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

Staff Report

Date: ~~October 28, 2014~~ **November 25, 2014**

To: The Honorable Mayor and City Council

From: Tanya Wilson-Sejour, Planning Manager, Community Planning & Development

Re: Amendment to LDR, Article 4. Section 4-302 - Establishment of Use (Liquor Package Store)

AN ORDINANCE OF THE VICE MAYOR AS ACTING MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 29 OF THE NORTH MIAMI CODE OF ORDINANCES ENTITLED "LAND DEVELOPMENT REGULATIONS", BY AMENDING ARTICLE 4, DIVISION 3 ENTITLED "NON-RESIDENTIAL DISTRICTS", SPECIFICALLY AT SECTION 4-302 ENTITLED "USES PERMITTED", TO ESTABLISH LIQUOR PACKAGE STORES IN THE C-1 COMMERCIAL ZONING DISTRICT, TO ENCOURAGE THE RETENTION, ATTRACTION AND EXPANSION OF BUSINESS AND INDUSTRY CONSISTENT WITH THE INTENT OF THE NORTH MIAMI COMPREHENSIVE PLAN; PROVIDING FOR REPEAL; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND FOR AN EFFECTIVE DATE.

RECOMMENDATION

That the Mayor and Council approve the proposed ordinance to amend Article 4, Section 4-302 of the City's Land Development Regulation (LDR) to re-establish Liquor Package Stores as a special exception use in the C-1 Commercial zoning district.

PLANNING COMMISSION RECOMMENDATION

At its meeting on October 7th 2014, the Planning Commission (attended by Commissioners Castor, James, Ernst, Each, Seifried and Prevatel) reviewed and discussed the proposed ordinance to amend Article 4, Section 4-302 to re-establish Liquor Package Stores as a special exception use in C-1 Commercial zoning district. Based on the information provided, several Board members expressed concern that allowing the liquor package stores in the C-1 district would diminish the quality of life in the City. Staff clarified that he subject use currently existed in the City but the LDR only permits the use along Biscayne Boulevard in the C2BE and C2BW zoned areas. Furthermore based on current regulations, alcohol consumption is prohibited on the premises and must be sold in sealed containers. Historically, liquor package stores were always allowed in the City's C-1 district up until 2009 when the LDR was updated. Nonetheless the majority of the board members were still reluctant to support the proposed amendment.

During the public hearing, Ms. Jessica Alston of Sunkist Grove spoke against the item and stated that she diametrically opposed liquor package stores in the area. She also shared that her Homeowner's Association gathered over 50 signatures to deny a grocery store outside of the City limits that would have sold liquor in order to preserve the quality of life. Based on the proceedings the motion was moved by Commissioner Castor to deny the item and was seconded by Commissioner James. The proposed ordinance failed by a vote of 4-2 (with the 2 supporting votes made by Commissioners Each and Prevatel).

BACKGROUND INFORMATION

The proposed text amendment, sponsored by Councilman Philip Bien-Aime, seeks to amend Article 4, Section 4-302 entitled "Uses Permitted", to re-establish *Liquor Package Stores* as a Special Exception use in the C-1 Zoning District. Article 7 of the City's LDR defines *Liquor Package* Stores as *"... a state licensed vendor selling alcoholic beverages in sealed containers only for consumption off the premises subject to the limitations provided in Chapter 3 (alcoholic beverages) of the City's Code of Ordinances."* Furthermore Chapter 3 of the City's Code of Ordinances requires that all liquor package stores adhere to a 1500 feet distance separation from the following types of uses: House of Worship, Schools, Residential, City Parks and Other liquor package stores. Also, any applicant desiring to establish a liquor package store must first obtain a 3-PS State Beverage License prior to making application with the City to obtain a Business Tax Receipt (BTR) and Certificate of Use (CU). Given the forgoing, any deviation from the aforementioned provision would require approval of a variance from the Board of Adjustment before a BTR and CU can be issued.

The City's regulations currently prohibit liquor package stores in all Commercial districts except C-2BE and C-2BW, both located along Biscayne Boulevard, which contains the City's only two liquor package stores (see attached map). **However it should be noted that under the City's former Zoning Code liquor package stores were historically allowed as a special exception use in the City's Commercial and Industrial districts but as of 2009, the use was excluded from said districts in the newly adopted LDR.** As such, the proposed amendment seeks to reestablish the use as a special exception in the C-1, Commercial district to allow greater flexibility to property owners in the C-1 district to be able to invest in and operate a business where *alcoholic beverages are sold in sealed containers.*

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:

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

Staff believes the current restrictions as outlined in Chapter 3, (Alcoholic beverages) of the City's Code of Ordinance, provides sufficient safeguards to protect the public health, safety and welfare of the City's residents. In fact based on staff's analysis any new liquor package store would not be able to meet the current 1500 ft distance separation and as such would need to apply for a variance through the Board of Adjustment.

Furthermore City administration believes re-establishing liquor package stores as a special exception use in the City's C-1 commercial district allows for the creation of new businesses in other areas of the City besides the C2BE and C2BW Commercial Districts and reduces the possible proliferation of such uses in said districts. In order to further limit the number of liquor package stores along the City's major commercial corridors, City administration recommends a subsequent text amendment to Chapter 3 of the Code of Ordinance in order to increase the distance separation from other similar uses from 1500 ft to 2500. Said restriction will be proposed in addition to the current regulation requiring a 1500 ft separation from a house of worship, schools, residential, city parks.

Staff believes the proposed amendment promotes economic growth and stimulates job creation thereby enhancing 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 use is consistent with the permitted uses allowed in the underlying Land Use as identified in the City's Comprehensive Plan.

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;**

Policy 1.1 of the City's Comprehensive Plan (Future Land Use Element) establishes maximum densities and intensities in each land use category which restricts proposed developments throughout the City to certain minimum development standards. Also, Section 4-303 of the LDR provides maximum density and intensity standards for proposed developments in all non-residential zoning districts. E.g. uses in the C-1, C-2BW and C-2BE districts *have a maximum lot coverage of 80%, maximum height of 55 ft; and uses in the M-1 district have maximum lot coverage of 75% with a maximum height of 55 ft. As such, all future uses associated with the proposed text amendment must comply with the maximum densities and intensities permitted in the City's Comprehensive Plan and Section 4-303 of the LDR.*

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;**

Any future permitted uses associated with the proposed text amendment will be subject to applicable concurrency requirements. If it is determined that any proposed development may potentially cause adverse impacts on the City's current or future infrastructure, the applicant will be required to mitigate these impacts that exceed the established level of service for a given public facility.

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 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.**

Since Liquor Package stores are currently solely permitted in the C2BE and C2BW Districts, staff believes re-establishing the use by Special Exception in the C-1 district reduces the possibility of a clustering or proliferation of such uses along Biscayne Boulevard and affords the orderly diffusion of such uses throughout other C-1 zoned areas of the City. Also re-establishing liquor package stores as a special exception use in the C-1, districts further advances the City's Comprehensive Plan vision to support the expansion of businesses in areas that are deemed appropriate by the City. If approved all future liquor package stores are subject to the limitations on service and hours of operation as provided in Chapter 3 (Alcoholic Beverages) of the City's Code of Ordinances in order to sell alcoholic beverages in sealed containers for consumption off the premises.

CONCLUSION

Staff is of the opinion that the proposed amendment to re-establish liquor package stores as a special exception use in the C-1 District is in keeping with the goals, policies and objectives of the City's Comprehensive Plan and furthers the orderly development of the City. As such, staff requests approval of the proposed ordinance.

TWS

Attachments

1. Ordinance
2. Map of existing liquor package stores based on Business Tax Receipt data

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 29 OF THE NORTH MIAMI CODE OF ORDINANCES ENTITLED "LAND DEVELOPMENT REGULATIONS", BY AMENDING ARTICLE 4, DIVISION 3 ENTITLED "NON-RESIDENTIAL DISTRICTS", SPECIFICALLY AT SECTION 4-302 ENTITLED "USES PERMITTED", TO ESTABLISH LIQUOR PACKAGE STORES IN CERTAIN C-1 COMMERCIAL ZONING DISTRICTS, TO ENCOURAGE THE RETENTION, ATTRACTION AND EXPANSION OF BUSINESS AND INDUSTRY CONSISTENT WITH THE INTENT OF THE NORTH MIAMI COMPREHENSIVE PLAN; PROVIDING FOR REPEAL, CONFLICTS, SEVERABILITY, CODIFICATION AND FOR AN EFFECTIVE DATE.

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

WHEREAS, Division 3 of Chapter 29, entitled "Non-Residential Districts," under Section 4-302 of the Land Development Regulations currently allows *Liquor Package Stores* as a special exception use, only in the C-2BE and C-2BW commercial zoning districts; and

WHEREAS, the City is desirous of amending Section 4-302, to also establish *Liquor Package Stores* as a special exception use in the C-1 commercial zoning districts, excluding the area adjacent to the Northwest 7th Avenue corridor, to allow for the expansion and future creation of businesses in commercial zoning districts; and

WHEREAS, Policy 9.4.6 of the City's Comprehensive Plan ("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 amendment is consistent with the Comprehensive Plan and promotes the public health, safety and welfare of the City; and

WHEREAS, the proposed amendment furthers the orderly development of the City, appropriately diversifies commercial uses, encourages future economic growth and does not directly conflict with any goal, objective or policy of the Comprehensive Plan; and

WHEREAS, the Planning Commission, after a duly noticed public hearing held on October 7, 2014, found the proposed amendment inconsistent with the public health, safety and welfare, and thereby recommended to the Vice Mayor and City Council its denial; and

WHEREAS, the Mayor and City Council, find that the proposed amendment to the Land Development Regulations is consistent with the Comprehensive Plan, and 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. Amendment to Chapter 29 Code of Ordinances. The Mayor and City Council of the City of North Miami, Florida, hereby amend Chapter 29 of the North Miami Code of Ordinances entitled "Land Development Regulations", by amending Article 4, Division 3 entitled "Non-residential Districts", specifically at Section 4-302 entitled "Uses Permitted", to establish Liquor Package Stores in Certain C-1 Commercial Zoning Districts, to encourage the retention, attraction and expansion of business and industry consistent with the intent of the North Miami Comprehensive Plan, as follows:

CHAPTER 29. LAND DEVELOPMENT REGULATIONS

* * * * * *

ARTICLE 4. ZONING DISTRICTS

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DIVISION 3. NON-RESIDENTIAL DISTRICTS

* * * * *

Section 4-302. Uses Permitted.

The following chart establishes the uses permitted in the non-residential zoning district in the City. No use is permitted which is not listed as permitted on this chart. "P" indicates whether the use is permitted, subject to review and approval in accordance with Article 3 of this Code. "P*"

indicates that the use is permitted with administrative site plan review. "SE" indicates that the use is permitted but only through special exception review. No use is permitted unless it complies with the provision of the zoning district in which it is located and the applicable development standard in Article 5 of this Code.

NON-RESIDENTIAL DISTRICTS					
PERMITTED USES	**C1**	**C2BE**	**C2BW**	**C3**	**M1**
ACCESSORY USES AND STRUCTURES	P	P	P	P	P
ADULT BUSINESSES					SE
ADULT DAY CARE (STAND ALONE BUILDING)	P*	P*	P*	P*	P*
ANIMAL BOARDING	P*	P*	P*		P*
ANIMAL GROOMING ESTABLISHMENT	P	P	P	P	
APPLIANCE, FURNITURE, ELECTRONIC RENTALS AND REPAIR	P				P
AUTO SERVICE STATION	SE				SE
BANQUET	P*				P*
BAR, LOUNGE OR TAVERN**	P	P	P	P	SE
PERMITTED USES	**C1**	**C2BE**	**C2BW**	**C3**	**M1**
BOAT REPAIR					P*
CATERING KITCHEN	P				P
CHECK CASHING STORE					P

CHILD CARE CENTERS	SE			SE	
COMMUNITY FACILITIES	SE*	SE*	SE*		
CONSIGNMENT SHOPS	P*	P*	P*	P*	
CONVENTION CENTER	SE			SE	
DAY SPA	P	P	P	P	
DRIVE THROUGH	SE	SE	SE	SE	
DRY CLEANING PLANT					P
EDUCATIONAL FACILITIES	SE*		SE*	SE*	
FUNERAL HOMES SE	SE				
GOVERNMENT USES	P	P	P	P	P
GUN SHOPS					SE
HOSPITALS	SE	SE	SE	SE	
HOTEL	P*	P*	P*	P*	
INDUSTRIAL					P
INSTITUTIONAL USES	P*	P*	P*	P*	
LIGHT INDUSTRIAL	SE				P
LIQUOR PACKAGE STORES***	SE	SE	SE		
MANUFACTURING					P
MARINAS		P*			
MECHANICAL CAR WASHING	SE				P
MEDICAL	P	P	P	P	
MUSEUMS				P*	P*
NIGHTCLUBS	SE	SE	SE	SE	SE
NURSING AND CONVALESCENT HOMES	P*		P*		
OFFICE	P	P	P	P	
OUTDOOR STORAGE (AS MAIN USE)					SE
PUBLIC FACILITIES	P	P	P	P	P
PUBLIC PARK	P	P	P	P	P
RECORDING AND TV/RADIO	P	P	P	P	P
RECREATION, INDOOR	P*	P*	P*	P*	P*
RELIGIOUS INSTITUTIONS	SE				
RESEARCH & TECHNOLOGY USES	P				P
RESTAURANTS	P	P	P	P	P*
RETAIL, SALES,	P	P	P	P	

SERVICES					
SCHOOLS	SE	SE	SE	SE	
SCHOOLS, SPECIAL & TECHNICAL	SE	SE		SE	
SELF-SERVICE LAUNDRIES	SE				
SELF STORAGE					P
STUDIOS (FINE ARTS)					P*
TEMPORARY USES	P	P	P	P	P
TOW TRUCK YARD					P*
VEHICLE SALES/DISPLAYS	SE				SE
VEHICLE SALES/DISPLAYS, MAJOR					SE
VEHICLE RENTAL	P*				P*
VEHICLE SERVICE, MAJOR					P*
VEHICLE SERVICE, MINOR	P*				P*
VETERINARY CLINICS	P*	P*	P*		P*
P = PERMITTED USE					
P* = ADMINISTRATIVE SITE PLAN REQUIRED					
SE = SPECIAL EXCEPTION					

* If a college/university dormitory was included in a master plan approved by the City prior to the adoption of these LDRs, administrative site plan shall be required.

** Subject to Chapter 3 of the City's Code.

*** Prohibited in the C-1 zoned area west of Interstate I-95, and in the Arts, Culture and Design Overlay District (AOD) subject to Section 4-403E and Chapter 3 of the City's Code.

* * * * *

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 herewith 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 _____ vote of the Mayor and City Council on first reading this _____ day of November, 2014.

PASSED AND ADOPTED by _____ vote of the Mayor and City Council on second reading this _____ day of December, 2014.

_____
DR. SMITH JOSEPH
MAYOR

ATTEST:

_____
MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

_____
REGINE M. MONESTIME
CITY ATTORNEY

SPONSORED BY: VICE MAYOR PHILIPE BIEN-AIME

Moved by: _____

Seconded by: _____

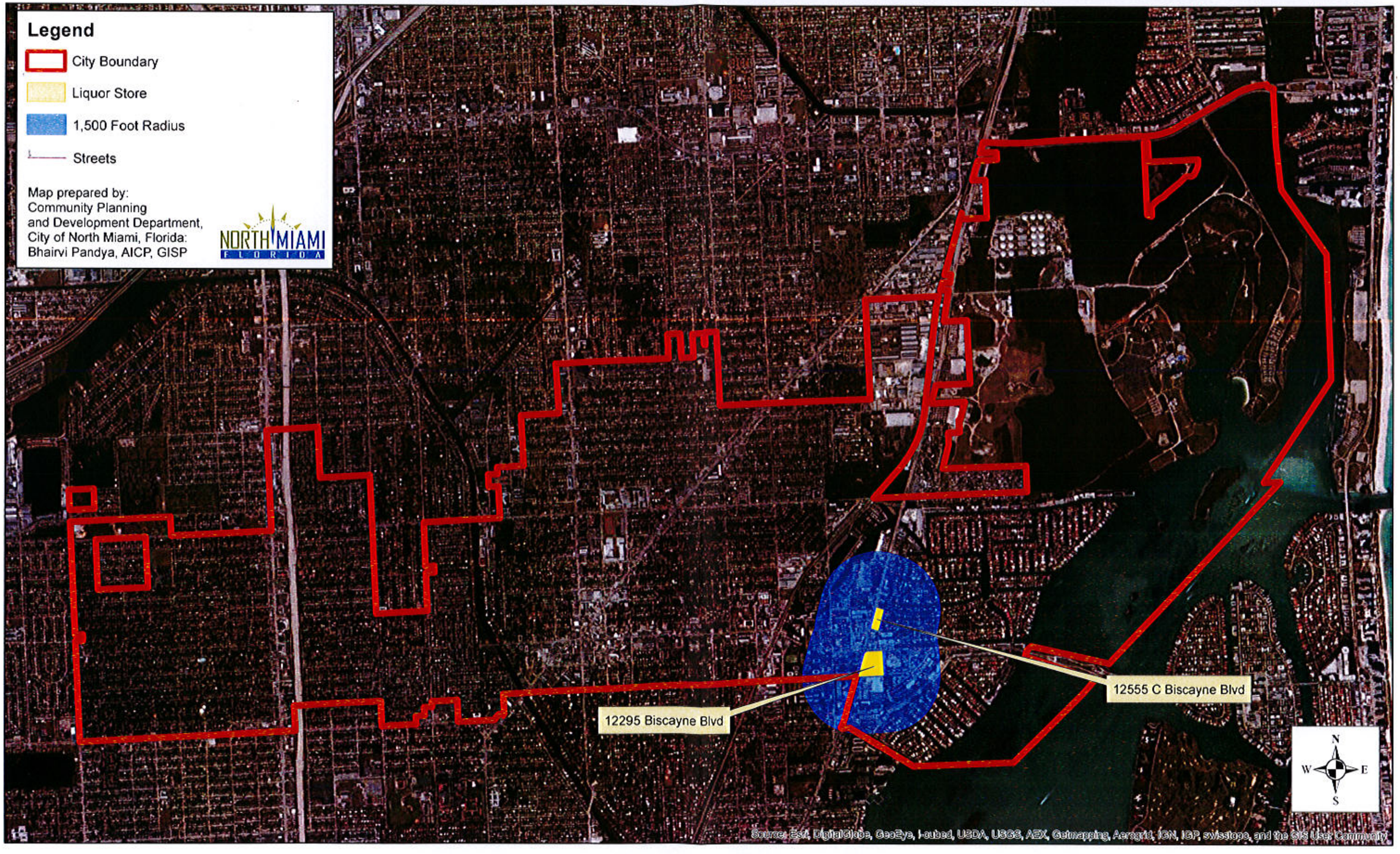
Vote:

Mayor Dr. Smith Joseph	_____ (Yes)	_____ (No)
Vice Mayor Philippe Bien-Aime	_____ (Yes)	_____ (No)
Councilperson Scott Galvin	_____ (Yes)	_____ (No)
Councilperson Carol Keys, Esq.	_____ (Yes)	_____ (No)
Councilperson Marie Erlande Steril	_____ (Yes)	_____ (No)

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

Liquor Store Radius Map

November 20, 2014



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