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October 23, 2023

VIA ELECTRONIC DELIVERY

Mr. Rogelio Madan, AICP
Development & Resiliency Officer, Planning Department
City of Miami Beach
1700 Convention Center Drive, 2nd Floor
Miami Beach, Florida 33139

RE: 18 Sunset Trustee, LLC - File No. PB23-0606
1759 Purdy Ave (Folio: 02-3233-012-0540) [F.K.A. PB20-0344/PB18-0168/PB17-0168]
Amended and Restated Letter of Intent for Modification to Conditional Use Permit

Dear Mr. Madan:

Please accept this Amended and Restated Letter of Intent on behalf of 18 Sunset Trustee, LLC (the "Applicant"), the owner of the property located at 1759 Purdy Avenue (Folio: 02-3233-012-0540) (the "Property") in support of Application File No. PB23-0606 (the "Application"). The Application seeks Planning Board approval for a modification to the Conditional Use Permit dated April 5, 2021, under File Nos. PB20-0344 / PB18-0168 / PB17-0168 (the "CUP"). A copy of the CUP is enclosed with the Application materials.

The CUP permits a mixed-use development over 50,000 square feet including, office, off-street parking, two cafes, and two restaurants, among various other components (the "Project"). Currently, condition 8.a.i of the CUP collectively restricts occupancy and seating for the restaurants approved by the CUP to (i) establish a maximum occupant content of 420 persons, (ii) limit the number of seats to 238 seats, and (iii) limit occupant content for each restaurant shall to 199 persons per establishment pursuant to Section 142-303(b) of the City's Land Development Regulations in effect at the time of the CUP's last amendment in 2021. Since the approval, the City adopted its Resiliency Code, which became effective on June 1, 2023, and which is in the process of being amended to permit larger format restaurants in the Sunset Harbour neighborhood.

The Project, which is currently under construction, is uniquely situated to host Class-A restaurants. Two levels of the Project will be occupied by Class-A office tenants directly above the restaurants and the uppermost level features residential/residential-office units. The restaurants will serve as first class amenities for these tenants and residents.



Photo taken September 29. 2023

The Applicant has ascertained through recent studies and direct discussions with prospective tenants that, in order to attract top restaurants at this location, it is essential to have the ability to achieve up to 199 indoor seats in each restaurant with capacity for additional outdoor seating. The building has been designed to provide an enhanced ground level experience featuring expansive ceiling heights and shade structures. Accordingly, the Application seeks to modify Condition 8.a.i. of the CUP for the Project to allow up to 199 indoor seats with additional outdoor seating and patron capacity as determined by the Fire Marshall but in no event greater than 299 occupants for each restaurant, as follows:

FROM:

The combined food and beverage areas of the property covered in the CUP shall have a maximum occupant content of approximately 420 persons or any lesser such occupant content as determined by the Fire Marshal. The two (2) proposed restaurants that require a CUP may allocate occupancy in any way, provided that the total number of restaurant seats, including outdoor seats on private property and bar seats, shall not exceed 238 seats, and the occupant content for each restaurant shall not exceed 199 persons per establishment pursuant to Section 142-303(b).

TO:

~~The combined food and beverage areas of the property covered in the CUP shall have a maximum occupant content of approximately 420 persons or any lesser such occupant content as determined by the Fire Marshal. The two (2) proposed restaurants that require a CUP may allocate occupancy in any way, provided that the total number of restaurant seats, including outdoor seats on private property and bar seats, shall not exceed 238 seats, and the occupant content for each restaurant shall not exceed 199 persons per establishment pursuant to Section 142-303(b).~~ **Each of two (2) full-service restaurants approved pursuant to this CUP shall not exceed 199 indoor seats per establishment and the total occupancy content for each restaurant, including outdoor seating, shall be**

determined by the Fire Marshall and shall not exceed 299 persons, respectively, pursuant to Section 7.2.11.2.b.iii.

This proposed modification is consistent with pending legislation that has been recommended for approval by the Land Use and Sustainability Committee on July 19, 2023, by the Planning Board on September 26, 2023, and passed on first reading by the City Commission on October 18, 2023. The implementing ordinance is expected to be adopted by the City Commission on December 13, 2023, prior to the Planning Board meeting for this Application. Notwithstanding, the Applicant has enclosed a hold harmless acknowledgement in order to proceed with the Application as proposed.

The Applicant has met with its neighbors in Sunset Harbour and the Board of Directors of the Sunset Harbour Neighborhood Association to review the Application and confirm their support of the proposed modification. On May 10, 2023, the Sunset Harbour Neighborhood Association (SHNA) Board of Directors voted unanimously in favor of Applicant's proposal to increase the number of restaurant seats for the two restaurants subject to the CUP. Correspondence outlining SHNA's favorable resolution is enclosed with the Application materials.

The Project will continue to meet the conditional use review standards for approval in Section 2.5.2.2(a) as follows:

i. The use shall be consistent with the comprehensive plan or neighborhood plan if one exists for the area in which the property is located.

The use is consistent with the applicable Land Development Regulations, as amended, and with the City's Comprehensive Plan CD-2 land use category's stated purpose, which is to provide for "commercial activities, services, offices and related activities which serve the entire City."

ii. The intended use or construction shall not result in an impact that will exceed the thresholds for the levels of service as set forth in the comprehensive plan.

Approval of the Application will not result in an impact that will exceed the thresholds for the levels of services as set forth in the Comprehensive Plan. An updated traffic analysis has been submitted in connection with the proposed change confirming that there are no impacts to levels of service. The Project's development program and FAR are likewise within the Comprehensive Plan criteria.

iii. Structures and uses associated with the request shall be consistent with these land development regulations.

Multi-family residential, office and retail uses are permitted in the CD-2 zoning district. The Project, which is currently under construction, has previously been deemed to be consistent with the land development regulations by both the Planning Board and the Design Review Board.

iv. The public health, safety, morals, and general welfare shall not be adversely affected.

the proposed changes will not have affect the public health, safety, morals, general welfare of the Sunset Harbour neighborhood or the City of Miami Beach. Delivery, waste removal, and

other operations associated with the approved uses will be adequately controlled pursuant to the conditions of the CUP .

v. Adequate off-street parking facilities will be provided.

The Project provides adequate off-street parking facilities in compliance with Parking Tier 2.a. regulations, as amended. The required office, retail and residential parking will be accommodated within the building and will be located on the second floor.

vi. Necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values.

The Project incorporates required safeguards stipulated in the CUP conditions for the protection of the Property and its surroundings.

vii. The concentration of similar types of uses shall not create a negative impact on the surrounding neighborhood. Geographic concentration of similar types of conditional uses should be discouraged.

This Project is approved and construction is nearing completion. The approved uses are permitted uses in the CD-2 zoning district. The Project is consistent with the character and pattern of development in the neighborhood, and, together with the conditions included in the CUP and the Design Review Board orders, will have no negative impacts on the surrounding neighborhood. In fact, the proposed changes have been approved unanimously by the Sunset Harbour Neighborhood Association Board of Directors.

viii. The structure and site comply with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.

The Project, which is under construction, has been deemed to comply with the sea level rise and resiliency review criteria in Chapter 7, Article I of the City's Code.

ix. Appropriate consideration is given to the safety of and friendliness to pedestrian traffic; passageways through alleys is encouraged where feasible and driveways shall be minimized to the extent possible.

The Project has focused on the safety of and prioritized the pedestrian. The design enhances the pedestrian experience within the Sunset Harbour neighborhood, and driveways have been minimized to the greatest extent possible.

The proposed modification complies with the City's Resiliency Code, as expected to be amended, and no variances are requested with this application. Therefore, with this change, the Project will be able to adapt to the current demand for quality restaurants and will provide a high-quality urban experience for residents, workers, and visitors.

Based on the above, we respectfully seek your favorable review and recommendation of approval for this Application. Thank you in advance for your considerate attention to this request.

Respectfully submitted,

LSN Law, P.A.

Tracy R. Slavens, Esq.

Cc: Tom Mooney, AICP, Planning Director
Mr. Alejandro Garavito
Wesley Hevia, Esq.

Enclosures