

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Planning Board

TO: Chairperson and Members
Planning Board

DATE: October 24, 2017

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB 17-0164. RM-1 Restaurant Use.**

REQUEST

PB 17-0164. RM-1 RESTAURANT USE. AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 142, ENTITLED "ZONING DISTRICT REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS," DIVISION 3, "RESIDENTIAL MULTIFAMILY DISTRICTS," SUBDIVISION II, "RM-1 RESIDENTIAL MULTIFAMILY LOW INTENSITY," TO ALLOW A RESTAURANT SERVING ALCOHOLIC BEVERAGES WITHIN APARTMENT BUILDINGS WITH A MINIMUM OF 100 UNITS, SUBJECT TO CONDITIONAL USE APPROVAL; BY AMENDING SUBDIVISION III, "RM-PRD MULTIFAMILY, PLANNED RESIDENTIAL DEVELOPMENT DISTRICT," SUBDIVISION IIIA, "RM-PRD-2 MULTIFAMILY PLANNED RESIDENTIAL DEVELOPMENT," DIVISION 14, "RO RESIDENTIAL/OFFICE DISTRICT," SUBDIVISION I, "RO RESIDENTIAL/OFFICE," SUBDIVISION III, "RO-2 RESIDENTIAL/OFFICE LOW INTENSITY," SUBDIVISION IV, "RO-3 RESIDENTIAL/OFFICE MEDIUM INTENSITY," DIVISION 15, "TH TOWNHOME RESIDENTIAL DISTRICT," DIVISION 19, "SPE SPECIAL PUBLIC FACILITIES EDUCATIONAL DISTRICT," AND DIVISION 18, "PS PERFORMANCE STANDARD DISTRICT," BY CLARIFYING THAT ALCOHOLIC BEVERAGE ESTABLISHMENTS ARE PROHIBITED USES UNLESS OTHERWISE NOTED; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

RECOMMENDATION:

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

HISTORY

On July 26, 2017, at the request of Vice-Mayor Ricky Arriola, the City Commission approved a dual referral to the Land Use and Development Committee and the Planning Board, to amend Sec. 142-153 of the Land Development Regulations of the City Code (item C4G). The purpose of the referral is to allow restaurants, in a limited capacity, in large residential apartment buildings located in the RM-1 district.

On October 11, 2017, the Land Use and Development Committee recommended that the Planning Board transmit the proposed ordinance to the City Commission with a favorable recommendation with the following two modifications to Section 142-153 (c):

1) *Section 142-153. Conditional uses.*

* * *

(c) For apartment buildings **located north of 41st Street** with a minimum of 100 apartment units, a restaurant serving alcoholic beverages shall require conditional use approval and shall comply with the following

(1) The restaurant shall only be open to residents of the apartment building and their invited guests. All invited guests ~~dining at the restaurant~~ shall be required to park on the subject property.

REVIEW CRITERIA

In accordance with Section 118-163(3), when reviewing a request for an amendment to these land development regulations, the Board shall consider the following where applicable:

1. Whether the proposed change is consistent and compatible with the comprehensive plan and any applicable neighborhood or redevelopment plans.

Consistent – The proposed modifications are 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 Ordinance will 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 is not out of scale with needs of the neighborhood.

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

Consistent – The proposed Ordinance will not increase the intensity or density of development and it requires that those dining in the restaurant be residents of the building or their guests and should therefore not tax the existing 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 Ordinance will not change district boundaries.

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

Consistent – The desire for residents of multifamily apartment buildings to have access to dining amenities in close proximity makes passage of the proposed change necessary.

7. **Whether the proposed change will adversely influence living conditions in the neighborhood.**

Consistent – The proposed change should 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 requires that those dining in the restaurant be residents of the building or their guests, and should therefore not have any impact the levels of service set forth in the Comprehensive Plan.

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

Consistent – The proposal will not reduce light and air to adjacent properties,

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 proposal should not be a deterrent to the improvement or development of adjacent property.

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 some areas that are vulnerable to the impacts of sea level rise.

- (2) **Whether the proposal will increase the resiliency of the City with respect to sea level rise.**

Not Applicable – 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 does not diminish and is compatible with the City's sea level rise mitigation and resiliency efforts.

ANALYSIS

The attached draft ordinance proposes an amendment to the Land Development Regulations to allow restaurants with food and alcohol in apartment buildings located within RM-1 Districts. Such restaurants would not be open to the public, and would only serve residents and their invited guests. Currently, dining rooms and restaurants are prohibited in the RM-1 district.

Apartment buildings in the RM-2 and RM-3 districts are permitted to have restaurants and dining rooms, in varying capacities, as an accessory use to a residential apartment building. The proposal herein would amend Sec. 142-153 of the City Code by creating a conditional use category for restaurants in the RM-1 district north of 41st Street. Specifically, for apartment buildings with a minimum of 100 apartment units, a restaurant serving alcoholic beverages would require conditional use approval from the Planning Board, and would have to comply with the following:

- The restaurant would only be open to residents of the apartment building and their invited guests. All invited guests dining at the restaurant shall be required to park on the subject property.
- The restaurant kitchen would be limited to a maximum size of 500 square feet.
- A hall for hire, dance hall, open-air entertainment establishment, outdoor entertainment establishment or entertainment establishment shall be prohibited.

In addition to this proposed amendment to Sec. 142-153, the Administration recommends that minor text amendments to the RM-1, RM-PRD, RM-PRD2, RO, RO-2, RO-3, TH, SPE and R-PS1 districts also be included. In this regard, when the comprehensive alcoholic beverages amendment was approved in 2016, Sec. 142-1301 (under Special Use Regulations) in Chapter 142 was deleted in its entirety. The following is the previous text of this deleted section, which is provided for **informational purposes only**:

DIVISION 4. ALCOHOLIC BEVERAGES

Sec. 142-1301. Permitted districts.

Vendors may be permitted to sell or distribute alcoholic beverages, either for consumption on or off the premises only in the following zoning districts:

- (1) RM-2 multiple-family, medium intensity.
- (2) RM-3 multiple-family, high intensity.
- (3) CD-1 commercial, low intensity.
- (4) CD-2 commercial, medium intensity.
- (5) CD-3 commercial, high intensity.
- (6) CCC convention center district.
- (7) HD hospital district.
- (8) I-1 industrial, light.
- (9) MR marine recreational.
- (10) MXE mixed use entertainment.
- (11) WD-1 waterway district.
- (12) WD-2 waterway district.
- (13) R-PS2 residential medium density.
- (14) R-PS3 residential medium-high density.
- (15) R-PS4 residential high density.
- (16) C-PS1 commercial limited mixed use.
- (17) C-PS2 commercial general mixed use.
- (18) C-PS3 commercial intensive mixed use.
- (19) C-PS4 commercial intensive phased bayside.
- (20) RM-PS1 residential limited mixed-use development.
- (21) TC-1 North Beach Town Center core.
- (22) TC-2 North Beach Town Center mixed-use.
- (23) TC-3 North Beach Town Center residential/office.

As noted above, in this previous section of the City Code, all districts where alcoholic beverage establishments were permitted are listed. Those zoning districts that were not listed above were, and still are prohibited from having an alcoholic beverage establishment.

When the above noted section of the Code was deleted, all of the individual zoning district regulations that allowed alcoholic beverage establishments were modified. However, those districts not listed above were not modified. In this regard, the RM-1, RM-PRD, RM-PRD2, RO, RO-2, RO-3, TH, SPE and R-PS1 are the districts that were, and still are, prohibited from having alcoholic beverage establishments as a main permitted or accessory use. In order to provide additional transparency, minor text modifications have been proposed for each of these zoning districts, clarifying that alcoholic beverage establishments are not permitted.

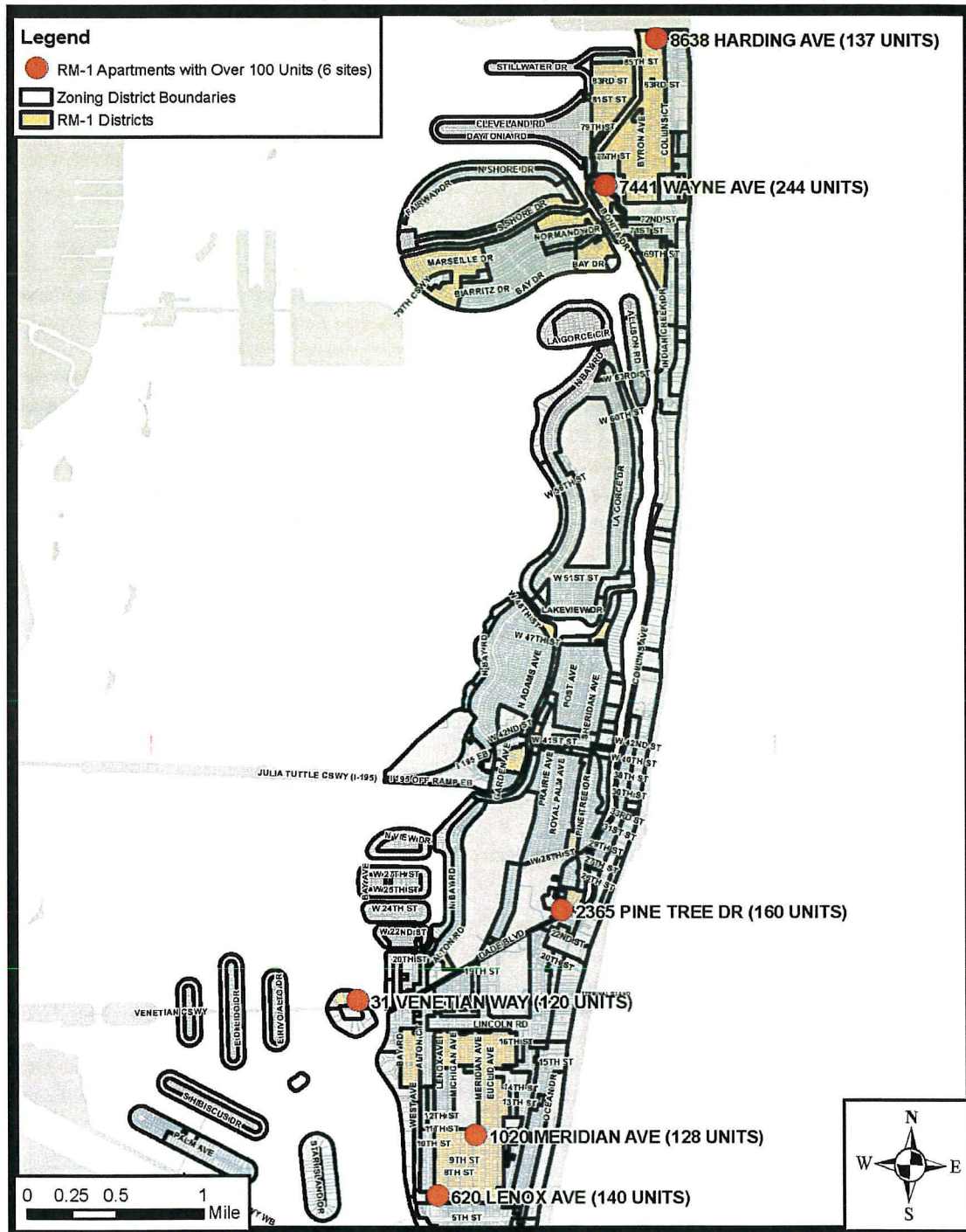
RECOMMENDATION

In view of the foregoing analysis, staff recommends that the Planning Board transmit the Ordinance to the City Commission with a favorable recommendation.

TRM/MAB/RAM

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RM-1 APARTMENT BUILDINGS CONTAINING OVER 100 UNITS



RM-1 RESTAURANT REGULATIONS

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 142, ENTITLED "ZONING DISTRICT REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS," DIVISION 3, "RESIDENTIAL MULTIFAMILY DISTRICTS," SUBDIVISION II, "RM-1 RESIDENTIAL MULTIFAMILY LOW INTENSITY," TO ALLOW A RESTAURANT SERVING ALCOHOLIC BEVERAGES WITHIN APARTMENT BUILDINGS WITH A MINIMUM OF 100 UNITS, SUBJECT TO CONDITIONAL USE APPROVAL; BY AMENDING SUBDIVISION III, "RM-PRD MULTIFAMILY, PLANNED RESIDENTIAL DEVELOPMENT DISTRICT," SUBDIVISION IIIA, "RM-PRD-2 MULTIFAMILY PLANNED RESIDENTIAL DEVELOPMENT," DIVISION 14, "RO RESIDENTIAL/OFFICE DISTRICT," SUBDIVISION I, "RO RESIDENTIAL/OFFICE," SUBDIVISION III, "RO-2 RESIDENTIAL/OFFICE LOW INTENSITY," SUBDIVISION IV, "RO-3 RESIDENTIAL/OFFICE MEDIUM INTENSITY," DIVISION 15, "TH TOWNHOME RESIDENTIAL DISTRICT," DIVISION 19, "SPE SPECIAL PUBLIC FACILITIES EDUCATIONAL DISTRICT," AND DIVISION 18, "PS PERFORMANCE STANDARD DISTRICT," BY CLARIFYING THAT ALCOHOLIC BEVERAGE ESTABLISHMENTS ARE A PROHIBITED USES UNLESS OTHERWISE NOTED; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, Apartment buildings with a minimum of 100 units throughout the City of Miami Beach typically have restaurants open only to residents and their invited guest as an accessory use and amenity for the building; and

WHEREAS, Most of the Apartment buildings with a minimum of 100 units are located in the RM-3 residential multifamily high intensity district; and

WHEREAS, There are some Apartment buildings with a minimum of 100 units located in the RM-1 residential multifamily low intensity district; and

WHEREAS, In order to afford the ability to apartment buildings with a minimum of 100 units in the RM-1 residential multifamily low intensity district the similar ability to have accessory uses existing in other residential multifamily buildings; and

WHEREAS, the City seeks to modify Chapter 142 entitled "Zoning Districts" at Article II "District Regulations" at Division 3, "Residential Multifamily Districts" at Subdivision II, "RM-1 Residential Multifamily Low Intensity" amend Section 142-153

entitled "Conditional Uses" to allow an apartment building with a minimum of 100 units to have a restaurant servicing alcoholic beverages with conditional use approval; and

WHEREAS, Chapter 142 entitled "Zoning Districts" provides for the regulations of uses within the City of Miami Beach; and

WHEREAS, it is necessary and appropriate to amend the section of the City Code to afford similar uses to apartment buildings located in the RM-1 districts as in the RM-3 districts; and

WHEREAS, the City of Miami Beach Land Development Regulations ("LDRs") provides for the regulation of land within the City; and

WHEREAS, the amendments set forth below are necessary to accomplish the above objectives.

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

SECTION 1. That Chapter 142, entitled "Zoning District Regulations," at Article II, "District Regulations," of the Code of the City of Miami Beach, Florida is hereby amended as follows:

DIVISION 3 - RESIDENTIAL MULTIFAMILY DISTRICTS

* * *

Subdivision II- RM-1 Residential Multifamily Low Intensity

* * *

Sec. 142-152. - Main permitted and prohibited uses.

- (a) The main permitted uses in the RM-1 residential multifamily, low density district are single-family detached dwelling; townhomes; apartments; hotels, for properties fronting Harding Avenue or Collins Avenue, from the City Line on the north, to 73rd Street on the south; and bed and breakfast inn (pursuant to article V, division 7 of this chapter).
- (b) Alcoholic beverage establishments pursuant to the regulations set forth in chapter 6, of the City Code, are prohibited uses, unless otherwise specified. Moreover, all uses not listed as a main permitted or conditional use are also prohibited.

Sec. 142-153. - Conditional uses.

- (a) The conditional uses in the RM-1 residential multifamily, low density district are adult congregate living facility; day care facility; nursing home; religious institutions; private and public institutions; schools; commercial or noncommercial parking lots and garages.

- (b) For properties located in the Collins Waterfront Local Historic District, which are designated as a Local Historic Site, a hall for hire use within the interior of an existing building shall require conditional use approval and shall comply with the following:
- (1) The conditional use shall only be permitted within an existing structure that is on a property designated as a "Historic Site" and such limitation shall be recorded in the Public Records;
 - (2) Dance halls, entertainment establishments and neighborhood impact establishments may only be permitted as part of a hall for hire;
 - (3) The hall for hire use shall close by 11:00 p.m. Sunday through Thursday, and by 12:00 a.m. Friday and Saturday;
 - (4) Events at the hall for hire shall be for the exclusive use of the property owner (and its subsidiaries) and invited guests. Events at the hall shall not be for the general public, with the exception of adjacent schools and community organizations within the Collins Park and Flamingo Drive areas, which may use the hall until 9:00 p.m.;
 - (5) Restaurants, stand-alone bars and alcoholic beverage establishments, not functioning as a hall-for-hire, shall be prohibited;
 - (6) Outdoor dining, outdoor entertainment and open-air entertainment uses shall be prohibited;
 - (7) Private or valet parking for any event at the hall shall be prohibited from using Flamingo Drive, Flamingo Place or Lake Pancoast Drive to facilitate access to the site.
- (c) For apartment buildings located north of 41st Street with a minimum of 100 apartment units, a restaurant serving alcoholic beverages shall require conditional use approval and shall comply with the following:
- (1) The restaurant shall only be open to residents of the apartment building and their invited guests. All invited guests dining at the restaurant shall be required to park on the subject property.
 - (2) The kitchen shall be limited to a maximum size of 500 square feet.
 - (3) The conditional use application for a restaurant with outdoor seating and outdoor dining areas shall specify the proposed maximum number of seats, and locations of seating in the outdoor areas, which shall be subject to Planning Board review and approval.
 - (4) A hall for hire, dance hall, open-air entertainment establishment, outdoor entertainment establishment or entertainment establishment shall be prohibited.
 - (5) There shall only be one restaurant on the subject property.
 - (6) The hours of operation of the Restaurant may be from 8 a.m. to midnight (no orders to be taken after 11 p.m.) and for any exterior areas then only until 11p.m. (no orders to be taken after 10 p.m.)
 - (7) Without limiting the foregoing, in the outdoor areas of the restaurant there shall not be any entertainment or Special Events.

There shall be no variances from the provisions of Section 142-153(b).

* * *

Subdivision III. - RM-PRD Multifamily, Planned Residential Development District

Sec. 142-182. - Main permitted and prohibited uses.

- (a) The main permitted uses in the RM-PRD multifamily, planned residential development district are single-family detached dwelling; townhomes; and apartments.
- (b) Alcoholic beverage establishments pursuant to the regulations set forth in chapter 6, of the City Code, are prohibited uses, unless otherwise specified. Moreover, all uses not listed as a main permitted or conditional use are also prohibited.

* * *

Subdivision IIIA. - RM-PRD-2 MultiFamily, Planned Residential Development

Sec. 142-187. - Purposes and uses.

1. District Purpose	2. Main Permitted Uses	3. Conditional Uses	4. Accessory Uses	5. <u>Prohibited Uses</u>
This district is designed to provide for low intensity Multiple-Family Planned Residential Development, with limited accessory commercial use.	Single Family detached Dwelling; Townhomes; Apartments;*	None	See section 142-901 through 142-905. Commercial uses as specified in section 142-194.	<u>Alcoholic beverage establishments pursuant to the regulations set forth in Chapter 6, unless otherwise specified.</u>

* For the St. Francis Hospital Site, the area referenced in the attached Appendix shall be restricted to single family or townhouse development.

* * *

DIVISION 14. - RO RESIDENTIAL/OFFICE DISTRICT

Subdivision I. - RO Residential/Office

Sec. 142-572. - Main permitted and prohibited uses.

- (a) The main permitted uses in the RO residential/office district are single-family dwelling; apartments; and offices.
- (b) Alcoholic beverage establishments pursuant to the regulations set forth in chapter 6, of the City Code, are prohibited uses, unless otherwise specified. Moreover, all uses not listed as a main permitted or conditional use are also prohibited.

* * *

Subdivision III. - RO-2 Residential/Office Low Intensity

Sec. 142-586. - Main permitted uses.

- (a) The main permitted uses in the RO-2 residential/office low intensity district are single-family dwellings; and offices, and religious institutions with an occupancy of 199 persons or less.
- (b) Alcoholic beverage establishments pursuant to the regulations set forth in chapter 6, of the City Code, are prohibited uses, unless otherwise specified. Moreover, all uses not listed as a main permitted or conditional use are also prohibited.

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Subdivision IV. - RO-3 Residential/Office Medium Intensity

Sec. 142-593. - Main permitted uses.

- (a) The main permitted uses in the RO-3 residential/office medium intensity district are single-family dwelling; apartments; and offices religious institutions with an occupancy of 199 persons or less.
- (b) Alcoholic beverage establishments pursuant to the regulations set forth in chapter 6, of the City Code, are prohibited uses. Moreover, all uses not listed as a main permitted or conditional use are also prohibited, unless otherwise specified.

* * *

DIVISION 15. - TH TOWNHOME RESIDENTIAL DISTRICT

Sec. 142-602. - Main permitted uses.

- (a) The main permitted uses in the TH townhome residential district are single-family detached dwellings; and townhomes.
- (b) Alcoholic beverage establishments pursuant to the regulations set forth in chapter 6, of the City Code, are prohibited uses, unless otherwise specified. Moreover, all uses not listed as a main permitted or conditional use are also prohibited.

* * *

DIVISION 19. - SPE SPECIAL PUBLIC FACILITIES EDUCATIONAL DISTRICT

Sec. 142-732. - Purpose and uses.

- (a) *District purpose.* The district is designed to accommodate public or private educational facilities.
- (b) *Main permitted uses.* Any use that is a school or educational or classroom facility, from grades early childhood through graduate, public or private, whether nursery, pre-school, kindergarten, elementary, middle, high school, college or university, including mikvehs and houses of worship, and any combination of any of the aforementioned uses.
- (c) *Conditional uses.* Conditional uses shall only be permitted on the Fana Holtz Parcel as follows: any main permitted uses or conditional uses in an RM-3 or CD-2 district, except as already permitted as a main permitted use in this section. Notwithstanding the foregoing, commercial uses shall not be permitted as conditional uses.
- (d) *Accessory uses.* Any use that is customarily associated with any of the main permitted uses or conditional uses within this district including, without limitation, classrooms, administrative offices, auditoriums, cafeterias, gymnasiums, sports and recreational facilities, dormitories, student, faculty or staff housing, parking lots, garages, performing arts and cultural facilities, art and music facilities, related religious facilities and uses.
- (e) Alcoholic beverage establishments pursuant to the regulations set forth in chapter 6, of the City Code, are prohibited uses. Moreover, all uses not listed as a main permitted or conditional use are also prohibited, unless otherwise specified.

* * *

DIVISION 18. - PS PERFORMANCE STANDARD DISTRICT

Sec. 142-693. - Permitted uses.

- (a) The following uses are permitted in the performance standard districts:

General Use Category	R-PS 1, 2	R-PS 3, 4	C-PS 1, 2, 3, 4	RM-PS1
Single-family; townhome; apartment; apartment/hotel	P	P	P	P Apartment/hotel not permitted
Hotel	N	P	P	N
Commercial	N	N	P	P 8% of floor area

Institutional	C	C	C	C 1.25% of floor area
Accessory outdoor bar counters, provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for an accessory outdoor bar counter which is adjacent to a property with an apartment unit, the accessory outdoor bar counter may not be operated or utilized between 8:00 p.m. and 8:00 a.m.	N	N	P* North of 5th Street only.	N
Outdoor entertainment establishments and open air entertainment establishments	N	N	N	N
Neighborhood impact establishments	N	N However, in the R-PS4 district, this use is permitted, as an accessory use in oceanfront hotels with 250 or more hotel units, as a conditional use. Access to the establishment shall be only from the interior lobby of the hotel and not from the street.	C	N

Accessory	<p>P*</p> <p><u>Alcoholic beverage establishments pursuant to the regulations set forth in Chapter 6 are prohibited in the RPS-1 district, unless otherwise specified.</u></p>	P*	P*	P*
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P—Main permitted use C—Conditional use N—Not permitted

* — Accessory use only

Floor area in the RM-PS1 district refers to total floor area in project. Commercial uses in RM-PS1 limited to stores and restaurants.

SECTION 2. CODIFICATION.

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. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and, the word "ordinance" may be changed to "section", "article", or other appropriate word.

SECTION 3. REPEALER.

All ordinances or parts of ordinances 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 _____, 2018.

ATTEST:

Mayor

Rafael E. Granado City Clerk

First Reading: _____, 2017

Second Reading: _____, 2018

Verified by: _____
Thomas Mooney, AICP
Planning Director

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