

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

**PROPERTY:** 1450 Collins Avenue - Señor Frogs

**FILE NO.** 2192

**IN RE:** On August 26, 2014, the applicant, Señor Frogs Miami, LLC, was granted Conditional Use approval for a Neighborhood Impact Establishment with an occupant content exceeding 200 persons pursuant to Section 118, Article IV and Section 142, Article V. On June 25, 2019, the planning board amended the conditions of the CUP as part of a scheduled progress report due to code violations.

**LEGAL**

**DESCRIPTION:** Lots 1 and 2, in Block 2-A, of Espanola Villas, according to the Plat thereof, recorded in Plat Book 7, at Page 145, of the Public Records of Miami-Dade County, Florida, less the Southerly 8.65 feet thereof.

**MEETING DATE:** August 26, 2014, June 25, 2019

**MODIFIED CONDITIONAL USE PERMIT**

The applicant, Señor Frogs Miami, LLC, filed an application with the Planning Director requesting Conditional Use approval for a Neighborhood Impact Establishment with an occupant content exceeding 200 persons pursuant to Section 118, Article IV and Section 142, Article V.

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:

That the property in question is located in the MXE Mixed Use Entertainment Zoning District;

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

That 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;

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

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

That 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 staff

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recommendations, as may have been modified by the Planning Board, that a Conditional Use Permit as requested and set forth above, be GRANTED subject to the following conditions to which the applicant has agreed:

1. This Conditional Use Permit is issued to Senor Frogs Miami, LLC, as operator of this Neighborhood Impact Establishment, with an occupant content over 200 persons. Any change of operator or 50% (fifty percent) or more stock ownership shall require review and approval by the Planning Board as a modification to this Conditional Use Permit. Subsequent owners and operators shall be required to appear before the Board to affirm their understanding of the conditions listed herein.
2. The patron occupant content shall be determined by the Fire Marshal. The applicant shall obtain a final occupant content from the City before the issuance of a Business Tax Receipt.
3. Prior to the issuance of a building permit for the project, the applicant shall submit an operational plan and narrative for all portions of the project, subject to the review and approval of staff, prior to the issuance of a CO or BTR, whichever occurs first. Such plan and narrative shall consist of a complete, updated business/operation plan that includes more details of the operation, deliveries, sanitation, security and crowd control.
4. The applicant shall return to the Planning Board for a Progress Report within ninety days after the issuance of the BTR.
5. The following shall apply to the operation of the entire facility:
  - a. The sidewalk café area, if the permit is granted by the City, shall be permitted to operate until 10:30 PM, as proposed by the applicant.
  - b. Security staff shall take measures to strictly enforce patron age restrictions in the City Code around the clock.
  - c. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
  - d. Patrons shall be allowed to queue on the sidewalk on Española Way in an orderly manner, only when maximum occupancy levels, as determined by the Fire Marshal, have been reached. Stanchions shall delineate the area. Two (2) security staff shall monitor the crowds to ensure that they do not interfere with the free-flow of pedestrians on the public sidewalk.
  - e. The applicant shall submit the Permanent Off Duty Police Service Application to the City of Miami Beach Police Department.
  - f. An off-duty police officer (subject to availability), shall be hired to monitor the operations during 'high impact weekends', as defined in the City Code and as may be designated by the City Manager and/or City Commission.
  - g. The location of deliveries and trash collection shall be indicated on the Building Permit plans, subject to the review and approval of staff.
  - h. Deliveries or trash pick-up shall only be permitted between 7:00 AM and 2:00 PM on weekdays and 9:00 AM and 2:00 PM on weekends.

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- i. Trash pick-up shall take place 7 days per week.
- j. 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.
- k. All trash dumpsters shall be closed at all times except when in use.
- l. The applicant shall be responsible for maintaining the areas adjacent to the facility, such as the service alley, 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. Except as may be required for fire or building code/Life Safety Code purposes, no speakers of any kind, shall be affixed to, installed, or otherwise located on the exterior of the premises within the boundaries of the project.
- n. As per the recommendations of The Audio Bug, Inc. Sound Study, the house sound system shall be installed using a distributed speaker system, and set in such a manner as to contain sound levels inside the restaurant. The restaurant manager shall maintain control of the music volume at all times.
- o. As per the recommendations of The Audio Bug, Inc. Sound Study, the ventilation panels shall be closed and sealed to prevent sound leakage.
- p. The equipment and installation plan for the sound system, including the location of all speakers and sound level controls shall be submitted to staff for review and approval prior to obtaining a building permit. Outdoor speakers shall not be permitted. Ninety days after opening, the sound systems in all the venues shall be tested by a qualified acoustic professional, with staff from the Planning Department present, and a report shall be submitted to staff for review.
- q. Security staff shall monitor patron circulation and occupancy levels during the hours of operation.
- r. After normal operating hours the establishment shall remain closed and no patrons or other persons, other than those employed by the establishment, shall remain therein between closing and 9:00 AM.
- s. All doors to the establishment shall remain closed, except when in active use. Propping doors open shall not be permitted at any time the venue is in operation. The applicant's general manager shall have access at all times (including remote access) to the cameras installed at the front door(s) to ensure the entrance doors remain closed, except when in active use.
- t. The City of Miami Beach Police Operations Division Captain for the applicant shall be provided with a twenty-four (24) hour contact phone number at which the applicant can be reached.
- u. The applicant shall not make any arrangements for the drop-off of patrons by bus, except for a bus drop off no later than 12:00 AM for a self-promoted sightseeing tour that begins at 7:30 p.m. and ends with a pre-paid dinner package at the establishment.

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6. A contract with a valet operator shall be submitted to staff for review and approval prior to a final Certificate of Occupancy or Business Tax Receipt, whichever occurs first.
7. No strobe lights shall be visible outside the venue.
8. Business identification signs shall be limited to sign copy indicating the name of the establishment only, subject to staff review and approval.
9. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. Within ninety (90) days of the issuance of the TCO or CO for the project, or the date of commencement of operation of the establishment, whichever is later, the operator shall make a progress report to the Planning Board. The Board reserves the right to modify the conditions of this approval at the time of a progress report, in a non-substantive manner, including modifications to the hours of operation, 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).
10. The Planning Board shall retain the right to call the owner or operator back before them and make modifications to this Conditional Use Permit should there be valid complaints about loud, excessive, unnecessary, or unusual noise, as determined by Code Compliance. 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.
11. The conditions of approval for this Conditional Use Permit are binding on the applicant, the property owners, operators, and all successors in interests and assigns. 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.
12. The applicant shall obtain a Certificate of Occupancy prior to the issuance of a Business Tax Receipt.
13. The applicant shall satisfy outstanding liens and past due City bills, if any, to the satisfaction of the City prior to the issuance of an occupational license to operate this entertainment establishment.
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, Code of the City of Miami Beach, Florida.
15. 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.
16. Within a reasonable time after applicant's receipt of this Conditional Use Permit as signed and issued by the Planning Director, the applicant shall record it in the Public Records of Miami-Dade County at applicant's expense and then return the recorded instrument to the Planning Department. No building permit, certificate of use, certificate of occupancy,

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certificate of completion, or occupational license shall be issued until this requirement is satisfied.

17. 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.
18. 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.

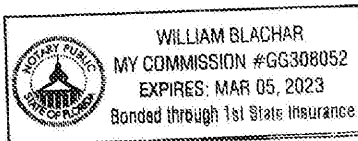
Dated this 10<sup>th</sup> day of JULY, 2019.

PLANNING BOARD OF THE  
CITY OF MIAMI BEACH, FLORIDA

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

STATE OF FLORIDA       )  
COUNTY OF MIAMI-DADE )

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of July, 2019, 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.



{NOTARIAL SEAL}

William Blachar  
Notary:  
Print Name  
Notary Public, State of Florida  
My Commission Expires: March 5<sup>th</sup>, 2023  
Commission Number:

Approved As To Form:  
Legal Department (Wickallegis) 7/9/2019

Filed with the Clerk of the Planning Board on Jessie Gully (7/10/19)

Underscore denotes new language  
Strikethrough-denotes removed language

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