NORTH MIAMI
FLORIDA
776 N.E. 125 Street, North Miami, Florida 33161

Council Report

To: The Honorable Mayor and City Council

From: Maxine Calloway, Esq., A.I.C.P., Director of Community Planning & Development

Date: October 9th, 2012

Re: Amendment to Land Development Regulations, Article 7, Definitions

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, ENTITLED "LAND DEVELOPMENT REGULATIONS", BY AMENDING ARTICLE 7 ENTITLED "DEFINITIONS", TO REVISE THE DEFINITION OF "RETAIL, SALES, AND SERVICE", IN ORDER TO CLARIFY OUTDOOR DISPLAY AS INCIDENTAL TO THE SALE OF PRIMARILY NEW GOODS AND PRODUCTS, SPECIFICALLY AUTOMOBILES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND AN EFFECTIVE DATE.

RECOMMENDATION

That the City Council approves the proposed ordinance to amend Article 7, of the City's Land Development Regulations (LDRs), in order to revise the definition of "retail, sales, and service".

PURPOSE & INTENT

The applicant, Italian Design Automotive Group, LLC, owns an approved retail use on a property consisting of 36,590 sq ft in size, located at 13110 Biscayne Boulevard. The retail use is a small new car boutique known as Fiat of North Miami. The applicant has filed a request to amend Article 7 to clarify the definition of *Retail Sales and Service* in order to more clearly define the appropriate standards for outdoor display of automobiles that is typically incidental to the sale of primarily new products.

PLANNING COMMISSION RECOMMENDATION

At its meeting on September 4th, 2012 the Planning Commission reviewed and discussed the proposed text amendment and agreed that it was beneficial to both the City as well as local businesses in that it would provide more clarity to the current regulations and allow for more orderly outdoor display of automobiles at small car boutiques under the *Retail, Sales and*

Service use category. As such, the Commission rendered a unanimous vote of 6-0 recommending approval of the proposed Ordinance along with the conditions outlined in this report.

BACKGROUND INFORMATION

The City's Land Development Regulations (LDR) defines *Retail, Sales, And Service* as "***a use, the principle use or purpose of which is the sale of primarily new goods, products, materials, or services directly to the consumer***". As such, the City allows compact new car boutiques (without service stations) as a permitted use under to *Retail, Sales, And Service* category. These compact car boutiques are typically smaller in size than the traditional dealerships and primarily provide the sale of new vehicles without a service station included onsite. However the City's LDR is silent with regard to the number of outdoor vehicles that may be displayed at such businesses. **If approved, the current amendment will revise the definition of *Retail, Sales, and Service* to include limits for principally new automobiles to be displayed outdoor (a maximum of 20 vehicles), with a not-to-exceed (of 30%) for pre-owned automobiles.**

ANALYSIS

Section 3-1004 of the City's Land Development Regulations requires that all City initiated text amendments to the LDR must meet the following minimum criteria:
Amendments to the LDR must meet the following minimum criteria:

1. **Promotes the public health, safety and welfare;**

The proposed text amendment clarifies the definition for an existing use in order to improve the standards for future businesses in specific areas of the City where such uses are permitted and encouraged. This fosters a "pro-business" environment, promotes economic growth and enhances the overall quality of life within the City.

2. **Does not permit uses the Comprehensive Land Use Plan prohibits in the area affected by the zoning map change or text amendment**

The proposed text amendment does not propose any new use but merely a clarification of an already permitted use.

3. Does not allow densities or intensities in excess of the densities and intensities which are permitted by the future land use categories of the affected property;

Not Applicable

4. Will not cause a decline in the level of service for public infrastructure which is the subject of a concurrency requirement to a level of service which is less than the minimum requirements of the Comprehensive Land Use Plan;

Not Applicable

5. Does not directly conflict with any goal, objective or policy of the Comprehensive Land Use Plan; and

The proposed text amendment is consistent with and further advances the goals, policies and objectives of the City's Comprehensive Plan. Specifically, Policy 9.4.6 the Economic Element which requires that the City create land use and zoning regulations that encourage the retention, attraction and expansion of businesses. Furthermore Goal 9 also requires that the City create an environment that will enhance the economic prosperity of local businesses and attract new business while improving the quality of life for all of its citizens

6. The proposed amendment furthers the orderly development of the City of North Miami.

The proposed amendment allows the City to better regulate similar retail, sales and services uses that require outdoor display of vehicles as an incidental use to the primary use. This contributes to the City's efforts to establish and maintain orderly development in each zoning district throughout the City where such use is permitted.

CONCLUSION

With the City's Commercial district occupying over 4% of North Miami's total land area, it's critical for the City to develop flexible zoning standards with clearly defined guidelines in which approved businesses can operate. Staff is of the opinion that the proposed text amendment will provide the flexibility needed to help an already thriving business remain successful and may serve as a catalyst in the Commercial districts to spur redevelopment in more stagnant areas of the City. To that end, staff believes the proposed amendment is in keeping with the goals,

policies and objectives of the City's Comprehensive Plan and would promote economic growth throughout the City. As such, staff requests that the City Council recommends adoption of the proposed ordinance.

TWS/mc

Attachments

1. Ordinance
2. Letter of intent

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, ENTITLED "LAND DEVELOPMENT REGULATIONS", BY AMENDING ARTICLE 7 ENTITLED "DEFINITIONS", TO REVISE THE DEFINITION OF "RETAIL, SALES, AND SERVICE", IN ORDER TO CLARIFY OUTDOOR DISPLAY AS INCIDENTAL TO THE SALE OF PRIMARILY NEW GOODS AND PRODUCTS, SPECIFICALLY AUTOMOBILES; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, on April 28, 2009, the Mayor and City Council of the City of North Miami, adopted the Land Development Regulations ("LDRs") under Chapter 29 of the City's Code of Ordinances; and

WHEREAS, Article 7 of the LDRs entitled "Definitions," includes a definition for the term 'Retail, Sales, and Service' which allows for "a use, the principle use or purpose of which is the sale of primarily new goods, products, materials, or services directly to the consumer"; and

WHEREAS, the applicant, Italian Design Automotive Group, LLC ("Applicant"), provides an approved retail use that currently operates a new car boutique known as Fiat of North Miami, and which is located at 13110 Biscayne Boulevard; and

WHEREAS, the Applicant has filed a request to amend Article 7 of the LDRs in order to clarify what constitutes a display of automobiles that is typically incidental to the sale of primarily new products ; and

WHEREAS, City administration reviewed the proposed request and recommends that Article 7 be amended to clarify the definition of 'Retail, Sales, and Service' to include limits for principally new automobiles to be displayed outdoors, with a not-to-exceed percentage of pre-owned automobiles; and

WHEREAS, Policy 9.4.6 of the City's Comprehensive Plan requires that the City "create land use designations and zoning regulations that encourage the retention, attraction and expansion of business and industry"; and

WHEREAS, the proposed ordinance promotes the public health, safety and welfare, and

furthers the orderly development of the City; and

WHEREAS, the proposed amendment is not in conflict with any goals, objectives or policy of the Comprehensive Plan of the City; and

WHEREAS, the Planning Commission held a duly noticed public hearing on September 4, 2012, and recommended approval of the proposed amendment, to the Mayor and City Council; and

WHEREAS, the Mayor and City Council, hereby accept the Planning Commission's recommendation and find that the proposed amendment to the LDRs is consistent with the intent of the Comprehensive Plan and its adoption is in the best interest of the City.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, THAT:

Section 1. The Mayor and City Council of the City of North Miami, Florida, hereby amend Chapter 29 of the City of North Miami Code of Ordinances, entitled "Land Development Regulations", by amending Article 7 entitled "Definitions", to revise the definition of "Retail, Sales, and Service", in order to clarify outdoor display as incidental to the sale of primarily new goods and products, specifically automobiles, as follows:

CHAPTER 29. LAND DEVELOPMENT REGULATIONS

* * * * * * * * * * * * * * * * * * * *

ARTICLE 7. DEFINITIONS

* * * * *

Retail, Sales, and Service mean a use, the principle use or purpose of which is the sale of primarily new goods, products, materials, or services directly to the consumer from within an enclosed building, including grocery stores, bakeries, hardware stores, antique and collectible stores, dry cleaning drop-off and pick-up station, dry cleaning establishments, pet shops, personal services, indoor recreation, personal instruction, art galleries, and including the sale of alcoholic beverages for off-premises consumption provided that the sale of alcoholic beverages is subordinate to the principal use and the display of alcoholic beverages occupies less than twenty-five (25%) of the floor area of the use, sale of principally new automobiles involving the outdoor display of a maximum of 20 automobiles of which no more than 30% shall be pre-owned, not including street vendors, farmer's markets, consignment shops, automobile services stations, thrift stores, self-service laundries, the on-premise consumption of alcoholic beverages or problematic uses.

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Section 2. **Repeal.** All ordinances or parts of ordinances in conflict or inconsistent are hereby repealed.

Section 3. **Conflicts.** All ordinances or parts of ordinances in conflict or inconsistent with the provisions of this Ordinance are hereby repealed.

Section 4. **Severability.** The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. **Codification.** The provisions of this Ordinance may become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article" or any other appropriate word.

Section 6. **Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading.

PASSED AND ADOPTED by a _____ vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this _____ day of _____, 2012.

PASSED AND ADOPTED by a _____ vote of the Mayor and City Council of the City of North Miami, Florida, on second reading this _____ day of _____, 2012.

_____
ANDRE D. PIERRE, ESQ.
MAYOR

ATTEST:

_____
MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

_____
REGINE M. MONESTIME
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: _____

Seconded by: _____

Vote:

Mayor Andre D. Pierre, Esq.	_____ (Yes)	_____ (No)
Vice Mayor Jean R. Marcellus	_____ (Yes)	_____ (No)
Councilperson Michael R. Blynn, Esq.	_____ (Yes)	_____ (No)
Councilperson Scott Galvin	_____ (Yes)	_____ (No)
Councilperson Marie Erlande Steril	_____ (Yes)	_____ (No)

Additions shown by underlining. Deletions shown by ~~overstriking~~.

FIAT OF NORTH MIAMI

13110 Biscayne Blvd. North Miami, FL 33181

August 8, 2012

Hand Delivered

Ms. Maxine Calloway
Community Planning and Development Department Director
City of North Miami
776 NE 125th Street
Miami, Florida 33161

Re: Italian Design Automotive Group/ Fiat of North Miami/ 13110 Biscayne Boulevard, North Miami, FL (the "Property") / Proposed Text Amendment to Article 7, of the Land Development Regulations

Dear Ms. Calloway:

We respectfully submit this letter of intent in connection with the request of a text amendment to the Land Development Regulations, Article 7 to revise the definition of Retail to include "Car Boutique" as part of the list of permitted uses. A "Car Boutique" would be a "New Car Franchise Dealer (NCFD) licensed by the Department of Highway Safety and Motor Vehicle (DHSMV)" where a maximum of 22 new cars will be displayed outdoors and no service be offered on site. Used cars may be displayed but may not exceed 50% of the amount of new cars in display at any given time.

Unlike independent car dealers, prospective New Car Franchise Dealers (NCFDs) undergo an exhaustive qualification process that takes into consideration not only its financial capabilities but also its expertise and reputation in the industry as well as its performance in previously owned NCFDs. NCFDs must meet rigorous corporate requirements that include but are not limited to architectural guidelines, employee training, corporate image and operating standards. NCFDs sell new cars and offer used cars only as an ancillary use meant to reduce the inventory of cars acquired as part of the new car sales. NCFDs shall continuously abide to the franchiser requirements since they are routinely monitored and not abiding to the standards could result in losing the franchise license. The new car franchise dealer industry is regulated by F.S 320.642 that imposes criteria to issue new licenses in an area served by other dealers, limiting the indiscriminate expansion. In no case could an official dealer representing a brand, be located within a radius of 12.5 miles from another dealer representing the same brand. Because of these limitations the subject property is the

only available opportunity in the City of North Miami to have a Fiat NCFD. Accordingly, the stringent requirements on its own will prevent the proliferation of car dealerships and by no means will turn Biscayne Boulevard into a car dealership corridor with the undesirable consequences observed throughout the region as illustrated in Exhibit A.

It is important to acknowledge the economic and social role that the automotive industry plays in a city in terms of revenue, employment and business generation. In the case of Fiat North Miami the business also caused a significant impact in terms of architectural design and city fabric infill with its benefit towards public safety as illustrated in Exhibit B. To obtain a franchise, NCFDs shall include three units: service, new car sales and used car sales. Since at this time Fiat of North Miami cannot display used cars at its location and the outdoor car display is limited, it is unable to operate at its full capacity and optimize its business. This limitation reduces the sales capability directly affecting tax revenues that would ultimately benefit the City of North Miami. In addition this hardship could affect corporate decisions related to the expansion plans of the Belcastro Group and restrain employment growth directly impacting the City of North Miami.

The applicant respectfully submits this request acknowledging the positive experience with the development of Fiat North Miami, a project executed in record time that was only possible because of the invaluable cooperation and dedication of the Building and Zoning and Community Planning and Development Department staff and management; and respectfully requests that you favorably consider our request and schedule this application for the September 6, 2012 public hearing.

If you have any questions or would like to discuss this matter in further detail, please contact Martin Djmal at 786-285-1128 Thank you for your attention to this matter.

Sincerely,

Fernando Arellano Geddes