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June 2, 2024

**VIA ELECTRONIC SUBMITTAL**

Michel Belush, Planning & Design Officer  
Planning Department  
City of Miami Beach  
1700 Convention Center Drive, 2nd Floor  
Miami Beach, Florida 33131

Re: **PB24-0672 Modification of PB22-0548** –  
Conditional Use Permit for the Property Located at  
1790 Alton Road, Miami Beach

Dear Mr. Belush:

This law firm represents SOBE 18, LLC (the "Applicant"), owner of the property located at 1790 Alton Road (the "Property"). Please consider this the Applicant's letter of intent in connection with a request to modify Conditional Use Permit, File No. PB22-0548 ("CUP Approval"). See Exhibit A, Final Order. The Applicant is proposing to modify the CUP Approval to be more consistent with Ordinance 2023-4545, passed and adopted April 28, 2023. See Exhibit B, Final Ordinance. The modifications include the outdoor operational hours to cease at 12:00 AM and changes to the seating counts as described further below.

Property Description. The Property is generally located on eastern portion of the City block between West Avenue and Alton Road, and south of 18<sup>th</sup> Street. The Miami-Dade County Property Appraiser identifies the Property with Folio No. 02-3233-012-0700. See Exhibit C, Property Appraiser Summary Report. It is an undeveloped vacant, irregular shaped lot approximately 10,331 square feet in size. The Property was previously developed with a service station in 1960s and 1970s. See Exhibit D, Building Card.

According to the Official Zoning Map of the City, the Property is in the CD-2, Commercial Medium Intensity District. The surrounding uses include multi-story retail and offices. The Property is not located within a local or national historic district.

Proposed Modifications. The Applicant is proposing to update the CUP Approval to be more consistent with the City Commission’s Ordinance Approval. The modifications include the hours of operations and seat counts of the ground floor and second level restaurants. The two restaurants are entirely separate and are intended to operate separately. The purpose of the Ordinance Approval was to attract new, high-quality restauranters to east side of the neighborhood along Alton Road.

More specifically, condition 3 of the CUP provides that “the outdoor seating area at the second level must cease all operations no later than 8:00 PM.” The Ordinance Approval amended the CD-2 regulations and provided a carve out for projects that front Alton Road and are located south of 18<sup>th</sup> Street and have outdoor dining associated with an indoor restaurant which do not exceed 100 seats. The carve out also requires that the combined total number of seats of restaurants above the ground floor do not exceed 240. Should these criteria be satisfied the default operations for an outdoor restaurant would permit 12:00 AM.

The Applicant is proposed to modify the seat counts as follows:

		<b>From</b>	<b>To</b>
<b>Ground Floor</b>	<b>Indoor</b>	24	61
	<b>Outdoor</b>	57	20
	<b>Total</b>	81	81
<b>Second Level</b>	<b>Indoor</b>	141	140
	<b>Outdoor</b>	38	100
	<b>Total</b>	179	240
<b>TOTAL COMBINED</b>		<b>260</b>	<b>321</b>

Satisfaction of Conditional Use Criteria. The Applicant’s requests satisfy the review criteria and guidelines enumerated in Section 2.5.2.2.a. of the Resiliency Code as follows:

**(1) The use is consistent with the comprehensive plan or neighborhood plan if one exists for the area in which the property is located.**

The proposed Project is a mix of residential units and restaurant space. Both of the proposed uses are expressly desired in the CD-2 future land use category pursuant to Policy RLU 1.1.9 and the Sunset Harbour overlay. Additionally, a mixed use project, that will enhance the walkability of Sunset Harbour, is consistent with the surrounding variety of uses.

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

As urban infill, the Project will not result in an impact that will exceed the thresholds for the levels of service as set forth in the Comprehensive Plan. The goal is to reduce or maintain current levels of service with additional residential units and restaurants in close proximity to transit.

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

The design, scale and massing of the Project is compatible with the surrounding area, which contains large, mixed-use buildings. The Project is within with the CD-2 permitted height, setbacks, unit sizes, and Floor Area Ratio. Additionally, the proposed residential and restaurant uses are permitted in the CD-2 District and Sunset Harbour overlay. The restaurant on the second level is a mix of indoor and outdoor seating. Therefore, the proposed structure and uses are consistent with the intent of the land development regulations.

**(4) The public health, safety, morals, and general welfare will not be adversely affected. Nothing in the Project will negatively affect the public health, safety, morals and general welfare of the City of Miami Beach.**

The public health, safety, morals, and general welfare will not be adversely affected with the introduction of a modern, environmentally resilient mixed-use building on vacant land. In fact, the Project will enhance the public health, safety, morals, and general welfare of the community by activating Dade Boulevard and 18<sup>th</sup> Street, at the intersections with Alton Road. The use of the Property is consistent and compatible with the intent of the CD-2 District to provide medium intense development. The Project will provide additional housing opportunities in close proximity to businesses and offices with new restaurant alternatives.

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

The Project will provide adequate parking facilities as required by the Land Development Regulations. Specifically, nineteen (19) total parking spaces and two (2) loading spaces are required and provided. Eighteen (18) of the parking spaces will be tandem mechanical lifts and the two (2) loading spaces are accessible from the internal driveway.

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

The additional mix of seating and hours of operations will provide flexibility of patrons' preferences and also minimize massing of the proposed structure. The parking area will be fully enclosed, and will, therefore, not negatively impact the surrounding properties, persons or neighborhood values. The mechanical parking protects the surrounding neighborhood from what would be a much larger, less-functional building on this narrow, irregular shaped site. Valet operations and security details are provided in the Operations Plans, enclosed with the application materials.

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

The Project is consistent with the Sunset Harbour Mixed-Use Neighborhood purpose to present a vibrant mixed-use residential neighborhood that provides area residents with a unique retail and dining experience. The restaurant is modestly sized with no entertainment. Therefore, it will not have a negative impact on the surrounding neighborhood. Rather, the goal of the Project is to improve the site with a design and use that will benefit the area with additional residents and new, local restaurants.

Sea Level Rise and Resiliency Criteria. The Project advances the sea level rise and resiliency criteria in Section 7.1.2.4 of the Resiliency, as follows:

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

A recycling and salvage plan for any proposed demolition will be provided at permitting.

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

Hurricane proof impact windows will be provided.

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

The Applicant will provide, where feasible, passive cooling systems.

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

New landscaping provided will be Florida-friendly and resilient.

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

Sea level rise projections are being considered.

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

The Project is entirely new construction above base floor elevation.

**7. Where feasible and appropriate. All critical mechanical and electrical systems are located above base flood elevation.**

All mechanical and electrical systems will be located above base flood elevation.

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

The Project is entirely new construction above base floor elevation.

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

The Project is entirely new construction above base floor elevation.

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

Where feasible, water retention systems will be provided.

**11. Cool pavement materials or porous pavement materials shall be utilized.**

Cool pavement materials and/or porous pavement materials will be utilized.

**12. The design of each project shall minimize the potential for heat island effects on-site.**

The Applicant proposes additional landscaping around the perimeter of the site to minimize potential for heat island effects on-site.

Conclusion. The massing, scale and design of the Project are consistent with the prior approvals and compatible with the large abutting commercial structures and variety of surrounding uses. The proposed modifications are necessary for the viability of the future tenant in this urban infill development on a historically vacant parcel. Granting of this modification to the Conditional Use Permit is in harmony with the intent and purpose of the City's Comprehensive Plan and Land Development Regulations.

Based on these reasons and the limited scope of this application, the Applicant respectfully requests your favorable review and recommendation. If you have any questions or comments regarding the application, please contact me at (305) 377-6238.

Sincerely,



Michael J. Marrero

Enclosures

CC: Emily K. Balter, Esq.

# EXHIBIT A

CFN: 20220834330 BOOK 33448 PAGE 768  
DATE: 11/01/2022 08:29:18 PM  
HARVEY RUVIN, CLERK OF COURT, MIA-DADE CTY

## PLANNING BOARD CITY OF MIAMI BEACH, FLORIDA

**PROPERTY:** 1790 Alton Road.

**FILE NO.** PB22-0548

**IN RE:** An application has been filed requesting conditional use approval for a new 5-story mixed-use development, including the use of a mechanical parking, and a restaurant with more than 100 seats and a floor area in excess of 3,500 square feet, pursuant to Chapter 118, Article IV, and Chapter 130, Article II of the City Code.

**LEGAL DESCRIPTION:** Lot 1, Block 17-A of "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, less beginning at the northwesterly corner of Lot 1; thence south along the westerly line of Lot 1 for 169.41 feet to a point where the westerly line of Lot 1 intersects the northerly line of Dade Boulevard; thence northeasterly along the notherly line of Dade Boulevard for 65.7 feet to a point; thence northwesterly along a line deflecting 90 degrees to the left for 65.95 feet to a point; thence northerly along a line deflecting to the right 29 degrees 22'37" for 79.65 feet to a point being on the southerly line of 18th Street for 24.9 feet to the point of beginning, together with all the appurtenances therunto belonging in anywise appertaining. (Special Warranty Deed, dated October 15th 1993, recorded in Official Records Book 16367, Page 4229, Miami-Dade County Records).

**MEETING DATE:** September 20, 2022

### CONDITIONAL USE PERMIT

The applicant, SOBE 18, LLC, requested a Conditional Use approval for the construction of a new 5-story mixed-use development, including the use of a mechanical parking, and a restaurant with more than 100 seats and a floor area in excess of 3,500 square feet, pursuant to Chapter 118, Article IV, and Chapter 130, Article II of the City Code. Notice of the request was given as required by law and mailed out to owners of property within a distance of 375 feet of the exterior limits of the property upon which the application was made.

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

The property in question is located in the CD-2 Commercial, High Intensity District;

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

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September 20, 2022

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The intended use or construction will not result in an impact that will exceed the thresholds for the levels of service as set forth in the Comprehensive Plan;

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

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

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

**IT IS THEREFORE ORDERED**, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which is adopted herein, including the staff recommendations, that the Conditional Use Permit be GRANTED, as provided below:

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. 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).
2. This Conditional Use Permit is issued to SOBE 18, LLC (the applicant) and owner of the property. Any changes in ownership or 50% (fifty percent) or more stock ownership, or the equivalent, of non-residential portions of the building shall require the new owner to submit an affidavit, approved by City, to the City of Miami Beach Planning Department, transferring approval to the new owner and acknowledging acceptance of all conditions established herein prior to the issuance of a new Certificate of Use/Business Tax Receipt.
3. This Conditional Use Permit shall include two (2) restaurants, located on the first and second levels. The outdoor seating area at the second level must cease all operations no later than 8:00 pm. The maximum occupational content and seating shall be as follows:
  - a. The ground floor restaurant shall not exceed 81 total seats, including a maximum of 57 outdoor seats, and a maximum occupancy load of 122 persons.
  - b. The second floor restaurant shall not exceed 179 total seats, including a maximum of 38 outdoor seats, and a maximum occupancy load of 194 persons.
4. The following shall apply to the operation of the entire project:
  - a. All trash containers shall utilize rubber wheels, as well as a path consisting of a surface finish that reduces noise, in a manner to be reviewed and approved by staff.
  - b. All trash rooms shall be air conditioned and sound-proofed in a manner to be approved by staff. The doors to the trash rooms shall remain closed and secured when not in use and all trash dumpsters shall be closed at all times except when in use.

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- c. 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.
  - d. The property and adjacent rights-of-way shall be maintained clean and free from debris
  - e. Except as may be required for Fire, Building, or Life Safety Code purposes, no speakers or televisions of any kind shall be affixed to, installed, or otherwise located on the exterior of the premises within the boundaries of the property, including, but not limited to, exterior portions of any restaurant, anywhere on the rooftop, and any outdoor terraces.
  - f. No patrons shall be allowed to queue on public rights-of-way.
  - g. Establishments with outdoor cafes or sidewalk café permits shall only serve alcoholic beverages at sidewalk cafes during hours when food is served in the restaurant and shall not be permitted to have outdoor speakers.
  - h. Commercial uses on the rooftop are prohibited.
  - i. Entertainment is prohibited throughout the property and within the building.
  - j. Use of the rooftop shall be limited to residents of the building and their invited guests only, and the rooftop shall not be utilized for any commercial purposes, including restaurant seating.
  - k. The building shall maintain a manager on-site 24 hours a day. The manager shall not be part of the valet parking staff.
5. A progress report shall be scheduled before the Planning Board 90 days after obtaining a business tax receipt (BTR).
  6. 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, as determined by Code Compliance, 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.
  7. The conditions of approval for this Conditional Use Permit are binding on the applicant, the property owners, operators, and all successors in interest and assigns.
  8. 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.
  9. The applicant shall address the following Transportation, Mobility, Concurrency, Delivery, and Parking requirements:

September 20, 2022

- a. 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.
- b. Property managers and business operators for all residential and commercial uses shall ensure that deliveries are made as approved in this Conditional Use Permit. At no time shall delivery trucks block traffic flow on the public right-of-way.
- c. The applicant shall submit an MOT (Maintenance of Traffic) plan to Public Works Department and Transportation 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.
- d. The developer shall coordinate with the Transportation Department to develop an acceptable Transportation Demand Management Plan, prior to the issuance of a building permit. At a minimum the plan shall provide for the following, as detailed in the operating plan submitted by the applicant:
  - i. The owner shall provide a bicycle parking area on the property to serve residents, patrons, and employees. Per the plans, a minimum of three (3) spaces shall be provided.
  - ii. The owner shall offer a program to restaurant employees to either obtain monthly passes from Miami-Dade Transit to allow employees to travel to and from the property without the need for automobiles, or provide an option for monthly City of Miami Beach parking garage passes (at each employee's option).
  - iii. The owner shall offer restaurant employees, who have been employed for at least ninety (90) days, financial assistance of up to \$100 to cover the cost of purchasing a bicycle to travel to and from work.
- e. That the garage shall be in operation 24 hours per day, seven days a week, as proposed by the applicant.
- f. Parking for spaces shall be shall only be operated through valet parking. Valet parking shall be provided 24 hours per day, seven days a week.
- g. A sufficient number of valet attendants shall be provided on site to ensure that queuing onto Washington Avenue, including public sidewalks, does not occur at any time.
- h. The facility shall maintain adequate backup generators sufficient to power the vehicle lifts. The generators shall be maintained in proper operating condition. The generators shall be installed in accordance with Code requirements regarding minimum flood plain criteria.
- i. Commercial deliveries and trash collection shall take place only at the designated area proposed by the applicant as shown in the plans or on designated loading spaces in the public right of way.

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- j. Scheduled trash pick-up and commercial deliveries shall only be permitted between 10:00 AM and 4:00 PM.
  - k. When loading is actively taking place within loading spaces that are shared with the outbound drive isle, a dock master shall ensure that there are no conflicts between loading operations and the parking area.
  - l. There shall be no queuing of delivery, garbage, or moving trucks in the public right of way.
  - m. Delivery trucks shall not be allowed to idle in loading areas or driveways.
  - n. Warning signs prohibiting horn honking, tire-screeching, or car alarm sounding shall be posted prominently by the applicant in the parking area.
  - o. Both car elevators shall be able to accommodate the standard AASTHO passenger vehicle size requirements.
  - p. The driveway into the site shall utilize a mountable curb to maximize pedestrian comfort, subject to the review and approval of staff.
  - q. Bicycle parking locations will be identified at the time of building permit issuance.
  - r. Parking for uses not located on-site shall not be permitted.
10. The development shall comply with the "Green Buildings" requirements in Chapter 133, Article I of the City Code.
  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, operator and/or owner, both now and in the future, shall abide by all the documents and statements submitted with this application, as well as all conditions of this Order.
  13. The applicant shall resolve all outstanding violations and fines on the property, if any, prior to the issuance of a building permit for the project.
  14. A violation of Chapter 46, Article IV, "Noise," of the Code of the City of Miami Beach, Florida (a/k/a "noise ordinance"), as may be amended from time to time, shall be deemed a violation of this Conditional Use Permit and subject to the remedies as described in section 118-194, of the City Code
  15. 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.
  16. 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

September 20, 2022

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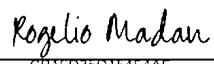
returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.

- 17. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- 18. 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.
- 19. 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.
- 20. The applicant agrees and shall be required to provide access to areas subject to this Conditional Use Permit for inspection by the City (i.e. Planning Department, Code Compliance Department, Building Department, and Fire Department staff), to ensure compliance with the terms and conditions of this Conditional Use Permit. Failure to provide access may result in revocation of the Conditional Use Permit.

10/31/2022 | 1:04 PM EDT

Dated \_\_\_\_\_

PLANNING BOARD OF THE  
CITY OF MIAMI BEACH, FLORIDA

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

STATE ) OF FLORIDA

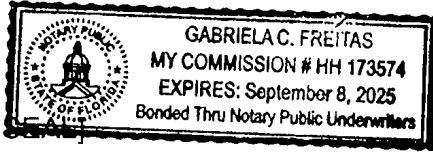
COUNTY OF MIAMI-DADE )

The foregoing instrument was acknowledged before me this 31<sup>st</sup> day of October, 2022, by Rogelio A. Madan, Chief of Community Planning and Sustainability for the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

DS  
RM

September 20, 2022

*[Handwritten Signature]*



[NOTARIAL

Notary:

Print Name: *Gabriela C. Freitas*

Notary Public, State of Florida

My Commission Expires: *Sept. 8, 2025*

Commission Number: *HH173574*

Approved As To Form:  
Legal Department

DocuSigned by:  
*[Signature]*

( 10/31/2022 | 11:09 AM EDT

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Filed with the Clerk of the Planning Board on

DocuSigned by:  
*Jessica Gonzalez*

( 10/31/2022 | 1:35 PM EDT

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## EXHIBIT B

### Sunset Harbour Outdoor Restaurant Seating Amendment

ORDINANCE NO. 2023-4545

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, SUBPART B, ENTITLED "LAND DEVELOPMENT REGULATIONS," BY AMENDING CHAPTER 142 OF THE CITY CODE, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, ENTITLED "DISTRICT REGULATIONS," DIVISION 5, ENTITLED "CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT," BY AMENDING SECTION 142-310, ENTITLED "SPECIAL REGULATIONS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS," TO ALLOW ADDITIONAL OUTDOOR SEATING FOR RESTAURANTS THAT FRONT ALTON ROAD AND ARE LOCATED SOUTH OF 18TH STREET, SUBJECT TO SPECIFIC CRITERIA; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Miami Beach (the "City") has the authority to enact laws which promote the public health, safety, and general welfare of its citizens; and

**WHEREAS**, the Sunset Harbour neighborhood is composed of a mixture of residential, light industrial, and low intensity service, restaurants and retail uses; and

**WHEREAS**, the Mayor and City Commission desire to encourage uses that are compatible with the scale and character of the neighborhood; and

**WHEREAS**, the City has reviewed the condition of CD-2 properties in the Sunset Harbour neighborhood that front Alton Road, including existing restaurant establishments; and

**WHEREAS**, Sunset Harbour has unique cultural, retail, and dining experiences that are vital to Miami Beach's local economy; however, the City Commission desires to attract new, high-quality restauranters to the east side of the neighborhood, along Alton Road; and

**WHEREAS**, the City, with input from residents and businesses, has determined that the restrictions on outdoor dining that apply generally to the Sunset Harbour neighborhood are not applicable to the limited number of properties that front Alton Road, south of 18th Street; and

**WHEREAS**, the amendments set forth below provide additional seating capacity and extended hours of operation for restaurants in the subject area; and

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

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

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

**CHAPTER 142**  
**ZONING DISTRICTS AND REGULATIONS**

\* \* \*

**ARTICLE II. DISTRICT REGULATIONS**

\* \* \*

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

\* \* \*

**Sec. 142-310. Special regulations for alcoholic beverage establishments.**

\* \* \*

(b) *Sunset Harbour neighborhood.* The following additional requirements shall apply to alcoholic beverage establishments, whether as a main use, conditional use, or accessory use, that are located in the Sunset Harbour neighborhood, which is generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south.

(1) Operations shall cease no later than 2:00 a.m., except that outdoor operations (including sidewalk cafe operations) shall cease no later than 12:00 a.m.

(2) Alcoholic beverage establishments may not operate any outside dining areas or accessory bar counters above the ground floor of the building in which they are located; however, outdoor restaurant seating, associated with indoor venues, not exceeding 40 seats, may be permitted above the ground floor until 8:00 p.m. Notwithstanding the foregoing, the provisions of this subsection (b)(2) shall not apply to the following:

a. As it pertains to outside dining areas only, but not outdoor bar counters (which are prohibited), restaurants that front Alton Road and are located south of 18th Street, provided the total number of outdoor dining seats located above the ground floor, which must be associated with an indoor restaurant, shall not exceed 100 seats. Additionally, the combined total number of seats within the outdoor and indoor portions of restaurants above the ground floor shall not exceed 240 seats.

b. Any valid, pre-existing permitted use with a valid business tax receipt (BTR) for an alcoholic beverage establishment that was issued prior to August 23, 2016, or to a proposed establishment that has submitted a completed application for an alcoholic beverage establishment to a land use board prior to August 23, 2016, or to an establishment that has obtained approval for an alcoholic beverage establishment from a land use board, and which land use board order is active and has not expired, prior to August 23, 2016.

(3) Except as may be required by any applicable fire prevention code or building code, outdoor speakers shall not be permitted. Notwithstanding the foregoing, the provisions of this subsection (b)(3) shall not apply to any valid, pre-existing permitted use with a valid business tax receipt (BTR) for an alcoholic beverage establishment that was issued prior to August 23, 2016, or to a proposed

establishment that has submitted a completed application for an alcoholic beverage establishment to a land use board prior to August 23, 2016, or to an establishment that has obtained approval for an alcoholic beverage establishment from a land use board, and which land use board order is active and has not expired, prior to August 23, 2016.

- (4) Special events shall not be permitted in any alcoholic beverage establishment.

**SECTION 2. CODIFICATION.**

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Miami Beach City Code. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

**SECTION 3. REPEALER.**

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

**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 10 days after passage

PASSED AND ADOPTED *April 28* 2023

ATTEST:

*[Signature]*  
MAY 02 2023  
Rafael E. Granado, City Clerk

*[Signature]*  
Dan Gelber, Mayor

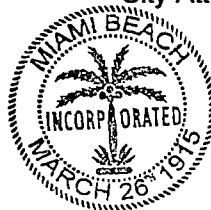
APPROVED AS TO  
FORM AND LANGUAGE  
& FOR EXECUTION

*[Signature]* *3-10-23*  
City Attorney NK Date

Underline denotes additions  
~~Strike through~~ denotes deletions

First Reading: March 27, 2023  
Second Reading: April 28, 2023

Verified by: *[Signature]*  
Thomas R. Mooney, AICP  
Planning Director



# MIAMI BEACH

## COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission  
FROM: Alina T. Hudak, City Manager  
DATE: April 28, 2023

**10:20 a.m. Second Reading Public Hearing**

**SUBJECT: SUNSET HARBOUR OUTDOOR RESTAURANT SEATING AMENDMENT  
AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY  
OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF  
MIAMI BEACH, SUBPART B, ENTITLED "LAND DEVELOPMENT  
REGULATIONS," BY AMENDING CHAPTER 142 OF THE CITY CODE,  
ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE 11,  
ENTITLED "DISTRICT REGULATIONS," DIVISION 5, ENTITLED "CD-2  
COMMERCIAL, MEDIUM INTENSITY DISTRICT," BY AMENDING SECTION  
142-310, ENTITLED "SPECIAL REGULATIONS FOR ALCOHOLIC  
BEVERAGE ESTABLISHMENTS," TO ALLOW ADDITIONAL OUTDOOR  
SEATING FOR RESTAURANTS THAT FRONT AL TON ROAD AND ARE  
LOCATED SOUTH OF 18TH STREET, SUBJECT TO SPECIFIC CRITERIA;  
AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND  
AN EFFECTIVE DATE.**

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### **RECOMMENDATION**

The Administration recommends that the City Commission adopt the subject ordinance.

### **BACKGROUND/HISTORY**

On September 14, 2022, at the request of Commissioner Ricky Arriola, the City Commission referred a discussion item (C4 Y) pertaining to outdoor restaurant seating above the ground floor in the Sunset Harbour neighborhood to the Land Use and Sustainability Committee (LUSC). On October 28, 2022, the LUSC discussed a proposed ordinance amendment and recommended (by a vote of 2-1) that the City Commission refer the proposal to the Planning Board for review and recommendation.

On December 14, 2022, the City Commission discussed the proposed referral to the Planning Board and continued the item to the February 1, 2023, City Commission meeting. Additionally, the City Commission requested that the Ordinance proposer continue outreach and discussions with the Sunset Harbour neighborhood. On February 1, 2023, the City Commission referred the proposed ordinance amendment to the Planning Board (Item C4 D).

### **ANALYSIS**

Attached is a proposed ordinance amendment that would allow for expanded outdoor restaurant

seating above the ground floor, in a limited area of the Sunset Harbour neighborhood. Currently, within the Sunset Harbour neighborhood, outdoor restaurant seating above the first level of any building cannot exceed 40 seats and must cease operations no later than 8:00 pm. Additionally outdoor speakers for recorded, background level music is prohibited.

The proposal herein would amend Sec. 142-310 of the Land Development Regulations of the City Code (LDRs) for properties in the Sunset Harbour neighborhood that front Alton Road and are located south of 18th Street, as follows:

- Additional above ground outdoor seating would be permitted, provided the total number of outdoor dining seats associated with the indoor restaurant above the ground floor does not exceed 100 seats.
- The total number of combined seats within the outdoor and indoor portions of restaurants above the ground floor shall not exceed 240 seats.
- Above ground outdoor seating would be permissible past 8:00 pm, but no later than 12:00 am.

The Administration is supportive of the proposed revisions to the LDRs as the increase in the number of outdoor seats for restaurant use is better suited for eligible properties, due to the location adjacent to major thoroughfares (Alton Road and Dade Boulevard). The proposed amendment will also foster a wider variety of active uses within a limited site that is challenged by frontages on major roadways. Finally, the eligible properties are located at the southeast corner of the Sunset Harbour neighborhood, and well away from residential buildings.

**PLANNING BOARD REVIEW**

On February 28, 2023, the Planning Board held a public hearing and transmitted the proposed ordinance to the City Commission with a favorable recommendation (7-0).

**UPDATE**

The subject ordinance was approved at First Reading on March 27, 2023, with no changes.

**SUPPORTING SURVEY DATA**

N/A

**FINANCIAL INFORMATION**

No fiscal impact is anticipated.

**CONCLUSION**

The Administration recommends that the City Commission adopt the subject ordinance.

**Applicable Area**

South Beach

**Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?**

Yes

**Does this item utilize G.O. Bond Funds?**

No

**Legislative Tracking**

Planning

**Sponsor**

Vice-Mayor Ricky Arriola

**ATTACHMENTS:**

**Description**

- Ordinance

# EXHIBIT C

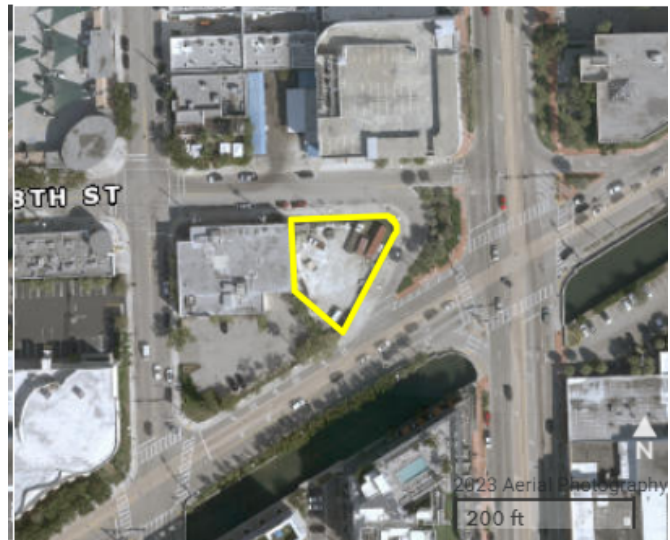


# OFFICE OF THE PROPERTY APPRAISER

## Summary Report

Generated On: 05/02/2024

PROPERTY INFORMATION	
<b>Folio</b>	02-3233-012-0700
<b>Property Address</b>	1790 ALTON RD MIAMI BEACH, FL 33139-2440
<b>Owner</b>	SOBE 18 LLC
<b>Mailing Address</b>	1065 KANE CONCOURSE 200 BAY HARBOR ISLANDS, FL 33154
<b>Primary Zone</b>	6400 COMMERCIAL - CENTRAL
<b>Primary Land Use</b>	1081 VACANT LAND - COMMERCIAL : VACANT LAND
<b>Beds / Baths /Half</b>	0 / 0 / 0
<b>Floors</b>	0
<b>Living Units</b>	0
<b>Actual Area</b>	0 Sq.Ft
<b>Living Area</b>	0 Sq.Ft
<b>Adjusted Area</b>	0 Sq.Ft
<b>Lot Size</b>	10,200 Sq.Ft
<b>Year Built</b>	0



ASSESSMENT INFORMATION			
Year	2023	2022	2021
<b>Land Value</b>	\$3,264,000	\$3,264,000	\$3,060,000
<b>Building Value</b>	\$0	\$0	\$0
<b>Extra Feature Value</b>	\$0	\$0	\$0
<b>Market Value</b>	\$3,264,000	\$3,264,000	\$3,060,000
<b>Assessed Value</b>	\$3,264,000	\$3,264,000	\$1,828,675

BENEFITS INFORMATION				
Benefit	Type	2023	2022	2021
<b>Non-Homestead Cap</b>	Assessment Reduction			\$1,231,325

Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).

SHORT LEGAL DESCRIPTION
ISLAND VIEW SUB PB 6-115
LOT 1 LESS BEG NE COR LOT 2 E24.9
FT S79.65FT SE65.95FT SW65.7FT
N169.5FT TO POB BLK 17 A
LOT SIZE 10200 SQUARE FEET

TAXABLE VALUE INFORMATION			
Year	2023	2022	2021
<b>COUNTY</b>			
<b>Exemption Value</b>	\$0	\$0	\$0
<b>Taxable Value</b>	\$3,264,000	\$3,264,000	\$1,828,675
<b>SCHOOL BOARD</b>			
<b>Exemption Value</b>	\$0	\$0	\$0
<b>Taxable Value</b>	\$3,264,000	\$3,264,000	\$3,060,000
<b>CITY</b>			
<b>Exemption Value</b>	\$0	\$0	\$0
<b>Taxable Value</b>	\$3,264,000	\$3,264,000	\$1,828,675
<b>REGIONAL</b>			
<b>Exemption Value</b>	\$0	\$0	\$0
<b>Taxable Value</b>	\$3,264,000	\$3,264,000	\$1,828,675

SALES INFORMATION			
Previous Sale	Price	OR Book-Page	Qualification Description
04/06/2021	\$4,000,000	32447-4846	Qual by exam of deed
07/21/2011	\$1,150,000	27765-3436	Qual by exam of deed
07/21/2011	\$0	27765-3433	Corrective, tax or QCD; min consideration
07/21/2011	\$0	27765-3429	Corrective, tax or QCD; min consideration

The Office of the Property Appraiser is continually editing and updating the tax roll. This website may not reflect the most current information on record. The Property Appraiser and Miami-Dade County assumes no liability, see full disclaimer and User Agreement at <http://www.miamidade.gov/info/disclaimer.asp>

**EXHIBIT D**

Owner American Oil Co.

Pt. Lot 1 Block 17A

Subdivision ISLAND VIEW

Permit No. 8742 orig. card. Cost #52911 for Serv. Sta.  
Address 1790 Alton Road

General Contractor

7056

Bond No.

Architect

Engineer

Zoning Regulations: Use

Area

Lot Size

Building Size: Front

Depth

Height

Stories

Certificate of Occupancy No.

Use SERVICE STATION

Type of Construction

Foundation

Roof

Date

PLUMBING Contractor

Sewer Connection

Date

SEE ORIGINAL CARD IN DEMOLITION FILE -- THERE WERE STORES ON THIS LOT WHICH WERE DEMOLISHED UNDER PERMIT #71800 - 6/12/64 - \$750.  
Temporary Water Closet

Water Closets

Swimming Pool Traps

Down Spouts

Lavatories

Steam or Hot Water Boilers

Wells

Bath Tubs

ROUGH APPROVAL

Showers

FINAL APPROVAL

Urinals

Sinks

GAS Contractor

Date

Dish Washing Machine

Gas Ranges

Gas Frylators

Laundry Trays

Gas Water Heaters

Gas Pressing Machine

Laundry Washing Machines

Gas Space Heaters

Gas Vents for Stove

Drinking Fountains

Gas Refrigerators

Floor Drains

Gas Steam Tables

Grease Traps

Gas Broilers

GAS Rough APPROVAL

Safe Wastes

GAS FINAL APPROVAL

AIR CONDITIONING Contractor

SEPTIC TANK Contractor

OIL BURNER Contractor

SPRINKLER Contractor

ELECTRICAL Contractor

Date

OUTLETS

Switches

Ranges

Temporary Service

Lights

Irons

Neon Transformers

Receptacles

Refrigerators

Sign Outlets

Fans

Meter Change

Motors

Centers of Distributions

HEATERS

Water

Appliances

Service

Space

Violations

FIXTURES

Electrical Contractor

Date

FINAL APPROVAL

By

Date

Alterations or Repairs—Over

#2944

8595

## ALTERATIONS & ADDITIONS

**Building Permits:** #77467 Service Station Maintenance: Install shelving, block up two windows - \$1,000 - 11/30/66 OK HW 3/1/68

#82439 Kemp & Guest Roofing Co: Re-roof 13 squares \$1090 5/28/69

#1408 - W.F. Wynne Co. - underground tanks 3- 6000,6000,8000 ~~12/~~ 11/25/70

#88192-W.F. Wynne Co.-Addition to existing station-\$2300-12-18-72

#04275-Beaudry Signs, Inc.-Sign-\$200-10-11-73

#05047-Beaudry Signs-Change of copy-\$300-2-7-74

#89181-A J McKiney-Addition of 15 x 30 CBS structure to be used for Car Wash-\$10,000-10-13-76

#10351-Beaudry Signs-Amo~~o~~Sign-\$850-12-6-76

#10493-Obenour Roofing-Re-roof 4 1/2 sqs-\$442-12-30-76

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### Plumbing Permits:

#54197-Ringeman Plumbing- car wash-10-19-76 water supply

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**Electrical Permits:** #63095 Bartnett Electric, Inc.: Storm repairs - 1/3/66

#65739 Jones Electric Emerg. Service, Inc.: 1 telephone outlet - 5/10/68

#66388 Bartnett Electric 2 Motors 0-1 H.P. Gas Pumps 11/14/68

#66446 Bartnett Electric, 1 Motors, 0-1 H.P. Gas Pump

#70351-Dick Williams Electric- 12 fixtures; 6 motors, 0-1HP-2-20-73

#73330-County Wide Electric-Telephone booth-8-5-76

#73642-Peeples Electric- 1 switch outlet; 2 light outlet; 1 size service 225; 6 fixtures-11-16-76

#73698-Beaudry Signs- 12 sign tubes; 4 ballast-12-6-76 *Annou*

ELECTRICAL PERMITS: #E8801039 - Rival Electric - 1 Motors, 1 sign repair - 6-10-88 *OK*

LOT

BLOCK

SUBDIVISION

*(See Original)*  
7056

ADDRESS

ALTERATIONS & ADDITIONS

**Building Permits:**

- 4/21/81 - # 20124 - Cherokee Structures - Replace stucco on existing canopy - \$3,000  
5/14/81 - #20242 - C & K Roofing Co. - Roof canopy - \$1,200.00  
#90745 1/7/82 Crown neon Inc. - remove old sign and install new one 33 sq ft \$1,000.  
#23797 4/28/83 C.E. Sheppard Roof - reroof 18 sqs \$4,395.  
#25374 5/24/84 H.L. Edwards - fill in exist curbs with concrete within the property lines not on city prop O.Ferro  
400 sq ft \$1,200.
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**Plumbing Permits:**

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- Electrical Permits:** #79828 11/2/84 Ray Williams Elect Serv - 3 motors 0-1 hp, 6 special purpose, 2 outlets commercial  
#81709 1/23/87 Ray Williams Elec - 3 outlets commercial