

# 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: **PB21-0472 Package Store Prohibition Alton Road.**

#### **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 Land Use and Sustainability Committee (LUSC) and Planning Board (item C4 L). The LUSC is scheduled to review the proposed Ordinance on October 19, 2021.

#### **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** – Negative impacts related to package liquor stores which facilitate the consumption of alcoholic beverages in public places, leading to disturbing the quiet enjoyment of the community due to undesirable noise, and contribute to litter, noxious odors, and the general degradation of the City, 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 safeguard living conditions from the negative impacts of a currently allowable use along the Alton Road corridor.

**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**

Package stores are retail uses that primarily sell alcoholic beverages and package sales of alcoholic beverages are for off premises consumption only. In general, the City Code allows for package stores and package sales in any area of the City that allows retail sales, with some limited, and defined exceptions. The hours and locations (including minimum distance separation) for package stores are regulated in Chapter 6 of the City Code.

On October 19, 2016, the City Commission adopted Ordinance No. 2016-4047, which prohibited package stores in the MXE, Mixed Use Entertainment zoning district. Since new package stores are prohibited in the MXE district, there is an increased potential for new package stores to seek to locate in other areas of the City, including along the nearby Alton Road corridor.

A proliferation of package stores and package sales within the city could have negative impacts on adjacent residential areas. These impacts include the potential of open containers of alcoholic

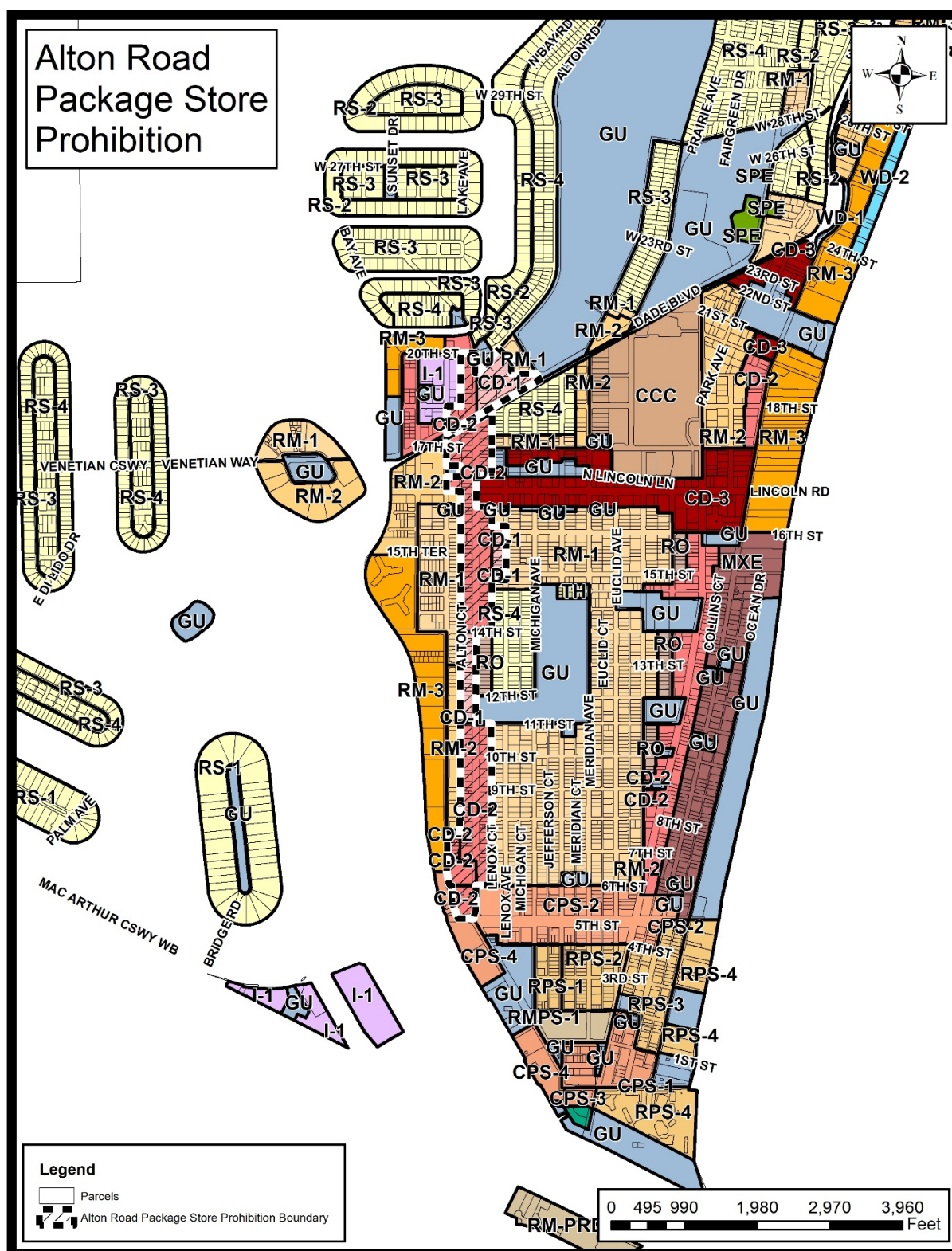
beverages, consumption of alcoholic beverages in the City's parks and beaches, as well as consumption on City's streets and sidewalks, as opposed to within a licensed premise. The consumption of open containers of alcoholic beverages in public places can severely disrupt the quiet enjoyment of the community, cause undesirable noise, and contribute to litter, noxious odors, and the general degradation of the City. Also, the consumption of open containers of alcoholic beverages in public places is a violation of Section 70-87 of the City Code. This is especially true in areas that see high levels of tourism.

In recent years, the Alton Road corridor has experienced an increase in the number of tourists present, given the recent opening of several hotels and restaurants. Given that the Alton Road corridor is adjacent to residential districts to the east and west, it is the best interest of the City, and it serves the health, safety, and welfare of the City's residents and visitors, to prohibit package stores and package sales of alcoholic beverages along the Alton Road corridor. This would minimize the potential for nearby residents to be disturbed and have their quality of life negatively impacted.

The proposed ordinance simply amends section 142-275, related to CD-1 prohibited uses, and section 142-305, related to CD-2 prohibited uses, of the Land Development Regulations (LDRs) to prohibit package liquor stores along the Alton Road corridor. See the map at the end of this report to view the boundaries of the affected area.

#### **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.



**Package Store Prohibition on Alton Road**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS," BY AMENDING DIVISION 4, "CD-1 COMMERCIAL, LOW INTENSITY DISTRICT," SECTION 142-275, "PROHIBITED USES," AND DIVISION 5, "CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT," SECTION 142-305, "PROHIBITED USES," TO AMEND THE LIST OF PROHIBITED USES TO INCLUDE PACKAGE LIQUOR STORES ALONG THE ALTON ROAD CORRIDOR; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the Alton Road Corridor is composed of a mixture of residential, light industrial, and low intensity service, restaurant and retail uses, which primarily serve City residents; and

**WHEREAS**, the City Code currently permits certain uses within the CD-1 and CD-2 zoning districts along the Alton Road Corridor that are incompatible with adjacent residential uses in the Alton Road Corridor; and

**WHEREAS**, the Mayor and City Commission desire to encourage uses that are compatible with the scale and character of the Alton Road Corridor and the surrounding neighborhoods; and

**WHEREAS**, the City's land development regulations include regulations for permitted, accessory, conditional, and prohibited uses in the CD-1 and CD-2 zoning districts along the Alton Road Corridor; and

**WHEREAS**, provisions for prohibiting certain types of uses within the CD-1 and CD-2 district in the Alton Road Corridor are necessary and desirable; and

**WHEREAS**, the Alton Road Corridor boasts unique cultural, retail, and dining experiences, and is vital to Miami Beach's local economy; and

**WHEREAS**, it is the intent of the City to limit the proliferation of establishments which may negatively affect the Alton Road Corridor and neighboring residential areas; and

**WHEREAS**, the proposed changes are necessary in order to promote sustainable mixed-use development within the CD-1 and CD-2 zoning districts along the Alton Road Corridor; 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 142, “Zoning Districts and Regulations,” Article II, “District Regulations,” is hereby amended as follows:

**CHAPTER 142  
ZONING DISTRICTS AND REGULATIONS**

\* \* \*  
**ARTICLE II. – DISTRICT REGULATIONS**

\* \* \*  
**DIVISION 4. - CD-1 COMMERCIAL, LOW INTENSITY DISTRICT**

\* \* \*  
**Sec. 142-275. Prohibited uses.**

The prohibited uses in the CD-1 commercial, low intensity district are accessory outdoor bar counter; outdoor entertainment establishment; open air entertainment establishment, dance hall, and entertainment establishment. Except as otherwise provided in these land development regulations, prohibited uses in the CD-1 commercial low intensity district along the Alton Road Corridor, generally bounded by West Avenue, Michigan Avenue, 5th Street, and 20th Street include package liquor stores.

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

\* \* \*  
**Sec. 142-305. - Prohibited uses.**

- (a) 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.
- (b) Except as otherwise provided in these land development regulations, prohibited uses in the CD-2 commercial medium intensity district in the Sunset Harbour Neighborhood, generally bounded by Purdy Avenue, 20th Street, Alton Road and Dade Boulevard, are the following:
1. Hostels;
  2. Outdoor entertainment establishments;
  3. Neighborhood impact establishments;
  4. Open air entertainment establishments;
  5. Bars;
  6. Dance halls; ~~and~~
  7. Entertainment establishments (as defined in section 114-1 of this Code);
  8. Pawnshops;
  9. Tobacco and vape dealers;
  10. Check cashing stores;

11. Convenience stores;
12. Occult science establishments;
13. Souvenir and T-shirt shops;
14. Tattoo studios.

(c) Except as otherwise provided in these land development regulations, prohibited uses along Normandy Drive and 71<sup>st</sup> Street, are the following:

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

(d) Except as otherwise provided in these land development regulations, prohibited uses in the CD-2 commercial medium intensity district along the Alton Road Corridor, generally bounded by West Avenue, Michigan Avenue, 5th Street, and 20th Street include the following:

1. Package liquor stores.

## **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 \_\_\_\_\_, 2021.

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

Attest:

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

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



First Reading: December 8, 2021  
Second Reading: January \_\_\_\_, 2022

APPROVED AS TO FORM AND  
LANGUAGE AND FOR EXECUTION

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

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