



City of North Miami Beach, Florida

Community Development Department

PLANNING AND ZONING BOARD STAFF REPORT

TO: NMB Planning and Zoning Board

FROM: Richard G. Lorber, AICP, Director of Community Planning

DATE: June 13, 2016

RE: Ordinance: Zoning Text Amendment – Special Limited Conditional Uses
AN ORDINANCE OF THE MAYOR AND CITY COUNCIL AMENDING CHAPTER XXIV, OF THE CODE OF THE ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, FLORIDA BY AMENDING ARTICLE V, “ZONING USE DISTRICTS” SECTIONS 24-58.1 THROUGH 24-58.7, AND AMENDING ARTICLE XV, “OTHER DEVELOPMENT REVIEW PROCEDURES”, SECTION 24-177, “SPECIAL LIMITED CONDITIONAL USES”, SPECIFYING THAT APPLICATIONS FOR SPECIAL LIMITED CONDITIONAL USES ARE PERMITTED IN THE MIXED-USE MU/TC, MU/EC, MU/NC, MU/C, MU/NWF, MU/SWF, AND MU/EWF ZONING DISTRICTS; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR SEVERABILITY; CODIFICATION; AND FOR AN EFFECTIVE DATE.

Request:

The applicant, City of North Miami Beach, proposes a text amendment to Chapter 24 of the North Miami Beach Zoning and Land Development Code, in order to permit Special Limited Conditional Use applications within the Mixed-Use zoning districts.

Background:

For many years the North Miami Beach Zoning and Land Development Code has contained provisions for applicants to request approval for “Special Limited Conditional Use”. Special Limited Conditional Use is governed by Section 24-177 of the City Code. Conditional Uses are defined as uses, which when specifically listed as such within the use district regulations, may be permitted with certain stipulated conditions that will serve to insure that said use will assimilate properly into its surrounding neighborhood without deleterious effects. An application for Special Limited Conditional Use may be approved by the Council for a land use not normally permitted within the specified zoning district due to unique or special circumstances. Strict standards of review apply to these applications; both the variance standards and the conditional use standards are applied (see attachment for specific review standards).

Upon the rezoning of several commercially zoned areas to the City's new Mixed-Use zoning categories, City Planning & Zoning staff has found that those areas that were previously zoned for General Business and now zoned Mixed-Use no longer have the ability to apply for Special Limited Conditional Use. At the time of the rezoning, certain text changes to the zoning code would have been required to ensure that property owners in those districts retained the ability to apply for the Special Limited Conditional Use, and those changes were not made, leaving out the ability to apply for this approval.

At this time, staff proposes the attached zoning text amendment, adding in the reference to Special Limited Conditional Use to each of the Mixed-Use zoning districts, and specifying in Section 24-177 that Special Limited Conditional Use applications are permitted within the MU/TC, MU/EC, MU/NC, MU/C, MU/NWF, MU/SWF, and MU/EWF zoning districts.

Planning and Zoning Department Analysis:

This proposed amendment would add the newly created Mixed-Use zoning districts (MU/TC, MU/EC, MU/NC, MU/C, MU/NWF, MU/SWF, and MU/EWF) to the list of zoning districts within which one may apply for Special Limited Conditional Use (SLCU). Previous to the zoning amendments creating the mixed-use zones, SLCU was permitted in the Commercial zoning districts B-1, B-2, B-3, B-4, as well as the mixed-use district FCC. By adding in the newly created Mixed-Use zones, MU/TC, MU/EC, MU/NC, MU/C, MU/NWF, MU/SWF, and MU/EWF, the City would be restoring to these properties a right that they had previously under the previous commercial zoning. Therefore, this does not represent a significant policy shift, but rather, simply adjusting the code to permit what was previously permitted but then omitted.

Note also that this provision only gives property owners the right to apply for SLCU. The process itself remains unchanged, and is characterized by rigorous scrutiny and staff review. These applications are conditional, and the Council may review these applications very strictly. Some applications for SLCU may not be desired and do not have to be approved. Others may pose no negative impacts to their surroundings and may be a good candidate for approval. In all cases the discretion is given to the Council, and only those applications meeting all the strict review criteria would be approved. This is why P&Z staff has confidence that this provision may be added back into the zoning code without having negative effects upon the City and its neighborhoods.

Planning and Zoning Department Recommendation:

Planning and Zoning Department staff recommends that the Planning & Zoning Board recommend approval of the subject amending ordinance.

SPECIAL LIMITED CONDITIONAL USE – REVIEW STANDARDS

Sec. 24-175 - Conditional Uses.

(B) *Conditional Use Review Standards.*

- (1) The proposed use will be compatible with the existing natural environment and other properties within the neighborhood;
- (2) The proposed use will create no substantial detrimental effects on neighborhood property values;
- (3) The proposed use can be accommodated by adequate community facilities such as schools, streets, parks, and utilities;
- (4) The proposed use will have adequate provisions for vehicular and pedestrian traffic movement, both internal to the use and in the area which will serve the use;
- (5) The proposed use will have adequate drainage systems to service the use with particular attention to the necessity for on-site retention systems to alleviate runoff and pollution problems;
- (6) The proposed use will have adequate setbacks, buffering, and general amenities in order to control any adverse effects of noise, light, dust, and other nuisances;
- (7) The proposed use will be located on property which is sufficient, appropriate and adequate for any reasonably anticipated expansion thereof; and
- (8) Any other conditions as may be stipulated and made a requirement in granting any conditional uses, when it is considered necessary to further the intent and general welfare, including, but not limited to:
 - (a) Limitations on the hours of commercial or industrial operations,
 - (b) Limitations on the number of occupants of any building at any one time.

Sec. 24-176 - Variance.

(C) *Variance Review Standards.*

- (1) A non-use variance to the terms of this Code that will not be contrary to the public interest may be recommended by the Planning and Zoning Board and granted by the City Council in compliance with the requirements of the City Charter in this Code, upon a showing by the applicant that the nonuse variance maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community and provided that the non-use variance will be otherwise compatible with the surrounding land uses and would not be detrimental to the community. No showing of unnecessary hardship to the land is required. For the purpose of this subsection, the term "non-use variances" involves matters such as setback lines, frontage requirements, subdivision regulations, height limitations, lot size restrictions, yard requirements and other variances which have no relation to change of use of the property in question.
- (2) Appropriate conditions and safeguards, in conformity with the Code, may be prescribed as a condition of the granting of the variance, and violation of such conditions shall be deemed a violation of this Code.
- (3) The nonconforming use of adjacent lands, structures, or buildings shall not be considered grounds for the authorization of a variance.