

MIAMIBEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: April 8, 2025

FROM: Thomas R. Mooney, AICP
Planning Director

^{DS}
 For TRM

SUBJECT: **PB25-0750. RO District Regulations for Nonconforming Uses and Alcohol Sales - Comprehensive Plan Amendment**

PB25-0751. RO District Regulations for Nonconforming Uses and Alcohol Sales - Land Development Regulations Amendment

RECOMMENDATION

Review the proposed ordinances amending the Comprehensive Plan and Land Development Regulations and transmit the ordinances to the City Commission with favorable recommendations.

HISTORY

On December 11, 2024, at the request of Commissioner Laura Dominguez, the City Commission referred a proposal pertaining to alcohol sales in the Residential Office (RO) district (C4 J) to the Land Use and Sustainability Committee (LUSC). On January 16, 2025, the LUSC recommended that the City Commission refer applicable amendments to the Planning Board, in accordance with the recommendations in the LUSC memorandum, and the following:

1. The number of seats shall not exceed ten (10).
2. A vesting provision shall be included.

On February 26, 2025, at the request of Commissioner Laura Dominguez, the City Commission referred the subject ordinances to the Planning Board (C4 D).

REVIEW CRITERIA

Pursuant to Section 2.4.2 of the Resiliency Code, in reviewing a request for an amendment to these land development regulations (LDRs), 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 amendment is consistent with the goals, objectives, and

policies of the Comprehensive Plan, as proposed to be amended.

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 amendment does not increase loads on public facilities or infrastructures.

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 proposed change is necessary in order to allow the sale of alcohol to existing cafes, which the overall impact of the proposed amendments expected to be limited.

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

Consistent – The proposed ordinance amendments 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 increase traffic congestion.

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

Not Applicable– The proposed change will affect light and air to adjacent areas.

10. **Whether the proposed change will adversely affect property values in the adjacent area.**

Consistent – The proposed change will 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 will not be a deterrent to the improvement or development of adjacent properties.

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 7.1.2.4 of the LDRs 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.**

Consistent – The proposal does affect areas that are vulnerable to the impacts of sea level rise in the long term.

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

Consistent – The proposal does not affect the resiliency of the City.

- (3) **Whether the proposal is compatible with the City’s sea level rise mitigation and resiliency efforts.**

Consistent – The proposal is compatible with the City’s sea level rise mitigation and resiliency efforts.

ANALYSIS

Properties along the east side of Alton Road, between 12th and 14th Streets, are currently zoned Residential Office (RO) on the City’s zoning map. This area was rezoned from commercial (CD-2) to RO in 1998. At present, alcoholic beverage establishments, including restaurants serving beer and wine, are not permitted in the RO district.

The owner of a plant and garden nursery, located at 1239 Alton Road, which also operates an accessory café and bakery, has proposed adding the sale of alcoholic beverages (beer and wine only) to the café. The nursery and café are considered non-conforming uses, as they predate the

1998 zoning change. Although these uses are allowed to continue, they cannot be expanded. Therefore, permitting alcohol sales at the premises would constitute an expansion of a non-conforming use.

To facilitate the sale of alcohol at this location, proposed amendments to the City's Land Development Regulations (LDRs) and the Comprehensive Plan are being presented. The following is a summary of the proposed amendments:

1. Chapter 2, Article VII of the LDR's, pertaining to nonconformances, will be amended to permit the expansion of a non-conforming café in the RO district and allow the limited sale of beer and wine, in accordance with specified requirements and criteria.
2. Chapter 7, Article II of the LDRs, regarding the development regulations in the RO district, will be amended to permit, on a limited basis, the sale of alcoholic beverages within existing cafes in the RO district, in accordance with the specified requirements and criteria in Chapter 2.
3. Policy RLU 1.1.1 of the Comprehensive Plan, pertaining to the RO future land use classification, will be amended to include a provision for nonconforming cafés to include the sale of beer and wine, as an accessory use to the cafe, in accordance with the requirements more specifically described in the LDRs.

The area along the east side of Alton Road, between 12th and 14th Streets, was re-zoned to RO primarily due to its proximity to an established single-family zoning district to the east. The alley (Lenox Court) separates the properties in the RO district from the residential homes on Lenox Avenue. Given this context, careful consideration has been given in drafting the proposed amendments to regulate alcohol sales in this area. Since the proposal is limited to existing cafés and the sale of alcohol would only be allowed under specific conditions, the overall impact of these changes is anticipated to be minimal.

COMPREHENSIVE PLAN AMENDMENT AND REVIEW PROCESS

The total land area involved in this application is less than 10 acres. Under Section 163.3187 F.S., land use map amendments of less than 10 acres in size may be considered "small-scale" amendments, which require only one public hearing before the City Commission, which shall be an adoption hearing. Upon adoption, the local government shall send a copy of the adopted small-scale amendment to the State Land Planning Agency so that the Agency can maintain a complete and up-to-date copy of the City's Comprehensive Plan.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the Planning Board transmit the proposed comprehensive plan and land use amendments to the City Commission with favorable recommendations.

RO District Regulations for Nonconforming Uses and Alcohol Sales – Comprehensive Plan Amendment

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CITY OF MIAMI BEACH YEAR 2040 COMPREHENSIVE PLAN, BY AMENDING GOAL RLU 1: LAND USE; OBJECTIVE RLU 1.1: ESTABLISHMENT OF FUTURE LAND USE CATEGORIES; POLICY RLU 1.1.11: RESIDENTIAL / OFFICE (RO), TO ESTABLISH REQUIREMENTS FOR NONCONFORMING CAFES SERVING ALCOHOL AND LOCATED ON ALTON ROAD; PROVIDING FOR INCLUSION IN THE COMPREHENSIVE PLAN; TRANSMITTAL; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach (the “City”) has the authority to enact laws which promote the public health, safety and general welfare of its citizens; and

WHEREAS, certain nonconforming café uses located on Alton Road in the Residential Office (RO) zoning district are uniquely valuable neighborhood amenities; and

WHEREAS, nonconforming café uses located on Alton Road in the RO district provide residents with food and beverage uses within walkable distances, which promotes pedestrianism, reduces traffic, and improves quality of life of residents; and

WHEREAS, the proposed amendment affects less than 10 acres and is a small scale amendment, pursuant to section 163.3187(1), Florida Statutes.

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

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

SECTION 1. The following amendments to the City’s 2040 Comprehensive Plan Future Land Use Element are hereby adopted:

RESILIENT LAND USE AND DEVELOPMENT ELEMENT

* * *

GOAL RLU 1: LAND USE

* * *

POLICY RLU 1.1. 11 RESIDENTIAL / OFFICE (RO)

Purpose: To provide development opportunities for and to enhance the desirability and quality of existing and/or new office residential areas which are compatible with single family and other residential development.

Uses which may be permitted: Offices and certain residential uses including single family detached dwellings, single family attached dwellings, townhouse dwellings and multiple family dwellings.

Other uses which may be permitted are accessory uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to be

subordinate to the main use; and conditional uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to go through a public hearing process as prescribed in the Land Development Regulations of the Code of the City of Miami Beach.

Nonconforming cafés located on Alton Road, existing as of January 1, 2025, may include the sale of beer and wine, as an accessory use to the cafe, in accordance with the requirements more specifically described in the Land Development Regulations.

SECTION 2. REPEALER.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith be and the same are hereby repealed.

SECTION 3. CODIFICATION.

It is the intention of the City Commission, 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 as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

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 31 days after adoption pursuant to Section 163.3187(1), Florida Statutes.

PASSED AND ADOPTED this _____ day of 2025

Steven Meiner, Mayor

ATTEST:

Rafael E. Granado, City Clerk.

APPROVED AS TO FORM AND
LANGUAGE AND FOR EXECUTION

City Attorney

Date

First Reading: _____, 2025

Second Reading: _____, 2025

Verified by: _____
Thomas R. Mooney, AICP
Planning Director

RO District Regulations for Nonconforming Uses and Alcohol Sales – LDR Amendment

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, SUBPART B, ENTITLED, "LAND DEVELOPMENT REGULATIONS," BY AMENDING CHAPTER 2 ENTITLED "ADMINISTRATION AND REVIEW PROCEDURES", ARTICLE XII, ENTITLED "NONCONFORMITIES," BY AMENDING SECTION 2.12.5, ENTITLED "NONCONFORMING USE OF BUILDINGS," TO ESTABLISH REQUIREMENTS FOR NONCONFORMING CAFES SERVING ALCOHOL AND LOCATED ON ALTON ROAD; BY AMENDING CHAPTER 7 ENTITLED, "ZONING DISTRICTS AND REGULATIONS", ARTICLE II, ENTITLED, "GENERAL TO ALL ZONING DISTRICTS", DIVISION 7.2.9 ENTITLED, "RO RESIDENTIAL/OFFICE DISTRICT," BY AMENDING SECTION 7.2.9.2, ENTITLED " USES (RO)," TO ALLOW ALCOHOL SALES IN EXISTING CAFES; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach (the "City") has the authority to enact laws which promote the public health, safety and general welfare of its citizens; and

WHEREAS, certain nonconforming café uses located on Alton Road in the Residential Office (RO) zoning district are uniquely valuable neighborhood amenities; and

WHEREAS, nonconforming café uses located on Alton Road in the RO district provide residents with food and beverage uses within walkable distances, which promotes pedestrianism, reduces traffic, and improves quality of life of residents; and

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

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

SECTION 1. Chapter 2, "Administration and Review Procedures", Article XII "Nonconformities", is hereby amended as follows:

CHAPTER 2 - ADMINISTRATION AND REVIEW PROCEDURES

* * *

ARTICLE XII – NONCONFORMITIES

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2.12.5 NONCONFORMING USE OF BUILDINGS

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d. Notwithstanding the provisions of this article, a nonconforming café located in a Residential Office (RO) district on Alton Road, existing as of January 1, 2025, may include the sale of beer and wine, subject to the following:

1. Alcoholic beverages shall be limited to beer and wine for consumption on premises only. The retail sale of beer or wine, for off premises consumption, shall be prohibited.
2. The sale of beer and wine shall not commence prior to 11:30 a.m. and shall conclude no later than 10:00 p.m. for existing indoor seating and no later than 8:00 p.m. for existing outdoor seating, seven days a week, including holidays.
3. There shall be no increase in the patron occupancy within the interior or exterior of the café establishment, nor shall the area of the café be permitted to expand.
4. There shall be no more than 10 seats permitted within the interior and/or exterior of the café establishment.
5. As applicable to any non-conforming café authorized to serve beer and wine under this subsection (d), the permitted hours of sale for alcoholic beverages shall be subject to future modifications by the City Commission, pursuant to the City's express statutory authority to regulate hours of sale for alcoholic beverages as set forth in Sec. 562.14, Florida Statutes.

SECTION 2. Chapter 7, “Zoning Districts and Regulations”, Article II. “District Regulations”, is hereby amended as follows:

CHAPTER 7 - ZONING DISTRICTS AND REGULATIONS

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ARTICLE II - DISTRICT REGULATIONS

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7.2.9 RO RESIDENTIAL/OFFICE DISTRICT

* * *

7.2.9.2 Uses (RO)

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d. Supplemental Prohibited Uses Regulations (RO)

The Supplemental Prohibited Uses Regulations are as follows:

1. Alcoholic beverage establishments pursuant to the regulations set forth in chapter 6 in General Ordinances, are a prohibited use. Notwithstanding, alcohol sales may be permitted for existing cafes meeting the criteria set forth in section 2.12.5.d.
2. All uses not listed as a main permitted or conditional use are also prohibited, unless otherwise specified.

