

# MIAMI BEACH

## PLANNING DEPARTMENT

Staff Report & Recommendation

Planning Board

TO: Chairperson and Members  
Planning Board

DATE: October 27, 2015

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: **Ordinance Amendment**  
**File No. 2292 – CD-2 Sunset Harbour Correction**

### **REQUEST**

**File No. 2292.** AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS", ARTICLE II, "DISTRICT REGULATIONS," DIVISION 5, "CD-2 COMMERCIAL MEDIUM INTENSITY DISTRICT," AT SECTION 142-305, "PROHIBITED USES," BY ADDING BARS, DANCE HALLS, AND ENTERTAINMENT ESTABLISHMENTS AS PROHIBITED USES WITHIN THE CD-2, SUNSET HARBOUR NEIGHBORHOOD, GENERALLY BOUNDED BY PURDY AVENUE, 20TH STREET, ALTON ROAD AND DADE BOULEVARD; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; APPLICABILITY; AND AN EFFECTIVE DATE.

### **RECOMMENDATION**

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

### **HISTORY/ BACKGROUND**

#### ***May 5, 2004***

The City Commission adopted Ordinance No. 2004-3445, which prohibited dance halls and entertainment establishments, even if part of a restaurant, and stand-alone bars within the Sunset Harbour neighborhood.

#### ***December 12, 2012***

Ordinance No. 2012-3786 was adopted, which set a lower threshold for Conditional Uses in the Sunset Harbour neighborhood. Specifically, the Ordinance required Planning Board approval for restaurants having over 100 seats/125 person occupancy.

#### ***October 21, 2015***

The City Commission approved the attached Ordinance at First Reading, scheduled a Second Reading Public Hearing for December 9, 2015 and referred the item to the Planning Board for consideration prior to Second Reading.

## **REVIEW CRITERIA**

In accordance with Section 118-163 (3), when reviewing a request for a text amendment, the Board shall consider the following where applicable:

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

**Consistent** – The proposed text change to the Code is not inconsistent with the Comprehensive Plan.

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

**Consistent** – The proposed text change does not modify district boundaries

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

**Consistent** – The proposed amendment would address neighborhood concerns regarding the negative effects of stand alone bars, dancehalls and entertainment uses.

- 4. Whether the proposed change would tax the existing load on public facilities and infrastructure.**

**Consistent** – The proposed ordinance will not increase the level of intensity of development and will not affect the load on public facilities.

- 5. Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.**

**Consistent** – The areas proposed for this change correspond to the areas that were previously subject to a similar amendment prohibiting stand-alone, bars, dancehalls and entertainment uses.

- 6. Whether changed or changing conditions make the passage of the proposed change necessary.**

**Consistent** – Over the past several years the number of residential units and restaurants has mushroomed in the Sunset Harbour area. As this area has become more mixed use in nature and less industrial, there is more of a need to buffer the residential areas from the possible negative impacts from bars, dancehalls and entertainment uses.

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

**Consistent** – The proposed change will not adversely affect living conditions in the neighborhood.

- 8. Whether the proposed change will create or excessively increase traffic congestion beyond the levels of service as set forth in the comprehensive plan or otherwise**

**affect public safety.**

**Consistent** – The proposed change will not effect traffic congestion levels of service.

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

**Consistent** – The proposed amendment does not change the underlying existing development regulations in the specified area. It will not affect the air and light available to adjacent areas.

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

**Consistent** – The proposed ordinance is not expected to have any significant effect on adjacent property values.

**11. Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.**

**Consistent** – This text amendment should not be a deterrent to the improvement/development of adjacent parcels. The parcels in commercial districts can be used for many other permitted uses other than stand alone bars, dancehalls and entertainment uses.

**12. Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.**

**Consistent** – The proposed amendment is not recommending zoning district changes, merely modifying allowed uses within an existing district.

**13. Whether it is impossible to find other adequate sites in the city for the proposed use in a district already permitting such use.**

**Consistent** – Stand alone bars, dancehalls and entertainment uses are permitted uses in many other commercial zoning districts throughout Miami Beach.

**ANALYSIS**

It appears that the deletion of the previously approved prohibition on bars, dance halls and entertainment establishments in the Sunset Harbour neighborhood, which was approved in 2004, was done inadvertently. In this regard, when Ordinance No. 2004-3445 was adopted in 2004, the 'prohibition' of bars, dance halls and entertainment establishments was placed under 'Main Permitted Uses'. In 2012, as part of the proposed Ordinance setting lower thresholds for non-entertainment Conditional Uses (Ordinance No. 2012-3786), this 'prohibition' language under Section 142-302 (Main Permitted Uses) was deleted, but was not added to Section 142-305 (Prohibited Uses).

In order to correct this oversight, the proposed Ordinance would add 'stand alone bars, dance halls and entertainment establishments' to the list of prohibited uses in the Sunset Harbour neighborhood.

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**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.

TRM/MAB/TUI

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**SUNSET HARBOUR CD-2 ENTERTAINMENT PROHIBITION**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS", ARTICLE II, "DISTRICT REGULATIONS," DIVISION 5, "CD-2 COMMERCIAL MEDIUM INTENSITY DISTRICT," AT SECTION 142-305, "PROHIBITED USES," BY ADDING BARS, DANCE HALLS, AND ENTERTAINMENT ESTABLISHMENTS AS PROHIBITED USES WITHIN THE CD-2, SUNSET HARBOUR NEIGHBORHOOD, GENERALLY BOUNDED BY PURDY AVENUE, 20TH STREET, ALTON ROAD AND DADE BOULEVARD; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; APPLICABILITY; AND AN EFFECTIVE DATE.**

**WHEREAS**, the Sunset Harbour neighborhood is comprised of a mix of residential and commercial uses all in close proximity; and

**WHEREAS**, stand alone bars, entertainment establishments and dance halls are incompatible with the low scale character of the Sunset Harbour neighborhood, located within the CD-2, Commercial Medium Intensity District, generally bounded by Purdy Avenue, 20th Street, Alton Road and Dade Boulevard; and

**WHEREAS**, on December 12, 2012, the City Commission adopted Ordinance No. 2012-3786, which inadvertently removed bars, dance halls, and entertainment establishments from the list of prohibited uses in the Sunset Harbour neighborhood;

**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:

**Sec. 142-305. - Prohibited uses.**

The prohibited uses in the CD-2 commercial, medium intensity district are accessory outdoor bar counters, except as provided in this division. 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, also include outdoor entertainment establishments, neighborhood impact establishments, and open air entertainment establishments, bars, dance halls, and entertainment establishments (as defined in section 114-1 of this Code).

**SECTION 2. Repealer**

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

**SECTION 3. 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 4. Severability.**

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

**SECTION 5. Effective Date.**

This Ordinance shall take effect ten days following adoption.

PASSED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM  
AND LANGUAGE  
AND FOR EXECUTION

*Paul O'Connell* 10-5-15  
\_\_\_\_\_  
City Attorney Date  
*[Signature]*

First Reading: October 21, 2015  
Second Reading: December 9, 2015

Verified By: \_\_\_\_\_  
Thomas R. Mooney, AICP  
Planning Director

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