

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Planning Board

TO: Chairperson and Members  
Planning Board

DATE: May 11, 2017

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: **PB17-0125. Prohibiting Gambling & Casino Uses In All Districts –  
Comp Plan Amendment**  
**PB17-0126. Prohibiting Gambling & Casino Uses In All Districts – LDR  
Amendment**

#### **REQUESTS**

**PB17-0125. PROHIBITING GAMBLING AND CASINO USES IN ALL DISTRICTS – COMP PLAN AMENDMENT. AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CITY OF MIAMI BEACH YEAR 2025 COMPREHENSIVE PLAN, BY AMENDING CHAPTER 1, ENTITLED “FUTURE LAND USE ELEMENT;” “OBJECTIVE 1: LAND DEVELOPMENT REGULATIONS,” TO PROHIBIT ANY FORM OF GAMBLING AND CASINO USES AS DELINEATED IN CHAPTER 550 AND 551, FLORIDA STATUTES; PROVIDING FOR CERTAIN EXEMPTIONS; PROVIDING FOR INCLUSION IN THE COMPREHENSIVE PLAN; TRANSMITTAL; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.**

**PB17-0126. PROHIBITING GAMBLING AND CASINO USES IN ALL DISTRICTS – LDR AMENDMENT. AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 142 “ZONING DISTRICT REGULATIONS;” AMENDING ARTICLE 1, “IN GENERAL” TO BE ENTITLED “GENERAL TO ALL ZONING DISTRICTS;” AT SECTION 142-1 TO BE ENTITLED: “GAMBLING AND CASINOS ARE A PROHIBITED USE IN THE CITY OF MIAMI BEACH;” PROHIBITING MAIN, CONDITIONAL AND ACCESSORY USES RELATING TO GAMBLING AND CASINOS; PROVIDING FOR EXEMPTIONS UNDER STATE LAW; PROVIDING FOR APPLICABILITY/RETROACTIVE APPLICATION TO FIRST READING; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.**

#### **RECOMMENDATION:**

Transmit the proposed Comprehensive Plan and Land Development Regulations amendments to the City Commission with a favorable recommendation.

## **HISTORY**

On May 3, 2017, at the request of Commissioner Joy Malakoff, the City Commission referred the proposed Comprehensive Plan and Land Development Regulation amendments to the Planning Board for consideration.

## **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 amendments to the LDRs are consistent with the Goals, Objectives, and Policies of the Comprehensive Plan. Further, the proposed Comprehensive Plan amendment reaffirms the proposed modifications.

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.**

**Consistent** – The proposed Ordinance will prevent casino development that has the potential to be out of scale with the needs of the neighborhoods or the City.

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

**Consistent** – The proposed will not modify the intensity of development.

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

**Not Applicable** – The existing boundaries are not proposed to be modified by the proposed amendments.

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

**Consistent** – Proposed amendments to state law that could authorize casinos in Miami-Dade County makes passage of 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, and is intended to safeguard residents and commercial areas from the potential impacts of casinos.

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 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 modify the allowable scale of development and 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 City, as there are currently.

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 will not be a deterrent to the improvement or development of property.

12. **Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.**

**Not applicable** – The proposed amendments do not allow for any additional uses.

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** – The proposed amendments do not allow for any additional uses.

### **ANALYSIS**

This legislative session, the Florida Legislature considered bills that would have allowed for the expansion of slot machines and casino gambling. One of the proposals would have allowed for one casino of a scale similar to those in Las Vegas, Nevada or Atlantic City, New Jersey in counties that have three or more pari-mutuel facilities with casinos. Miami-Dade County currently has four such facilities.

Additional proposals for the bills would have required that the additional casino be located a minimum of five miles from any existing pari-mutuel facilities (See the map at the end of the report identifying five mile buffers around the existing pari-mutuel facilities). Due to the location of existing pari-mutuels, this requirement would prevent the casino from being located in the

urban core of the City of Miami, but would have made the coastal municipalities as the probable location for consideration of a casino. Ultimately, the bill did not pass during the session; however, there is always the possibility of special sessions or for new bills to be introduced in future legislative sessions. It is therefore important that the City's Comprehensive Plan and Land Development Regulations address casinos in the event that the State Legislature allows an expansion of gambling or casinos at some point in the future.

Under Article VIII, Section 2(b) of the Florida Constitution and the Municipal Home Rule Powers Act, municipalities "shall have governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law." See Section 166.021(1), Florida Statutes. The City is well within its home rule powers, and its police powers, to adopt the zoning and comprehensive plan amendments contemplated herein.

Additionally, Florida courts have consistently held that a license to offer gambling, including pari-mutuel wagering, slot machine gambling, or a card room at a pari-mutuel facility, is a privilege rather than a vested right, that requires strict supervision and regulation in the best interests of the state.<sup>1</sup>

Many studies have demonstrated that casinos feed gambling addictions, which have many serious effects on those with the addiction and their families. These include loss of jobs, failed relationships and severe debt. These can lead to mental health issues, including depression, mood disorders, anti-social personality disorders, and more.

It is widely understood that large-scale casino operations can overpower non-gambling businesses, and that casinos combined with hotels tend to become isolated all-inclusive facilities. This encourages guests to remain on the premises, thus limiting their shopping and dining in other establishments within the City.

Since casinos have been permitted in Atlantic City, New Jersey in the late 1970's, many restaurants and retail businesses along the City's main street in its downtown, Atlantic Avenue, have shuttered. For those that have not shuttered, the quality of retail has been reduced. The design of casinos in Atlantic City is intended to keep guests indoors, so that they spend their time gambling and spending money within the casino, as opposed to seeing the City's other attractions, such as its Boardwalk and Downtown. Additionally, between 2014 and 2016, five casinos closed in Atlantic City, indicating that the all-inclusive casinos are suffering from increased competition from other regions and lower disposable incomes among the socio-economic groups that tend to frequent casinos.

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<sup>1</sup> See Sec. 550.1625(1), Florida Statutes; see also *Solimena v. State*, 402 So. 2d 1240, 1247 (Fla. 3d DCA 1981), rev. denied, 412 So. 2d 470 (citing *State ex rel. Mason v. Rose*, 165 So. 347 (Fla. 1936)); *Carroll v. State*, 361 So. 2d 144, 147 (Fla. 1978) ("[t]here is no constitutional right to conduct a gambling business").

Miami Beach has a robust tourist market that supports many independent restaurants, cultural, and retail establishments throughout many different areas of the City. As a result, if a casino is allowed in Miami Beach, there is great potential for it to overpower these establishments severely limiting the number of tourists that would be walking through the City and supporting its businesses.

The City of Miami Beach has a long-standing policy against casino gambling in Florida. The City Commission has adopted the following resolutions against casinos: 2017-29846, 2014-28529, 2011-27812, 2008-26927, and 2008-26925. The proposed ordinances would formalize this policy within the Comprehensive Plan and Land Development Regulations by prohibiting Casinos and Gambling in all future land use and zoning districts within the City of Miami Beach. The proposed ordinance defines gambling as the playing or engaging in any game of cards, keno, roulette, faro, or other game of chance, at any place, by any device, whatever, for money or other thing of value; however, it provides for certain exceptions from the definition of gambling for existing common practices as follows:

- 1) The Lottery;
- 2) Penny-ante games;
- 3) Condominium associations, cooperatives, homeowners, associations, charitable, nonprofit or veteran organizations authorized to hold drawings by chance, drawings, or raffles;
- 4) Game promotion in connection with the sale of consumer products or services; and
- 5) Bowling tournaments.

#### **RECOMMENDATION**

In view of the foregoing analysis, staff recommends that the Planning Board transmit the proposed Comprehensive Plan and Land Development Regulations amendments to the City Commission with a favorable recommendation.

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