

City of Coral Gables Planning Department Staff Report

To: Planning and Zoning Board Members

From: Planning Department

Date: August 26, 2009

Subject: **Zoning Code Text Amendment.** An Ordinance of the City of Coral Gables amending the Zoning Code to clarify the City's current nightclub provisions, providing severability, providing for codification thereof, and providing for an effective date.

Recommendation

The Planning Department offers proposed Zoning Code amendments that clarify the Code's existing provisions and regulate nightclubs within the City as provided herein and in the attached Ordinance (see Attachment A).

All Zoning Code text amendments require review and recommendation by the Planning and Zoning Board and approval by the City Commission in ordinance form at two public hearings.

Background

The City Commission requested that City Staff review the Zoning Code's existing provisions regarding nightclubs, and provide recommendations that would clarify and regulate their use within the City. The amendments proposed herein are the result of joint meetings and input from the Planning Department, Building and Zoning Department and the City Manager's Office.

The Zoning Code currently permits nightclubs in the City, as long as the sale of alcoholic beverage does not exceed forty-nine (49%) percent of gross receipts. Nightclub activities are now occurring in the City at licensed restaurants. The Code does not specify the zoning districts within which nightclubs are permitted, and there are currently no performance standards for nightclubs. Nightclubs are prohibited as a stand-alone use as interpreted by the Building and Zoning Department, and are prohibited in "CL", Commercial Limited zoning districts by Code. Nightclubs are addressed in Article 8 – Definitions, Section 4-301, 'Commercial Limited (CL) District' and Section 4-401, "Uses Prohibited" of the Zoning Code (see Attachments B).

Proposal

The intent of the proposed Zoning Code text amendments is to implement zoning controls to reduce the impact nightclub activity on residential neighborhoods, and surrounding commercial properties relating to patron activity, noise, litter and security. The term "nightclub" would be replaced with "nighttime entertainment" to more accurately reflect permitted activities. The proposed amendments would assign nighttime entertainment as a permitted use only in "C", Commercial zoned districts, and only as an accessory use to licensed restaurant. This proposal

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provides additional description of nighttime entertainment, performance criteria and references additional provisions regulating nightclubs in the City Code.

In the current definition of a nightclub, a minimum forty (40%) percent of gross receipts is required from the sale of alcoholic beverages. Section 4-401 limits the sale of alcoholic beverages to a maximum of forty-nine (49%) percent of gross receipts as required by the State for licensed restaurants. The proposed amendments recommend that the upper limit (49%) of total annual gross receipts from the sale of alcoholic beverages be cited in both provisions for consistency and enforcement purposes. This assures that the sale of alcoholic beverages does not become the primary function of the establishment.

The proposed amendments establishes performance standards for nighttime entertainment and identifies and provides notice of City Code requirements regarding noise, permitted hours of operation and other applicable nuisance provisions which currently are not referenced in the Zoning Code. A provision allows for City inspection of sales receipts and records upon request to assure compliance with this maximum gross receipt requirement. The proposal also prohibits “casinos”, which is not defined or referenced as a permitted use in the Zoning Code.

Specific Amendments

Amendments to the existing provisions of the Zoning Code are provided herein, and in the attached Ordinance (see Attachment A), are shown in ~~strike thru~~ / underline format.

Section 4-301. Commercial Limited (CL) District.

B. Permitted uses. The following uses are permitted in the Commercial Limited District subject to the standards in this Section and other applicable regulations in Article 5:

18. *Building sites unified by a recorded Unity of Title filed prior to the enactment of this Zoning Ordinance and which, as a result of the enactment of this Zoning Ordinance, are zoned Commercial (C), in part, and Commercial Limited (CL), in part, are permitted to have Commercial (C) uses on the portions of the property designated Commercial Limited (CL), except for the following:*
 - a. *Medical clinics in excess of 10,500 square feet of floor area.*
 - b. *Drive through facilities.*
 - c. *Sale of alcohol other than as an accessory use.*
 - d. *~~Nightclubs~~ Nighttime entertainment.*

Section 4-302. Commercial District (C).

B. Permitted uses. The following uses are permitted subject to the standards in this Section and other applicable regulations in Article 5:

17. *Nighttime entertainment, in accordance with the following performance standards:*
 - a. *Nighttime entertainment shall only be permitted as an accessory use to an existing licensed restaurant, and shall occur entirely within the building.*
 - b. *Property on which nighttime entertainment uses are proposed shall be a minimum of one*

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hundred-fifty (150') feet from any residential single-family or duplex zoned district.

- c. The building shall incorporate sound proofing/noise insulation measures that meet or exceed current industry standards, and adequate ventilation shall be provided within the structure such that all doors and/or windows are not left open.
- d. Outdoor seating shall be permitted only for restaurant dining purposes, and open air access between the outdoor seating and nighttime entertainment within the building shall not be permitted.
- e. Notices shall be well lit and prominently displayed at building exits urging patrons to dispose of all trash prior to leaving the premises, and to leave the premises in a quiet and orderly fashion.
- f. Employees of the establishment shall be posted at all entrances to assure that patrons waiting to enter the establishment are quiet and do not interfere with pedestrian access along the public right of way.
- g. Employees of the establishment shall between 30 minutes after closing time and 8 a.m. the following morning pick up and dispose of any discarded beverage containers and other trash left patrons.
- h. Outside lighting shall be shall be provided in a manner that would illuminate outside sidewalk areas where patrons wait to enter and leave the premises.
- i. There shall be no outside music or paging system permitted, and all proposed valet parking shall comply with existing City requirements.
- j. Prior to any nighttime entertainment use, the property owner shall be required to complete and file a City application for administrative review and approval by the Director of Building and Zoning that includes the following information: proposed nighttime entertainment activities; hours of operation of operation; maximum building capacity; demonstration of compliance with all required performance standards; and, written statement of no objection to proposed nighttime entertainment from all adjacent property owners.

Section 4-401. Uses prohibited.

The following uses shall not be permitted within the City:

- A. Nightclub or casino whenever Nighttime entertainment where alcoholic beverages exceed forty-nine (49%) percent of total annual gross receipts as required by the State for licensed restaurants. It shall be the responsibility of the establishment to maintain records open for inspection upon request by the City to demonstrate compliance with this requirement.
- B. Casinos.

Article 8 – Definitions

Nightclubs Nighttime entertainment ~~means a commercial establishment~~ shall be permitted only as an accessory use to a licensed restaurant and may include music, dancing and other similar social activities, and dispensing of alcoholic beverages for consumption on the premises, where alcoholic beverages and intoxicating liquors ~~do not exceed forty~~ forty-nine (40% 49%) percent of the total annual gross receipts ~~of the establishment as required by the State for licensed restaurants~~ (See Article 4, ~~Division 4~~ Section 4-401.). All nighttime entertainment shall be contained entirely within the building and shall be in accordance with all performance standards (see Article 4, Section 4-302) and all other applicable City Code requirements including but not limited to noise, permitted hours of operation and other applicable nuisance provisions.

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Public Hearing Timeline

Upon recommendation from the Planning and Zoning Board, the proposed text amendments will be scheduled for public hearing consideration by the City Commission as follows:

City Commission, 1st Reading – September 8, 2009, 9:00 a.m.
City Commission, 2nd Reading – September 22, 2009, 9:00 a.m.

The above dates and times are subject to change.

Public Notification

The Planning and Zoning Board meeting agenda has been advertised and posted on the City web page. The staff report and attachments are also posted on the City web page.

Respectfully submitted,

Eric Riel, Jr.
Planning Director

Attachment:

- A. Draft Ordinance – text amendments.
- B. Zoning Code Article 8 – Definitions, “Nightclubs” and Sections 4-301 and 4-401.