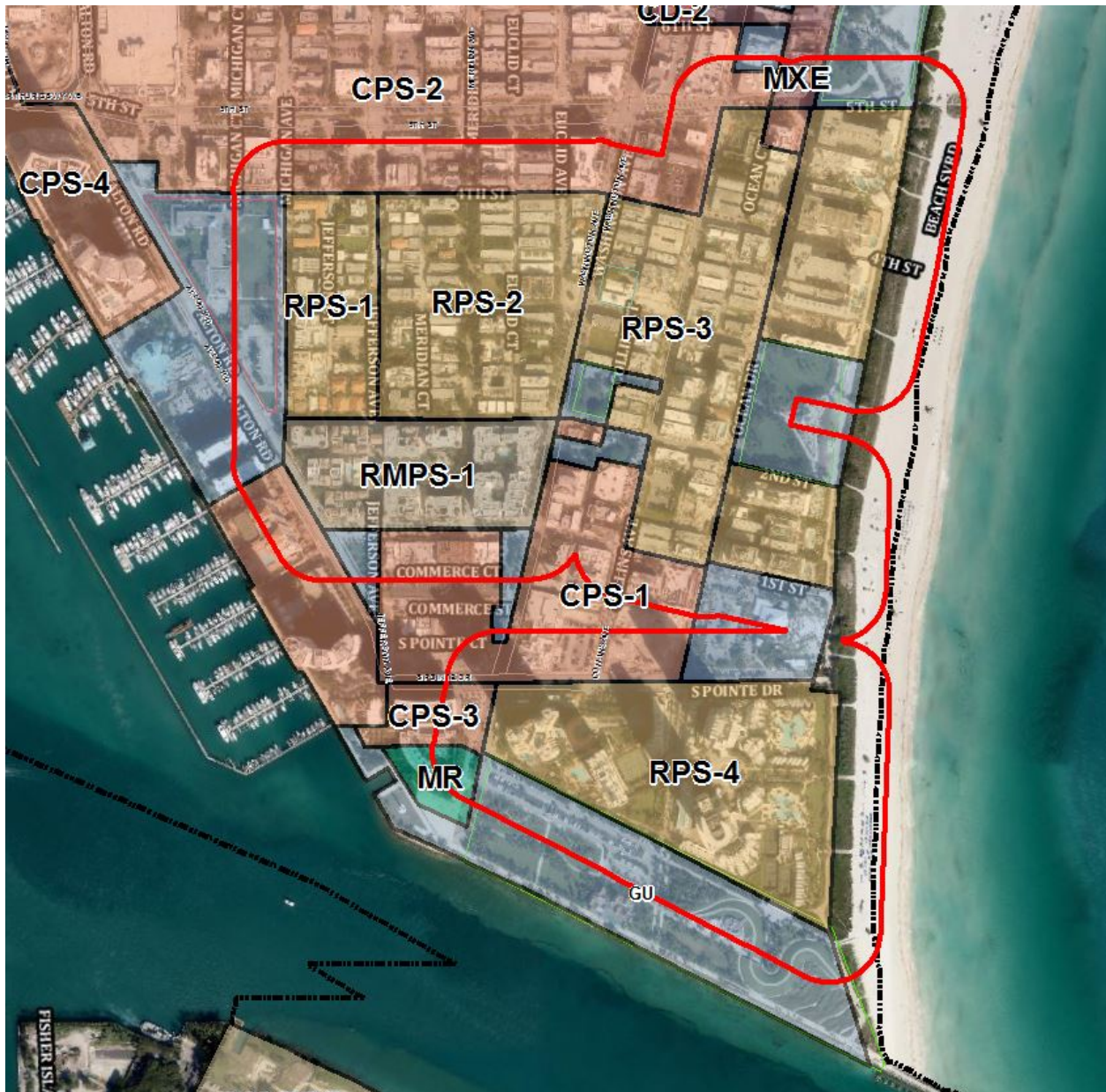
Definition of Nighttime Entertainment: Nighttime entertainment uses shall include dance halls, discotheques, nightclubs, private clubs and other similar evening-oriented entertainment activities, which require Place of Entertainment or Limited Live Performance permits, as defined in Section 1060 of the Police Code, which are not limited to non-amplified live entertainment, including restaurants and bars which present those activities.."

Sec. 823 Western SoMa Special Use District

Western SoMa Special Use District – Nighttime entertainment use are not permitted within 200 linear feet of any property within RED or RED MX District.

I would not recommend this solution for The City of Miami Beach because, although this regulation would restrict entertainment from most of the SOFI Neighborhood, it would still create gaps in the coverage which would result in conflicts between existing land uses. It would in effect allow an entertainment use in areas where new and existing residential uses are present.

Map of SOFI with San Francisco Regulations Applied



(Prepared by the City of Miami Beach Planning Department)

V. Conclusion

This document has reviewed the City of Miami Beach Comprehensive Plan, and the City of Miami Beach Land Development Regulations. It has analyzed potential impacts upon the character of the SOFI neighborhood, and reviewed the strategies used by numerous other cities to regulate Entertainment uses.

The City of Miami Beach has historically implemented regulations that encourage Entertainment uses in specific neighborhoods and limit them in neighborhoods such as SOFI which are primarily residential in character.

The City's actions in supporting and regulating Entertainment Districts and preserving the character of the SOFI neighborhood are directly linked to the City's Vision Statement which encourages:

"Cleaner and Safer; Beautiful and Vibrant; a Unique Urban and Historic Environment; *a Mature, Stable, Residential Community with Well – improved Infrastructure*; A Cultural Entertainment Tourism Capital; and International Center for Innovation and Resources".

In support of this Vision, and the Goals and Objectives of the Comprehensive Plan the City of Miami Beach implements Land Development regulations *"to achieve uses compatible with the City's twin goals of strong residential neighborhoods and the tourism/visitors economic base."*

Previous attempts to regulate Entertainment have proved to be ineffective as illustrated by City Commission and Planning Board transcripts, in which the concerns and impacts of Entertainment uses in a residential area have not been attenuated and continue to be voiced, demonstrating that the uses are incompatible.

The City's proposed regulation, which clarifies that Entertainment uses are not permitted in the City's Performance Standard (PS) Districts, meets the intent of PS District and the Goals and Objectives of the City's Comprehensive Plan. It ensures land use compatibility between residential and non-residential uses. This ordinance ensures the preservation of the residential character of the SOFI neighborhood while continuing to promote commercial activity in the area.

I have considered the City's past regulations and the ordinances that other cities have adopted to regulate Entertainment uses and I have concluded that the proposed ordinance is the best one for the City of Miami Beach.

Appendices

Appendices are listed below.