

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**
Sunset Harbour Alcoholic Beverage Establishment Regulations

REQUEST

PB0716-0045. SUNSET HARBOUR ALCOHOLIC BEVERAGE ESTABLISHMENT REGULATIONS. 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," (1) AT DIVISION 5, "CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT," SECTION 142-302, "MAIN PERMITTED USES," SECTION 142-303, "CONDITIONAL USES," SECTION 142-304, "ACCESSORY USES," AND SECTION 142-310, "SPECIAL REGULATIONS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS"; AND (2) AT DIVISION 11, "I-1 LIGHT INDUSTRIAL DISTRICT," SECTION 142-482, "MAIN PERMITTED USES," SECTION 142-483, "CONDITIONAL USES," SECTION 142-484, "ACCESSORY USES," AND SECTION 142-488 "SPECIAL REGULATIONS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS," TO CLARIFY PROHIBITED ENTERTAINMENT USES, AND AMEND THE HOURS OF OPERATION, LOCATION AND USE RESTRICTIONS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS IN THE SUNSET HARBOUR NEIGHBORHOOD, GENERALLY BOUNDED BY PURDY AVENUE, 20TH STREET, ALTON ROAD, AND DADE BOULEVARD; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

RECOMMENDATION

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

HISTORY/BACKGROUND

<i>April 13, 2016</i>	The Mayor and the City Commission referred a discussion regarding future rooftop and deck accessory bar uses in the Sunset Harbour neighborhood to the Land Use and Development Committee (LUDC). The referral was sponsored by Commissioner Michael Grieco (item C4B).
<i>April 20, 2016</i>	The Land Use and Development Committee (LUDC) continued the item to the May 18, 2016 LUDC meeting
<i>May 18, 2016</i>	The LUDC discussed the item and directed staff to bring back a draft ordinance on June 15, 2016.

- June 15, 2016* The LUDC discussed the item and recommended that the City Commission refer the ordinance to the Planning Board, with the following revisions:
- a. The roof-top portion of the regulations comport with the requirements in place for the area south of Fifth Street;
 - b. Outdoor speakers be permitted to play ambient, background music;
 - c. An exceptions clause to be added to the legislation.
- July 13, 2016* The Mayor and the City Commission referred the item to the Planning Board. The referral was sponsored by Commissioner Michael Grieco (item C4G). The item was referred with the following revisions:
1. The sidewalk cafe hours shall be moved to Chapter 82; specifically Sec 82-388. Additionally, references to Chapter 82 shall be included in the district regulations.
 2. Wherever entertainment establishments are listed as a conditional use, they shall be noted in the conditional use sections – not in the “special regulations for alcoholic beverage establishments.” All conditional uses will be listed in one place and can include the double-door vestibule requirement, as applicable, in the conditional use section.

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

Certain regulations specific to alcoholic beverage establishments exist for the South of Fifth neighborhood and other parts of the city including North Beach, Sunset Harbour and the recently adopted legislation for the west side of Alton Road (ORD 2016-4014). These areas of the city have a mixture of residential developments and destination eating and drinking establishments.

Currently, the Sunset Harbour neighborhood, generally bounded by Purdy Avenue, 20th Street, Alton Road and Dade Boulevard, has regulations that require a Conditional Use permit for large restaurants, and prohibits standalone bars, dance and entertainment establishments. Residents of the Sunset Harbour neighborhood have requested changes to the allowable hours of operation and to prohibit above ground alcohol establishments, as well as accessory outdoor bar counters.

At the direction of the LUDC, a draft ordinance, based on the suggestions of area residents, was prepared for discussion at the June 15, 2016 meeting. The following is a summary of the changes proposed by this ordinance for the zoning districts in the Sunset Harbour neighborhood:

- All establishment of any kind serving alcoholic beverages may not operate any outside dining areas or accessory bar counters above the ground floor.
- Outdoor speakers except those required by the building and fire codes shall not be permitted in any establishment serving alcoholic beverages.
- Special events shall not be permitted in any establishment serving alcohol.
- All establishments serving alcohol shall close by 2:00 AM. The exterior portions of alcoholic beverage establishments, including sidewalk cafes, shall cease operations at 12:00 AM.

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.

While supportive of the ordinance, the Land Use Committee recommended that the roof-top portion of the regulations comport with the requirements in place for the area south of Fifth Street; that outdoor speakers be permitted to play ambient background music, and that an exceptions clause be added to the legislation. All of these recommendations have been included in the draft ordinance for referral. Also, 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.

Finally, staff has identified an inconsistency in the I-1 conditional and prohibited use sections of the code. In this regard, Section 142-483 lists 'outdoor entertainment establishment' and 'open air entertainment establishment' as conditional uses in the I-1 district. However, these uses would not be permitted, if proposed, as Section 142-485 lists 'entertainment establishments' as a prohibited use in the I-1 district. Since the prohibited uses in a particular zoning district supersede the conditional use section, outdoor entertainment and open air entertainment establishments are not permitted. When the prohibition on entertainment establishments was adopted in 2012, the 'conditional use' subsection should have been modified to be consistent. To correct this inconsistency, Section 142-485 is proposed to be revised to clarify that 'outdoor entertainment establishment' and 'open air entertainment establishment' are prohibited uses.

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