

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: June 7, 2022

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

1752 Bay Road	02-3233-012-0550
1738 Bay Road	02-3233-012-0530
1759 Purdy Avenue	02-3233-012-0540
1747 Purdy Avenue	02-3233-012-0520
1730 Bay Road	02-3233-012-0510
1743 Purdy Avenue	02-3233-012-0500
1724 Bay Road	02-3233-012-0490
1733 Purdy Avenue	02-3233-012-0480

FILE NO: DRB22-0814

IN RE: An application for Design Review approval for exterior modifications to a previously approved Design Review Approval for the construction of a new five-story mixed use building. Specifically, the applicant requested modifications to the previously approved plans and elevations. This application includes modification of conditions of the original Final Order. This item was originally approved in 2018, (DRB17-0198), and modifications were approved in 2021, (DRB20-0549).

LEGAL: The West ½ of Lot 3, Lot 4, Lot 5, Lot 6, and Lot 7, Block 16, ISLAND VIEW SUBDIVISION, according to the Plat thereof, as recorded in Plat Book 6 at Page 115 of the Public Records of Miami-Dade County, Florida.

APPLICANTS: Sunset Land Associates LLC and SH Owner LLC

SUPPLEMENTAL ORDER

The City of Miami Beach Design Review Board 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 record for this matter:

I. Design Review

- A. The Board has jurisdiction pursuant to Section 118-252(a) of the Miami Beach Code. The property is not located within a designated local historic district and is not an individually designated historic site.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is consistent with the Design Review Criteria in Section 118-251 of the Miami Beach Code.
- C. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is consistent with Sea Level Rise Criteria in Section 133-50(a) of the Miami Beach Code.

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D. The project would be remain with the criteria and requirements of Section 118-251 and/ or Section 133-50(a) if the following conditions are met:

1. The property shall comply with all of the conditions of the original approval enumerated in the Final Order for DRB17-0198, dated December 4, 2018, and the modified approval enumerated in the Final Order for DRB20-0549, dated May 4, 2021 except as modified herein.
2. The project shall comply with the conditions imposed by the Planning Board Order No PB20-0344, dated December 14, 2020.
3. Condition I.D.2.c. of the original DRB Final Order, dated December 4, 2018 shall be amended as follows:

I.D.2.c. The garage level parking (second floor), shall be set back a minimum of ten (10') feet from the south property line, with the exception of the egress stair in a form substantially as indicated in the amended application reviewed and approved by the Board on June 7, 2022. The entirety of such setback area provided (the roof of the ground floor) shall be open to the sky from this level upwards, and shall be re-designed to include a decorative wall, hardscape, landscape planter or landscape features in order to create a buffer between the garage and residential units of the building to the south, in a manner to be reviewed and approved by staff.

4. If possible, and not in conflict with underground utilities, two (2) additional street trees shall be provided on Bay Road, and two (2) street trees may be removed on Purdy Avenue, with the overall spacing increased between the street trees along Purdy Avenue, subject to the review and approval of staff.

Underline denotes added language and strikethrough denotes stricken language from the original final order.

In accordance with Section 118-262, the applicant, or the city manager on behalf of the City Administration, or an affected person, Miami Design Preservation League or Dade Heritage Trust may seek review of any order of the Design Review Board by the City Commission, except that orders granting or denying a request for rehearing shall not be reviewed by the Commission.

II. Variance(s)

- A. No variance(s) were filed as part of this application.

The decision of the Board regarding variances shall be final and there shall be no further review thereof except by resort to a court of competent jurisdiction by petition for writ of certiorari.

III. General Terms and Conditions applying to both 'I. Design Review Approval and 'II. Variances' noted above.

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- A. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
- B. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- C. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy; a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.
- D. The Final 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.
- E. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- F. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

IT IS HEREBY 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 are adopted herein, including the staff recommendations, which were amended and adopted by the Board, that the **application** is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph I, II, III of the Finding of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled "Eighteen Sunset", as prepared by **Domo Architecture + Design and Rai A Fernandez R. A.**, dated April 11, 2022, and as approved by the Design Review Board, as determined by staff.

When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions of approval that must be satisfied prior to permit issuance, as set forth in this Order, have been met.

The issuance of the approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board approved plans, this approval does not mean that such handicapped access is not required. When requesting Building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original approval was granted (December 4, 2018), the application will expire and become null and void, unless the applicant makes an application to the Board for an

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 June 7, 2022

extension of time, in accordance with the requirements and procedures of Chapter 118 of the City Code, the granting of any such extension of time shall be at the discretion of the Board. If the Full Building Permit for the project shall expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), the application will expire and become null and void.

In accordance with Chapter 118 of the City Code, the violation of any conditions and safeguards that are a part of this Order shall be deemed a violation of the land development regulations of the City Code. Failure to comply with this **Order** shall subject the application to Chapter 118 of the City Code, for revocation or modification of the application.

Dated 7/6/2022 | 5:40 PM EDT.

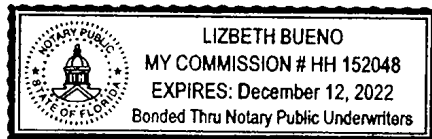
DESIGN REVIEW BOARD
 THE CITY OF MIAMI BEACH, FLORIDA

DocuSigned by:

 BY: DECSECF2EB88404
 Michael Belush, AICP
 Chief of Planning and Zoning
 For Chairman

STATE OF FLORIDA)
)SS
 COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 6th day of July, 2022 by Michael Belush, Chief of Planning and Zoning of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He is personally known to me.



Notary: 
 Print Name LIZBETH BUENO
 Notary Public, State of Florida
 My Commission Expires: 12/12/22
 Commission Number: HH 152048

{NOTARIAL SEAL}

Approved As To Form: Steven Rothstein (7/6/2022 | 5:20 PM EDT)
 City Attorney's Office: F8B54D6BB07D409

Filed with the Clerk of the Design Review Board on Jessica Gonzalez (7/7/2022 | 7:42 AM EDT)
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**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. PB 17-0168 a.k.a. PB18-0168 a.k.a. PB20-0344

IN RE: An application for modifications to a previously issued conditional use permit for a mixed-use structure over 50,000 square feet, and conditional use approval for two restaurants, each exceeding 100 seats. Specifically, the application includes modifications to the previously approved project, including the introduction of office uses, 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; December 14, 2020

CONDITIONAL USE PERMIT

An application was filed requesting modifications to a previously issued conditional use permit for a mixed-use structure over 50,000 square feet, and conditional use approval for two restaurants, each exceeding 100 seats. Specifically, the applicant requested modifications to the previously approved project to include the introduction of office uses, 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 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; and

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 modifications to 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 project, with retail space and restaurant space on the first floor, parking on the 2nd 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 Permit shall require the review and approval of the Planning Board.~~ This Conditional Use Permit (CUP) is issued to Sunset Land Associates, LLC, and SH Owner, LLC, to construct a five (5) story mixed use project, consisting of office, retail, personal service, restaurant, and residential uses, or any combination of such uses. 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 BTRs 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, if any, 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 the Board 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. Pursuant to Section 118-195 of the City Code, a substantial modification means any increase in lot area, parking requirements, floor area ratio, density, or lot coverage. Notwithstanding the foregoing, this condition shall not limit the applicant's/owner's ability to modify the volume and/or height of the proposed project pursuant to the allowable height regulations, so long as said modification does not result in an increase to the analyzed and approved impacts.

6. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application.
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 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. The final design of this area shall be subject to the review and approval of the Design Review Board.
 - 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. No building exhaust shall be permitted on the south elevation.
 - e. The travel lane for the breezeway (with the exception of the designated center drop-off/pick up area) under the building shall be reduced to the greatest extent possible, and shall not utilize raised curbing along each side of the lane, in order to maximize the area designated for pedestrian use, while still allowing sufficient access for emergency vehicles, in a manner to be reviewed and approved by staff. However, this shall not preclude the use of a mountable curb, in a manner to be reviewed and approved by staff.
 - f. The Applicant shall submit and execute a hold harmless agreement and covenant running with the land, in a form acceptable to the City Attorney, indemnifying and holding the City harmless from and against any and all actions, claims, liabilities, losses and expenses including, but not limited to, attorney's fees, for personal, economic or bodily injury, wrongful death, loss of or damage to property, at law or in equity, which may arise or be alleged to have arisen from an accident involving a motor vehicle or other vehicle or instrumentality, except those claims from negligence by a City employee operating a City-owned vehicle while operating in the employee's official capacity, occurring in the breezeway (including the vehicle travel and/or pedestrian lanes).
 - g. All existing overhead utilities abutting the subject site shall be placed underground at the sole expense of the applicant.

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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, up to two (2) proposed cafés, and two (2) full service restaurants, and office uses, 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. The two (2) proposed restaurants that require a CUP may allocate occupancy in any way, provided that the total number of restaurant seats, including outdoor seats on private property and bar seats, shall not exceed 238 seats, and the occupant content for each restaurant shall not exceed 199 persons per establishment, pursuant to Section 142-303(b).

~~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 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

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December 14, 2020*

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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-screaching 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.
 - e. The overhead roll-up entry door to the garage level shall, at a minimum, remain open daily from 7:00 am to 12:00 am.
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.~~ The applicant shall pay all impact, mobility, and concurrency fees due prior to obtaining a Building Permit, Certificate of Occupancy, or Business Tax Receipt, whichever may occur first, and any other fair share cost that may be due and owing.

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- 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 be located in designated on-street parking spaces, subject to the review and approval of the Parking Department. Should such on-street valet operation not be approved by the Parking Department, the Planning Board shall be required to review and approve any alternative valet operation.
 - h. Given that the Traffic Impact Study did not include an analysis of ride-share transportation, one (1) space shall be designated for passenger loading on Purdy Avenue and two (2) spaces shall be designated for the proposed valet service (for a total of three (3) spaces), subject to the approval of the Parking Department.
 - i. No stand-by or temporary parking shall be allowed in any valet-designated on-street parking space at any time.
 - j. The breezeway automatic bollard shall remain raised to prohibit all non-emergency and non-residential vehicular traffic from 7:00 PM to 12:00 AM on Thursdays, Fridays, and Saturdays. Residents of the building shall have access to lower the bollards via remote control or other electronic means to gain vehicular access to the breezeway.
 - k. The gate analysis and valet operational plan is based on the technical specifications provided by the applicant consisting of a minimum gate operating speed of twenty (20) inches per second and minimum bollard operating speed of six (6) centimeters per second. Any gate or bollard slower than the aforementioned figures shall not be used.
 - l. The applicant shall work with the Transportation Department to provide a comprehensive Transportation Demand Management Plan prior to the issuance of a Certificate of Occupancy for the development.
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

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December 14, 2020

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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.
16. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

Dated 4/5/2021 | 10:31 AM EDT

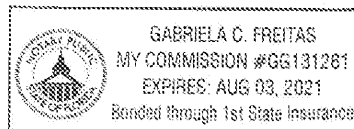
PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

DocuSigned by:
Rogelio Madan
BY: Rogelio A. Madan, AICP
Chief of Planning & Sustainability
for Chairman

STATE) OF FLORIDA
)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 5th day of April, 2021, by Rogelio A. Madan, Chief of Community Planning & Sustainability for the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

[NOTARIAL SEAL]



[Signature]
Notary:
Print Name: _____
Notary Public, State of Florida
My Commission Expires: Aug. 3, 2021
Commission Number: 99131281

Approved As To Form:
Legal Department

DocuSigned by:

[Signature]
0066B066A0A0449

4/5/2021 | 9:42 AM) EDT

*PB 17-0168 aka PB18-0168. 1733-1759 Purdy Avenue and 1724-1752 Bay Road – Sunset Park
December 14, 2020*

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Filed with the Clerk of the Planning Board on _____

DocuSigned by:

Jessica Gonzalez

(4/5/2021 | 11:13)AM EDT

Underlining denotes new language

~~Strikethrough~~ denotes stricken language

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**DESIGN REVIEW BOARD
City of Miami Beach, Florida**

MEETING DATE: May 4, 2021

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

1752 Bay Road	02-3233-012-0550
1738 Bay Road	02-3233-012-0530
1759 Purdy Avenue	02-3233-012-0540
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1743 Purdy Avenue	02-3233-012-0500
1724 Bay Road	02-3233-012-0490
1733 Purdy Avenue	02-3233-012-0480

FILE NO: DRB20-0549

IN RE: An application has been filed requesting Design Review approval for exterior modifications to a previously approved Design Review Approval for the construction of a new five-story mixed use building. Specifically, the applicant is requesting a modification to the previously approved building height and exterior material changes. This item was originally approved in 2018, pursuant to DRB File No. 17-0198.

LEGAL: The West ½ of Lot 3, Lot 4, Lot 5, Lot 6, and Lot 7, Block 16, ISLAND VIEW SUBDIVISION, according to the Plat thereof, as recorded in Plat Book 6 at Page 115 of the Public Records of Miami-Dade County, Florida.

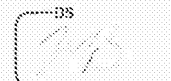
APPLICANTS: Sunset Land Associates LLC and SH Owner LLC

ORDER

The City of Miami Beach Design Review Board 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 record for this matter:

I. Design Review

- A. The Board has jurisdiction pursuant to Section 118-252(a) of the Miami Beach Code. The property is not located within a designated local historic district and is not an individually designated historic site.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Design Review Criteria 9 and 19 in Section 118-251 of the Miami Beach Code.
- C. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Sea Level Rise Criteria 1, 10, 11 and 12 in Section 133-50(a) of the Miami Beach Code.

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DRB20-0549—1733-1759 Purdy Avenue and 1724-1752 Bay Road
May 4, 2021

- D. The project would be consistent with the criteria and requirements of Section 118-251 and/ or Section 133-50(a) if the following conditions are met:
1. The property shall comply with all of the conditions of the original approval enumerated in the Final Order for DRB17-0198, dated December 04, 2018 except as modified herein.
 2. The project shall comply with the conditions imposed by the Planning Board Order No PB20-0344, dated December 14, 2020.
 3. Revised elevation, site plan, and floor plan drawings shall be submitted, at a minimum, such drawings shall incorporate the following:
 - a. The final color and finish of the IPE wood and/or "aluminum cladding" shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - b. The specifications of any proposed IPE wood shall be provided, and Forest Stewardship Council (FSC) or similar certification shall be required, subject to the review and approval of staff.
 - c. The window system mullions shall be uniform in spacing and shall be spaced +/- 4' apart on the ground floor level; and spaced +/- 5' apart on levels 3, 4 and 5.
 - d. The final design, details and finishes of the roof top trellis shall be submitted in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - e. The architect shall incorporate IPE wood and/or metal wall cladding where feasible to the Bay Avenue and Purdy Avenue elevations, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - f. The garage level bulkhead shall be a minimum of 3'-6" high, as measured from its finished floor, to buffer vehicular lights.
 - g. The materials and finishes shown, including location, extent, and quality, shall be consistent with the plans presented to the Board as part of this modified application, subject to the review and approval of staff.
 - h. The final design details of the exterior materials and finishes shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - i. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.

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May 4, 2021

- j. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.

In accordance with Section 118-262, the applicant, or the city manager on behalf of the City Administration, or an affected person, Miami Design Preservation League or Dade Heritage Trust may seek review of any order of the Design Review Board by the City Commission, except that orders granting or denying a request for rehearing shall not be reviewed by the Commission.

II. Variance(s)

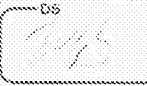
- A. No variance(s) were filed as part of this application.

The decision of the Board regarding variances shall be final and there shall be no further review thereof except by resort to a court of competent jurisdiction by petition for writ of certiorari.

III. General Terms and Conditions applying to both 'I. Design Review Approval' and 'II. Variances' noted above.

- A. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
- B. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- C. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy; a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.
- D. The Final 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.
- E. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- F. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

IT IS HEREBY 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 are adopted herein, including the staff recommendations, which were amended and adopted by the Board, that the application is

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DR820-0549—1733-1759 Purdy Avenue and 1724-1752 Bay Road
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GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph I, II, III of the Finding of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled "Eighteen Sunset", as prepared by **Domo Architecture + Design and Rai A Fernandez R. A.**, dated April 12, 2021, and as approved by the Design Review Board, as determined by staff.

When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions of approval that must be satisfied prior to permit issuance, as set forth in this Order, have been met.

The issuance of the approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board approved plans, this approval does not mean that such handicapped access is not required. When requesting Building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original approval was granted (December 4, 2018), the application will expire and become null and void, unless the applicant makes an application to the Board for an extension of time, in accordance with the requirements and procedures of Chapter 118 of the City Code, the granting of any such extension of time shall be at the discretion of the Board. If the Full Building Permit for the project shall expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), the application will expire and become null and void.

In accordance with Chapter 118 of the City Code, the violation of any conditions and safeguards that are a part of this Order shall be deemed a violation of the land development regulations of the City Code. Failure to comply with this Order shall subject the application to Chapter 118 of the City Code, for revocation or modification of the application.

6/10/2021 | 3:41 PM EDT

Dated _____

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

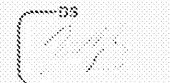
BY: _____

Michael Belush, AICP
Chief of Planning and Zoning
For Chairman

DocuSigned by:



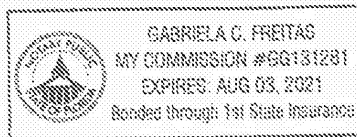
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DRB20-0549—1733-1759 Purdy Avenue and 1724-1752 Bay Road
May 4, 2021

STATE OF FLORIDA)
)SS
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 10th day of June 2021 by Michael Belush, Chief of Planning and Zoning of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He is personally known to me.



[Signature]
Notary:
Print Name
Notary Public, State of Florida
My Commission Expires: Aug. 3, 2021
Commission Number: 99131281

{NOTARIAL SEAL}

Approved As To Form: _____
City Attorney's Office: *[Signature]* (6/10/2021 | 3:31 PM EDT)

Filed with the Clerk of the Design Review Board on *[Signature]* (6/11/21)

DS
[Signature]

**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 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; and

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 2nd 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 Permit 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 BTRs 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 the Board 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.

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 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. The final design of this area shall be subject to the review and approval of the Design Review Board.
 - 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. No building exhaust shall be permitted on the south elevation.
 - e. The travel lane for the breezeway (with the exception of the designated center drop-off/pick up area) under the building shall be reduced to the greatest extent possible, and shall not utilize raised curbing along each side of the lane, in order to maximize the area designated for pedestrian use, while still allowing sufficient access for emergency vehicles, in a manner to be reviewed and approved by staff. However, this shall not preclude the use of a mountable curb, in a manner to be reviewed and approved by staff.
 - f. The Applicant shall submit and execute a hold harmless agreement and covenant running with the land, in a form acceptable to the City Attorney, indemnifying and holding the City harmless from and against any and all actions, claims, liabilities, losses and expenses including, but not limited to, attorney's fees, for personal, economic or bodily injury, wrongful death, loss of or damage to property, at law or in equity, which may arise or be alleged to have arisen from an accident involving a motor vehicle or other vehicle or instrumentality, except those claims from negligence by a City employee operating a City-owned vehicle while operating in the employee's official capacity, occurring in the breezeway (including the vehicle travel and/or pedestrian lanes).
 - g. 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 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 be located in designated on-street parking spaces, subject to the review and approval of the Parking Department. Should such on-street valet operation not be approved by the Parking Department, the Planning Board shall be required to review and approve any alternative valet operation.
 - h. Given that the Traffic Impact Study did not include an analysis of ride-share transportation, one (1) space shall be designated for passenger loading on Purdy

Avenue and two (2) spaces shall be designated for the proposed valet service (for a total of three (3) spaces), subject to the approval of the Parking Department.

- i. No stand-by or temporary parking shall be allowed in any valet-designated on-street parking space at any time.
 - j. The breezeway automatic bollard shall remain raised to prohibit all non-emergency vehicular traffic from 7:00 PM to 12:00 AM on Thursdays, Fridays, and Saturdays.
 - k. The gate analysis and valet operational plan is based on the technical specifications provided by the applicant consisting of a minimum gate operating speed of twenty (20) inches per second and minimum bollard operating speed of six (6) centimeters per second. Any gate or bollard slower than the aforementioned figures shall not be used.
 - l. The applicant shall work with the Transportation Department to provide a comprehensive Transportation Demand Management Plan prior to the issuance of a Certificate of Occupancy for the development.
- 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.
 - 16. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

PB 17-0168 aka PB18-0168. 1733-1759 Purdy Avenue and 1724-1752 Bay Road – Sunset Park
Page 8 of 8

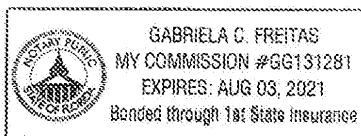
Dated this 14 day of December, 2018.

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: Michael Belush For Michael Belush
Michael Belush
Chief of Planning and Zoning
For Chairman

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 14th day of December, 2018, by Michael Belush, Chief of Planning and Zoning of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.



Gabriela C. Freitas
Notary:
Print Name Gabriela C. Freitas
Notary Public, State of Florida
My Commission Expires: 8-3-21
Commission Number: 99131201

{NOTARIAL SEAL}

Approved As To Form: Nick Kallergis 12/12/2018
Legal Department

Filed with the Clerk of the Planning Board on January 12/14/19

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: December 04, 2018

FILE NO: DRB17-0198

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

APPLICANT: Sunset Land Associates LLC

LEGAL: The West ½ of Lot 3, Lot 4, Lot 5, Lot 6, and Lot 7, Block 16, ISLAND VIEW SUBDIVISION, according to the Plat thereof, as recorded in Plat Book 6 at Page 115 of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for Design Review Approval for the construction of a new five-story multifamily building with ground floor retail uses with one or more waivers, to replace six vacant lots and two buildings. This item will also require a Conditional Use application to be reviewed and approved by the Planning Board.

ORDER

The City of Miami Beach Design Review Board 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 record for this matter:

I. Design Review

- A. The Board has jurisdiction pursuant to Section 118-252(a) of the Miami Beach Code. The property is not located within a designated local historic district and is not a individually designated historic site.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Design Review Criteria 1, 2, 3, 4, 5, 6, 9, 12, 13, 14, 16, and 19 in Section 118-251 of the Miami Beach Code.
- C. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Sea Level Rise Criteria 1, 5, and 10 in Section 133-50(a) of the Miami Beach Code.
- D. The project would be consistent with the criteria and requirements of Section 118-251 and/ or Section 133-50(a) if the following conditions are met:
 1. The project shall comply with all the conditions imposed by the Planning Board Order dated November 27, 2018 for File No. PB 17-0168 aka PB18-0168.
 2. Revised elevation, site plan and floor plan drawings for the proposed mixed-use development at 1733-1759 Purdy Avenue and 1724-1752 Bay Road shall be



submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:

- a. The additional 5'-0" height at the ground level **shall** be permitted as proposed.
- b. The central breezeway at the ground level of the project shall be further refined. The width of the corridor shall accommodate two, minimum 6'-0" wide pedestrian zones flanking a central vehicle aisle, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- c. 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 include a decorative wall, hardscape, landscape planter or landscape features 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.
- d. The garage level parking (second floor), shall be internally redesigned to comply with all of the underlying programmatic parking requirements and zoning design and dimensioning standards.
- e. 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.
- f. 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.
- g. All existing overhead utilities and poles abutting the subject site shall be placed underground at the sole expense of the applicant.
- h. Additional material finishes shall be introduced along the front elevation at the underside and side walls of the breezeway as depicted on rendering sheet A-6.3, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- i. The final details of all exterior surface finishes and materials, including samples, shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- j. All interior fixtures, including, but not limited to, shelving, partitions, and checkout counters, if parallel to the exterior wall, shall be setback a minimum of ten (10') feet from the exterior walls of the building, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board. This shall not prohibit substantially transparent fixtures for display purposes; however, shelving,



partitions, and checkout counters, or similar objects, shall not be permitted to be flush to the exterior walls of the building facing any right-of-way.

- k. The final design and details of all exterior and interior lighting for the ground floor commercial components shall be provided, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board. Interior lighting shall be designed in a manner to not have an adverse overwhelming impact upon the surrounding area. No florescent or intensive 'white' lighting (or similar intensive lighting) visible from the adjacent public rights or way or adjacent properties shall be permitted.
- l. Any future kitchen ventilation or mechanical venting shall be chased through the interior of the building to the roof. No exhaust ducts or vents shall be permitted on any building elevations.
- m. All internal garage lighting shall be shielded to buffer views of all direct light sources from outside of the structure, as well as on the roof deck, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- n. All rooftop lighting shall consist of a lighting fixture that is affixed to, and no higher than, the rooftop parapet wall. All roof-top lighting fixtures shall be designed to preclude light from spilling over to adjacent properties, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- o. All exterior handrails and support posts shall incorporate a flat profile. The final design details, dimensions material and color of all exterior handrails shall be made part of the building permit plans and shall be subject to the review and approval of staff.
- p. The interior walls of the first level of the parking garage entrance, ramps and loading areas, shall be fully detailed on revised plans. Such interior areas shall consist of high quality, non-stucco surface materials which have a well finished appearance commensurate with the primary façade of the building, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- q. All building signage shall require a separate permit. A uniform sign plan for the new building shall be required. Such sign plan shall be consistent in materials, method of illumination and sign location, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- r. The entire ground level exterior paving system, and its design and detailing, shall be clearly identified with all colors, textures and materials clearly differentiating the areas as identified as pedestrian-only regions from those portions accessible to vehicular traffic, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.



- s. The design and detailing of the proposed planters within the breezeway shall be further developed and detailed, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - t. The final design and details, including materials, colors, finishes, of any security fence, shall be provided, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - u. The final design and details, including materials, colors, finishes, of all roof top elements, including any canopies, and stairwell or elevator bulkheads, shall be further developed and detailed and submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - v. All exterior walkways and drives shall consist of decorative pavers, set in sand or other semi-pervious material, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - w. Final details of all proposed storefront systems and associated details shall be provided for all of the structures on the project site, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - x. A fully enclosed, air-conditioned trash room shall be provided, which is sufficient to handle the maximum uses intended for the proposed structure. External dumpsters shall not be permitted.
 - y. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
 - z. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.
3. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding site plan, shall be submitted to and approved by staff. The species type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plan shall incorporate the following:
- a. Prior to the issuance of a building permit, the applicant shall submit a tree protection plan for all trees to be retained on site. Such plan shall be subject to the review and approval of staff, and shall include, but not be



limited to a sturdy tree protection fence installed at the dripline of the trees prior to any construction.

- b. In order to identify, protect and preserve mature trees on site, which are suitable for retention and relocation, a Tree Report prepared by a Certified Tree Arborist shall be submitted for the mature trees on site.
- c. Any tree identified to be in good overall condition shall be retained, and protected in their current location if they are not in conflict with the proposed home, or they shall be relocated on site, if determined feasible, subject to the review and approval of staff. A tree care and watering plan also prepared by a Certified Arborist shall be submitted prior to the issuance of a Building Permit or Tree Removal/Relocation Permit. Subsequent to any approved relocation, a monthly report prepared by a Certified Arborist shall be provided to staff describing the overall tree performance and adjustments to the maintenance plan in order to ensure survivability, such report shall continue for a period of 18 months unless determined otherwise by staff.
- d. A minimum of 50% of the combined total of all roof levels which are open to the sky, shall be designed in a "green manner" to accommodate a true green roof system. Portions of the green roof shall, have sufficient depth of soil planting beds to accommodate rooting depths for larger trees while satisfying minimum canopy shade tree requirements.
- e. Existing trees to be retained on site shall be protected from all types of construction disturbance. Root cutting, storage of soil or construction materials, movement of heavy vehicles, change in drainage patterns, and wash of concrete or other materials shall be prohibited.
- f. The backflow prevention device shall not be permitted within any area fronting a street or sidewalk, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board
- g. Street trees shall be required within the swale at the front of the property if not in conflict with existing utilities, in a manner to be reviewed and approved by the Public Works Department.
- h. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- i. A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain. Right-of-way areas shall also be incorporated as part of the irrigation system.
- j. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.



- k. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow preventors and all other related devices and fixtures. The location of backflow preventors, Siamese pipes or other related devices and fixtures, if any, and how they are screened with landscape material from the right-of-way, shall be clearly indicated on the site and landscape plans, and shall be subject to the review and approval of staff.
- l. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable FPL transformers or vault rooms. The location of any exterior transformers and how they are screened with landscape material from the right of wall shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
- m. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect or the project architect shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.

In accordance with Section 118-262, the applicant, or the city manager on behalf of the city administration, or an affected person, Miami Design Preservation League or Dade Heritage Trust may seek review of any order of the Design Review Board by the City Commission, except that orders granting or denying a request for rehearing shall not be reviewed by the Commission.

II. Variance(s)

- A. No variance(s) were filed as part of this application.

The decision of the Board regarding variances shall be final and there shall be no further review thereof except by resort to a court of competent jurisdiction by petition for writ of certiorari.

III. General Terms and Conditions applying to both 'I. Design Review Approval and 'II. Variances' noted above.

- A. Where one or more parcels are unified for a single development, the property owner shall execute and record a unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.
- B. Site plan approval is contingent upon meeting Public School Concurrency requirements. Applicant shall obtain a valid School Concurrency Determination Certificate (Certificate) issued by the Miami-Dade County Public Schools. The Certificate shall state the number of seats reserved at each school level. In the event sufficient seats are not available, a proportionate share mitigation plan shall be incorporated into a tri-party development agreement and duly executed prior to the issuance of a Building Permit.
- C. The applicant shall submit a Hold Harmless Covenant Running with the Land to the City Attorney's Office in a form acceptable to the City Attorney indemnifying and holding harmless the city against any claim or loss in the event of an accident involving a motor



vehicle or other instrumentality due to the proximity of the new building to the public right-of way.

- D. In the event Code Compliance receives complaints of unreasonably loud noise from mechanical and/or electrical equipment, and determines the complaints to be valid, even if the equipment is operating pursuant to manufacturer specifications, the applicant shall take such steps to mitigate the noise with noise attenuating materials as reviewed and verified by an acoustic engineer, subject to the review and approval of staff based upon the design review or appropriateness criteria, and/or directions received from the Board.
- E. A Construction Parking and Traffic Management Plan (CPTMP) shall be approved by the Parking Director pursuant to Chapter 106, Article II, Division 3 of the City Code, prior to the issuance of a Building Permit.
- F. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- G. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- H. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy; a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.
- I. The Final 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.
- J. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- K. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

IT IS HEREBY 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 are adopted herein, including the staff recommendations, which were amended and adopted by the Board, that the **application** is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph I, II, III of the Finding of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled "Sunset Park", as prepared by **Domo Architecture + Design**, dated September 07, 2018, and dated August 03, 2018, and as approved by the Design Review Board, as determined by staff.

When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions of approval that must be satisfied prior to permit issuance, as set forth in this Order,



have been met.

The issuance of the approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board approved plans, this approval does not mean that such handicapped access is not required. When requesting Building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original approval was granted, the application will expire and become null and void, unless the applicant makes an application to the Board for an extension of time, in accordance with the requirements and procedures of Chapter 118 of the City Code, the granting of any such extension of time shall be at the discretion of the Board. If the Full Building Permit for the project shall expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), the application will expire and become null and void.

In accordance with Chapter 118 of the City Code, the violation of any conditions and safeguards that are a part of this Order shall be deemed a violation of the land development regulations of the City Code. Failure to comply with this **Order** shall subject the application to Chapter 118 of the City Code, for revocation or modification of the application.

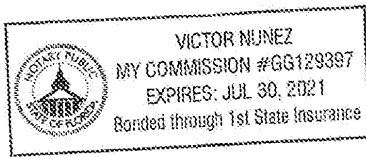
Dated this 06 day of December, 2018.

DESIGN REVIEW BOARD
 THE CITY OF MIAMI BEACH, FLORIDA

BY: 
 JAMES G. MURPHY
 CHIEF OF URBAN DESIGN
 FOR THE CHAIR

STATE OF FLORIDA)
)SS
 COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 7 day of December, 2018 by James G. Murphy, Chief of Urban Design, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He is personally known to me.



V. Nunez
NOTARY PUBLIC

Miami-Dade County, Florida

My commission expires: July 30, 2021

Approved As To Form:

City Attorney's Office: *Nick Allegri* (12/6/2018)

Filed with the Clerk of the Design Review Board on *Josim Gwilym* (12/7/18)

[Handwritten signature]