# MIAMI BEACH
## PLANNING DEPARTMENT

Staff Report & Recommendation — PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: September 26, 2023

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: **PB23-0627. Sunset Harbour Restaurant Seating and Parking Requirements.**

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

**HISTORY**
On June 28, 2023, at the request of Commissioner Laura Dominguez, the City Commission referred the subject Ordinance to the Land Use and Sustainability Committee (LUSC) and the Planning Board (C4 Q).

On July 19, 2023, the LUSC discussed the item and transmitted a favorable recommendation to the Planning Board and City Commission.

**REVIEW CRITERIA**
Pursuant to Section 2.4.2 of the Resiliency 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 does modify the scale of development, as such the amendment 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.**

**Consistent –** The need to clarify standards for conditional uses in the Sunset Harbour neighborhood, makes the 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.

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

**Consistent –** The proposed change will 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 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 7.1.2.4 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 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.

**BACKGROUND**

The purpose of this referral is to consider:

1. Amendments to the conditional use requirements for the CD-2 Commercial, medium intensity district, to permit restaurants larger than 5,000 square feet in the Sunset Harbour neighborhood to have up to 199 indoor seats; and

2. Amendments to the off-street parking requirements for Parking Tier 2 area a (Sunset Harbour), to revise the parking requirement for restaurants that exceed 100 seats and/or 3,500 square feet of floor area.

**ANALYSIS**

Currently, conditional use approval (CUP) from the Planning Board is required for restaurant uses serving alcohol in the Sunset Harbour neighborhood if the establishment has more than 100 seats or exceeds an occupancy of 125 persons. Also, the current maximum occupancy for restaurants serving alcohol in the Sunset Harbour neighborhood is 199 persons.

The attached ordinance, which is proposed by an affected property owner, would amend the CD-2 (Commercial, Medium Intensity) district regulations in the Resiliency Code by modifying the occupancy and seating limits for restaurants serving alcohol in the Sunset Harbour area. Specifically, the following revised occupancy and seating thresholds would be subject to CUP approval:

- Restaurants with more than 100 seats or an occupancy content (as determined by the fire marshal) exceeding 125 persons, up to a maximum occupancy content of 199 persons and not to exceed 3,500 square feet of floor area.

- Restaurants exceeding 3,500 square feet of floor area, up to a maximum occupancy content of 299 persons (as determined by the fire marshal) and a maximum of 199 indoor seats.

- Restaurants exceeding an occupancy content of 299 persons (as determined by the fire marshal) or a maximum of 199 indoor seats would be prohibited.

The proposed ordinance would increase the allowable occupancy for restaurants with alcoholic beverage licenses in Sunset Harbour from the current maximum of 199 persons to 299 persons. However, such establishments could not exceed 199 indoor seats and CUP approval would still be required. The current CUP requirement for any restaurant establishment serving alcohol that exceeds 100 seats or an occupancy content of 125 persons remains in place.

Additionally, the off-street parking requirements for restaurants in Sunset Harbour are proposed to be amended as part of the ordinance. Currently, restaurant establishments that exceed 100 seats and/or 3,500 square feet of floor area are required to provide one (1) parking space for every four (4) seats and one parking space per 60 square feet of floor area not used for seating. The proposed ordinance would reduce this parking requirement to one (1) parking space for every eight (8) seats but maintain the requirement of one parking space per 60 square feet of floor area not used for seating.

The proposed modifications to the occupancy, seating and minimum parking requirements in the attached ordinance have been requested by a property owner in Sunset Harbour, who is seeking to develop a larger dining establishment within a new mixed-use development project that is currently under construction on Purdy Avenue. The property owner has indicated that the 75 off-street parking spaces provided in the development project can accommodate all operational parking for all uses within the new building, including the restaurant space and does not anticipate needing to utilize any parking spaces in the Sunset Harbour Parking Garage (G10).

The property owner has also provided a parking demand analysis (attached), which appears to indicate that surplus parking is available in the Sunset Harbour Parking Garage (G10).

## 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 Restaurant Seating and Parking Requirements**

**ORDINACE NO. _____**

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA AMENDING CHAPTER 7, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, " DISTRICT REGULATIONS," SECTION 7.2.11, "CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT," SUBSECTION 7.2.11.2 "USES (CD-2)," SUBSECTION B, "SUPPLEMENTAL CONDITIONAL USES REGULATIONS (CD-2)" IN THE SUNSET HARBOUR NEIGHBORHOOD, GENERALLY BOUNDED BY PURDY AVENUE, 20TH STREET, ALTON ROAD, AND DADE BOULEVARD; AMENDING CHAPTER 5, "OFF-STREET PARKING," ARTICLE II, "VEHICLE PARKING, BICYCLE PARKING AND OFF-STREET LOADING REQUIREMENTS," SECTION 5.2.4, "VEHICLE OFF-STREET PARKING REQUIREMENTS" TO MODIFY PARKING REQUIREMENTS IN THE TIER 2 AREA A PARKING DISTRICT; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS,** the City of Miami Beach (the "City") has the authority to enact laws which promote the public health, safety, and general welfare of its citizens; and

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

**WHEREAS,** the City has reviewed the condition of properties in the Sunset Harbour neighborhood, including existing restaurant establishments; and

**WHEREAS,** Sunset Harbour has unique cultural, retail, and dining experiences that are vital to Miami Beach's local economy; however, the City Commission desires to attract new, high quality restauranteurs; and

**WHEREAS,** the City, with input from residents and businesses, has determined that certain restrictions on dining that apply generally to the Sunset Harbour neighborhood conflict with the objectives above; and

**WHEREAS,** the amendments set forth below clarify and add flexibility for restaurant capacity and parking to improve operation for restaurants in the subject area; and

**WHEREAS,** the amendments set forth below are necessary to accomplish the objectives above.

**NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA.**

**SECTION 1**. Chapter 7, "Zoning Districts and Regulations," Article II, "General to All Zoning Districts," Section 7.2.11, "CD-2 Commercial, Medium Intensity District," Subsection 7.2.11.2 "USES (CD-2)," Subsection B, "Supplemental Conditional Uses Regulations (CD-2)," is hereby amended as follows:

**MIAMI BEACH RESILIENCY CODE**

* * *

**CHAPTER 7 ZONING DISTRICTS AND REGULATIONS**

* * *

**ARTICLE II: DISTRICT REGULATIONS**

* * *

**7.2.11 CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT**

* * *

**7.2.11.2 USES (CD-2)**

* * *

**B. SUPPLEMENTAL CONDITIONAL USES REGULATIONS (CD-2)**

* * *

iii. *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 (MAP EXHIBIT-2), shall include those conditional uses listed on the Uses Table in Section 7.2.11.2, but shall exclude:

1. pawnshops,

2. outdoor entertainment establishments,

3. neighborhood impact establishments, and

4. open air entertainment establishments, as these specific uses are prohibited in the Sunset Harbour neighborhood pursuant to Section 7.2.11.2.d.

The following additional uses shall require conditional use approval in the Sunset Harbour neighborhood:

I. Main use parking garages.

II. 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 persons, ~~but less than 199 persons and a floor area in excess of 3,500 square feet~~.

III. Restaurants with alcoholic beverage licenses (alcoholic beverage establishments) in excess of 3,500 square feet of floor area, regardless of occupancy content and number of seats.

IV. Liquor Stores

**SECTION 2**. Chapter 5, "Off-Street Parking," Article II, "Vehicle Parking, Bicycle Parking and Off-Street Loading Requirements," Section 5.2.4, "Vehicle Off-Street Parking Requirements," is hereby amended as follows:

**MIAMI BEACH RESILIENCY CODE**

* * *

**CHAPTER 5 OFF-STREET PARKING**

* * *

**ARTICLE II. VEHICLE PARKING, BICYCLE PARKING AND OFF-STREET LOADING REQUIREMENTS**

* * *

**5.2.4 VEHICLE OFF-STREET PARKING REQUIREMENTS**

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**5.2.4.2 Parking Tier 2**

Except as otherwise provided in these land development regulations, when any building or structure is erected or altered in parking Tier 2 accessory off-street parking spaces shall be provided for the building, structure or additional floor area as follows. For uses not listed below, the off-street parking requirement shall be the same as for parking tier 1.

a. Off-street parking requirements for Tier 2 area a.

Tier 2 area a includes those properties generally bounded by Purdy Avenue on the west, 20th Street on the north, Alton Road on the east and Dade Boulevard on the south, as depicted in the map below:




i. The following off-street parking requirements apply to properties located within Tier 2 area a:

Key: * See supplemental off-street parking regulations in section 5.2.4.2.a.ii. below

| USE | OFF-STREET PARKING REQUIREMENT |
|---|---|

| | | |
|---|---|---|
| **RESIDENTIAL** | | |
| *Apartment* building *and apartment-hotel* * | Existing structures utilized for residential apartments | No parking requirement |
| | New construction and/or additions utilized for residential apartments | One space per unit |
| | Designated guest parking | No parking requirement |
| **COMMERCIAL** | | |
| *Restaurant with alcoholic beverage license or other establishment for consumption of food or beverages* * | An individual establishment of less than 100 seats that does not exceed 3,500 square feet of floor area | No parking requirement. |
| | Establishment that exceeds 100 seats and/or 3,500 square feet of floor area | To the extent that an establishment exceeds 100 seats and/or 3,500 square feet of floor area, one parking space per ~~four~~ eight seats and one parking space per 60 square feet of floor area not used for seating shall be required, for up to 199 seats. For establishments that exceed 199 seats, one parking space per four seats and one space per 60 square feet of floor area not used for seating shall be required. Such parking may be satisfied by paying an annual fee in lieu of providing the required parking in accordance with section 5.4.2. |
| Retail store, food store, or personal service establishment * | Individual establishments of 3,500 square feet or less | No parking requirement. |
| | An establishment over 3,500 square feet | One space per 300 square feet of floor area for retail space that exceeds 3,500 square feet of floor area. Such parking may be satisfied by paying an annual fee in lieu of providing the required parking in accordance with section 5.4.2. |

**SECTION 3. REPEALER.**

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith be and the same 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 renumbered or relettered 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 2023

_____
, Mayor

ATTEST:

_____
Rafael E. Granado, City Clerk.

APPROVED AS TO FORM AND
LANGUAGE AND FOR EXECUTION

_____
City Attorney Date

First Reading: October 18, 2023
Second Reading: December 13, 2023

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

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