

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Planning Board

TO: Chairperson and Members
Planning Board

DATE: May 23, 2017

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB 17-0121. FAENA District Overlay – Works of Art**

REQUESTS

PB 17-0121. FAENA DISTRICT OVERLAY – WORKS OF ART AMENDMENT. AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS" ARTICLE III "OVERLAY DISTRICTS", DIVISION 10 "FAENA DISTRICT OVERLAY", TO ALLOW WORKS OF ART IN THE FAENA DISTRICT OVERLAY TO ENCROACH INTO THE REQUIRED YARDS SUBJECT TO COMPLIANCE WITH MINIMUM STANDARDS; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

RECOMMENDATION:

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

HISTORY

On March 1, 2017, at the request of Commissioner John Elizabeth Aleman, the City Commission referred the subject ordinance to the Land Use and Development Committee for discussion and recommendation (item C4I).

On March 8, 2017, the Land Use Committee discussed the proposal and recommended that the City Commission refer the Ordinance to the Planning Board.

On April 26, 2017, the Mayor and City Commission referred this item to the Planning Board for consideration (item C4I.)

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 are not proposed to be modified by the proposed Ordinance.

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

Consistent – As the City desires to encourage and allow properties within the Faena District Overlay to install and place works of art that are accessible to the public in outdoor locations, the passage of the proposed change is 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 proposed draft ordinance would amend Chapter 142, Article III, Division 10, of the Land Development Regulations of the City Code, pertaining to the FAENA District Overlay. The amendment would allow the Historic Preservation Board to review defined works of art located within required yards, subject to the Certificate of Appropriateness criteria in the City Code.

Specifically, the works of art, whether temporary or permanent, may be placed within any required yard of a property located within the Faena District Overlay subject to the following:

- a) It shall not be placed in or overhang above the public right-of-way unless a revocable permit is obtained pursuant to Chapter 82, Article III, Division 2, of the City Code.
- b) It shall not encroach into the safe sight triangle as depicted in the City Public Works Manual. The 15-foot sides of the safe sight triangle shall be measured from the edges of pavement of the two(2) intersecting roadways.
- c) It shall not diminish the clear width of a sidewalk to less than five (5) feet.
- d) It shall not diminish landscaping to a level that would make the landscaping nonconforming.
- e) It shall be subject to review and approval of a Certificate of Appropriateness by the

Historic Preservation Board.

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

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FAENA DISTRICT OVERLAY – WORKS OF ART AMENDMENT

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS" ARTICLE III "OVERLAY DISTRICTS", DIVISION 10 "FAENA DISTRICT OVERLAY", TO ALLOW WORKS OF ART IN THE FAENA DISTRICT OVERLAY TO ENCROACH INTO THE REQUIRED YARDS SUBJECT TO COMPLIANCE WITH MINIMUM STANDARDS; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

WHEREAS, the City desires to encourage and allow properties within the Faena District Overlay to install and place works of art that are accessible to the public in outdoor locations; and

WHEREAS, the City finds that it is not necessary or desirable for such works of art to be classified as a regular structure that would otherwise be subject to setback requirements applicable to structures; and

WHEREAS, the City desires to allow such works of art to encroach into the required yards for structures subject to meeting minimum placement standards;

WHEREAS, the amendment set forth below is 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, Article III entitled "Overlay Districts", Division 10 "Faena District Overlay" is hereby amended as follows:

DIVISION 10. FAENA DISTRICT OVERLAY

Sec. 142-868. Definitions.

For this Division, the following definitions shall apply:

* * *

3. *Works of art* means the application of skill and taste to the production of tangible objects according to aesthetic principles, including but not limited to paintings, sculptures, engravings, carvings, frescos, mobiles, murals, collages, mosaics, statues, bas-reliefs, tapestries, photographs and drawings, or combinations thereof.

* * *

Sec. 142-869. Compliance with regulations.

The following overlay regulations shall apply to the Faena District Overlay. All development regulations in the underlying regulations shall apply, except as follows:

* * *

(f) Installation of a work of art, whether temporary or permanent, may be placed within any required yard of a property located within the Faena District Overlay subject to the following:

- i. It shall not be placed in or overhang above the public right-of-way unless a revocable permit is obtained pursuant to Chapter 82, Article III, Division 2.
- ii. It shall not encroach into the safe sight triangle as depicted in the City Public Works Manual. The 15-foot sides of the safe sight triangle shall be measured from the edges of pavement of the two intersecting roadways.
- iii. It shall not diminish the clear width of a sidewalk to less than five (5) feet.
- iv. It shall not diminish landscaping to a level that would make the landscaping nonconforming.
- v. It shall be subject to review and approval of a Certificate of Appropriateness by the Historic Preservation Board.

* * *

SECTION 2. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, 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, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and, the word "ordinance" may be changed to "section", "article", or other appropriate word.

SECTION 3. REPEALER.

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

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

Underline = new language
~~Strikethrough~~ = deleted language