

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Planning Board

TO: Chairperson and Members
Planning Board

DATE: August 23, 2016

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: **Ordinance Amendment**
41st Street CD-1 And CD-3 District Alcoholic Beverage Establishment Regulations

REQUEST

PB0716-0044. 41st STREET CD-1 AND CD-3 DISTRICTS ALCOHOLIC BEVERAGE ESTABLISHMENT REGULATIONS. AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 142 OF THE CITY CODE, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS," (1) AT DIVISION 4, "CD-1 COMMERCIAL LOW INTENSITY DISTRICT," SECTION 142-272, "MAIN PERMITTED USES;" SECTION 142-273, "CONDITIONAL USES;" SECTION 142-274, "ACCESSORY USES;" AND SECTION 142-279 "SPECIAL REGULATIONS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS;" AND (2) AT DIVISION 6, "CD-3 COMMERCIAL, HIGH INTENSITY DISTRICT," SECTION 142-332, "MAIN PERMITTED USES;" SECTION 142-333, "CONDITIONAL USES;" SECTION 142-334, "ACCESSORY USES;" AND SECTION 142-340, "SPECIAL REGULATIONS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS;" TO AMEND THE HOURS OF OPERATION, LOCATION, AND USE RESTRICTIONS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS IN THE 41ST STREET CORRIDOR, WHICH IS GENERALLY BOUNDED BY 40TH STREET TO THE SOUTH AND 42ND STREET TO THE NORTH, BETWEEN ALTON ROAD AND INDIAN CREEK; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

RECOMMENDATION

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

HISTORY

May 11, 2016 The Mayor and the City Commission referred a discussion item pertaining to operational regulations for alcoholic beverage establishments in the CD-3 zoning district on 41st Street to address compatibility issues with the surrounding residential district to the Land Use and Development Committee (item C4C). The referral was sponsored by Commissioner John Elizabeth Alemán.

May 18, 2016 The Land Use and Development Committee (LUDC) discussed the item and directed staff to bring back a draft ordinance on June 15, 2016, based upon the language in the recently approved Alton Road west alcoholic beverage

amendment.

June 15, 2016 The LUDC discussed the draft ordinance and recommended that the City Commission refer the item to the Planning Board.

July 3, 2016 The Mayor and City Commission referred the draft ordinance to the Planning Board (item C4G). The referral was sponsored by Commissioner John Elizabeth Alemán.

BACKGROUND

The CD-3 districts are the highest commercial zoning districts in the city allowing for dense urban development. The entire length of 41st Street, from Alton Road on the west to the Indian Creek Waterway on the east, is zoned CD-3 except for one block which is zoned RM-3 residential multifamily high intensity. Directly north and south of 41st Street are residential zoning districts mostly comprised of single family homes and residential multifamily buildings buffered on the south by the CD-1 commercial low-intensity zoning district.

Special regulations for alcoholic beverage establishments exist for the South of Fifth neighborhood, North Beach, Sunset Harbour, and most recently the west side of Alton Road. These areas of the City have a mixture of residential developments and destination eating and drinking establishments. Although presently there are not many large restaurants or bars on 41st Street, both the CD-1 and the CD-3 zoning districts allow for such uses.

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 amendment 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 does not modify district boundaries.

- 3. Whether the change suggested is out of scale with the needs of the neighborhood or the city.**

Not applicable – The proposed ordinance does not affect the overall scale of development.

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

Consistent – The proposed ordinance will not increase the level of intensity of

development and will not affect the load on public facilities.

5. **Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.**

Not applicable – The proposed change does not modify existing district boundaries.

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

Consistent – The need to ensure that residential uses are buffered from the adverse effects of alcohol uses in close proximity in order to protect the character of neighborhoods makes the proposed change necessary.

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

Consistent – The proposed change 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.

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

Consistent – The proposed ordinance 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.**

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.

ANALYSIS

Currently, in the CD-1 and CD-3 zoning districts alcoholic beverage establishments are listed as permitted uses pursuant to the regulations set forth in Chapter 6 of the City Code. Only alcoholic beverage establishments that exceed neighborhood impact establishment (NIE) thresholds would be subject to operational conditions set by the Planning Board through the Conditional Use process.

At the direction of the LUDC, the draft ordinance contained herein is based on the regulations proposed for the west side of Alton Road. The following is a summary of the changes proposed for alcoholic beverage establishments generally bounded by 40th Street to the south and 42nd Street to the north from Alton Road to the Indian Creek waterway:

1. Operations shall cease no later than 2:00 a.m.
2. Establishments with sidewalk café permits shall only serve alcoholic beverages at sidewalk cafés during hours when food is served in the restaurant, shall cease sidewalk café operations at 12:00 a.m., and shall not be permitted to have outdoor speakers.
3. Commercial uses on rooftops shall be limited to restaurants only, shall cease operations no later than 11:00 p.m. on weekdays and 12:00 a.m. on weekends, and shall only be permitted to have ambient, background music.
4. Entertainment establishments shall be required to obtain conditional use approval from the planning board, in accordance with the requirements and procedures of chapter 118, article IV. Additionally, if approved as a conditional use, entertainment establishments shall be required to install a double door vestibule at all access points from the sidewalk, with the exception of emergency exits.
5. Outdoor bar counters shall be prohibited.
6. No special event permits shall be issued to alcoholic beverage establishments.

As a point of clarification, the proposed regulations would only apply to new establishments or any existing establishment that applied to expand its hours or location for seating. Similar operational regulations exist in the South of Fifth neighborhood and in the Alton Road/West Avenue corridor.

The Land Use Committee also recommended that an exceptions clause be added to the legislation, which has been included in the draft ordinance for referral. Additionally, the Land Use Committee agreed with the recommendation of the City Attorney's office that additional minor changes be made to the legislation, in order to cross reference applicable sections of the

City Code pertaining to sidewalk cafes and conditional use 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.

TRM/MAB/TUI

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