

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: November 17, 2020

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB20-0401 – Sunset Harbour Prohibited Use Regulations.**

An Ordinance of The Mayor and City Commission of the City Of Miami Beach, Florida, amending Chapter 142, "Zoning Districts and Regulations," Article II, "District Regulations," (1) at Division 5, "CD-2 Commercial, Medium Intensity District," Section 142-305, "Prohibited Uses"; and (2) at Division 11, "I-1 Light Industrial District," Section 142-485, "Prohibited Uses," to modify prohibited uses in the Sunset Harbour Neighborhood, generally bounded by Purdy Avenue, 20th Street, Alton Road, and Dade Boulevard; and providing for codification, repealer, severability, and an effective date.

RECOMMENDATION

Transmit the proposed ordinance amendment to the City Commission with a favorable recommendation.

BACKGROUND

On September 16, 2020, at the request of Commissioner Ricky Arriola, the City Commission referred the proposed ordinance amendment pertaining to prohibited uses in the Sunset Harbor area to the Land Use and Sustainability Committee (LUSC) and the Planning Board (item C4J).

On October 20, 2020 the LUSC recommended in favor of the proposal and that the Planning Board transmit the ordinance to the City Commission with a favorable recommendation.

REVIEW CRITERIA

Pursuant to Section 118-163 of the City Code, in reviewing a request for an amendment to these land development regulations, 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 ordinance is consistent with the goals, objectives, and policies of the Comprehensive Plan.

Additionally, the ordinance helps to implement the policies of the proposed Comprehensive Plan amendment related to Sunset Harbour neighborhood identity which is expected to be adopted on November 18, 2020 by the City Commission.

2. **Whether the proposed change would create an isolated district unrelated to adjacent or nearby districts.**

Consistent – The proposed amendment does not change district boundaries.

3. **Whether the change suggested is out of scale with the needs of the neighborhood or the city.**

Consistent - The proposed ordinance amendment is not out of scale with the surrounding neighborhood.

4. **Whether the proposed change would tax the existing load on public facilities and infrastructure.**

Consistent – The proposed ordinance will not affect the load on public facilities and infrastructure as the maximum FAR is not modified.

5. **Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.**

Consistent – The proposal does not modify district boundaries.

6. **Whether changed or changing conditions make the passage of the proposed change necessary.**

Consistent – The need to protect and enhance the Sunset Harbour neighborhood from incompatible uses makes passage of the proposed change necessary.

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

Consistent – The proposed ordinance amendment 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 create or increase traffic congestion from what is currently permitted.

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

Consistent – The proposed change will not seriously reduce light and air to adjacent areas.

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

Consistent – The proposed change should 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 should not be a deterrent to the improvement or development of properties in the City.

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 133-50(b) of the Land Development Regulations 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.

Partially 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 will not impact the resiliency of the City with respect to sea level rise.

(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

Certain nuisance uses such as pawnshops, souvenir and t-shirt shops, tattoo studios, fortune tellers (occult science establishments), and package liquor stores negatively impact the character of the City's mixed-use / residential neighborhoods. These uses, which tend not to serve neighborhood residents, hinder the development of unique experiences that residents seek. Instead, these uses detract from a neighborhood's curb appeal, and discourage businesses that provide greater economic opportunity, such as restaurants, retail, and offices. Residential development opportunities may also be reduced because of the negative impacts such uses would cause within the Sunset Harbour neighborhood. Some of the uses may have a tendency to be associated with crime and inappropriate lending practices and create problems for law enforcement.

On November 18, 2020 the City Commission is scheduled to consider an amendment to the

Comprehensive Plan to establish a neighborhood vision for the Sunset Harbour neighborhood. That vision includes the following:

- a. Support the continued development of the neighborhood with a mixed-use nature, including light industrial, artisanal retail, small-scale commercial, and residential development; and
- b. Encourage the establishment of small-scale businesses and restaurants that are intended to serve the residents within the neighborhood and in surrounding neighborhoods; and
- c. Foster the establishment of businesses that create unique dining, retail, and personal service experiences; and

This Ordinance implements the provisions of the Comprehensive Plan amendment by discouraging uses that would be incompatible with the unique character of Sunset Harbour. The City is trying to encourage appropriate, neighborhood type commercial uses in the Sunset Harbor area. It is the goal of the City to continue to foster the unique neighborhood and cultural environment of Sunset. In order to further this goal, it is recommended that the aforementioned uses not be permitted in the area.

The following are the currently prohibited uses in the CD-2 and I-I areas of Sunset Harbor:

1. Hostels;
2. Outdoor entertainment establishments;
3. Neighborhood impact establishments;
4. Open air entertainment establishments;
5. Bars;
6. Dance halls;
7. Entertainment establishments (as defined in section 114-1 of this Code).

Pursuant to the attached draft ordinance, the following are additional prohibited uses proposed for these areas in Sunset Harbor:

1. Pawnshops;
2. Tobacco and vape dealers;
3. Package liquor stores;
4. Check cashing stores;
5. Convenience stores;
6. Occult science establishments;
7. Souvenir and T-shirt shops;
8. Tattoo studios

Similar prohibitions or limitations exist along Lincoln Road and 71st Street, as well as within the Art Deco/MiMo Commercial Character Overlay District, which generally includes the Ocean Terrace area and the South Beach MXE district.

This ordinance is related to an ordinance to prohibit formula commercial and formula restaurant establishments, which is also intended to preserve the character of the neighborhood. That ordinance was transmitted to the City Commission with a favorable recommendation by the Planning Board and approved by the City Commission on first reading. Adoption is expected on November 18, 2020.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the Planning Board transmit the proposed ordinance amendment to the City Commission with a favorable recommendation.

SUNSET HARBOUR PROHIBITED USE REGULATIONS

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS," (1) AT DIVISION 5, "CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT," SECTION 142-305, "PROHIBITED USES"; AND (2) AT DIVISION 11, "I-1 LIGHT INDUSTRIAL DISTRICT," SECTION 142-485, "PROHIBITED USES," TO MODIFY PROHIBITED USES IN THE SUNSET HARBOUR NEIGHBORHOOD, GENERALLY BOUNDED BY PURDY AVENUE, 20TH STREET, ALTON ROAD, AND DADE BOULEVARD; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the Sunset Harbour neighborhood is composed of a mixture of residential, light industrial, and low intensity service, restaurant and retail uses, which primarily serve City residents; and

WHEREAS, residential uses in the Sunset Harbour neighborhood are divided only by the width of a street from the CD-2 commercial, medium intensity and the I-1 light industrial zoning districts; and

WHEREAS, the City Code permits certain uses within the CD-2 and I-1 zoning districts, which, absent mitigation, could be incompatible with adjacent residential uses in the Sunset Harbour neighborhood; and

WHEREAS, the Mayor and City Commission desire to encourage uses that are compatible with the scale and character of the neighborhood; and

WHEREAS, the City's land development regulations include regulations for permitted, accessory, conditional, and prohibited uses in the CD-2 and I-1 districts; and

WHEREAS, provisions for certain types of uses within the CD-2 and I-1 districts in the Sunset Harbor area are necessary and desirable; and

WHEREAS, the Sunset Harbor area contains a unique cultural, retail, and dining experience and is vital to Miami Beach's local economy; and

WHEREAS, tobacco and vape dealers, check cashing stores, pawnshops, souvenir and t-shirt shops, tattoo studios, fortune tellers (occult science establishments), and package liquor stores are uses which negatively affect surrounding areas and detract from the unique cultural, retail, and dining experiences which are part of the Sunset Harbor area; and

WHEREAS, it is the intent of the City to limit the proliferation of establishments which may negatively affect the Sunset Harbor area; and

WHEREAS, the proposed changes are necessary in order to promote sustainable mixed-use development within the CD-2 and I-1 districts in Sunset Harbor; 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 142, "Zoning Districts and Regulations," Article II, "District Regulations," Division 5, "CD-2 Commercial, Medium Intensity District," is hereby amended as follows:

**CHAPTER 142
ZONING DISTRICTS AND REGULATIONS**

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ARTICLE II. – DISTRICT REGULATIONS

* * *

DIVISION 5. - CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT

* * *

Sec. 142-305. - Prohibited uses.

- (a) The prohibited uses in the CD-2 commercial, medium intensity district are accessory outdoor bar counters, except as provided in article IV, division 2 of this chapter and in chapter 6.
- (b) Except as otherwise provided in these land development regulations, prohibited uses in the CD-2 commercial medium intensity district ~~also include the following~~ in the Sunset Harbour Neighborhood, generally bounded by Purdy Avenue, 20th Street, Alton Road and Dade Boulevard, are the following:
 - 1. Hostels;
 - 2. Outdoor entertainment establishments;
 - 3. Neighborhood impact establishments;
 - 4. Open air entertainment establishments;
 - 5. Bars;
 - 6. Dance halls; ~~and~~
 - 7. Entertainment establishments (as defined in section 114-1 of this Code).
 - 8. Pawnshops;
 - 9. Tobacco and vape dealers;
 - 10. Package liquor stores;
 - 11. Check cashing stores;
 - 12. Convenience stores;
 - 13. Occult science establishments;
 - 14. Souvenir and T-shirt shops;
 - 15. Tattoo studios
- (c) Except as otherwise provided in these land development regulations, prohibited uses A along Normandy Drive and 71st Street, are the following:
 - 1. Tobacco and vape dealers;
 - 2. Package liquor stores;
 - 3. Check cashing stores;

4. Occult science establishments; and
5. Tattoo studios.

* * *

Sec. 142-485. - Prohibited uses.

- (a) The prohibited uses in the I-1 urban light industrial district are accessory outdoor bar counters, bars, dance halls, or entertainment establishments (as defined in section 114-1 of this Code), outdoor entertainment establishments, neighborhood impact establishments, open air entertainment establishments, and residential uses, except as provided for in subsection 142-483(10).
- (b) Except as otherwise provided in these land development regulations, prohibited uses in the I-1 urban light industrial district in the Sunset Harbour Neighborhood, generally bounded by Purdy Avenue, 20th Street, Alton Road and Dade Boulevard, are the following:
 1. Hostels;
 2. Outdoor entertainment establishments;
 3. Neighborhood impact establishments;
 4. Open air entertainment establishments;
 5. Bars;
 6. Dance halls;
 7. Entertainment establishments (as defined in section 114-1 of this Code).
 8. Pawnshops;
 9. Tobacco and vape dealers;
 10. Package liquor stores;
 11. Check cashing stores;
 12. Convenience stores;
 13. Occult science establishments;
 14. Souvenir and T-shirt shops;
 15. Tattoo studios.

SECTION 3. REPEALER.

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

SECTION 4. 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 re-numbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 5. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and **ADOPTED** this _____ day of _____, 2020.

Dan Gelber
Mayor

Attest:

Rafael E. Granado
City Clerk

(Sponsored by Commissioner Ricky Arriola)

Underline denotes additions
~~Strike through~~ denotes deletions

First Reading: _____, 2020
Second Reading: _____, 2020

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

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