

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: November 17, 2020

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: **PB 20-0399. CD-2 Alton Road Outdoor Movie Theaters – Revised Boundaries.**

An Ordinance of the Mayor and City Commission of the City of Miami Beach, Florida, amending the code of the City of Miami Beach, Florida, by amending chapter 142, entitled "Zoning Districts and Regulations," Article II, "District Regulations," Division 5, "CD-2 Commercial, Medium Intensity District," section 142-310, entitled "Special Regulations for Alcohol Beverage Establishments," to modify the boundaries for outdoor motion picture theaters and accessory outdoor bar counters; and providing for Codification, Repealer, Severability, and an Effective Date.

#### **RECOMMENDATION**

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

#### **BACKGROUND**

On February 12, 2020, at the request of Commissioner Ricky Arriola, the City Commission referred a discussion item to allow outdoor movie theaters to the Land Use and Sustainability Committee (Item C4 X), pertaining to outdoor movie theatres on Alton Road. The item was discussed at the February 18, 2020 LUSC meeting and continued to March 17, 2020. The March 17, 2020 LUSC meeting was cancelled. The LUSC reviewed the proposal on May 6, 2020 and recommended that the City Commission discuss the proposed ordinance and proposal. The LUSC did not make a formal recommendation.

On May 13, 2020, at the request of Commissioner Ricky Arriola, the City Commission referred the item to the Planning Board (item R9 B). On June 24, 2020 the Planning Board held a public hearing and transmitted the ordinance with modifications to the City Commission with a favorable recommendation by a vote of 6-0.

On July 29, 2020 the City Commission approved the ordinance at first reading with modifications. The City Commission, at the request of Vice Mayor Mark Samuelian, requested that the City Attorneys Office and the administration work with him to bring back amendments at second reading regarding the boundaries of the proposal, as well as the impact on the surrounding area.

On September 16, 2020 the City Commission adopted the ordinance with amendments (ordinance no. 2020-4358). The City Commission also referred a separate ordinance to the



Planning Board to shorten the geographic boundaries of the area where outdoor movie theaters are allowed.

### **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.**

**Consistent** – The proposed amendment does not change 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 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.**

**Consistent** – The proposal 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 residential areas are not impacted by outdoor movie theaters 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 impact 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 is compatible with the City's sea level rise mitigation and resiliency efforts.



### **ANALYSIS**

Ordinance 2020-4358 authorized outdoor movie theaters as a conditional use in CD-2 districts fronting the west side of Alton Road between 5<sup>th</sup> Street and Collins Canal. As the item was being considered by the City Commission, concerns were raised that a proliferation of outdoor theatre uses might impact surrounding residents in certain portions of the corridor.

In order to minimize potential impacts of the outdoor movie theaters on residents, the City Commission referred a separate ordinance to the Planning Board that limits the allowable geographic boundaries for outdoor theatres. In this regard, such uses should be located in close proximity to Lincoln Road, which tends to contain the most intense commercial uses along the Alton Road corridor. This also ensures that the theaters are within easy access to the many tourists and residents that are shopping, dining, and enjoying the Lincoln Road corridor, thus ensuring the success of the use.

The proposed ordinance includes a simple modification to the boundaries that were established in ordinance 2020-4358. The proposal reduces the boundaries for outdoor theatres so that they are only permitted as a conditional use in CD-2 districts fronting the west side of Alton Road between 16<sup>th</sup> Street and Collins Canal. Staff is supportive of this proposed amendment and recommends approval.

### **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.





**CD-2 Alton Road Outdoor Movie Theaters – Revised Boundaries**

**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, FLORIDA, BY AMENDING CHAPTER 142, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS," DIVISION 5, "CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT," SECTION 142-310, ENTITLED "SPECIAL REGULATIONS FOR ALCOHOL BEVERAGE ESTABLISHMENTS," TO MODIFY THE BOUNDARIES FOR OUTDOOR MOTION PICTURE THEATERS AND ACCESSORY OUTDOOR BAR COUNTERS; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the Mayor and City Commission desire to encourage innovative and compatible redevelopment in the Alton Road Corridor; and

**WHEREAS**, outdoor motion picture theater uses are an innovative entertainment use that will help encourage the commercial success of the Alton Road area; and

**WHEREAS**, the operational conditions set forth in this Ordinance will promote compatibility and mitigate impacts to the neighborhood associated with outdoor motion picture theaters; AND

**WHEREAS**, the reduction in the areas permitted to have outdoor theatres will further enhance compatibility, and mitigate impacts to the neighborhood associated with outdoor motion picture theaters.

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

**SECTION 1.** Chapter 142 of the City Code, entitled "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**

\* \* \*

**ARTICLE II. – DISTRICT REGULATIONS**

\* \* \*

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

\* \* \*

**Sec. 142-310. - Special regulations for alcohol beverage establishments.**

- (a) *Alton Road corridor*. The following additional requirements shall apply to alcoholic beverage establishments, whether as a main use, conditional use, or accessory use, that are located on the west side of Alton Road and east of Alton Court, between 5th Street and 11th Street, and between 14th Street and Collins Canal; and properties on the east side of West Avenue, between Lincoln Road and 17th Street, except alcoholic beverage establishments fronting Lincoln Road between West Avenue and Alton Road:

\* \* \*

- (8) Notwithstanding the foregoing, for properties located between 16<sup>th</sup> Street and Collins Canal, outdoor motion picture theaters with accessory outdoor bar counters may be permitted, including on rooftops, subject to conditional use approval pursuant to chapter 118, article IV, and subject to the following operational limitations:

- a. The outdoor motion picture theater use shall front on Alton Road.
- b. No television, radio, and/or recorded background music may exceed an ambient volume level (i.e. a volume that does not interfere with normal conversation). On rooftops, audio from motion picture presentations shall only be delivered to patrons through individually-worn headphones.
- c. Movie projectors and related equipment, as well as all theater screens or displays, shall be oriented away from immediately neighboring residential areas, and projections may not be substantially visible from the right-of-way. The projection system shall be designed so as not to negatively impact adjacent residential areas.
- d. Outdoor motion picture theaters shall be limited to no more than one (1) screen or display per establishment.
- e. Outdoor motion picture theaters shall commence operations no earlier than 4:30 p.m. and shall cease operations no later than 12:00 a.m. on weekdays and 1:00 a.m. on weekends. Any accessory bar counter shall commence operations no earlier than 4:30 p.m. and shall cease operations no later than 11:00 p.m. on weekdays and 12:00 a.m. on weekends. The accessory bar counter may be open and operational only during times when the theater use is operational.
- f. Outdoor motion picture theaters shall have no more than three (3) movie showings per night.
- g. Any outdoor bar counter shall be located away from immediately neighboring residential areas and shall not be substantially visible from the right-of-way.
- h. The area surrounding any bar counter in which alcoholic beverages may be served shall be segregated to comply with the applicable requirements of chapter 6 of this Code, and. Additionally, this bar area, as well as any area that allows for the congregation of non-seated patrons, shall incorporate sound attenuation devices in order to reduce the level of noise. Such sound

attenuation devices must be submitted as part of a sound study prepared by a licensed acoustical engineer, peer reviewed, and presented to the planning board as part of the review of the CUP application. The sound study shall include methods of absorbing and or re-directing sound and noise generated by ambient music and patron conversation.

- i. Theater seats shall be required at all times and shall not be removed from the movie viewing areas during all times the business is open. This shall not preclude the temporary removal of seats for cleaning and maintenance purposes.

**SECTION 2. 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 renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

**SECTION 3. REPEALER.** All ordinances or parts of ordinances and all section and parts of sections 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 \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Dan Gelber  
Mayor

**ATTEST:**

\_\_\_\_\_  
Rafael E. Granado  
City Clerk

APPROVED AS TO  
FORM AND LANGUAGE  
& FOR EXECUTION

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date

First Reading: November 18, 2020

Second Reading: December 9, 2020

Verified by: \_\_\_\_\_  
Thomas Mooney, AICP  
Planning Director

