

# Holland & Knight

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## VIA HAND DELIVERY

Mr. Thomas Mooney, AICP  
Director, Planning Department  
City of Miami Beach  
1700 Convention Center Drive, 2<sup>nd</sup> Floor  
Miami Beach, FL 33139

**Re: Sunset Land Associates, LLC – Third Amended and Restated Letter of Intent for Application to Planning Board (PB17-0168)**

Dear Mr. Mooney:

Please accept this Third Amended and Restated Letter of Intent on behalf of Sunset Land Associates, LLC (the “Applicant”), in support of its Application to the Planning Board for approval of a conditional use permit for a development project exceeding 50,000 square feet (PB17-0168). The subject property consists of ± 0.77 acres and is located at 1752, 1738, 1730 and 1724 Bay Road, and 1759, 1747, 1743, and 1733 Purdy Avenue, in Miami Beach, Florida, and is identified by Folio Nos. 02-3233-012-0550, -0530, -0540, -0520, -0510, -0500, -0490, and -0480 (collectively, the “Property”). The Property is zoned Medium Intensity Commercial Category (CD-2), has a land use designation of CD-2, and is located within the Sunset Harbor neighborhood.

The Property consists of six vacant lots and two buildings (a vacant building on 1752 Bay Road, and a currently occupied building on 1730 Bay Road, both to be demolished). The Applicant is seeking to develop the Property with a 67,500 square foot mixed-use development in accordance with Sections 142-301 – 142-310 of the City’s Code. The proposed development will consist of a 67,500 square foot five-story building with 18,015 square feet of commercial use at street level, twelve (12) spacious multi-family residential units with associated indoor and outdoor amenities, and required off-street parking, which will be located within the second floor of the building. The proposed commercial uses within the project consist of four tenant spaces (identified as Retail 1-4), each under 3,500 square feet, individually; two cafes (identified as Cafés 1 and 2), both under 3,500 square feet and under 99 seats; and two restaurants (identified as Restaurants 1 and 2), with 108 seats and 124 seats, respectively.

As such, the Applicant hereby requests the approval of a conditional use on the Property to allow the construction of a structure exceeding 50,000 square feet and two restaurants with an

occupancy content in excess of 100 seats. The proposed project complies with the City's Code and no variances are requested with this application. The proposed project will, through design, landscaping, and use mix, enhance and stimulate the retail, dining, and residential environment within the Sunset Harbour neighborhood. The project will provide a high quality urban experience for residents and visitors.

A. Conditional Use Review Guidelines

The Applicant is seeking the approval of a conditional use due to the size of the proposed development and the proposed Restaurants 1 and 2, which will have an alcoholic beverage license and. The proposed conditional use meets the review guidelines set forth in Section 118-92(a)(1)-(8) of the City's Code as follows:

(1) The use is 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 and with the City's Comprehensive Plan CD-2 land use category's stated purpose, which is "to provide development opportunities for and to enhance the desirability and quality of existing and/or new medium intensity commercial areas which serve the entire City."**

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

**The proposed project will not result in an impact that will exceed the thresholds for the levels of service as set forth in the Comprehensive Plan, which allows up to 100 dwelling units per acre, and a floor area ratio of 2.0 for mixed use developments in the CD-2 category.**

(3) Structures and uses associated with the request are consistent with these land development regulations.

**Multi-family residential and retail uses are uses permitted in the CD-2 zoning district. The proposed structure is consistent with the land development regulations.**

(4) The public health, safety, morals, and general welfare will not be adversely affected.

**Nothing in the proposed development will negatively affect the public health, safety, morals, and general welfare of the Sunset Harbour neighborhood or the City of Miami Beach. The operational plans for the proposed Restaurants 1 and 2 have been thoughtfully prepared to assure the City and the surrounding neighborhood that any tenants in said retail space will not adversely affect the Property and its surroundings.**

(5) Adequate off-street parking facilities will be provided.

**The proposed development will provide adequate off-street parking facilities. The required retail and residential parking will be accommodated within the building and will be**

**located on the second floor. In addition, valet parking service will be provided for both residents and patrons of the project.**

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

**The proposed development will incorporate the necessary safeguards for the protection of the Property and its surroundings. Also, operational plans describing the operational criteria for the proposed Restaurants 1 and 2 have been enclosed with this submittal in order to assure the City and the surrounding neighborhood that any tenants in said retail space will not have a negative impact on the surrounding neighborhood.**

(7) The concentration of similar types of uses will not create a negative impact on the surrounding neighborhood. Geographic concentration of similar types of conditional uses should be discouraged.

**The use of the project as a multifamily residential building with ground floor retail is a permitted use in the CD-2 zoning district. The project is consistent with the character of and pattern of development in the neighborhood.**

(8) The structure and site complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

**The structure and the site comply with the seal level rise and resiliency review criteria in Section 133-50 of the City's Code. Please refer to section C of this Second Amended and Restated Letter of Intent.**

**B. Review Guidelines For New Structures 50,000 Square Feet and Over**

In addition to the standard review guidelines listed in Section 118-192(a) and described above, when reviewing an application for conditional use for new structures 50,000 square feet and over, the planning board shall apply the following supplemental review guidelines, pursuant to Section 118-192(b):

(1) Whether the proposed business operations plan has been provided, including hours of operation, number of employees, goals of business, and other operational characteristics pertinent to the application, and that such plan is compatible with the neighborhood in which it is located.

**As stated above, the proposed mixed-use development will consist of 18,292 square feet of retail use, twelve (12) multi-family residential units, and required off-street parking structure. The anticipated ground floor tenants will include retailers and typical commercial uses currently found within the neighborhood. All hours of operation will be in compliance with the City's code.**

**Residential use will include indoor and outdoor amenities. Outdoor amenities will feature lush green gardens, sitting above the parking deck and at the first residential level. Integral to the architecture and how it responds and incorporates the Maurice Gibb Memorial Park, the**

**exterior amenity deck will feature garden areas for exercise, relaxation, meditation and entertainment.**

**At the roof level, there will be an amenitized roof deck, prioritizing views to the Maurice Gibbs Memorial Park, which will serve as an inviting sun deck and pool area for the use of all residents. The roof deck will also include a rooftop garden that will be screened by lush vegetation, giving an intimate experience to the plunge pool and day beds that both the residents and guests will enjoy.**

**A commercial component is not contemplated on the roof deck, as it will be an amenity reserved for the exclusive use of the residents and their guests. The common area of the roof deck is anticipated have various passive amenities such as a yoga/exercise area, small outdoor kitchen, sunset pool, Jacuzzi(s) and/or other water feature(s), as well as garden/relaxation areas, in addition to individual programming for the private penthouse rooftop terraces. It is anticipated that small outdoor speakers will be installed on the roof deck to enhance the experience on the pool and relaxation areas. The roof deck may have certain limited services, including restaurant delivery from neighborhood eateries and private workout/yoga classes. Access and service logistics will be coordinated through the building management and/or front desk personnel.**

**(2) Whether a plan for the mass delivery of merchandise has been provided, including the hours of operation for delivery trucks to come into and exit from the neighborhood and how such plan will mitigate any adverse impacts to adjoining and nearby properties, and neighborhood.**

**All mass delivery of merchandise will be received from the rear (Bay Road side) of the Property, where an adequate off-street loading dock and area will be located, as illustrated on sheet A-2.0 of the proposed site plan. All delivery trucks will be allowed to enter and exit the Property during business hours to minimize any adverse impacts to the residents of Sunset Harbour. Delivery and loading from the loading dock will operate during customary business hours from 7 AM to 4:30 PM. All Retail tenants and residents will have separate direct access to the loading area through the service corridor and elevator. The path of travel for loading uses will not intersect with the path for retail patrons and residents.**

**In addition, certain retail storefronts along Purdy Avenue may also have delivery of smaller items directly from loading spaces on Purdy Avenue. The Applicant intends to designate certain on-street parking spaces along Purdy Avenue and Bay Road for loading between 7 AM and 4:30 PM. Lastly, trash removal from the main dumpster(s) located in the loading dock area will typically take place in the hours between 6 and 10 AM. Please refer to the proposed Operational Plans for Restaurants 1 and 2.**

**(3) Whether the scale of the proposed use is compatible with the urban character of the surrounding area and create adverse impacts on the surrounding area, and how the adverse impacts are proposed to be addressed.**

**The scale of the proposed mixed-use development is compatible with the urban character of Sunset Harbour and seeks to enhance the neighborhood. The project will incorporate elevated design features, natural elements, and landscaping currently found in the neighborhood in order**

**to provide consistency and compatibility within the community, including Maurice Gibb Memorial Park. No adverse impacts on the surrounding area will be created.**

(4) Whether the proposed parking plan has been provided, including where and how the parking is located, utilized, and managed, that meets the required parking and operational needs of the structure and proposed uses.

**Please refer to Sheet A101. The proposed site plan indicates that the required retail and residential parking can be accommodated within the building and will be located on the second floor. In addition, valet parking service will be provided for both residents and patrons of the project. The parking plan meets and exceeds all required circulation and back out dimensions, with the exception of the drive aisle located near the North vertical core.**

(5) Whether an indoor and outdoor customer circulation plan has been provided that facilitates ingress and egress to the site and structure.

**A breezeway with a shared use promenade runs through the center of the building to provide pedestrian access to the commercial uses, residential lobby, and parking garage as well as Resident only vehicular access to the lobbies. The breezeway will provide access to stairways and elevators to allow for pedestrian access to the parking garage on the second floor and will connect to the residential lobbies. Vehicular access to the parking garage will be via Bay Road. This layout is consistent with what is currently found in the neighborhood and has proven to be a successful scheme to protect pedestrians on Purdy Avenue and to facilitate ingress and egress to projects of similar scale, including the Lofts at Sunset Harbour and the Sunset Harbour Parking Garage.**

(6) Whether a security plan for the establishment and supporting parking facility has been provided that addresses the safety of the business and its users and minimizes impacts on the neighborhood.

**The building and its parking garage will be supervised at all times to ensure the safety of all residents, commercial tenants, and patrons. However, only residents will be permitted to self-park and will also have access to the private valet located within the project breezeway. The restricted vehicular access for residents will be electronically controlled. All commercial users, patrons, employees, and residential guests will be required to valet. The valet service for the commercial users, patrons, employees and residential guests will be located curbside on Purdy Avenue.**

**Because the parking garage will consist of the required parking spaces for both uses, the security and safety of the parking facility will be the shared responsibility of the condominium's Homeowner Association (HOA)/ residential homeowners, and the owner/developer and/or commercial landlord representing the commercial tenants' parking spaces. Supervision of the parking garage will be outsourced to a third party management company (either on a standalone basis or for the entire property) that has experience managing residential and commercial parking structures or parking components of condominium buildings, and those costs will be shared and funded on a pro-rata/per parking space basis.**

(7) Whether a traffic circulation analysis and plan has been provided that details means of ingress and egress into and out of the neighborhood, addresses the impact of projected traffic on the immediate neighborhood, traffic circulation pattern for the neighborhood, traffic flow through immediate intersections and arterials, and how these impacts are to be mitigated.

**The garage entrance will be located on Bay Road. Pedestrian and Resident-only vehicular access to the Property will be provided both on Bay Road and Purdy Avenue via a shared open air promenade through the building. The breezeway is intended to primarily provide for pedestrian connectivity linking the Purdy Avenue and Bay Road sides of the project. Restricted vehicular access through the breezeway will be limited to the residents living in the 12 units within the project. Said restricted vehicular access will be electronically controlled. Valet will only be offered in the breezeway for residents. All commercial users, patrons, employees, and residential guests will be required to valet. The valet service for the commercial users, patrons, employees and residential guests will be located curbside on Purdy Avenue. Traffic leaving the Property (via Bay Road) will be permitted to turn left and right. The access has been designed and engineered to ensure pedestrian and vehicular safety as well as proper vehicular circulation within the site. The specific geometry of the exit and entrance access ramp will be engineered in such a manner as to minimize any potential stacking and interruptions or disruptions to the traffic flow rate.**

**An updated traffic study dated August 22, 2018 analyzing circulation and impacts has been prepared by Joaquin Vargas at Traf Tech Engineering, Inc. The traffic study contemplates recent roadway improvements, including the completion of the West Avenue Bridge. The results show that all study intersections are currently operating at an acceptable level of service, and in the year 2020, with the proposed project in place, all intersections are expected to continue to operate at an acceptable level of service.**

(8) Whether a noise attenuation plan has been provided that addresses how noise will be controlled in the loading zone, parking structures and delivery and sanitation areas, to minimize adverse impacts to adjoining and nearby properties.

**The off-street loading zone, parking garage, and delivery and sanitation areas will be configured, designed and engineered to minimize noise, odors, and any related adverse impacts to the residents, commercial tenants, patrons, and neighboring properties. The main trash rooms on the ground floor will be enclosed. All on-site trash disposal will be physically blocked from view and noise limited by a wall and roofed enclosures within the Property.**

(9) Whether a sanitation plan has been provided that addresses on-site facilities as well as off-premises issues resulting from the operation of the structure.

**As depicted in the proposed site plan, all sanitation areas will be located on the rear of the Property with easy access for an authorized waste hauler to provide private waste collection and recycling services. Retail tenants and residents will use secondary access via the trash shoot available on every floor as well as the service corridor to discreetly access the trash rooms.**

(10) Whether the proximity of the proposed structure to similar size structures and to residential uses creates adverse impacts and how such impacts are mitigated.

No adverse impacts will be created due to the proposed development's proximity to similar size structures and residential uses. The Sunset Harbor neighborhood is a thriving enclave with an urban character. The proposed development will invigorate activity and enhance the desirability of this unique neighborhood.

The proposed design incorporates a 21'-9.6" residential setback from The Lofts Condominium, the southernmost adjacent Property. Atop the parking level, residents of The Lofts will be buffered from the Sunset Park Residences by lush landscaping. Warm materials will be used along the façade while the entrance linear articulation for the curvilinear floor slab will continue along the side and rear of the building facing The Lofts. Glazing on the south façade will be limited, yet well-articulated to promote privacy between the units of The Loft Condominium and the units of Sunset Park Residences.

(11) Whether a cumulative effect from the proposed structure with adjacent and nearby structures arises, and how such cumulative effect will be addressed.

The proposed mixed-use development will not create a negative cumulative effect, but, rather, will be a positive addition to the Sunset Harbour neighborhood. The new proposal for Sunset Park Residences creates a context friendly, urban development to an underutilized parcel of land. Architecturally, the building responds to the intended scale and land-use of the City, with focus on the scale of the adjacent properties with the fluid movement of the architectural forms. The ground floor retail level activates Purdy Avenue with a continuous varying experience of retail vignettes picking up from The Lofts Condominium, through the site via an active breezeway and spilling out onto Bay Road. This retail lined breezeway serves as an additional activated artery connecting Purdy Avenue, Maurice Gibb Memorial Park, as well as other context on the west of the building to the active Sunset Harbour Neighborhood. Additionally, the lush gardens at the podium and roof deck levels funnel the naturalistic experience of the park into the neighborhood. The 82-car public parking deck reduces on-street parking creating a more pedestrian friendly neighborhood experience.

C. Sea-Level Rise and Resiliency Criteria – Section 133-50(a):

(1) A recycling or salvage plan for partial or total demolition shall be provided.

A recycling or salvage plan for partial or total demolition will be provided under separate cover at the appropriate time in the development process.

(2) Windows that are proposed to be replaced shall be hurricane proof impact windows.

All proposed windows will be hurricane proof impact windows.

(3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.

Passive Cooling systems, including, but not limited to, operable windows, will be provided.

(4) Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.

**Resilient landscaping has been incorporated into landscape design.**

(5) Whether adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact including a study of land elevation and elevation of surrounding properties were considered.

**Adopted Sea level rise projections in the Southeast Florida Regional Climate Action Plan, including a study of land elevation and elevation of surrounding properties, were considered.**

(6) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land.

**The ground floor, driveways, and garage ramping are adaptable to the raising of public rights-of-ways and adjacent land.**

(7) Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation.

**All critical mechanical and electrical systems are located above base flood elevation.**

(8) Existing buildings shall be, where reasonably feasible and appropriate, elevated to the base flood elevation.

**Not applicable.**

(9) When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.

**Wet or dry flood-proofing systems will be provided in accordance with Chapter 54 of the City Code for habitable space located below the base flood elevation plus City of Miami Beach Freeboard.**

(10) Where feasible and appropriate, water retention systems shall be provided.

**As noted above, wet or dry flood-proofing systems will be provided in accordance with Chapter 54 of the City Code for habitable space located below the base flood elevation plus City of Miami Beach Freeboard.**

**D. Commercial Height Standards**

Pursuant to Ordinance No. 2017-4124 buildings in commercial districts are permitted to be developed with up to an additional five (5) feet of height, provided the first floor has a minimum height of 12 feet from the base flood elevation plus maximum freeboard, to the top of the second floor slab.



This allows for the ground floor to be placed at a lower level, while providing sufficient ceiling height for the ground floor to be raised at such time when roadways and sidewalks are raised.

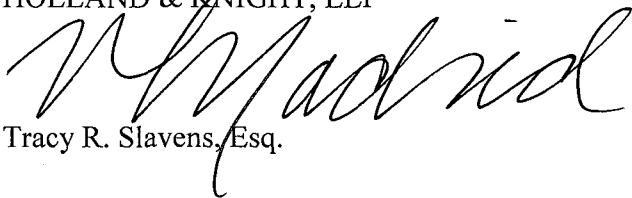
**By utilizing this Ordinance, the Sunset Park Development is able to incorporate a generous total height of nineteen feet (19'-0") from the ground floor/ approximate existing grade to the second floor slab. This Commercial height ordinance allows for an elevation of the ground floor to a height of Base Flood Elevation (8'-0" NVGVD) plus maximum freeboard of five feet (5'-0") while still allowing twelve feet (12'-0") from said ground floor to the top of the second floor slab. This allows for a sustainable building design that will permit the ground floor to be adopted over time to changes in the environment.**

Lastly, in accordance with Section 118-193, this application is accompanied by a site plan, which satisfies the requirement of Section 118-1. The approval of the proposed conditional use is appropriate and will further the goals, objectives, and policies of the CD-2 district.

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. If you should have any questions or require additional information, please feel free to call me directly at 305-789-7642.

Respectfully submitted,

HOLLAND & KNIGHT, LLP

  
for Tracy R. Slavens, Esq.

Enclosures