

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**
Prohibition on Package Stores, Package Sales of Alcoholic Beverages, and Entertainment Uses in Package Stores in the MXE district

REQUEST

FILE NO. PB16-0057. PROHIBITION ON PACKAGE STORES, PACKAGE SALES OF ALCOHOLIC BEVERAGES, AND ENTERTAINMENT USES IN PACKAGE STORES IN THE MXE DISTRICT. AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 114 OF THE CITY CODE, ENTITLED "GENERAL PROVISIONS," SECTION 114-1, "DEFINITIONS," TO DEFINE PACKAGE STORES; AND AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS," DIVISION 13, "MXE - MIXED USE ENTERTAINMENT DISTRICT," BY AMENDING SECTION 142-544 THEREOF, ENTITLED "PROHIBITED USES," TO PROHIBIT PACKAGE STORES, PACKAGE SALES OF ALCOHOLIC BEVERAGES, AND ENTERTAINMENT USES IN PACKAGE STORES IN THE MXE DISTRICT; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

RECOMMENDATION

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

HISTORY/ BACKGROUND

July 13, 2016 The Mayor and City Commission made a dual referral of a discussion regarding amending Chapter 114 prohibiting package stores in the MXE district to the Planning Board and the Land Use & Development Committee (LUDC). The referral was sponsored by Commissioner Ricky Arriola (item C4I).

July 20, 2016 The LUDC discussed the item and continued to its September 21, 2016 meeting.

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 consumption of open containers of alcoholic beverages in public places disturbs the quiet enjoyment of the community, causes undesirable noise, and contributes to litter, noxious odors, and the general degradation of the City which 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

Package stores are retail uses that primarily sell alcoholic beverages. Package sales are alcoholic beverages for take-out and off premises consumption. In general, the City Code allows for package stores and package sales in any area that allows retail sales. The hours and locations (distance separation) are regulated in Chapter 6 of the City Code.

The Mixed Use Entertainment (“MXE”) district is characterized by a variety of uses, including hotel, bars, restaurants, entertainment establishments, apartment buildings, and retail stores which attract a large volume of pedestrians and vehicular traffic. The consumption of alcohol and the high volume of people together are sometimes problematic and were identified as issues by the Mayor’s Blue Ribbon Panel on Ocean Drive and the City Commission.

Package sales of alcoholic beverages may encourage patrons to walk around with alcoholic beverages and consume alcoholic beverages in the City’s parks, and on the City’s streets and sidewalks. The consumption of open containers of alcoholic beverages in public places may disturb 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. Therefore, in 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 in the MXE district.

The attached ordinance defines package store in Section 114.1, the definition section of the Land Use Development Regulations (LDR’s) and makes both package stores and package

sales of alcoholic beverages a prohibited use in Section 142-544, the MXE district regulations. Additionally, because entertainment is allowed in retail stores city wide, the following ordinance clarifies that, in the MXE district, package stores are prohibited from having entertainment. The intention of the legislation is to cut down on loitering or congregation around package stores.

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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