

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Planning Board

TO: Chairperson and Members  
Planning Board

DATE: November 27, 2018

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: **PB 17-0168 aka PB18-0168. 1733-1759 Purdy Avenue and 1724-1752 Bay Road  
– Sunset Park**

The applicant/owner Sunset Land Associates, LLC, and SH Owner, LLC, are requesting Conditional Use approval for a mixed use structure over 50,000 SF, and Conditional Use approval for two restaurants, each exceeding 100 seats, pursuant to Chapter 118, Article IV and Chapter 142, Article II of the City Code.

#### **RECOMMENDATION**

Approval with conditions

#### **HISTORY**

The applicant appeared before the Board on October 23, 2018, and requested a continuance to the November 27, 2018 meeting. The application was fully re-advertised for November 27, 2018.

#### **ZONING / SITE DATA**

**Future Land Use:** CD-2 – Commercial, Medium Intensity District

**Zoning:** CD-2 – Commercial, Medium Intensity District

**Legal Description:** West ½ of Lot 3, Lot 4, Lot 5, Lot 6, and Lot 7, Block 16, of the Island View Subdivision, according to the Plat thereof, as recorded in Plat Book 6, Page 115 of the Public Records of Miami-Dade County, Florida.

**Land Uses:** See Zoning/Site map at the end of this report.

North: Commercial retail and industrial uses

South: Residential mixed use

East: Industrial uses

West: City park and government use

**Lot Size:** 33,750 SF

**Maximum FAR:** 2.0 for mixed-use projects

**Proposed FAR:** 2.0 – 67,500 SF as represented by the applicant

**Maximum Height:** 50'-0" or 55'-0" with Design Review Board waiver approval

**Proposed Height:** 55'-0"

**Proposed Uses:**

<b>Residential:</b>	12 units
<b>Restaurant:</b>	296 seats
<b>Retail:</b>	8,630 SF
<b>Parking:</b>	82 spaces

**THE PROJECT**

The applicant has submitted plans entitled “Sunset Park”, as prepared by Domo Architecture + Design, dated August 22, 2018. The proposal consists of a new five (5) story, mixed-use building with 12 residential units; 296 seats divided between four (4) food and beverage establishments; 8,630 SF of ground floor retail use; and 82 parking spaces.

As a point of clarification, two (2) of the proposed food and beverage venues require a Conditional Use Permit (CUP) due to the number of seats and proposed occupant content exceeding the thresholds that require a CUP in the Sunset Harbour area. The thresholds that require CUP approval in the Sunset Harbour area are alcohol beverage establishments with more than 100 seats and/or an occupant content of more than 125 persons but less than 199 persons as determined by the Fire Marshal.

**COMPLIANCE WITH CONDITIONAL USE REVIEW GUIDELINES:**

Conditional Uses may be approved in accordance with the procedures and standards set forth in the City Code Art. 4, Sec. 118-191 and Sec. 118-192:

**1. The use is consistent with the Comprehensive Plan or Neighborhood Plan if one exists for the area in which the property is located.**

**Consistent** – The request is consistent with the Comprehensive Plan. The CD-2 future land use category allows new residential, retail structures, and eating and drinking establishments. The Comprehensive Plan also allows for structures exceeding 50,000 SF as conditional uses.

*Uses which may be Permitted: Various types of commercial uses including business and professional offices, **retail sales and service establishments, eating and drinking establishments; apartment residential uses; apartment hotels; and hotels.***

*Other uses which may be permitted are accessory uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to be subordinate to the main use; and **conditional uses specifically authorized in this land use category, as described in the Land Development Regulations**, which are required to go through a public hearing process as prescribed in the Land Development Regulations of the Code of the City of Miami Beach.*

**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**

**Partially Consistent** – The proposal should not result in an impact that would exceed the thresholds for the levels of service as set forth in the Comprehensive Plan; however, a concurrency analysis will be performed at the time of building permit application. TrafTech Engineering, Inc. was retained by the applicant to conduct a traffic study. FTE, Inc. was

selected by the City and paid by the applicant to conduct a peer review. Please refer to the separate memo provided by the Transportation Department.

**3. Structures and uses associated with the request are consistent with this Ordinance.**

**Partially Consistent** – The proposed project appears to meet the zoning regulations, except as otherwise set forth in this staff report. The applicant will be requesting a waiver of 5'-0" in height from the Design Review Board (pursuant to DRB File No. 17-0198), which is not a variance from the City's Land Development Regulations (LDRs.) These comments shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Planning Department prior to the issuance of a building permit.

**4. Public health, safety, morals and general welfare will not be adversely affected.**

**Partially Consistent** – The proposed project may adversely affect the general welfare of nearby residents and businesses if deliveries, waste removal, and other operations associated with the proposed uses are not adequately controlled. Staff recommends that the Board adopt the conditions in the attached proposed order, to mitigate the potential negative impacts of the operation. The entire project must comply with all applicable laws and regulations in order to obtain a building permit.

**5. Adequate off-street parking facilities will be provided.**

**Consistent** – The proposed project is a mixed use building in Parking District No. 5. As such, the project proposes to provide all the required parking outlined in the LDRs for Parking District No. 5. In addition, as there are several large residential buildings and a large marina facility in the surrounding Sunset Harbour neighborhood, it is expected that many patrons will arrive on foot, by bicycle, taxi, water taxi, or ride sharing vehicle.

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

**Partially Consistent** – Staff recommends that the Board adopt the conditions in the attached proposed order, in order to mitigate any adverse impacts of the operation on the surrounding properties.

**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.**

**Consistent** – The proposed uses for the project are permitted in the CD-2 zoning district. While there are other buildings over 50,000 SF, and other large restaurants and bars in the vicinity, adverse impacts are not expected from the geographic concentration of such uses, so long as the impacts of the proposed uses are properly controlled.

**COMPLIANCE WITH REVIEW GUIDELINES CRITERIA FOR NEW STRUCTURES 50,000 SQUARE FEET AND OVER**

Pursuant to City Code Section 118-192(b), in 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 criteria in addition to the standard review guidelines:

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.**

**Partially Consistent** – The applicant has provided an operational plan for the mixed-use project's food and beverage areas, but the two (2) larger restaurants do not have proposed tenants at this time. The applicant has voluntarily proffered a loose outline of operational conditions, but the following information was not included: number of employees and goals of the business. The applicant has also voluntarily proffered a list of prohibited uses that are outlined in the applicant's proposed conditions of approval. The proposed uses shown on the submitted plans are permissible in the CD-2 zoning district. The uses are compatible with the surrounding neighborhood. See the Project Description and Operations Analysis.

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 shall mitigate any adverse impacts to adjoining and nearby properties, and neighborhood.**

**Consistent** – The submitted plans show a loading and trash collection area that is contained within the south half of the building, and a proposed off-street loading zone for the north half of the building, both of which are accessed from Bay Road. Staff is recommending conditions relative to the servicing of the proposed uses. See Delivery and Sanitation Analysis.

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

**Partially Consistent** – The scale of the proposed project is compatible with nearby buildings and CD-2 zoning district allowable development. Staff is recommending conditions to minimize potential adverse impacts, including a recommendation to provide a minimum ten (10') foot setback above the ground floor along the south property line, abutting The Lofts residential condominium building, located at 1403 Dade Blvd.

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.**

**Partially Consistent** – The proposed 82 parking spaces meets the required parking for the development as proposed. Staff is recommending conditions to minimize potential adverse effects of queuing in the street from the proposed valet operation for the commercial component. See Parking and Access Analysis.

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

**Partially Consistent** – Pedestrians entering the property will have access directly from the public sidewalks along Purdy Avenue and Bay Road, and from a breezeway running east and west through the building. The applicant has proposed an automatic bollard system that would convert the breezeway into a valet drop off area for residents only when the

bollards are retracted. This shared breezeway, passageway, and drive should be further developed to assure maximum safety for pedestrians. See Parking and Access Analysis.

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.**

**Consistent** – The applicant provided a security plan with concrete security measures.

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.**

**Partially Consistent** – Traf Tech Engineering, Inc. was retained by the applicant to conduct a traffic study. FTE, Inc. was selected by the City and paid by the applicant to conduct a peer review. Please refer to the separate memo provided by the Transportation Department.

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

**Partially Consistent** – The parking and the main loading area is located within the envelope of the building; however, it is substantially open. Staff is recommending conditions to screen and buffer the parking structure along the south elevation abutting the neighboring mixed-use building with residential units located above the ground floor. The applicant also proposes that deliveries will be restricted to the hours of 7:00 AM to 4:30 PM. Notwithstanding, staff is recommending conditions to help reduce any potential impacts of noise from the proposed loading zones, parking structure, and sanitation areas.

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.**

**Consistent** – Trash pick-up is proposed to occur via the trash and loading area contained within the building along Bay Road between the hours of 6:00 AM and 10:00 AM. Refuse is proposed to be stored in refrigerated area and maintenance staff will monitor the property and the right of way to maintain the areas clean and free of debris. See Delivery and Sanitation Analysis.

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

**Partially Consistent** – There are not any adverse impacts expected due to proximity of similar sized structures. There is one residential building on the south side immediately abutting the structure. Staff is recommending conditions to help reduce any potential impacts to the residents.

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

**Consistent** – The CD-2 zoning district permits mixed use development such as the proposed project. While there are other buildings of this scale in the surrounding vicinity, negative cumulative impacts are not expected. Notwithstanding, staff is recommending conditions to help reduce any potential impact.

## **ANALYSIS**

### **Project Description and Operations**

The project consists of a new five (5) story, residential/commercial mixed-use building with 12 residential units; 296 seats divided between four (4) food and beverage establishments, with a total proposed occupancy of 420 persons; 8,630 SF of ground floor retail use; and 82 parking spaces. The gross square footage of the project inclusive of the areas included in the Floor Area Ratio (FAR) and non-FAR areas is approximately 139,823 SF as represented by the applicant.

The proposed uses are permissible in the CD-2 zoning district and are compatible with the surrounding neighborhood. However, staff is recommending conditions to further minimize the impacts as outlined in the recommendation. The proposed operation for the food and beverage areas that require a CUP are outlined in the operational plans on Tab 8 of the folder included in the packages. Staff has highlighted the main points of the applicant's request below:

#### **Restaurant 1:**

1. No speakers for music on the exterior of the building;
2. 108 seats maximum, on private property;
3. Maximum sidewalk café seats of 40;
4. Hours of 8:00 AM to 11:30 PM, Sunday through Wednesday,  
8:00 AM to 12:30 AM, Thursday through Saturday.

#### **Restaurant 2:**

1. No speakers for music on the exterior of the building;
2. 124 seats maximum, on private property;
3. Maximum sidewalk café seats of 40;
4. Hours of 8:00 AM to 11:30 PM, Sunday through Wednesday,  
8:00 AM to 12:30 AM, Thursday through Saturday.

### **Parking and Access**

The entrance ramp into the accessory parking garage is proposed from Bay Road in the south half of the building. According to the plans submitted by the applicant, parking would be located on level two (2). The total number of required parking spaces for the project as shown is 82 spaces.

The valet operation proposed by the applicant would require residential unit owners and their guests to valet their vehicles in the center of the property, by entering the breezeway/walkway/driveway and activating remote controlled retractable bollards that would otherwise prevent any other users (except the residential owners and their guests) from entering. The applicant proposes that the commercial unit patrons use curbside valet located in on-street parking spaces along Purdy Avenue, which would require the valet driver to circle the block to the Bay Road garage entrance and, upon retrieving each car, to circle the block again from Bay Road, to Dade Boulevard and Purdy Avenue.

Staff has substantial concerns regarding queuing in the right-of-way on Purdy Avenue and the added valet trips to the area, and is recommending that the valet operation on Purdy Ave and the breezeway be either eliminated entirely, be completely internalized, or moved to the garage

entrance on Bay Road. Ideally, drop-off and pick up of vehicles should occur within the structure, so the use of surrounding streets would not be impacted by the valet operation. If the Board grants approval of the valet operation as proposed, there are conditions contained in the Traffic Memorandum that staff would recommend be incorporated into the final order.

Furthermore, if the applicant offers as an alternative, to use the breezeway for the entire valet operation, a clear pedestrian pathway that delineates the allowable movements of pedestrians and vehicles should be further developed and presented to the Design Review Board (DRB), in order to fully address all concerns which arise from an unpredictable shared use operation, as currently proposed by the applicant.

The Board should be aware that, ultimately, any valet service location in on-street parking spaces would need to be approved by the Parking Department. As the construction of the project requires time, other commercial uses on the street may apply for valet services during the interim. It is the policy of the Parking Department to approve one valet provider and a centralized valet stand for each block. The applicant's current proposal to use the Purdy Avenue side of the property for valet pick up and drop off may not be approved due to conflicting valet applications. Staff recommends strongly that, at a minimum, alternative valet plans should be explored and proffered.

In addition, the eight (8) bicycle parking racks shown on the property, with four (4) on the Bay Road side and four (4) on the Purdy Avenue side, need to be augmented for a building this size.

### **Delivery and Sanitation**

A loading and trash area that is fully contained inside of the building is proposed at the ground level on the south east side of the property. The access to this area is from Bay Road. The proposed configuration has two (2) bays that accommodate trash and delivery trucks within the building envelope to service all the residential units and the commercial uses on the south side of the building. The applicant has also proposed an on-street loading space on the north east side of the building for the commercial uses on the north half of the building. Any such loading zone in the public right of way would need to be further reviewed and approved by the City's Parking Department.

The applicant is proposing that deliveries occur between 7:00 AM and 4:30 PM daily and trash pick-up only take place between 6:00 AM to 10:00 AM, or as deemed appropriate by the Parking Department for the area, in order to minimize impacts to nearby residents.

### **Sound**

In the Sunset Harbour area, entertainment uses are prohibited by the LDRs. Recorded music, at a volume not exceeding ambient levels and not played by a DJ, musician, or other performer, is allowed. The applicant has further proffered to restrict the development from having outdoor speakers other than what is required by the Fire Department or building code/life safety requirements.

The two (2) larger restaurants that are subject to a CUP have a proposed maximum occupancy of approximately 150 persons each. There are also two (2) smaller cafes with a maximum occupancy of 60 persons each. Staff believes that as long as the outdoor seating and sidewalk café areas are limited in size and hours, the sound of the patrons dining outside should not rise to a level of a nuisance to the neighboring residential buildings. Staff has recommended decreasing the allowable size of the outdoor café and sidewalk café seating from what was requested, and including a condition that alcoholic beverages only be served in combination with meals.

### **Massing**

As proposed, the ground floor retail and parking level above will be constructed on the south property line with a zero setback. Although compliant with the technical setback requirements of the CD-2 zoning district, because there are no residential units on the first and second floors of the applicant's proposal, staff is concerned with the placement of the parking level with zero setback abutting the residential building to the south. This adjacent residential building was constructed in 1998 with commercial uses on the ground level, and residential units on the upper seven floors. In order to buffer these residential units from the parking level, staff is recommending the following conditions:

- The garage level parking (second floor), shall be set back a minimum of ten (10') feet from the south property line. The entirety of such setback area (the roof of the ground floor) shall be open to the sky from this level upwards, and shall be re-designed to incorporate a green roof with a minimum soil depth of three (3') feet, and include substantial landscaping in order to create a buffer between the garage and the residential units of the building to the south, in a manner to be reviewed and approved by staff.
- At the garage level on the south side, a floor to ceiling wall that must be at least 75% solid shall be provided, in a manner to be reviewed and approved by staff.

### **Traffic**

Traf Tech Engineering Inc. was retained by the applicant to conduct a traffic study in connection with the proposed development. The study addresses trip generation, the traffic impacts created by the proposed project on the nearby transportation network, internal site circulation, and queuing. FTE, Inc. served as the traffic study peer reviewer for this project. Please refer to the separate memo provided by the Transportation Department.

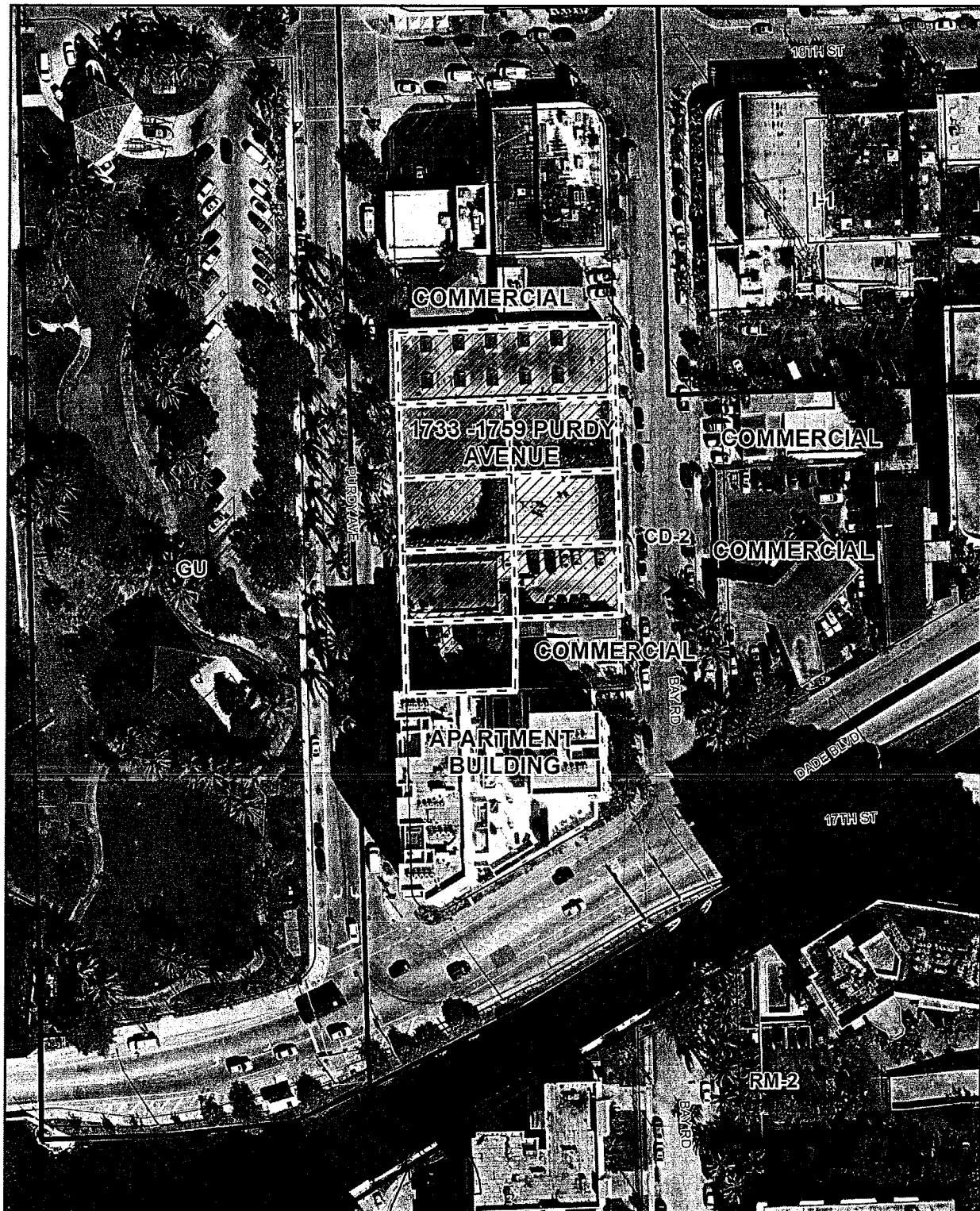
### **RECOMMENDATION**

In view of the foregoing analysis, staff recommends that the application for a Conditional Use Permit be granted, subject to the conditions enumerated in the attached draft Order, which address the inconsistencies noted in the aforementioned Conditional Use review criteria.

TRM/MAB/TUI



**ZONING/SITE MAP**



**PLANNING BOARD  
CITY OF MIAMI BEACH, FLORIDA**

**PROPERTY:** 1733-1759 Purdy Avenue and 1724-1752 Bay Road

**FILE NO.** PB 17-0168 a.k.a. PB18-0168

**IN RE:** The applicant/owner Sunset Land Associates, LLC, and SH Owner, LLC, requested Conditional Use approval for a mixed use structure over 50,000 SF, and Conditional Use approval for two restaurants, each exceeding 100 seats, pursuant to Chapter 118, Article IV and Chapter 142, Article II of the City Code.

**LEGAL**

**DESCRIPTION:** West ½ of Lot 3, Lot 4, Lot 5, Lot 6, and Lot 7, Block 16, of the Island View Subdivision, according to the Plat thereof, as recorded in Plat Book 6, Page 115 of the Public Records of Miami-Dade County, Florida.

**MEETING DATE:** November 27, 2018

**CONDITIONAL USE PERMIT**

The applicant/owner Sunset Land Associates, LLC, and SH Owner, LLC requested a Conditional Use approval for the construction of a new five story mixed use development exceeding 50,000 square feet, and Conditional Use approval for two restaurants, each exceeding 100 seats, pursuant to Chapter 118, Article IV and Chapter 142, Article II of the City Code. Notice of the request was given as required by law and mailed out to owners of property within a distance of 375 feet of the exterior limits of the property upon which the application was made.

The Planning Board of the City of Miami Beach makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the of the record for this matter:

The property in question is located in the CD-2 – Commercial, Medium Intensity Zoning District.

The use is consistent with the Comprehensive Plan for the area in which the property is located;

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 structures and uses associated with the request are consistent with the Land Development Regulations;

The public health, safety, morals, and general welfare will not be adversely affected;

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

**IT IS THEREFORE ORDERED**, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record

for this matter, and the staff report and analysis, which is adopted herein, including the staff recommendations, that the Conditional Use Permit be GRANTED, as provided below:

1. This Conditional Use Permit (CUP) is issued to Sunset Land Associates, LLC, to construct a five (5) story mixed use residential project, with retail space and restaurant space on the first floor, and parking on the 2<sup>nd</sup> floor. Two of the proposed restaurants exceed the thresholds that require a CUP in the Sunset Harbour area. Any proposed change to the uses approved in this Conditional Use shall require the review and approval of the Planning Board.
2. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The applicant shall appear before the Planning Board for a progress report within 90 days from the issuance of the business tax receipt (BTR) for any of the uses on site.

When BTR's are issued for at least 75% of the building area, but no later than one (1) year from the issuance of a BTR for any of the proposed uses on site, the applicant shall appear before the Planning Board for a progress report specific to traffic, including providing a full revised traffic study outlining the actual transportation operations on-site and in the surrounding initial study area, and including valet operations and loading/servicing of the building.

The Board reserves the right to modify the Conditional Use approval at the time of a progress report in a non-substantive manner, to impose additional conditions to address possible problems and to determine the timing and need for future progress reports. This Conditional Use is also subject to modification or revocation under City Code Sec. 118-194 (c).

3. The conditions of approval for this Conditional Use Permit are binding on the applicant, the property applicants, operators, and all successors in interest and assigns. Any change of operator or 50% (fifty percent) or more stock ownership, partnership interest or equivalent, shall require the new owners or operators to submit an affidavit, approved by City, to the City of Miami Beach Planning Department transferring approval to the new owners and/or operators and acknowledging acceptance of all conditions established herein, prior to the issuance of a new Business Tax Receipt.
4. The Planning Board shall retain the right to call the owner or operator back before them and make modifications to this Conditional Use Permit should there be valid complaints about loud, excessive, unnecessary, or unusual noise. Nothing in this provision shall be deemed to limit the right of the Planning Board to call back the owner or operator for other reasons and for other modifications of this Conditional Use Permit.
5. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval.
6. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application.

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7. As part of the building permit plans for the project, the applicant shall submit revised architectural drawings, which shall be subject to the review and approval of staff; at a minimum, such plans shall satisfy the following:
    - a. The garage level parking (second floor), shall be setback a minimum of ten (10') feet from the south property line. The entirety of such setback area (the roof of the ground floor) shall be open to the sky from this level upwards, and shall be re-designed to incorporate a green roof with a minimum soil depth of three (3') feet, and include substantial landscaping in order to create a buffer between the garage and the residential units of the building to the south, in a manner to be reviewed and approved by staff.
    - b. At the garage level on the south side, a floor to ceiling wall that must be at least 75% solid shall be provided, in a manner to be reviewed and approved by staff.
    - c. The floor of the garage shall be designed and constructed to minimize tire noise, in a manner to be approved and certified by a qualified acoustic engineer, subject to the review and approval of staff.
    - d. All existing overhead utilities abutting the subject site shall be placed underground at the sole expense of the applicant.
  8. The Applicant agrees to the following operational conditions for all permitted and accessory uses and shall bind itself, lessees, permittees, concessionaires, renters, guests, users, and successors and assigns and all successors in interest in whole or in part to comply with the following operational and noise attenuation requirements and/or limitations. The applicant shall ensure through appropriate contracts, assignments and management rules that these restrictions are enforced and the applicant agrees to include the rules and regulations set forth in these conditions in any contract or assignment:
    - a. As proposed by the applicant, the project authorized by this Conditional Use Permit includes the creation and operation of retail spaces, two (2) proposed cafés, and two (2) full service restaurants, with the criteria listed below:
      - i. 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.
      - ii. The two (2) larger full service restaurants shall have a maximum occupant content of approximately 150 persons per restaurant or any lesser such occupant content as determined by the Fire Marshal.
      - iii. The full service restaurant labeled "Restaurant 1" on the north portion of the building shall have a maximum of 108 seats on the interior and an additional 20 seats on any exterior portion of the building which includes both outdoor and sidewalk café seats.
      - iv. The full service restaurant labeled "Restaurant 2" on the south portion of the building shall have a maximum of 124 seats on the interior and an additional

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- 20 seats on any exterior portion of the building which includes both outdoor and sidewalk café seats.
- v. The indoor portions of the restaurants may operate until 11:30 PM Sunday through Wednesday and 12:30 AM, Thursday through Saturday.
  - vi. All exterior operations of the restaurants shall be closed from 11:00 PM to 8:00 AM, seven (7) days per week.
  - vii. All patrons seated in the outdoor or sidewalk café areas shall not be allowed to order only alcoholic beverages without also ordering food.
  - viii. At all times that alcoholic beverages are being served, a full kitchen offering the full menu must be open and staffed.
  - ix. All areas of the venue(s) shall not be permitted to have entertainment which includes a DJ or music, whether live or recorded, whether amplified or non-amplified, which is played at a volume that is louder than ambient background music (defined as a sound level that does not interfere with normal conversation.)
  - x. As proffered by the applicant, there shall not be any exterior speakers except those required by the Fire Department or Building life safety code.
  - xi. As proffered by the applicant, the following uses shall not be permitted on the property: entertainment establishments, package stores, tattoo studios, stand-alone bars, check cashing stores, and pawnshops.
- b. Delivery trucks shall only be permitted to make deliveries from the designated loading spaces either contained within the property or designated off street spaces authorized by the Parking Department.
  - c. Delivery trucks shall not be allowed to idle in the loading areas.
  - d. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.
  - e. Deliveries may occur daily between 7:00 AM and 4:30 PM.
  - f. Waste collections may occur daily between 8:00 AM and 10:00 AM.
  - f. All trash containers shall utilize rubber wheels, or the path for the trash containers shall consist of a surface finish that reduces noise, in a manner to be reviewed and approved by staff.
  - g. Adequate trash room space, air conditioned and noise baffled, shall be provided, in a manner to be approved by the Planning and Public Works Departments. Sufficient interior space must be provided so that doors can remain closed while trash and trash bags are being deposited in dumpsters. Doors shall remain closed and secured when not in active use.

- h. Trash room(s)/garbage room(s) shall be large enough, or sufficient in number to accommodate enough dumpsters so that more than one pick up of garbage per day will not be necessary. A high-level trash/garbage compacting device shall be located in an air-conditioned trash/garbage holding room within the facility.
  - i. Garbage dumpster covers shall be closed at all times except when in active use.
  - j. Restaurant personnel shall take measures to enforce the Patron Age Restriction of the City Code during the hours of operation of all alcoholic beverage establishments.
  - k. Patrons shall not be allowed to queue on public rights-of-way, or anywhere on the exterior premises of the subject property.
  - l. The owner/operator shall be responsible for maintaining the areas adjacent to the facility, including the sidewalk, and all areas around the perimeter of the property. These areas shall be kept free of trash, debris and odor, and shall be swept and hosed down at the end of each business day
  - m. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
  - n. Special Events may occur on the premises, subject to City ordinances, rules or regulations existing at the time, and may exceed the hours of operation and occupancy loads specified herein, if permitted by the Fire Marshal, subject to the review and approval of staff.
9. The following shall apply to the operation of the proposed parking garage:
- a. There shall be security personnel of at least one person, on-site, monitoring the garage during all hours of operation.
  - b. Signs prohibiting tire-screeching and unnecessary horn-honking shall be posted at the garage entrance.
  - c. Signs to minimize vehicle conflict in the driveways in and out of the property shall be posted in appropriate locations.
  - d. The minimum parking required by the land development regulations shall be provided.
10. The applicant shall address the following Concurrency and Traffic requirements, as applicable:
- a. If a full building permit for the proposed development is not issued within 18 months from the meeting date at which the project was approved, and provided that an extension to the approval is granted due to an extension of time granted either by the Planning Board, or as a matter of right through the issuance of a State of Emergency Declaration by the state of Florida, a full revised traffic study

- shall be submitted prior to the issuance of a building permit, and in a manner to be reviewed by the Transportation Department.
- b. A Method of Transportation (MOT) shall be submitted to Public Works Department staff for review and approval prior to the issuance of a building permit. The MOT shall address any traffic flow disruption due to construction activity on the site.
  - c. Prior to the issuance of a building permit, the applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), if deemed necessary, by paying its fair share cost, as may be determined as determined by the Concurrency Management Division.
  - d. A final concurrency determination shall be conducted prior to the issuance of a Building Permit. Mitigation fees and concurrency administrative costs, if required, shall be paid prior to the issuance of any Building Permit.
  - e. A revised bicycle parking plan shall be submitted for staff review and approval prior to the issuance of a Business Tax Receipt.
  - f. Valet or loading activities shall not block vehicle travel on Purdy Avenue, Bay Road or the garage ramp at any time.
  - g. Valet pick-up and delivery of vehicles may only occur on private property.
- 11. The applicant shall satisfy outstanding liens and past due City bills, if any, to the satisfaction of the City prior to the issuance of a Building permit.
  - 12. The applicant shall obtain a full building permit within 18 months from the date of approval of this Conditional Use Permit, and the work shall proceed in accordance with the Florida Building Code. Extensions of time for good cause, not to exceed a total of one year for all extensions, may be granted by the Planning Board.
  - 13. This order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
  - 14. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
  - 15. The establishment and operation of this Conditional Use shall comply with all the aforementioned conditions of approval; non-compliance shall constitute a violation of the Code of the City of Miami Beach, Florida, and shall be subject to enforcement procedures set forth in Section 114-8 of said Code and such enforcement procedures as are otherwise available. Any failure by the applicant to comply with the conditions of this Order shall also constitute a basis for consideration by the Planning Board for a revocation of this Conditional Use.

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