

18. PB25-0736. Ocean Terrace MXE Zoning District Change to CD-2 – LDR Overlay

MIAMI BEACH

Land Use Boards

Planning Board

TO: Planning Board
FROM: Thomas Mooney, Director
DATE: February 4, 2025
TITLE: PB25-0736. OCEAN TERRACE MXE ZONING DISTRICT CHANGE TO CD-2 –
LDR OVERLAY

PROPERTY

Ocean Terrace MXE Zoning District Change to CD-2 – LDR Overlay

FILE NO.

PB25-0736

APPLICANT

City of Miami Beach

IN RE:

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 7, ENTITLED “ZONING DISTRICTS AND REGULATIONS, ARTICLE 3, ENTITLED “OVERLAY DISTRICTS,” AT SECTION 7.3.6, “OCEAN TERRACE OVERLAY,” TO CLARIFY REGULATIONS PREVIOUSLY APPLICABLE TO THE PROPERTIES IN THE MXE DISTRICT WILL BE APPLICABLE TO PROPERTIES FRONTING OCEAN TERRACE; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY AND AN EFFECTIVE DATE.

PRIOR ORDER NUMBER:

Applicable Area

Citywide

**Is this a “Residents Right to Know” item,
pursuant to City Code Section 2-14?**

**Does this item utilize G.O. Bond
Funds?**

NEW COMPREHENSIVE PLAN & CODE AMENDMENTS (Filed pursuant to Chapter 2,
Arti... 18
Yes

No

MIAMIBEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: February 4, 2025

FROM: Thomas R. Mooney, AICP
Planning Director

^{DS}
 for TRM

SUBJECT: **PB24-0736. Ocean Terrace MXE Zoning District Change to CD-2 – LDR Overlay**

RECOMMENDATION

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

HISTORY / REQUEST

On May 15, 2024, at the request of Commissioner Tanya K. Bhatt, the Mayor and City Commission referred a proposal (C4 AD) to modify the zoning classification of the Ocean Terrace area from MXE to CD-2, to the Land Use and Sustainability Committee (LUSC) and the Planning Board. On September 5, 2024, the LUSC discussed the item and recommended that the Planning Board transmit the proposed ordinances (PB24-0727 & PB24-0728) to the City Commission with favorable recommendations.

On January 7, 2025, the Planning Board transmitted the referenced ordinances to the City Commission with favorable recommendations. For purposes of consistency, the subject companion ordinance clarifies the new zoning classification within the Ocean Terrace Overlay regulations for properties fronting Ocean Terrace.

REVIEW CRITERIA

Pursuant to Section 2.4.2 of the Resiliency Code, in reviewing a request for an amendment to these land development regulations (LDRs), 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.**

Consistent – The proposed LDR amendment 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 isolated 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 not create an isolated district.

4. Whether the proposed change would tax the existing load on public facilities and infrastructure.

Consistent – The proposed amendment does not increase loads on public facilities or infrastructures.

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

Satisfied – The boundaries are not illogically drawn.

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

Consistent – The pending change to the zoning classification from MXE to CD-2, 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 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 affect traffic congestion.

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

Consistent – The proposed change 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 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 7.1.2.4 of the LDRs 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.**

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 does not affect the resiliency of the City.

- (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.

ANALYSIS

On January 7, 2025, the Planning Board reviewed ordinances changing the zoning map designation, and future land use designation of the MXE district located in North Beach to CD-2. The subject area is also part of the Ocean Terrace Overlay, which has different development and use regulations from the underlying CD-2 and MXE zoning districts.

As the Ocean Terrace Overlay contains regulations specific to the underlying CD-2 and MXE districts, the text of the overlay regulations needs to be updated to reflect the pending zoning district change, which will change the MXE designation to CD-2. The subject ordinance amends the text of the overlay district to reflect this change, and no modifications to the development regulations or uses in the overlay are proposed.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the Planning Board transmit the proposed Ordinance to the City Commission with a favorable recommendation.

Ocean Terrace Overlay Map:



Ocean Terraces Overly Map with current CD-2 and MXE zoning districts:



Ocean Terrace MXE Zoning District Change to CD-2 – LDR Overlay

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 7, ENTITLED “ZONING DISTRICTS AND REGULATIONS, ARTICLE 3, ENTITLED “OVERLAY DISTRICTS,” AT SECTION 7.3.6, “OCEAN TERRACE OVERLAY,” TO CLARIFY REGULATIONS PREVIOUSLY APPLICABLE TO THE PROPERTIES IN THE MXE DISTRICT WILL BE APPLICABLE TO PROPERTIES FRONTING OCEAN TERRACE; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Ocean Terrace Overlay contains properties currently classified on the zoning map and future land use map as MXE (Mixed Use Entertainment) and CD-2 (Commercial, Medium Intensity); and

WHEREAS, the properties fronting Collins Avenue are currently zoned CD-2 and the properties fronting Ocean Terrace are currently zoned MXE; and

WHEREAS, companion ordinances will change the zoning and future land use map classifications from MXE to CD-2 for properties fronting Ocean Terrace; and

WHEREAS, to ensure the consistency and compatibility of future development, the subject ordinance will amend the Land Development Regulations of the City Code (LDR's) to clarify the new zoning classification in the ocean Terrace Overlay for properties fronting Ocean Terrace; and

WHEREAS, the amendment set forth below is necessary to accomplish the above.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

SECTION 2. Chapter 7, entitled “Zoning Districts and Regulations, Article 3, entitled “Overlay Districts,” at Section 7.3.6, “Ocean Terrace Overlay,” is hereby amended as follows:

CHAPTER 7

ZONING DISTRICTS AND REGULATIONS

* * *

ARTICLE 3. OVERLAY DISTRICTS

* * *

7.3.6 OCEAN TERRACE OVERLAY

* * *

7.3.6.2 Compliance with regulations (Ocean Terrace Overlay).

a. Setbacks.

* * *

2. Pedestal. Pedestal shall mean that portion of a building or structure which is equal to or less than 40 feet in height. The Historic Preservation Board may allow for an increase in

the pedestal height not to exceed 45 feet in height in accordance with the certificate of appropriateness criteria in chapter 2, article XIII of these land development regulations.

A. *Front:*

- I. For buildings situated on properties ~~with an underlying designation of CD-2 fronting Collins Avenue~~, 0 feet for the first 25 feet of building height, or the height of the existing building, whichever is greater. 5 feet for those portions of new buildings within the remaining pedestal height.
- II. For buildings situated on properties ~~with an underlying designation of MXE fronting Ocean Terrace~~, 5 feet for the first 20 feet of building height, or the height of the existing building, whichever is greater, 20 feet for those portions of new buildings within the remaining pedestal height.

B. *Side street.* For properties fronting 75th Street, zero (0) feet, regardless of the underlying zoning designation. For properties fronting 73rd or 74th Street, regardless of the underlying zoning designation, zero (0) feet for the first 20 feet of building height, or the height of the existing building, whichever is greater and 20 feet for those portions of new buildings within the remaining pedestal height.

C. *Side interior.*

- I. For buildings situated on properties ~~with an underlying designation of CD-2 fronting Collins Avenue~~, zero (0) feet.
- II. For buildings situated on properties ~~with an underlying designation of MXE fronting Ocean Terrace~~, 7.5 feet.

3. Tower. Tower means that portion of a building or structure which exceeds 40 feet in height. Notwithstanding the foregoing, should the Historic Preservation Board allow for an increase in the pedestal height not to exceed 45 feet in height, in accordance with the certificate of appropriateness criteria in chapter 2, article XIII of these land development regulations, the tower height shall be measured from the pedestal height approved by the Historic Preservation Board.

A. *Front.*

- I. For buildings situated on properties ~~with an underlying designation of CD-2 fronting Collins Avenue~~, 30 feet.
- II. For buildings situated on properties ~~with an underlying designation of MXE fronting Ocean Terrace~~, 55 feet.

* * *

b. ***Allowable encroachments and projections, consistent with section 7.5.3.2.o, within required yards.***

1. Exterior unenclosed private balconies and pool decks.

- A. For buildings situated on properties ~~with an underlying designation of CD-2 fronting Collins Avenue~~, allowable encroachment is 7 feet and 6 inches into any required yard.
- B. For buildings situated on properties ~~with an underlying designation of MXE fronting Ocean Terrace~~:
 - I. Allowable front yard encroachments are:
 - 1. 12 feet for the pedestal, and
 - 2. 10 feet for the tower.
 - II. Allowable side interior yard encroachment is 6 feet.

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 _____, 2025

Steven Meiner, Mayor

ATTEST:

Rafael E. Granado, City Clerk.

APPROVED AS TO FORM AND
LANGUAGE AND FOR EXECUTION

City Attorney

Date

First Reading: February 26, 2025
Second Reading: April 23, 2025

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

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CD2 LDR Overlay - PB ORD 2-4-2025.docx

MIAMIBEACH

PLANNING DEPARTMENT

1700 Convention Center Drive, Miami Beach, Florida 33139; Tel: 305.673.7550; Web: www.miamibeachfl.gov/planning

LAND USE BOARD HEARING APPLICATION

The following application is submitted for review and consideration of the project described herein by the land use board selected below. A separate application must be completed for each board reviewing the proposed project.

Application Information			
FILE NUMBER PB25-0736		Is the property the primary residence & homestead of the applicant/property owner? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (if "Yes," provide office of the property appraiser summary report)	
Board of Adjustment <input type="checkbox"/> Variance from a provision of the Land Development Regulations <input type="checkbox"/> Appeal of an administrative decision <input type="checkbox"/> Modification of existing Board Order		Design Review Board <input type="checkbox"/> Design review approval <input type="checkbox"/> Variance <input type="checkbox"/> Modification of existing Board Order	
Planning Board <input type="checkbox"/> Conditional Use Permit <input type="checkbox"/> Lot Split <input checked="" type="checkbox"/> Amendment to the Land Development Regulations or Zoning Map <input type="checkbox"/> Amendment to the Comprehensive Plan or Future Land Use Map <input type="checkbox"/> Modification of existing Board Order		Historic Preservation Board <input type="checkbox"/> Certificate of Appropriateness for design <input type="checkbox"/> Certificate of Appropriateness for demolition <input type="checkbox"/> Historic District/Site Designation <input type="checkbox"/> Variance <input type="checkbox"/> Modification of existing Board Order	
<input type="checkbox"/> Other:			
Property Information – Please attach Legal Description as "Exhibit A"			
ADDRESS OF PROPERTY N/A			
FOLIO NUMBER(S)			
Property Owner Information			
PROPERTY OWNER NAME N/A			
ADDRESS		CITY	STATE
			ZIPCODE
BUSINESS PHONE	CELL PHONE	EMAIL ADDRESS	
Applicant Information (if different than owner)			
APPLICANT NAME City of Miami Beach			
ADDRESS 1700 Convention Center Drive		CITY Miami Beach	STATE FL
			ZIPCODE 33139
BUSINESS PHONE 3056737550	CELL PHONE	EMAIL ADDRESS N/A	
Summary of Request			
PROVIDE A BRIEF SCOPE OF REQUEST SEE AFFIDAVIT			

Project Information			
Is there an existing building(s) on the site?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
If previous answer is "Yes", is the building architecturally significant per sec. 142-108?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
Does the project include interior or exterior demolition?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
Provide the total floor area of the new construction.		SQ. FT.	
Provide the gross floor area of the new construction (including required parking and all usable area).		SQ. FT.	
Party responsible for project design			
NAME		<input type="checkbox"/> Architect <input type="checkbox"/> Contractor <input type="checkbox"/> Landscape Architect <input type="checkbox"/> Engineer <input type="checkbox"/> Tenant <input type="checkbox"/> Other _____	
ADDRESS		CITY	STATE ZIPCODE
BUSINESS PHONE	CELL PHONE	EMAIL ADDRESS	
Authorized Representative(s) Information (if applicable)			
NAME		<input type="checkbox"/> Attorney <input type="checkbox"/> Contact <input type="checkbox"/> Agent <input type="checkbox"/> Other _____	
ADDRESS		CITY	STATE ZIPCODE
BUSINESS PHONE	CELL PHONE	EMAIL ADDRESS	
NAME		<input type="checkbox"/> Attorney <input type="checkbox"/> Contact <input type="checkbox"/> Agent <input type="checkbox"/> Other _____	
ADDRESS		CITY	STATE ZIPCODE
BUSINESS PHONE	CELL PHONE	EMAIL ADDRESS	
NAME		<input type="checkbox"/> Attorney <input type="checkbox"/> Contact <input type="checkbox"/> Agent <input type="checkbox"/> Other _____	
ADDRESS		CITY	STATE ZIPCODE
BUSINESS PHONE	CELL PHONE	EMAIL ADDRESS	

Please note the following information:


- A separate disclosure of interest form must be submitted with this application if the applicant or owner is a corporation, partnership, limited partnership or trustee.
- All applicable affidavits must be completed and the property owner must complete and sign the "Power of Attorney" portion of the affidavit if they will not be present at the hearing, or if other persons are speaking on their behalf.
- To request this material in alternate format, sign language interpreter (five-day notice is required), information on access for persons with disabilities, and accommodation to review any document or participate in any City sponsored proceedings, call 305.604.2489 and select (1) for English or (2) for Spanish, then option 6; TTY users may call via 711 (Florida Relay Service).

Please read the following and acknowledge below:

- Applications for any board hearing(s) will not be accepted without payment of the required fees. All checks are to be made payable to the "City of Miami Beach".
- All disclosures must be submitted in CMB Application format and be consistent with CMB Code Sub-part A Section 2-482(c):
 - (c) If the lobbyist represents a corporation, partnership or trust, the chief officer, partner or beneficiary shall also be identified. Without limiting the foregoing, the lobbyist shall also identify all persons holding, directly or indirectly, a five percent or more ownership interest in such corporation, partnership, or trust.
- Public records notice – All documentation submitted for this application is considered a public record subject to Chapter 119 of the Florida Statutes and shall be disclosed upon request.
- In accordance with the requirements of Section 2-482 of the code of the City of Miami Beach, any individual or group that will be compensated to speak or refrain from speaking in favor or against an application being presented before any of the City's land use boards, shall fully disclose, prior to the public hearing, that they have been, or will be compensated. Such parties include: architects, engineers, landscape architects, contractors, or other persons responsible for project design, as well as authorized representatives attorneys or agents and contact persons who are representing or appearing on behalf of a third party; such individuals must register with the City Clerk prior to the hearing.
- In accordance with Section 118-31. – Disclosure Requirement. Each person or entity requesting approval, relief or other action from the Planning Board, Design Review Board, Historic Preservation Board or the Board of Adjustment shall disclose, at the commencement (or continuance) of the public hearing(s), any consideration provided or committed, directly or on its behalf, for an agreement to support or withhold objection to the requested approval, relief or action, excluding from this requirement consideration for legal or design professional service rendered or to be rendered. The disclosure shall: (I) be in writing, (II) indicate to whom the consideration has been provided or committed, (III) generally describe the nature of the consideration, and (IV) be read into the record by the requesting person or entity prior to submission to the secretary/clerk of the respective board. Upon determination by the applicable board that the foregoing disclosure requirement was not timely satisfied by the person or entity requesting approval, relief or other action as provided above, then (I) the application or order, as applicable, shall immediately be deemed null and void without further force or effect, and (II) no application form said person or entity for the subject property shall be reviewed or considered by the applicable board(s) until expiration of a period of one year after the nullification of the application or order. It shall be unlawful to employ any device, scheme or artifice to circumvent the disclosure requirements of this section and such circumvention shall be deemed a violation of the disclosure requirements of this section.
- When the applicable board reaches a decision a final order will be issued stating the board's decision and any conditions imposed therein. The final order will be recorded with the Miami-Dade Clerk of Courts. The original board order shall remain on file with the City of Miami Beach Planning Department. Under no circumstances will a building permit be issued by the City of Miami Beach without a copy of the recorded final order being included and made a part of the plans submitted for a building permit.

The aforementioned is acknowledged by:

☐ Owner of the subject property ☒ Authorized representative



SIGNATURE
David Martinez

PRINT NAME
1/24/25

DATE SIGNED

AFFIDAVIT

I, David Martinez, being duly sworn, depose and say that I am the Assistant City Manager of the City of Miami Beach and as such, have been authorized by the city, to file the following application for a Planning Board public hearing:

PB25-0736. Ocean Terrace MXE Zoning District Change to CD-2 – LDR Overlay. AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 7, ENTITLED "ZONING DISTRICTS AND REGULATIONS, ARTICLE 3, ENTITLED "OVERLAY DISTRICTS," AT SECTION 7.3.6, "OCEAN TERRACE OVERLAY," TO CLARIFY REGULATIONS PREVIOUSLY APPLICABLE TO THE PROPERTIES IN THE MXE DISTRICT WILL BE APPLICABLE TO PROPERTIES FRONTING OCEAN TERRACE; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY AND AN EFFECTIVE DATE.

This instrument is executed pursuant to the requirements of the Planning Department and attests to the accuracy of the above statement. Execution hereof does not constitute approval or disapproval of the application which it addresses.



ASSISTANT CITY MANAGER'S SIGNATURE

STATE OF FLORIDA)

) SS

COUNTY OF MIAMI-DADE)

Sworn to and subscribed before me this 27th day of January, 2024. The foregoing instrument was acknowledged before me by David Martinez, who is personally known to me and who did/did not take an oath.

My commission expires:



NOTARY PUBLIC

STATE OF FLORIDA

(Type, print or stamp name)



NAIMA DE PINEDO
Notary Public
State of Florida
Comm# HH284392
Expires 9/26/2026