

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: August 25, 2020

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB20-0384. R-PS4 Regulations to permit neighborhood impact establishments as a conditional use.**

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 of the city code entitled "Zoning Districts and Regulations," Article II, entitled "District Regulations," Division 18, entitled "PS Performance Standard District," by amending Section 142-693, entitled "Permitted Uses," to permit neighborhood impact establishments as a conditional use when such use is accessory to oceanfront apartment buildings with 300 units or more and, further, to permit such neighborhood impact establishments approved by the planning board as a conditional use to operate in outdoor areas above the ground floor, with a maximum patron-occupant load of 250 persons, subject to specific use limitations ; and providing for Codification, Repealer, Severability, and an Effective Date.

RECOMMENDATION

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

HISTORY

On June 24, 2020, at the request of Commissioner Ricky Arriola, the City Commission referred an ordinance amending the regulations for Neighborhood Impact Establishments (NIE) in the R-PS4 district to the Land Use and Sustainability Committee (LUSC) and the Planning Board (Item C4 B). On July 21, 2020 the LUSC discussed the proposal and recommended that the Planning Board transmit the proposed ordinance to the City Commission with a favorable recommendation.

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 will 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 will not modify the scale of development for the 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 as the maximum FAR is not modified.

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 allow for the reuse of a commercial space in an existing building 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 as it contains many safeguards to minimize potential impacts.

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 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.

Partially Consistent – The commercial could be subdivided and developed with the existing zoning regulations.

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 impact the resiliency of the City with respect to sea level rise by allowing for new development that is more resilient.

(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

The attached ordinance has been prepared on behalf of Oche, a dart club from Norway, who recently signed a lease to operate in the space formerly occupied by CIBO at the intersection of South Pointe Drive and Ocean Drive. Oche is requesting amendments to the land development regulations within the RPS-4 zoning district in order to be able to operate as a Neighborhood Impact Establishment (NIE) in the space.

Although Oche does not have an entertainment component, it is an alcoholic beverage establishment with an occupational content that is over 300 persons. Under the City code, any venue serving alcohol that has an occupational content greater than 300 persons falls under the definition of an NIE. In the RPS-4 district, NIE's are generally prohibited.

In order to allow for Oche to operate, the amendments are proposed to allow an NIE for accessory uses approved as a conditional use in the RPS-4 district. Specifically, accessory uses approved as a conditional use to oceanfront apartment buildings with more than 300 units, located adjacent to a park and in a separate building from the primary use with a minimum square footage of 8,000 square feet would be subject to the following restrictions:

1. A maximum patron-occupant load of no more than 250 individuals located on an open level above the ground floor. The patron- occupant load shall be determined by the Fire Marshall;
2. The open level above the ground floor shall not be occupied past 8:00 PM;
3. Outdoor music and television sets, whether amplified or nonamplified, shall be prohibited in open level above the ground floor;
4. Outdoor bar counters shall be prohibited;
5. Special event permits are prohibited;
6. Notwithstanding the prohibition set forth in 142-693(i)(2), alcoholic beverages are permitted in this open level above the ground floor permitted by this subsection until 8:00 PM;
7. Any open area above the ground floor shall only be open when the restaurant is open serving full meals.
8. With regard to ground floor outdoor areas the following restrictions shall apply:
 - a. Outdoor bar counters shall be prohibited;
 - b. There shall be no issuance of any special event permit for this area;
 - c. This area shall not be occupied past 12:00 AM midnight.
9. With regard to the interior area of this separate accessory use building, as defined herein, the following restrictions shall apply:
 - a. The area shall not be occupied past 2:00 AM;
 - b. There shall be no issuance of any special event permit for this area.

Staff is supportive of this limited amendment, as it would allow for an existing space to operate in accordance with the built-out design. Absent this amendment, the space would have to be subdivided into separate, smaller uses, in order to serve alcohol, or utilized as a large retail space.

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.