

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: April 27, 2021

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB21-0428. SUNSET HARBOUR CD-2 AND I-1 DEVELOPMENT OVERLAY.**

RECOMMENDATION

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

HISTORY

On September 16, 2020, at the request of Commissioner Ricky Arriola, the City Commission referred a discussion item pertaining to lot aggregation, lot size and parking requirements in the Sunset Harbor area to the Land Use and Sustainability Committee (item C4K). On October 14, 2020 the item was discussed by the LUSC and continued to December 15, 2020.

The item sponsor convened a community meeting on December 1, 2020 involving affected residents of the Sunset Harbor area. Topics of discussion included the mix of uses that make Sunset Harbor unique, as well as the need to maintain the exceptional character and identity of the neighborhood. The concept of a Neighborhood Vision Plan was also discussed at the December 1, 2020 community meeting. The concepts proposed in this plan included modifications to the height regulations in the larger Sunset Harbor area, as well as minimum setbacks for higher floors.

On December 15, 2020 the LUSC discussed the item and continued it to the January 2021 LUSC, with direction to the Administration to prepare a draft ordinance based upon the recommendations in the LUSC memo, as well as the applicable concepts included in the Neighborhood Vision Plan prepared by the residents of Sunset Harbor. On January 20, 2021, the LUSC reviewed and discussed the draft Ordinance prepared by the Administration and recommended that the City Commission refer the item to the Planning Board, with the following modifications:

1. The proposed increase in height to 65' shall only be applicable to office uses.
2. The areas where 65' in height are permitted shall incorporate a distance separation from residential uses along Dade Boulevard and 20th Street.
3. Parapets shall be limited to a maximum height of four feet above roof decks.

4. No recommendation of the LUSC is provided regarding the proposed modifications to Chapter 130, pertaining to off-street parking requirements. Instead the LUSC recommended that the Planning Board provide input regarding the proposed amendments to Chapter 130.

On February 10, 2021, at the request of Commissioner Ricky Arriola, the City Commission referred the proposed ordinance to the Planning Board for review and recommendation (Item C4 B).

On March 23, 2021, the Planning Board discussed the item and continued it to the April 27, 2021 meeting.

REVIEW CRITERIA

Pursuant to Section 118-163 of the City Code, in reviewing a request for an amendment to these land development regulations, the board shall consider the following when applicable:

1. **Whether the proposed change is consistent and compatible with the comprehensive plan and any applicable neighborhood or redevelopment plans.**

Consistent – The proposed ordinance is consistent with the goals, objectives, and policies of the Comprehensive Plan.

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

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

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

Consistent – The modifications proposed by this ordinance amendment are in scale with the needs of the neighborhood, as they encourage uses that are desirable, while not significantly impacting the scale of development.

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 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 Sunset Harbour residents' vision for the future and changes in the needs for office uses, and recent economic trends for South Florida's office market makes passage of the proposed change necessary.

7. Whether the proposed change will adversely influence living conditions in the neighborhood.

Consistent – The proposed ordinance amendment would improve 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.

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

Consistent – While the proposed change affects the scale for office development, it contains setbacks to ensure that it would not seriously reduce light and air to adjacent areas.

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

Consistent – The proposed change should 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 should 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 133-50(b) of the Land Development Regulations establishes the following review criteria when considering ordinances, adopting resolutions, or making recommendations:

(1) Whether the proposal affects an area that is vulnerable to the impacts of sea level rise, pursuant to adopted projections.

Partially Consistent – The proposal does affect areas that are vulnerable to the impacts of sea level rise in the long term.

(2) Whether the proposal will increase the resiliency of the City with respect to sea level rise.

Consistent – The proposal would improve the resiliency of the City with respect to sea level rise by encouraging new development that is more resilient.

(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.

ANALYSIS

Recently, the City Commission approved a neighborhood identity overlay district for the Sunset Harbor area. In furtherance of this overlay, staff recommended that the outer portion of the Sunset Harbor area, generally including those lots fronting on Dade Boulevard and Alton Road, be further studied regarding the potential proliferation of oversized uses.

In this regard, given the overall size of the lots facing these thoroughfares, and the ability to provide an excessive amount of onsite vehicular storage, additional regulations to ensure the unique character of the Sunset Harbor area have been recommended. With the availability of parking in the Sunset Harbor parking garage the need for excessive vehicle storage within private sites becomes less critical. Also, the aggregation of multiple lots for the express purpose of creating oversized development would be contrary to the established scale, character, and context of the Sunset Harbor area.

To address these issues, staff identified the following potential development regulations for the Sunset Harbor area:

Required Off-Street Vehicle Parking

The Sunset Harbor parking garage, which is centrally located and under capacity, provides a tangible option for the operational parking needs of retail, restaurant and other commercial uses in the area. As such, a reduction or elimination of parking requirements for all commercial uses is recommended. Within larger development sites, this regulation would significantly control the oversized scale, massing and volumes of larger developments by removing the need for large parking pedestals.

To this end, the attached ordinance proposes to eliminate the minimum parking requirement for non-residential uses above the ground floor. However, it would allow developments to provide parking for office uses above the ground floor up to the level required in parking district 1 without counting against FAR limits. Due to the changing needs of office developments due to offer remote work, it is expected that an office developer will be able to determine their exact needs to make their development viable and meet the parking demands of their tenants.

Lot Aggregation

Limits on the number of lots that can be aggregated for retail, personal service or restaurant uses is recommended, to avoid out of scale developments.

To this end, the proposed ordinance limits lot aggregation to no more than six (6) platted lots, unless it is for an office development.

Lot Size

Like the lot aggregation proposal, a limit on overall lot size for development would foster a more cohesive, context sensitive type of infill development pattern, particularly along the outer edges of Sunset Harbor.

To this end, the proposed ordinance provides that the maximum lot size shall not exceed 36,000 square feet. However, the ordinance also provides that the provisions of this paragraph shall not apply to any lot larger than 36,000 square feet that existed prior to January 1, 2021 or to office development.

Conditional Use Permit (CUP) for Large Establishments

Currently a CUP is required for developments that exceed 50,000 square feet in the CD-2 and I-1 districts. In order to further limit the potential concentration of larger developments, the requirement for a CUP for establishments over 25,000 square feet should be considered. A similar requirement exists in the North Beach Town Center (TC-C district). The TC-C district also limits the number of establishments over 25,000 square feet to two establishments. Similar limitations could be considered for the Sunset Harbor neighborhood.

To this end, the proposed ordinance limits establishments over 25,000 square feet to no more than two within the overlay area.

Neighborhood Vision Plan

The subject Ordinance includes the recommendations noted above, as well as the measurable concepts proposed in the Neighborhood Vision Plan for Sunset Harbor. The following is a general summary of what is included in the attached ordinance:

1. **Development Overlay.** An overlay area has been created within the CD-2 and I-1 district regulations that is specific to the Sunset Harbor neighborhood.
2. **Clear Pedestrian Path.** A clear pedestrian path of ten (10') feet is required; the DRB may allow for the path to be reduced to five (5) feet subject to the design review criteria.
3. **Height.** The DRB may increase the maximum building height to 65 feet for office uses on the following properties:
 - a. Properties fronting Dade Boulevard between Alton Road and Bay Road;
 - b. Properties fronting Alton Road between 20th Street and Dade Boulevard; and
 - c. Properties fronting Purdy Avenue between 18th Street and Dade Boulevard.
4. **Height Criteria.** In addition to approval from the design review board, the increase in the maximum height to 65 feet for the above noted properties shall be subject to the design review criteria and the following regulations:
 - a. The property shall have a minimum lot size of 10,000 square feet.
 - b. The development shall consist solely of office use above the ground level of the structure, and provided that residential uses may be permitted on such properties up

- to a maximum FAR of 2.0 pursuant to Section 142-307(d)(1), but only if the first 1.5 FAR of development is dedicated to office use and ground floor commercial use.
- c. The ground floor shall contain retail, personal service, restaurant, and similar types of active uses fronting the clear pedestrian path.
 - d. Portions of the building exceeding 55 feet in height that abut a residential use shall be setback a minimum of ten (10) feet from the residential use.
 - e. Portions of the building exceeding 55 feet in height that are located on Alton Road shall be setback a minimum of 150 feet from 20th Street.
 - f. Portions of the building exceeding 55 feet in height that are located on Dade Boulevard shall be setback a minimum of 100 feet from Bay Road.
 - g. Portions of the building exceeding 55 feet in height that are located along 18th Street between Bay Road and Purdy Avenue shall be set back a minimum of 12 feet from the property line.
5. **Height Exceptions.** The following height exceptions have been created for the Sunset Harbor Area and, unless otherwise specified, shall not exceed ten feet above the main roof of the structure:
- a. **Roof-top operational and mechanical equipment.** This exception shall be limited to essential, non-habitable, building elements such as mechanical rooms/devices, air conditioning and cooling equipment, generators, electrical and plumbing equipment, as well as any required screening. The height of such elements shall not exceed 25 feet above the roof slab. The foregoing operational and mechanical equipment shall require the review and approval of the Design Review Board and shall be set back from the building perimeter by no less than 25 feet from roof parapets on street facing facades.
 - b. **Elevators and Stair Towers.** Roof-top elevator towers, including code required vestibules, and stair towers, with the height of such structures not exceeding 25 feet above the roof slab. Projecting overhangs at the doorways to elevator vestibules and stair towers required by the Florida Building Code may be permitted, provided the projection does not exceed the minimum size dimensions required under the Florida Building Code. The foregoing elements shall require the review and approval of the Design Review Board and shall be set back from the building perimeter by no less than 25 feet from roof parapets on street facing facades. Notwithstanding the foregoing, the requirement for Design Review Board approval, as well as the perimeter setback, shall not apply to private elevator and/or private stairs from a residential unit to a private roof deck.
 - c. **Satellite dishes, antennas, sustainable roofing systems, solar panels and similar elements.** Such elements shall be set back a minimum of 15 feet from the roof parapets on street-facing facades.

- d. **Decks.** Decks located more than six inches above the top of the roof slab, and not exceeding three feet above the roof slab, may be permitted provided the deck area is no more than 50 percent of the enclosed floor area immediately one floor below.
 - e. **Private rooftop areas.** Rooftop areas that are accessible only to the owners or tenants of residential units may have trellis, pergolas or similar structures that have an open roof of cross rafters or latticework. Such structures shall not exceed a combined area of 20 percent of the enclosed floor area immediately one floor below and shall be set back a minimum of 15 feet from the roof parapets on street-facing facades.
 - f. **Rooftop pools.** Roof-top pools, not to exceed five feet above the roof slab, shall be limited to main use residential buildings, or mixed use/office buildings where at least 25% of the floor area is dedicated to non-transient residential units. Such pools may have up to a four-foot wide walkway around the pool. Additionally, bathrooms required by the Florida Building Code, not to exceed the minimum size dimensions required under the Florida Building Code, may be permitted provided such bathrooms are set back a minimum of 15 feet from the roof parapets on street-facing facades.
 - g. **Parapets.** Parapets shall not exceed four feet in height above the main roof.
 - h. **Speakers.** Exterior speakers required to meet applicable requirements of the Life Safety or Florida Building Code.
 - i. **Height Exception Setback.** Allowable height exceptions located within 25 feet of the parapet along a street facing façade of the building, or an interior lot line abutting a residential use, shall not exceed 10 feet in height. The Design Review Board may waive this minimum setback from the parapet along a street facing façade of the building, but in no instance shall the setback be less than 15 feet.
6. **Maximum Lot Aggregation.** No more than six (6) platted lots may be aggregated for non-office, retail, personal service or restaurant uses.
7. **Maximum Lot Size.** The maximum lot size for non-office, retail, personal service or restaurant uses shall not exceed 36,000 square feet. Notwithstanding the foregoing, any lot larger than 36,000 square feet that existed prior to January 1, 2021 shall be considered legally conforming.
8. **Number of Large Establishments and Conditional Use Permit (CUP) Requirements.** For non-office, retail, personal service or restaurant uses establishments over 25,000 square feet conditional permitted use approval from the Planning Board shall be required. Additionally, no more than two non-office, retail, personal service or restaurant uses establishments over 25,000 square feet shall be within the Sunset Harbor area.
9. **Special Events.** City-approved special events shall be prohibited at alcoholic beverage establishments. Notwithstanding the foregoing, permitted special events shall cease no later than 9:00 p.m., seven days a week.

10. **Outdoor Speakers.** Outdoor speakers shall be prohibited on all levels of the exterior of a building, including roof tops, unless such speakers are required pursuant to the Life Safety or Florida Building Code.
11. **Hotel Prohibition.** The proposed ordinance adds hotels, apartment hotels, suite hotels to the list of prohibited uses. This is in addition to hostels that were already prohibited in the area. This is intended to ensure that development in the area remains neighborhood oriented.

Finally, revisions to chapter 130, pertaining to the minimum parking requirements in parking district No. 5, which is specific to Sunset Harbor, are proposed. In this regard, non-residential uses located above the ground floor, regardless of square footage, shall have no parking requirement. However, residential and office uses may provide required parking on site as specified in parking district No. 1, with no FAR penalty.

The Administration believes that the attached draft Ordinance is an accurate reflection of the proposed Neighborhood Vision Plan for Sunset Harbor. As such it is recommended that the Planning Board transmit the Ordinance to the City Commission with a favorable recommendation.

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 CD-2 and I-1 Development Overlay

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS," AT DIVISION 5, "CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT," (1) BY AMENDING SECTION 142-305, "PROHIBITED USES", TO PROHIBIT HOTELS, APARTMENT HOTELS AND SUITE HOTELS IN THE SUNSET HARBOUR AREA; AND (2) BY ESTABLISHING SECTION 142-312, "SUNSET HARBOUR DEVELOPMENT REGULATIONS," AND BY AMENDING DIVISION 11, "I-1 LIGHT INDUSTRIAL DISTRICT," BY ESTABLISHING SECTION 142-489, "SUNSET HARBOR DEVELOPMENT REGULATIONS," TO MODIFY HEIGHT LIMITS, HEIGHT EXCEPTIONS, AND REGULATIONS FOR SPECIAL EVENTS AND OUTDOOR SPEAKERS, ESTABLISH LIMITATIONS FOR LOT SIZE AND LOT AGGREGATION, MODIFY REQUIREMENTS FOR CLEAR PEDESTRIAN PATHS, AND ESTABLISH LIMITATIONS FOR ESTABLISHMENTS OVER 25,000 SQUARE FEET IN THE SUNSET HARBOUR NEIGHBORHOOD; AND (3) BY AMENDING CHAPTER 130, "OFF-STREET PARKING," ARTICLE II, "DISTRICT REQUIREMENTS," AT SECTION 133-33, "OFF-STREET PARKING REQUIREMENTS FOR PARKING DISTRICTS NOS. 2, 3, 4, 5, 6, 7, 8, AND 9," TO MODIFY PARKING REQUIREMENTS FOR NON-RESIDENTIAL USES ABOVE THE GROUND FLOOR IN PARKING DISTRICT NUMBER 5; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the Sunset Harbour neighborhood is 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; and

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

WHEREAS, economic trends indicate that demand has increased for Class A office space within the City as businesses relocate from other states to Miami Beach; and

WHEREAS, as defined by the Building Owners and Managers Association International (BOMA), Class A Office Space consists of buildings offering office spaces that are designed based on current work place design criteria, with high quality finishes, state of

the art systems, defined presence, exceptional accessibility and top of market rents for the area; and

WHEREAS, Class A office space tends to require higher floor-to-ceiling heights than other classes of office space; and

WHEREAS, the development of Class A office space will promote the growth, diversification, and resiliency of the City's economy; and

WHEREAS, in late 2020, a group of Sunset Harbour residents proposed a Neighborhood Vision Plan, which would apply to future development and streetscape improvements in the Sunset Harbour neighborhood; and

WHEREAS, the proposed changes in this Ordinance are intended to serve as the initial implementation of the Sunset Harbour Neighborhood Vision Plan creating updated development regulations within the Sunset Harbour neighborhood to reflect the current market conditions and neighborhood identity; and

WHEREAS, additionally, the proposed changes are necessary in order to promote the development of Class A office space within the City; and

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

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

SECTION 1. Chapter 142, "Zoning Districts and Regulations," Article II, "District Regulations," Division 5, "CD-2 Commercial, Medium Intensity District," is hereby amended as follows:

**CHAPTER 142
ZONING DISTRICTS AND REGULATIONS**

* * *

ARTICLE II. – DISTRICT REGULATIONS

* * *

DIVISION 5. - CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT

* * *

Sec. 142-305. - Prohibited uses.

- (a) The prohibited uses in the CD-2 commercial, medium intensity district are accessory outdoor bar counters, except as provided in article IV, division 2 of this chapter and in chapter 6.

(b) Except as otherwise provided in these land development regulations, prohibited uses in the CD-2 commercial medium intensity district in the Sunset Harbour Neighborhood, generally bounded by Purdy Avenue, 20th Street, Alton Road and Dade Boulevard, are the following:

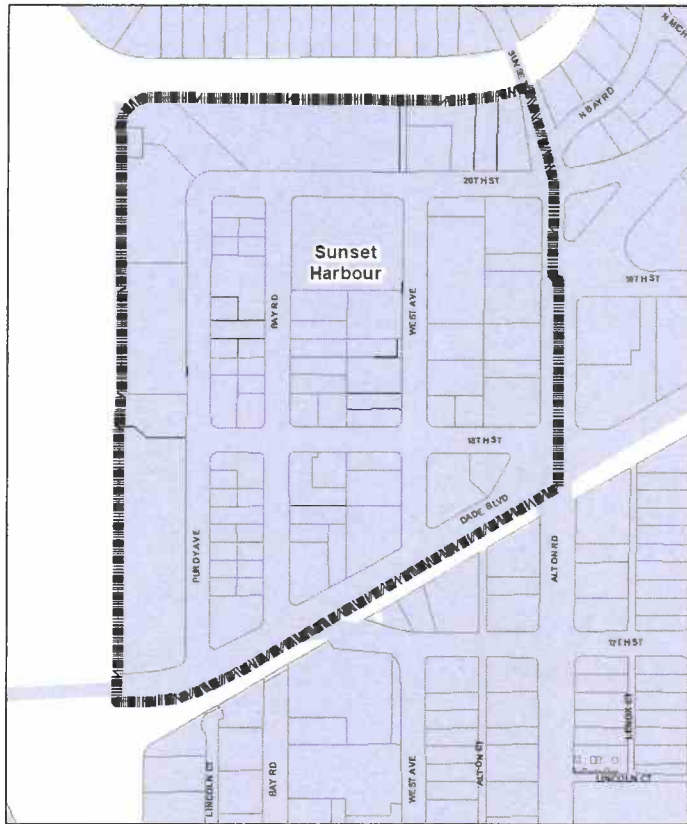
1. Hotels, apartment hotels, suite hotels and hHostels;
2. Outdoor entertainment establishments;
3. Neighborhood impact establishments;
4. Open air entertainment establishments;
5. Bars;
6. Dance halls; and
7. Entertainment establishments (as defined in section 114-1 of this Code).;
8. Pawnshops;
9. Tobacco and vape dealers;
10. Check cashing stores;
11. Convenience stores;
12. Occult science establishments;
13. Souvenir and T-shirt shops;
14. Tattoo studios.

(c)(b)

* * *

Sec. 142-312. – Sunset Harbor Development Regulations.

- (a) The Sunset Harbor Neighborhood incorporates the parcels in the area bounded by 20th Street on the north, Alton Road on the east, Dade Boulevard on the south, and Purdy Avenue on the west as depicted in the map below:



- (b) The following regulations shall apply to CD-2 properties within the Sunset Harbour Neighborhood:
- (1) *Clear pedestrian path.* The applicable standards for a “clear pedestrian path” established in sections 133-61 and 133-62 shall apply to new development, except as follows:
- a. The clear pedestrian path shall be at least ten (10') feet wide.
- b. The design review board may approve the reduction of the clear pedestrian path requirement to no less than five (5) feet in order to accommodate street trees, required utility apparatus, or other street furniture, subject to the design review criteria.
- (2) *Height.* Notwithstanding the requirements of Sec. 142-306, the following shall apply to the maximum building height regulations for the Sunset Harbor Neighborhood:
- a. The maximum building height shall be 55 feet, except as noted below.
- b. The design review board may approve development at a maximum building height of 65 feet on the following properties:
1. Properties fronting Dade Boulevard between Alton Road and Bay Road.
2. Properties fronting Alton Road between 20th Street and Dade Boulevard.

3. Properties fronting Purdy Avenue between 18th Street and Dade Boulevard.
- c. The design review board may only approve development at a height greater than 55 feet subject to the design review criteria and the following regulations:
 1. The property shall have a minimum lot size of 10,000 square feet.
 2. The development shall consist solely of office use above the ground level of the structure, and provided that residential uses may be permitted on such properties up to a maximum FAR of 2.0 pursuant to Section 142-307(d)(1), but only if the first 1.5 FAR of development is dedicated to office use and ground floor commercial use.
 3. The ground floor shall contain retail, personal service, restaurant and similar types of active uses fronting the clear pedestrian path.
 4. Portions of the building exceeding 55 feet in height that abut a residential use shall be set back a minimum of ten (10) feet from the residential use.
 5. Portions of the building exceeding 55 feet in height that are located on Alton Road shall be set back a minimum of 150 feet from 20th Street.
 6. Portions of the building exceeding 55 feet in height that are located on Dade Boulevard shall be set back a minimum of 100 feet from Bay Road.
 7. Portions of the building exceeding 55 feet in height that are located along 18th Street between Bay Road and Purdy Avenue shall be set back a minimum of 12 feet from the property line.

(3) Height Exceptions. In general, rooftop elements that are exempt from a building's maximum building height pursuant to this subsection (b)(3) shall be located in a manner to minimize visual impacts on predominant neighborhood view corridors as viewed from public rights-of-way and waterways. The height regulation exceptions contained in section 142-1161 shall not apply to the Sunset Harbor Area. Instead, only the following height exceptions shall apply to the Sunset Harbor Area and, unless otherwise specified, shall not exceed ten feet above the main roof of the structure:

- a. Roof-top operational and mechanical equipment. This exception shall be limited to essential, non-habitable, building elements such as mechanical rooms/devices, air conditioning and cooling equipment, generators, electrical and plumbing equipment, as well as any required screening. The height of such elements shall not exceed 25 feet above the roof slab. The foregoing operational and mechanical equipment shall require the review and approval of the Design Review Board and shall be set back from the building perimeter by no less than 25 feet from roof parapets on street facing facades.
- b. Roof-top elevator towers, including code required vestibules, and stair towers, with the height of such structures not exceeding 25 feet above the roof slab. Projecting overhangs at the doorways to elevator vestibules and stair towers required by the Florida Building Code may be permitted, provided the projection does not exceed the minimum size dimensions required under the Florida Building Code. The foregoing elements shall require the review and approval of the Design Review Board and shall

be set back from the building perimeter by no less than 25 feet from roof parapets on street facing facades. Notwithstanding the forgoing, the requirement for Design Review Board approval, as well as the perimeter setback, shall not apply to private elevator and/or private stairs from a residential unit to a private roof deck.

- c. Satellite dishes, antennas, sustainable roofing systems, solar panels and similar elements. Such elements shall be set back a minimum of 15 feet from the roof parapets on street-facing facades.
 - d. Decks located more than six inches above the top of the roof slab, and not exceeding three feet above the roof slab, may be permitted provided the deck area is no more than 50 percent of the enclosed floor area immediately one floor below.
 - e. Rooftop areas that are accessible only to the owners or tenants of residential units may have trellis, pergolas or similar structures that have an open roof of cross rafters or latticework. Such structures shall not exceed a combined area of 20 percent of the enclosed floor area immediately one floor below and shall be set back a minimum of 15 feet from the roof parapets on street-facing facades.
 - f. Roof-top pools, not to exceed five feet above the roof slab, shall be limited to main use residential buildings, or mixed use/office buildings where at least 25% of the floor area is dedicated to non-transient residential units. Such pools may have up to a four-foot wide walkway around the pool. Additionally, bathrooms required by the Florida Building Code, not to exceed the minimum size dimensions required under the Florida Building Code, may be permitted provided such bathrooms are set back a minimum of 15 feet from the roof parapets on street-facing facades
 - g. Parapets shall not exceed four feet in height above the main roof.
 - h. Exterior speakers required to meet applicable requirements of the Life Safety or Florida Building Code.
 - i. Allowable height exceptions located within 25 feet of the parapet along a street facing façade of the building, or an interior lot line abutting a residential use, shall not exceed 10 feet in height. The Design Review Board may waive this minimum setback from the parapet along a street facing façade of the building, but in no instance shall the setback be less than 15 feet.
- (4) Lot Aggregation. Except for office or residential development, no more than six (6) platted lots may be aggregated.
- (5) Lot Size. Except for office or residential development, the maximum lot size shall not exceed 36,000 square feet. Notwithstanding the foregoing, the provisions of this paragraph shall not apply to any lot larger than 36,000 square feet that existed prior to January 1, 2021.
- (6) Number of Large Establishments and Conditional Use Permit (CUP) Requirements. Conditional use approval from the Planning Board shall be required for retail, personal service, and/or restaurant uses within a development that is greater than 25,000 square feet in size. Additionally, no more than two such developments shall be permitted within the Sunset Harbor area.

(7) Special Events. City-approved special events shall be prohibited at alcoholic beverage establishments. Notwithstanding the foregoing, permitted special events shall cease no later than 9:00 p.m., seven days a week.

(8) Outdoor Speakers. Outdoor speakers shall be prohibited on all levels of the exterior of a building, including roof tops, unless such speakers are required pursuant to the Life Safety or Florida Building Code.

SECTION 2. Chapter 142, "Zoning Districts and Regulations," Article II, "District Regulations," Division 11, "I-1 Light Industrial District," is hereby amended as follows:

DIVISION 11. - I-1 LIGHT INDUSTRIAL DISTRICT

* * *

Sec. 142-489. – Sunset Harbor Development Regulations.

- (a) The Sunset Harbor Neighborhood incorporates the parcels in the area bounded by 20th Street on the north, Alton Road on the east, Dade Boulevard on the south, and Purdy Avenue on the west as depicted in the map below:



(b) The following regulations shall apply to I-1 properties within the Sunset Harbour Neighborhood:

(1) Clear pedestrian path. The applicable standards for a "clear pedestrian path" established in sections 133-61 and 133-62 shall apply to new development, as follows:

- a. The clear pedestrian path shall be at least ten (10') feet wide.
- b. The design review board may approve the reduction of the clear pedestrian path requirement to no less than five (5) feet in order to accommodate street trees, required utility apparatus, or other street furniture, , subject to the design review criteria.

(2) Height. Notwithstanding the requirements of Sec. 142-486, the following shall apply to the maximum building height requirements in the Sunset Harbor Neighborhood:

- a. The maximum height shall be 55 feet.

(3) Height Exceptions. In general, rooftop elements that are exempt from a building's maximum building height pursuant to this subsection (b)(3) shall be located in a manner to minimize visual impacts on predominant neighborhood view corridors as viewed from public rights-of-way and waterways. The height regulation exceptions contained in section 142-1161 shall not apply to the Sunset Harbor Area. Instead, only the following height exceptions shall apply to the Sunset Harbor Area, and unless otherwise specified, shall not exceed ten feet above the main roof of the structure:

- a. Roof-top operational and mechanical equipment. This exception shall be limited to essential, non-habitable, building elements such as mechanical rooms/devices, air conditioning and cooling equipment, generators, electrical and plumbing equipment, as well as any required screening. The height of such elements shall not exceed 25 feet above the roof slab. The foregoing operational and mechanical equipment shall require the review and approval of the Design Review Board and shall be set back from the building perimeter by no less than 25 feet from roof parapets on street facing facades.
- b. Roof-top elevator towers, including code required vestibules, and stair towers, with the height of such structures not exceeding 25 feet above the roof slab. Projecting overhangs at the doorways to elevator vestibules and stair towers required by the Florida Building Code may be permitted, provided the projection does not exceed the minimum size dimensions required under the Florida Building Code. The foregoing elements shall require the review and approval of the Design Review Board and shall be set back from the building perimeter by no less than 25 feet from the roof parapets on street facing facades.
- c. Satellite dishes, antennas, sustainable roofing systems, solar panels and similar elements. Such elements shall be set back a minimum of 15 feet from the roof parapets on street-facing facades.
- d. Decks located more than six inches above the top of the roof slab, and not exceeding three feet above the roof slab, may be permitted provided the deck area is no more than 50 percent of the enclosed floor area immediately one floor below.

- e. Rooftop areas that are accessible only to the owners or tenants of residential units may have trellis, pergolas or similar structures that have an open roof of cross rafters or latticework. Such structures shall not exceed a combined area of 20 percent of the enclosed floor area immediately one floor below and shall be setback a minimum of 15 feet from the roof parapets on street-facing facades.
 - f. Roof-top pools, not to exceed five feet above the roof slab, shall be limited to main use residential buildings, or mixed use/office buildings where at least 25% of the floor area is dedicated to non-transient residential units. Such pools may have up to a four-foot wide walkway around the pool. Additionally, bathrooms required by the Florida Building Code, not to exceed the minimum size dimensions required under the Florida Building Code, may be permitted provided such bathrooms are setback a minimum of 15 feet from the roof parapets on street-facing facades
 - g. Parapets shall not exceed four feet in height above the main roof.
 - h. Exterior speakers required to meet applicable requirements of the Life Safety or Florida Building Code.
 - i. Allowable height exceptions located within 25 feet of the parapet along a street facing façade of the building, or an interior lot line abutting a residential use, shall not exceed 10 feet in height. The Design Review Board may waive this minimum setback from the parapet along a street facing façade of the building, but in no instance shall the setback be less than 15 feet.
- (4) Lot Aggregation. Except for office development, no more than six (6) platted lots may be aggregated.
- (5) Lot Size. Except for office development, the maximum lot size shall not exceed 36,000 square feet. Notwithstanding the forgoing, the provisions of this paragraph shall not apply to any lot larger than 36,000 square feet that existed prior to January 1, 2021.
- (6) Number of Large Establishments and Conditional Use Permit (CUP) Requirements. Conditional use approval from the Planning Board shall be required for retail, personal service, and/or restaurant uses within a development that is greater than 25,000 square feet in size. Additionally, no more than two such developments shall be permitted within the Sunset Harbor area.
- (7) Special Events. City approved special events shall be prohibited at alcoholic beverage establishments. Notwithstanding the foregoing, permitted special events shall cease no later than 9:00 p.m., seven days a week.
- (8) Outdoor Speakers. Outdoor speakers shall be prohibited on all levels of the exterior of a building, including roof tops, unless such speakers are required pursuant to the Life-Safety or Florida Building Code.

SECTION 3. Chapter 130, "Off-Street Parking" Article II, "District Requirements," at Section 133-33, "Off-street parking requirements for parking districts nos. 2, 3, 4, 5, 6, 7, 8, and 9," is hereby amended as follows:

Sec. 130-33. - Off-street parking requirements for parking districts nos. 2, 3, 4, 5, 6, 7, 8, and 9.

* * *

- (b) [Parking district no. 5.] Except as otherwise provided in these land development regulations, when any building or structure is erected or altered in parking district no. 5, 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 district no. 1 in section 130-32.
- (1) Restaurant with alcoholic beverage license or other establishment for consumption of food or beverages: No parking requirement for an individual establishment of less than 100 seats that does not exceed 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 seats and one parking 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 130-132.
 - (2) Retail store, or food store, or personal service establishment: There shall be no parking requirement for individual establishments of 3,500 square feet or less. An establishment over 3,500 square feet shall provide 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 130-132.
 - (3) Developments greater than 10,000 square feet of new construction: For new construction that is between 10,000 to 15,000 square feet, in lieu of providing required parking on site, a one-time fee may be paid prior to the issuance of the building permit, for that portion of new construction between 10,000 and 15,000 square feet. All portions of new construction that is greater than 15,000 square feet shall provide all the required parking on site.
 - (4) There shall be no parking requirement for non-residential uses located above the ground floor, regardless of square footage. Notwithstanding the foregoing, required parking for office uses may be provided on-site, pursuant to the regulations for parking district no. 1. Such required parking, if provided for office uses, shall be exempt from FAR, in accordance with the regulations in chapter 114 of these land development regulations.
 - (5) Removal of existing parking spaces: No existing required parking space may be eliminated, except through the provisions of section 130-35, or through the payment of the one-time fee in lieu of providing the parking in effect at the time, which shall be paid prior to the approval of a building permit, provided such elimination of parking spaces does not result in an FAR penalty (exceeding permitted floor area ratio
 - (6) Modifications to existing structures to meet raised street and sidewalk levels: There shall be no parking requirement for existing structures that raise the entire ground or first floor of the structure to meet or exceed the height of the abutting sidewalk(s). The parking requirement for any addition, up to 10,000 square feet, may be satisfied by paying an annual fee in lieu of providing the required parking in an amount equal to two percent of the total amount due for all of the uses within the proposed building. Additionally, any existing required parking spaces, which are located at the first level or open to the sky at the roof level, may be eliminated, without paying a fee in lieu of parking.).

SECTION 4. REPEALER.

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

SECTION 5. CODIFICATION.

It is the intention of the City Commission, and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the Code of the City of Miami Beach, as amended; that the sections of this Ordinance may be re-numbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 6. SEVERABILITY.

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

SECTION 7. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and **ADOPTED** this ____ day of _____, 2021.

Dan Gelber, Mayor

ATTEST:

APPROVED AS TO FORM AND
LANGUAGE AND FOR EXECUTION

Rafael E. Granado, City Clerk

City Attorney

Date

First Reading: April 21, 2021

Second Reading: May 12, 2021

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

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