

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: November 19, 2019

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB 19-0328. Prohibited Uses Along 71st Street and Normandy Drive.**

REQUEST

PB 19-0328. Prohibited Uses Along 71st Street and Normandy Drive. AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, SUBPART B, ENTITLED "LAND DEVELOPMENT REGULATIONS," BY AMENDING CHAPTER 142, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, ENTITLED "DISTRICT REGULATIONS," DIVISION 5, ENTITLED "CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT, AND DIVISION 21, ENTITLED "TOWN CENTER-CENTRAL CORE (TC-C) DISTRICT," TO AMEND THE PROHIBITED USE REGULATIONS; AND 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 September 11, 2019, at the request of Commissioner Micky Steinberg, the City Commission referred a discussion item to the Land Use and Development Committee (LUDC) pertaining to a proposed ordinance to expand prohibited uses along 71st Street and Normandy Drive to include package stores, vaping and smoke stores, tattoo parlors and related uses (item C4 X).

On September 18, 2019 the LUDC discussed the proposal and recommended that the City Commission refer the attached ordinance to the Planning Board for consideration.

On October 16, 2019 the City Commission referred the item to the Planning Board for review and recommendation (item C4 N).

REVIEW CRITERIA

Pursuant to Section 118-163 of the City Code, in reviewing a request for an amendment to these land development regulations, 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 ordinance is 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.**

Consistent - The proposed ordinance amendment is not out of scale with the surrounding neighborhood.

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

Consistent – The proposed ordinance will not affect the load on public facilities and infrastructure.

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

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

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

Consistent – The need to ensure that the quality of retail in the affected area enhances the surrounding neighborhood 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 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 create or increase traffic congestion from what is currently permitted.

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

Consistent – The proposed change will not seriously 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 proposed change should 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 133-50(b) of the Land Development Regulations 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.**

Partially 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 will not affect the resiliency of the City with respect to sea level rise.

- (3) **Whether the proposal is compatible with the City's sea level rise mitigation and resiliency efforts.**

Consistent – The proposal does not diminish and is compatible with the City's sea level rise mitigation and resiliency efforts.

ANALYSIS

Certain nuisance uses such as pawnshops, souvenir and t-shirt shops, tattoo studios, fortune tellers (occult science establishments), and package liquor stores affect the character of neighborhoods in a negative way, as they detract from the experience that tourists and residents are seeking. Businesses which provide greater economic opportunity, such as restaurants, retail, and offices are detracted because of the negative curb appeal created by the aforementioned uses. Residential development opportunities may also be reduced because of the negative connotations created by such uses.

The City is trying to encourage revitalization of the North Beach area. It is the goal of the City to

create an area for residents to live, work, and play, in addition to providing for economic development. In order to enhance the conditions for such revitalization, it is beneficial that the aforementioned uses not be permitted in the area.

Recently, legislation was adopted by the City Commission prohibiting tobacco/vape dealer uses along 41st Street and Lincoln Road. In order to preserve and enhance the retail and pedestrian character of 71st Street and Normandy Drive in the RM-3, TC-C and CD-2 districts, the LUDC held a discussion on September 18, 2019, pertaining to a similar ordinance for areas within North Beach.

The LUDC recommended that the following uses be prohibited within the TC-C district, as well as the CD-2 district along Normandy Drive:

1. Tobacco and vape dealers;
2. Package liquor stores;
3. Check cashing stores;
4. Occult science establishments;
5. Tattoo studios.

Similar prohibitions or limitations exist along Lincoln Road and within Art Deco/MiMo Commercial Character Overlay District, which generally includes the Ocean Terrace area and the South Beach MXE district.

The attached draft ordinance contains the aforementioned prohibitions within the applicable districts.

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.

Prohibited Uses Along 71st Street and Normandy Drive

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, SUBPART B, ENTITLED "LAND DEVELOPMENT REGULATIONS," BY AMENDING CHAPTER 142, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, ENTITLED "DISTRICT REGULATIONS," DIVISION 5, ENTITLED "CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT, AND DIVISION 21, ENTITLED "TOWN CENTER-CENTRAL CORE (TC-C) DISTRICT," TO AMEND THE PROHIBITED USE REGULATIONS; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City's land development regulations include regulations for permitted, accessory, conditional, and prohibited uses in the CD-2 and TC-C districts; and

WHEREAS, provisions for certain types of uses within the CD-2 and TC-C districts in North Beach are necessary and desirable; and

WHEREAS, the City seeks to encourage the revitalization of the North Beach Town Center and Normandy Drive area by providing residents and visitors with a unique cultural, retail, and dining experience and are vital to Miami Beach's economy, especially the tourism industry; and

WHEREAS, tobacco and vape dealers, check cashing stores, pawnshops, souvenir and t-shirt shops, tattoo studios, fortune tellers (occult science establishments), and package liquor stores are uses which negatively affect surrounding areas and detract from the unique cultural, retail, and dining experiences which are envisioned for the North Beach area; and

WHEREAS, the aforementioned uses limit the attractiveness of an area to other retail and restaurant uses which are more desirable for the North Beach area; and

WHEREAS, it is the intent of the City to limit the proliferation of establishments which may negatively affect surrounding areas in the North Beach area where revitalization is sought; and

WHEREAS, the proposed changes are necessary in order to promote sustainable mixed-use development within the CD-2 and TC-C districts in North Beach.

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 5. "CD-2 Commercial, Medium Intensity District," is hereby amended as follows:

CHAPTER 142 - ZONING DISTRICTS AND REGULATIONS

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ARTICLE II. – DISTRICT REGULATIONS

* * *

DIVISION 5. - CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT

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Sec. 142-305. - Prohibited uses.

The prohibited uses in the CD-2 commercial, medium intensity district are accessory outdoor bar counters, except as provided in article IV, division 2 of this chapter and in chapter 6. Except as otherwise provided in these land development regulations, prohibited uses in the CD-2 commercial medium intensity district also include the following:

- (a) In the Sunset Harbour Neighborhood, generally bounded by Purdy Avenue, 20th Street, Alton Road and Dade Boulevard, ~~also include~~ hostels, outdoor entertainment establishments, neighborhood impact establishments, open air entertainment establishments, bars, dance halls, and entertainment establishments (as defined in section 114-1 of this Code).
- (b) Along Normandy Drive, tobacco and vape dealers, package liquor stores, check cashing stores, occult science establishments, and tattoo studios.

* * *

SECTION 2. Chapter 142, "Zoning Districts and Regulations," Article II. "District Regulations," Division 21. "Town Center-Central Core (TC-C) District," is hereby amended as follows:

CHAPTER 142 - ZONING DISTRICTS AND REGULATIONS

* * *

ARTICLE II. – DISTRICT REGULATIONS

* * *

DIVISION 21. - TOWN CENTER-CENTRAL CORE (TC-C) DISTRICT

* * *

Sec. 142-741. - Main permitted uses, accessory uses, exception uses, special exception uses, conditional uses, and prohibited uses and supplemental use regulations.

Land uses in the TC-C district shall be regulated as follows:

- (a) The main permitted, accessory, conditional, and prohibited uses are as follows:

General Use Category

Residential Uses

Apartments and townhomes	P
Co-living	P
Live-work	P
Single-family detached dwelling	P

Hotel Uses

Hotel	P
Micro-hotel	P

Commercial Uses

Alcoholic beverage establishments	P
Artisanal retail for on-site sales only	P
Grocery store	P
Indoor entertainment establishment	P
Neighborhood fulfillment center	P
Offices	P
Restaurants	P
Retail	P
Outdoor café	P
Outdoor bar counter	A
Sidewalk café	A
Artisanal retail with off-site sales	C
Day care facility	C
Public and private institutions	C
Religious institution	C
Schools	C
Commercial establishment over 25,000 SF	C
Retail establishment over 25,000 SF	C
Neighborhood impact establishment	C
Outdoor and open air entertainment establishment	C
<u>Pawnshop, tobacco and vape dealers, package liquor stores, check cashing stores, occult science establishments, and tattoo studios.</u>	N

P = Main Permitted Use,
C = Conditional Use,
N = Prohibited Use,
A = Accessory only

* * *

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

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, as amended. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section" or other appropriate word.

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

This Ordinance shall take effect the _____ day of _____, 2020.

PASSED AND ADOPTED this _____ day of _____, 2020.

ATTEST:

Rafael E. Granado, City Clerk

APPROVED AS TO FORM
AND LANGUAGE
AND FOR EXECUTION

City Attorney

Date _____

First Reading: _____, 2019

Second Reading: _____, 2020

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