

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: October 26, 2021

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: **PB21-0471. Retail Fulfillment Centers.**

#### **RECOMMENDATION**

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

#### **HISTORY**

On September 17, 2021, at the request of Commissioner Steven Meiner, the City Commission referred the proposed Ordinance to the Planning Board (item C4 X).

#### **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 create an isolated district unrelated to adjacent or nearby 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 modify the scale of development.
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 floor area ratio (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** – Trends in localized e-commerce that has the potential to impact neighborhoods 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 is intended to prevent impacts from neighborhood fulfillment centers.

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, as the FAR is not being modified by this ordinance and the intensity of uses is not proposed to be increased.

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

**Consistent** – The proposed change would 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 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.**

**Partially Consistent** – The proposal does 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 is compatible with the City's sea level rise mitigation and resiliency efforts.

**ANALYSIS**

Due to the growth of online retailing, the face of brick and mortar retail is also changing, and the potential exists to impact neighborhoods if localized online retailers are not properly regulated. One such type of use is a retail fulfillment center, which is a relatively small establishment that is similar to convenience stores. Retail fulfillment centers rely primarily on quickly delivering goods that are sold online. The rapid purchase and delivery time for the sale of goods to a larger service area could, potentially, impact traffic throughout the day, as opposed to a more traditional walk in convenience or grocery store. However, that would need to be compared to the traffic generated by the number of single trips made by customers to such establishments. Additionally, because the potential exists to sell more goods than a convenience store of a similar size, there may be increased demands for loading than would otherwise be expected.

The City's current Land Development Regulations (LDR's) are more specific to traditional retail establishments. Because the LDRs do not define "retail fulfillment centers," establishments similar in nature to retail fulfillment centers have been treated as convenience stores, provided that an appropriate amount of in person sales and storefront visibility are provided. Convenience stores are generally allowed in most commercial districts, except certain overlays where they are either prohibited or limited in number.

In order to allow for appropriate regulations, the proposed amendment creates the following definition for retail fulfillment center:

*Retail fulfillment center shall mean a retail establishment, not licensed as an adult bookstore or adult entertainment establishment, where goods are primarily sold online and delivered directly to a person's home or place of business. Such goods shall not include the sale of any type of alcoholic beverage, nor the sale of cannabis (or marijuana), cannabis derivative products, or cannabis delivery devices, nor the sale of any type of tobacco product, vaping, vapor-generating electronic device, or smoking device. Such establishment must also have an active storefront, along all sidewalk facing portions of the building, that is open to the general public at least eight hours per day. The active storefront must have a minimum depth of 15 feet and a minimum area of 700 square feet. Retail fulfillment centers shall be limited to no more than 7,000 square feet. Goods sold by a retail fulfillment center may include goods similar to those that are sold in a convenience store, except for those products identified in this paragraph.*

The proposed amendment also adds a clarification to the definition for "convenience stores" to ensure that publicly accessible sales areas are at least 60% of the floor area of the store.

Since such uses are relatively new, there is not significant research available that adequately describes the impact of these types of establishments. So that these impacts can be properly analyzed, the proposed ordinance prohibits retail fulfillment centers in all zoning districts. The proposed language provides that the use can be specifically authorized in underlying zoning districts either as a main permitted use or a conditional use; however the inclusion of this use in specific zoning districts could only take place as a separate amendment.

Staff is supportive of the proposed Ordinance as it creates a much-needed definition for retail fulfillment centers and clarifies the distinction from convenience stores. Staff does believe that, if properly regulated, a retail fulfillment center would be an appropriate use within certain areas of the City. Some commercial areas worthy of consideration include 71<sup>st</sup> Street in the North Beach Town Center, 41<sup>st</sup> Street, as well as the Alton Road and 5<sup>th</sup> Street corridors due to direct access to the major causeways. Within these areas of the City, it is suggested that such uses either be a conditional use, or contain specific criteria regarding hours, delivery, loading and operation, that are fully codified. It is also suggested that the number of such establishments be limited in each of the areas to avoid an over concentration.

In addition to transmitting the proposed Ordinance to the City Commission with a favorable recommendation, staff recommends that the Planning Board discuss and consider a recommendation to the City Commission to refer a separate Ordinance authorizing retail fulfillment centers in specific areas of the City, and in accordance with the limitations noted above.

### **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.

## **Retail Fulfillment Centers**

**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 114 OF THE CITY CODE, ENTITLED "GENERAL PROVISIONS," AT SECTION 114-1, "DEFINITIONS," TO AMEND THE DEFINITION OF CONVENIENCE STORE AND CREATE A DEFINITION FOR "RETAIL FULFILLMENT CENTER"; AMENDING CHAPTER 142, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE I, ENTITLED "GENERAL TO ALL ZONING DISTRICTS," BY CREATING SECTION 142-4, ENTITLED "NEIGHBORHOOD AND RETAIL FULFILLMENT CENTERS," TO CREATE CITYWIDE REGULATIONS FOR NEIGHBORHOOD AND RETAIL FULFILLMENT CENTERS; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, due to the advent of online retailing, economic conditions are changing, thereby impacting the market for traditional brick-and-mortar retailers; and

**WHEREAS**, the City of Miami Beach (the "City") desires to amend its Land Development Regulations to provide regulations for new uses which, due to changing economic conditions, may be introduced in the future; and

**WHEREAS**, retail fulfillment centers allow for goods to be purchased online and delivered to customers, while maintaining active storefronts which contribute to an active pedestrian realm; and

**WHEREAS**, due to their impacts on pedestrian, bicycle, and vehicular traffic, and compatibility with existing development, neighborhood fulfillment centers and retail fulfillment centers should only be permitted in certain areas of the City; and

**WHEREAS**, the City has the authority to enact laws which promote the public health, safety, general welfare, and morals of its citizens; and

**WHEREAS**, the amendments set forth below are 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 114 of the City Code, entitled "General Provisions," is hereby amended as follows:

### **CHAPTER 114 GENERAL PROVISIONS**

#### **Sec. 114-1. Definitions.**

The following words, terms and phrases when used in this subpart B, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

\* \* \*  
\* \* \*

*Convenience store* means a retail store with direct access from the street or sidewalk, containing a publicly accessible sales area that is at least 60% of the floor area of the store, and that is designed and stocked to sell a mixture of goods such as non-prescription medications, beverages, magazines, food (packaged and/or prepared), school/office supplies, cosmetics, and other household supplies. A store that markets itself as a "pharmacy store" or "pharmacy" in addition to selling the goods described above, but that does not provide pharmacy services, including the dispensing of medicinal drugs by a pharmacist, shall be considered a convenience store and not a pharmacy or pharmacy store.

\* \* \*

*Neighborhood fulfillment center* shall mean a retail establishment where clients collect goods that are sold off-site, such as with an internet retailer. Additionally, the establishment provides a hub where goods can be collected and delivered to clients' homes or places of business by delivery persons that do not use cars, vans, or trucks. Such facilities are limited to 35,000 square feet.

\* \* \*

*Retail fulfillment center* shall mean a retail establishment, not licensed as an adult bookstore or adult entertainment establishment, where goods are primarily sold online and delivered directly to a person's home or place of business. Such goods shall not include the sale of any type of alcoholic beverage, nor the sale of cannabis (or marijuana), cannabis derivative products, or cannabis delivery devices, nor the sale of any type of tobacco product, vaping, vapor-generating electronic device, or smoking device. Such establishment must also have an active storefront, along all sidewalk facing portions of the building, that is open to the general public at least eight hours per day. The active storefront must have a minimum depth of 15 feet and a minimum area of 700 square feet. Retail fulfillment centers shall be limited to no more than 7,000 square feet. Goods sold by a retail fulfillment center may include goods similar to those that are sold in a convenience store, except for those products identified in this paragraph.

\* \* \*

**SECTION 2.** Chapter 142, "Zoning Districts and Regulations," Article I, "General to all zoning districts," is hereby amended as follows:

## CHAPTER 142 - ZONING DISTRICTS AND REGULATIONS

\* \* \*

### ARTICLE I. - GENERAL TO ALL ZONING DISTRICTS

\* \* \*

**Sec. 142-4. – Neighborhood and Retail Fulfillment Centers.**

Unless otherwise listed in Chapter 142 as a main permitted or conditional use within a specific zoning district, Neighborhood Fulfillment Centers and Retail Fulfillment Centers, as defined in Section 114-1, are prohibited in the City of Miami Beach.

**SECTION 3. Repealer.**

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith are hereby repealed.

**SECTION 4. 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 5. Severability.**

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

**SECTION 6. Effective Date.**

This Ordinance shall take effect ten days following adoption.

**PASSED and ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2021.

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

ATTEST:

APPROVED AS TO FORM AND  
LANGUAGE AND FOR EXECUTION

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

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

\_\_\_\_\_  
Date

First Reading: December 8, 2021

Second Reading: January \_\_\_\_, 2022

Verified By: \_\_\_\_\_  
Thomas R. Mooney, AICP  
Planning Director