

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: January 25, 2022

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB21-0475. Prohibition of Towing as a Conditional Use.**

RECOMMENDATION

Transmit the proposed Ordinance amendment to the City Commission with an unfavorable recommendation.

HISTORY

On June 23, 2021, at the request of former Commissioner Michael Gongora, the City Commission referred a discussion to the Land Use and Sustainability Committee (LUSC) regarding a proposed amendment to eliminate towing services as a conditional use in the I-1 district in Sunset Harbour and instead make it a prohibited use (C4H). On July 12, 2021 the LUSC discussed the proposal and recommended the following:

1. An Ordinance be referred to the Planning Board to eliminate towing services as a conditional use in the I-1 district in Sunset Harbour.
2. The City Commission issue no more than two towing permits citywide.

On October 13, 2021 the City Commission referred the proposed ordinance to the Planning Board for review and recommendation (item R9 AA). Additionally, Commissioner Mark Samuelian agreed to become the new sponsor for the proposed Ordinance.

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.

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

Consistent – The proposed amendment does not create an isolated district unrelated to adjacent or nearby districts.

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

Consistent - The proposed ordinance amendment does not modify the scale of development and is not out of scale with the needs of the neighborhood or the city.

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 floor area ratio (FAR) is not modified.

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

Not applicable – The proposed amendment does not modify district boundaries.

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

Not Consistent – There have not been any applications for conditional use permits to open any new tow yards or any other specific changes in the neighborhood that 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, as the FAR is not being modified by this ordinance and the intensity of uses is not proposed to be increased.

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

Consistent – The proposed change would not affect light and air to adjacent areas.

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

Consistent – The proposed change will 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 will 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 consistent – The existing regulations allow for towing yards as a conditional use. The built nature and land values of the Sunset Harbour neighborhood makes it unlikely that any new towing yards would be proposed. However, should one be proposed, the existing regulations for the conditional use process make it possible to ensure that the use will not impact the surrounding area or for the use to be denied altogether by the Planning Board.

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 Consistent – The only zoning district which allows for tow yards is the I-1 district. Given the developed nature of the City, there are no other districts in the City for which towing yards would be a suitable use.

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.**

Partially Consistent – The proposal should not affect the resiliency of the City with respect to sea level rise; however, it may prevent the existing tow yard in the I-1 district from making improvements which could make the site more resilient 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.

BACKGROUND

Attached is a map showing the different zoning districts in the Sunset Harbor neighborhood, which is bounded by 20th Street on the north, Alton Road on the east, Dade Boulevard on the south and Biscayne Bay on the west. In addition to Sunset Harbor, Terminal Island is the only other area of the City that contains an I-1, light industrial, zoning district.

Under the City Code, the only district where towing is permitted in the City is as a conditional use within the I-1 district. Specifically, Sec. 142-483(12) sets forth the following:

Towing services: Lots reviewed pursuant to the conditional use process shall also comply with the following criteria:

- (a) A schedule of hours of vehicle storage and of hours of operation shall be submitted for review and approval by the planning board.*
- (b) If the towing yard is proposed to be within 100 feet of a property line of a lot upon which there is a residential use, the planning board shall analyze the impact of such storage and/or parking on the residential use. The analysis shall include, but not be limited to, visual impacts, noise, odors, effect of egress and ingress and any other relevant factor that may have an impact of the residential use.*
- (c) Towing yards must be fully screened from view as seen from any right-of-way or adjoining property, when viewed from five feet six inches above grade, with an opaque wood fence, masonry wall or other opaque screening device not less than six feet in height.*
- (d) Parking spaces, backup areas and drives shall be appropriately dimensioned for the type of vehicles being parked or stored.*
- (e) Towing yards shall be required to satisfy the landscaping requirements of subsection 126-6(2), and shall be subject to the design review procedures, requirements and criteria as set forth in chapter 118, article VI.*

Currently there are two (2) towing uses in the City, both of which are located in Sunset Harbour:

1. Beach Towing (1451 Dade Boulevard). This towing operation is located within the CD-2 (Commercial, Medium Intensity) zoning district and is legal non-conforming. As legal nonconforming use, this particular entity cannot expand or relocate within a CD-2 district.
2. Tremont Towing (1747 Bay Road). This towing operation is located within the I-1 (Light Industrial) zoning district and is conforming as it has an active Conditional Use Permit (CUP) that was issued in 2016 (PB0416-0010).

ANALYSIS

As noted above, the only towing uses in the City are located in the Sunset Harbor neighborhood, and one of the establishments is located within a zoning district where towing is no longer permitted. Towing is an essential use within the City, both for parking enforcement and emergency purposes. Having towing services available within the City is beneficial to residents and visitors alike, as retrieving a vehicle from a remote location across the bay is challenging and cumbersome.

The Land Use and Sustainability Committee (LUSC) has recommended that the Land Development Regulations of the City Code be amended to eliminate towing as a conditional use in the Sunset Harbor I-1 district. This would leave Terminal Island as the only location for a future towing use to be located.

The Fleet Management, Police and Parking Departments have expressed the following concerns with regard to any proposal to limit towing services to Terminal Island:

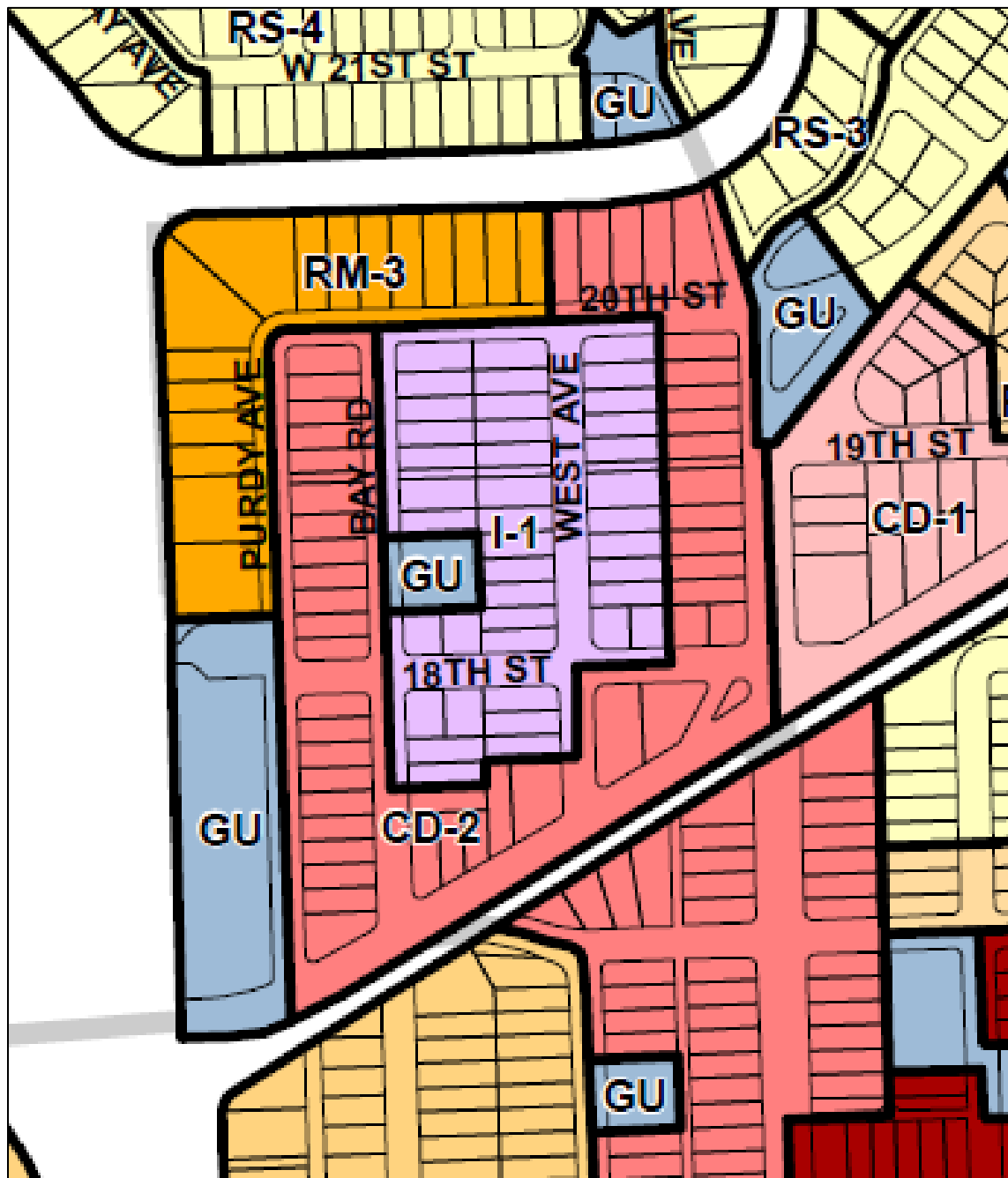
1. Logistics of Existing Fleet Management Vehicle Maintenance Operation. The only site on Terminal Island where a towing operation could, potentially, occur, is the City fleet management and vehicle maintenance site, which is already exceedingly challenged in terms of space and access. Additionally, the previously vacant sites (Fisher Island Employee Parking and Related Office parcel) are nearing completion and/or about to break ground. Once these adjacent sites are at full operational capacity, access to Terminal Island will become more challenging.
2. Security related concerns involving City operations.
 - Terminal Island is a primary refueling depot. Towing, or any other similar use, could impede the ability of Police and Fire vehicles to re-fuel.
 - Terminal Island is the primary location for public safety vehicles that are in need of repair to be serviced. There are security related concerns in terms of ensuring that people coming to the site to retrieve a towed vehicle do not have the opportunity to rummage through, and or damage police and fire, as well as other City vehicles that are currently in for servicing.
 - There is a general concern with the interactions between our City police officers and those coming to retrieve their towed vehicles, which would likely require Police to have some type of staffing on Terminal Island to ensure that there will be no disturbances.

From a land use perspective, the Planning Department has concerns with modifying the I-1 zoning district category in a manner that limits towing to a single site (Terminal Island) and creates a legal non-conforming use (Tremont Towing). Additionally, the use of towing services is well placed within the I-1 district, and the requirement for CUP approval ensures that both the existing towing entity with a CUP (Tremont), as well as any potential future towing uses, would be carefully regulated and controlled within the I-1 district. Making the existing towing establishment in the I-1 district a non-conforming use could limit the potential for improvements to the site that could improve the aesthetics of the tow yard.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the Planning Board transmit the proposed Ordinance amendment to the City Commission with an unfavorable recommendation.

Sunset Harbour – Existing Zoning



Prohibition of Towing as a Conditional Use

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, ENTITLED "DISTRICT REGULATIONS," BY AMENDING DIVISION 11, ENTITLED "I-1 LIGHT INDUSTRIAL DISTRICT," AT SECTION 142-483, ENTITLED "CONDITIONAL USES," TO REMOVE TOWING SERVICES FROM THE LIST OF CONDITIONAL USES; AND AT SECTION 142-485, ENTITLED "PROHIBITED USES," TO ADD TOWING SERVICES TO THE LIST OF PROHIBITED USES; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, Sunset Harbour is a neighborhood that has successfully evolved from a primarily industrial neighborhood into a vibrant mixed-use residential neighborhood that is characterized by its unique combination of residential, commercial, and industrial uses; and

WHEREAS, towing services detract from the character that has successfully developed within the Sunset the Sunset Harbour neighborhood; 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," is hereby amended as follows:

CHAPTER 142 - ZONING DISTRICTS AND REGULATIONS

* * *

ARTICLE II. – DISTRICT REGULATIONS

* * *

DIVISION 11. - I-1 LIGHT INDUSTRIAL DISTRICT DISTRICT

* * *

Sec. 142-483. Conditional uses.

(a) The conditional uses in the 1-1 urban light industrial district are:

(1) Any use that includes the retail sale of gasoline;

- (2) Automobile service stations;
- (3) Mechanical car wash facilities;
- (4) Auto repair;
- (5) New construction of structures, as defined in section 114-1, of 50,000 square feet and over, which review shall be the first step in the process before the review by any of the other land development boards;
- (6) Developments on properties greater than 20,000 square feet of lot area;
- (7) Machine, welding, and printing shops, involving heavy machinery;
- (8) Recycling receiving stations;
- (9) Utilities;
- (10) Residential uses, including live-work units, when included in rehabilitation of buildings existing as of October 24, 2009;
- (11) Towing services not located within the Sunset Harbour neighborhood. Lots reviewed pursuant to the conditional use process shall also comply with the following criteria:
 - a. A schedule of hours of vehicle storage and of hours of operation shall be submitted for review and approval by the planning board.
 - b. If the towing yard is proposed to be within 100 feet of a property line of a lot upon which there is a residential use, the planning board shall analyze the impact of such storage and/or parking on the residential use. The analysis shall include, but not be limited to, visual impacts, noise, odors, effect of egress and ingress and any other relevant factor that may have an impact of the residential use.
 - c. Towing yards must be fully screened from view as seen from any right-of-way or adjoining property, when viewed from five feet six inches above grade, with an opaque wood fence, masonry wall or other opaque screening device not less than six feet in height.
 - d. Parking spaces, backup areas and drives shall be appropriately dimensioned for the type of vehicles being parked or stored.
 - e. Towing yards shall be required to satisfy the landscaping requirements of subsection 126-6(2), and shall be subject to the design review procedures, requirements and criteria as set forth in chapter 118, article VI.
- (12) Main use parking garages;
- (13) Religious institutions with an occupancy greater than 199 persons.

(b) Sunset Harbour neighborhood. The conditional uses for the Sunset Harbour neighborhood, generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south, shall include those conditional uses listed in subsection 142-483, unless otherwise noted. The following additional uses shall require conditional use approval in the Sunset Harbour neighborhood:

(1) Restaurants with alcoholic beverage licenses (alcoholic beverage establishments) with more than 100 seats or an occupancy content (as determined by the fire marshal) in excess of 125, but less than 199 persons, and a floor area in excess of 3,500 square feet. Restaurants with alcoholic beverage licenses (alcoholic beverage establishments) shall also be subject to the additional requirements set forth in section 142-488.

(2) Package stores.

* * *

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) Check cashing stores;

(11) Convenience stores;

(12) Occult science establishments;

(13) Souvenir and T-shirt shops;

(14) Tattoo studios-;

(15) Towing services.

SECTION 2. REPEALER.

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

SECTION 3. 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 4. SEVERABILITY.

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

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and **ADOPTED** this _____ day of _____, 2022.

Dan Gelber
Mayor

Attest:

Rafael E. Granado
City Clerk

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

First Reading: February 9, 2022

Second Reading: March 15, 2022

APPROVED AS TO FORM AND
LANGUAGE AND FOR EXECUTION

City Attorney Date