

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Planning Board

TO: Chairperson and Members  
Planning Board

DATE: February 25, 2020

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: **PB 19-0325. 1234, 1260 Washington Avenue.**

An application has been filed requesting a conditional use permit for an Open Air Entertainment Establishment, an Outdoor Entertainment Establishment and a Neighborhood Impact Establishment, with an aggregate occupant content in excess of 200 persons, pursuant to Chapter 118, Article IV and Chapter 142, Article V of the City Code.

#### **RECOMMENDATION**

Approval with conditions

#### **BACKGROUND**

On *October 16, 2019*, the City Commission adopted Ordinance No. 19-4312, amending the Washington Avenue Zoning Incentives to allow for the development of co-living and microunit residential units and provide additional incentives for retail and office development.

On *January 28, 2020*, the Planning Board held a public hearing and discussed the proposed CUP. The item was continued to the February 25, 2020 meeting in order to address the concerns expressed by the Board.

On February 11, 2020, the Historic Preservation Board provided preliminary comments and feedback on the application for a Certificate of Appropriateness (HPB19-0364), which includes the total demolition of the building located at 1260 Washington Avenue and the construction of a new mixed-use development.

#### **ZONING / SITE DATA**

Legal Description:

LOTS 1, 2, 3, 4 AND THE NORTH ½ OF LOT 5, IN BLOCK 22 OF OCEAN BEACH ADDITION NO. THREE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 81, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

Zoning:

CD-2 Commercial, Medium Intensity District

Future Land Use Designation:

Medium Intensity Commercial (CD-2)

Surrounding Uses:

North: Miami Beach Post Office  
West: Multifamily residential apartments  
South: Commercial uses  
East: Commercial uses  
(See Zoning/Site map at the end of the report)

## **THE PROJECT**

The applicant has submitted plans entitled "Urbis Retreat Miami Beach" as prepared by Touzet Studio Design & Architecture, dated December 2, 2019. The applicant is seeking a conditional use permit (CUP) in order to operate an Open Air Entertainment Establishment, an Outdoor Entertainment Establishment, and a Neighborhood Impact Establishment, with an aggregate occupant content of 453 persons in a new building that will also contain co-living residential, hotel, and retail uses.

The proposed rooftop entertainment establishments will close by 9pm on Sunday to Wednesday and 11pm on Thursday to Saturday. The ground floor entertainment establishment will close by 5am nightly. Staff has provided recommendations to minimize impacts to residents of the neighborhood to the west.

## **COMPLIANCE WITH CONDITIONAL USE REVIEW GUIDELINES:**

Conditional Uses may be approved in accordance with the procedures and standards set forth in the City Code Section 118, Article IV, Sec. 118-191 and Sec. 118-192 (a):

- 1. The use is consistent with the Comprehensive Plan or Neighborhood Plan if one exists for the area in which the property is located.**

**Consistent** – The request is consistent with the Comprehensive Plan. The CD-2 future land use category allows for the proposed uses either as a main permitted use or a conditional use.

- 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.**

**Consistent** – The proposal should not result in an impact that would exceed the thresholds for the levels of service as set forth in the Comprehensive Plan.

- 3. Structures and uses associated with the request are consistent with this Ordinance.**

**Consistent** – Entertainment, Outdoor Entertainment and Neighborhood Impact Establishments are permitted as conditional uses in the CD-2 Zoning District and are consistent with the Land Development Regulations. These comments shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Planning Department prior to the issuance of a Certificate of Use (CU).

- 4. Public health, safety, morals and general welfare will not be adversely affected.**

**Partially Consistent** – The proposed project may adversely affect the general welfare of nearby residents and businesses if sound, delivery, waste removal, and other operations are not controlled. Staff is recommending conditions to mitigate the potential negative impacts. The facility will have to comply with all applicable laws and regulations prior to the issuance of a Certificate of Use (CU).

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

**Consistent** – Pursuant to the regulations of parking district no. 7, there is no parking off-street parking required on-site; however, the project is proposed to have 16 off-street

parking spaces and valet service. See the attached memorandum from the Transportation and Mobility Department the Traffic Study prepared by TrafTech Engineering, Inc.

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

**Partially Consistent** – Staff is recommending conditions to mitigate any adverse impacts on the surrounding neighbors.

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.**

**Consistent** – The proposed uses for the project are permitted in the CD-2 zoning district as conditional uses. While there are other conditional uses and large venues in the area, adverse impacts are not expected from the geographic concentration of such uses, if the impacts are properly controlled.

#### **NEIGHBORHOOD IMPACT ESTABLISHMENT REVIEW GUIDELINES**

In accordance with Sec. 142-1362 of the Miami Beach City Code, in reviewing an application for a neighborhood impact establishment, the Planning Board shall apply the following supplemental review criteria in addition to the standard review guidelines for conditional uses pursuant to chapter 118, article IV:

- (1) **An operational/business plan which addresses hours of operation, number of employees, menu items, goals of business, and other operational characteristics pertinent to the application.**

**Consistent-** The LOI and the operations plan submitted with the application detail the proposed operation associated with the project. See analysis.

- (2) **A parking plan which fully describes where and how the parking is to be provided and utilized, e.g., valet, self-park, shared parking, after-hour metered spaces and the manner in which it is to be managed.**

**Consistent-** The applicant is providing 16 off-street parking spaces and valet parking service. Ingress to the parking area is from 13<sup>th</sup> Street with the egress onto Drexel Avenue. See the attached memorandum from the Transportation and Mobility Department the Traffic Study prepared by TrafTech Engineering, Inc.

- (3) **An indoor/outdoor crowd control plan which addresses how large groups of people waiting to gain entry into the establishment, or already on the premises would be controlled.**

**Consistent** – The response from the applicant to this review criteria indicates that the pedestrian entrance will be from Washington Avenue. The building setbacks create a shaded plaza area in front of the building entrances that allow sufficient room to prevent any queuing on the sidewalks from taking place to enter the building. The ground floor plazas also have sufficient space for patrons of the ground floor bar. Employees of the establishments will be responsible for monitoring crowds and advising patrons when the establishments' capacities

have been reached. The applicant has indicated that this area will be monitored 24/7. See analysis.

**(4) A security plan for the establishment and any parking facility, including enforcement of patron age restrictions.**

**Partially Consistent** – The applicant has indicated that security cameras will be located at all building entrances and around the perimeter of the property. The building security staff will assist venue employees in enforcing patron age restrictions. The parking facility will be operated by valet parking only, with vehicles entering the property from 13<sup>th</sup> Street. See the analysis

**(5) A traffic circulation analysis and plan which details the impact of projected traffic on the immediate neighborhood and how this impact is to be mitigated.**

**Partially Consistent-** The applicant has provided details on the expected impact of project traffic on the immediate neighborhood and how that impact is to be mitigated. See the attached memorandum from the Transportation and Mobility Department the Traffic Study prepared by TrafTech Engineering, Inc.

**(6) A sanitation plan which addresses on-site facilities as well as off-premises issues resulting from the operation of the establishment.**

**Partially Consistent-** The applicant proposes that trash pick-up would take place during daytime hours only, but not before 8:00 AM. The applicant indicates that cleaning and maintenance staff will monitor the property and adjoining rights-of-way to ensure that they are clean. Staff has additional recommendations regarding sanitation operations.

**(7) A noise attenuation plan which addresses how noise would be controlled to meet the requirements of the noise ordinance.**

**Partially Consistent-** The applicant provided a sound study prepared by Eduard Dugger + Associates, PA, and a peer review was performed by Arpeggio Acoustic Consulting, LLC. See attached report and analysis.

**(8) Proximity of proposed establishment to residential uses.**

**Partially Consistent-** The property is across the street from residential buildings on the west side and the project itself will contain residential uses. Staff is recommending conditions to mitigate any potential negative impacts from the operations of this venue on surrounding residential properties.

**(9) Cumulative effect of proposed establishment and adjacent pre-existing uses.**

**Partially Consistent-** There are multiple NIE's and Outdoor Entertainment Establishments within blocks of this property. Staff is recommending conditions to mitigate any adverse impacts from noise and other issues on the surrounding neighbors.

**COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA**

Section 133-50(a) of the Land Development establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

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

**Partially Consistent-** The applicant has indicated that a recycling and salvage plan will be provided for the demolition of the existing one-story building that will be provided at permitting.

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

**Consistent-** The applicant has indicated that hurricane proof impact windows will be provided.

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

**Consistent-** The applicant has indicated that passive cooling systems will be provided where feasible and appropriate.

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

**Consistent-** Whether resilient landscaping will be provided.

- (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.**

**Partially Consistent-** The applicant has indicated that sea level rise projections were utilized.

- (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.**

**Consistent-** The ground floor of the development will be adaptable to the raising of public rights-of-ways and adjacent land.

- (7) **Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation.**

**Consistent-** Electrical and mechanical systems will be located above base flood elevation.

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

**Partially Consistent-** The existing office building on the 1234 parcel will be renovated and preserved; however, it is not feasible to raise the structure.

- (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.**

**Consistent-** When habitable space is located below base flood elevation, wet or dry flood proofing systems will be provided.

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

**Consistent-** Water retention systems will be provided within the project.

- (11) **Cool pavement materials or porous pavement materials shall be utilized.**

**Consistent-** The applicant has indicated that such materials will be utilized.

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

**Consistent-** The applicant is proposing specific materials and landscaping to minimize the potential for heat island effects.

## **ANALYSIS**

### **The Proposal**

The applicant, Urbin Miami Beach Partners, LLC submitted an application for a Conditional Use Permit (CUP) to allow for the following as represented by the applicant:

1. An Open-Air Entertainment Establishment located on the ground floor fronting Washington Avenue, open to a hidden plaza courtyard area and covered with the floor above (known as the "Ground Floor Bar").
2. An Outdoor Entertainment Establishment located on the rooftop pool area split with an upper and lower deck with an occupant content of less than 200 persons (known as the "Pool").
3. An Outdoor Entertainment Establishment/Neighborhood Impact Establishment bar located on the rooftop, separate from the pool, with seating and a retractable roof with an occupant content of 200 or more persons ("Rooftop Bar").

The applicant has also submitted an application to the Historic Preservation Board (HPB) for a Certificate of Appropriateness (COA) for the demolition of a contributing structure and the construction of a new mixed-use building with variances. Additionally, the applicant is requesting contributing status for a non-contributing building in the Flamingo Park Historic District.

The project will be located at 1234 to 1260 Washington Avenue. As represented by the applicant, the development proposal is to retain an existing 4-story building that contains 18,762 SF of office space. The building that is proposed to be demolished will be replaced with a 48,207 square foot 7-story mixed-use building that will contain 56 hotel rooms, 49 co-living units and suites, two (2) micro-retail bays, two (2) restaurants with indoor entertainment and outdoor seating, and one (1) bar counter accessible from the internal plaza, and the lobbies. The project will have one (1) internal loading space and access to three (3) on street loading spaces. It will also have 16 off-street parking spaces with valet service.

## **Operations**

The project is proposed to contain three entertainment venues which are the subject of the CUP request. The project is located at 1234-1260 Washington Avenue, with a collective occupancy load of the three entertainment establishments of 453. Removing the rooftop pool area occupancy which is only open to hotel guests and building residents, results in an occupancy of 323. An occupancy above 199, with entertainment, is considered a Neighborhood Impact Establishment, which is a Conditional Use in the MXE zoning district.

As per the plans, sound study, letter of intent and operational plan, the breakdown of the areas, the occupancy, and the proposed hours are as follows:

VENUE	Location	OCCUPANCY	SEATING	PROPOSED HOURS	ENTERTAINMENT
<b>Ground Floor Open-Air Entertainment Establishment</b>	Fronting Washington Avenue, open to a plaza courtyard and covered with the floor above.	104	104	11AM to 5AM	Yes (outdoor)
<b>Rooftop Outdoor Entertainment Establishment</b>	Located on the rooftop pool area.	130	24	Sun to Wed: 11AM to 9PM Thr to Sat: 11AM to 11PM	Yes (outdoor)
<b>Outdoor Entertainment Establishment/ Neighborhood Impact Establishment</b>	Bar located on the rooftop separate from the rooftop pool area.	219	63	Sun to Wed: 11AM to 9PM Thr to Sat: 11AM to 11PM	Yes (outdoor)
<b>Total:</b>		<b>453</b>	<b>191</b>		

### Sound

Eduard Dugger + Associates, PA conducted a sound study. Arpeggio Acoustic Consulting, LLC, conducted a peer review. The entertainment components will consist of a DJ, entertainment, and live outdoor entertainment with outdoor speakers as follows:

1. Ground Floor Bar: This would be a ground level restaurant accessible to the public via Washington Avenue with outdoor seating. This venue would have exposure to Washington Avenue but be completely covered by the floor above. The hours of operation would be 11 am to 5 am with the following features:
  - o Outdoor DJ/Live Entertainment 11 am to 5 am.
2. Rooftop Pool: This would be atop the seventh floor at 1260 Washington Avenue and would be accessible only to hotel guests, residents, and private events. The hours of operation would be 7 am to 12 am with the following features:
  - o Outdoor DJ/Live Entertainment 11 am to 9 pm, Sunday through Wednesday.
  - o Outdoor DJ/Live Entertainment 11 am to 11 pm, Thursday through Saturday.
3. Rooftop Bar: This would be atop the seventh floor at 1260 Washington Avenue and would be accessible to the public. It is to be located at the northeast corner and have a retractable roof. The hours of operation would be 11 am to 12 am with the following features:
  - o Outdoor DJ/Live Entertainment 11 am to 9 pm, Sunday through Wednesday.
  - o Outdoor DJ/Live Entertainment 11 am to 11 pm, Thursday through Saturday.

The sound study concludes that a distributed "house" audio system consisting of several small to medium sized speakers spread throughout each venue, and that only management should have access to volume controls. The study also states that speakers should be oriented to the east



away from the residential areas to the west. The study also concludes that the proposed parapet wall on the north and west building facades *"will reduce sound which would otherwise emanate directly to the west."*

The peer review concludes that *"the two rooftop venues will likely present the greatest opportunity for plainly audible or unwanted noise to reach residences to the west."* Additionally, the review states that *"the sound study was silent on potential sound levels emanating from these venues, therefore, we cannot assess potential impact on the residences. In the absence of sound level predictions, we recommend that consideration be given to performing a test when sound systems are installed to establish maximum allowable sound levels at all venues to ensure acceptable sound levels at the nearest residential property to the west."* In light of this conclusion, staff recommends that the board order include a condition requiring a sound system installation plan and testing.

In consideration of the applicant's desire to have open-air entertainment and the findings in the peer review, staff is recommending the following conditions:

1. The ground floor open-air entertainment establishment (ground floor bar) may remain open: Monday through Sunday from 11:00 a.m. to 5:00 a.m.  
However, after 11:00 pm, entertainment shall be generated at ambient levels only.
2. The rooftop outdoor entertainment establishment (pool area) may remain open: Monday through Wednesday from 7:00 a.m. to 9:00 p.m.  
Thursday to Saturday from 7:00 a.m. to 11:00 p.m.  
However, entertainment shall not commence prior to 11 a.m. on Monday through Sunday.
3. The outdoor entertainment establishment/neighborhood impact establishment (rooftop bar) may remain open:  
Sunday to Wednesday 11 a.m. to 9 p.m.  
Thursday to Saturday 11 a.m. to 11 p.m.
4. The house sound system shall be installed and set in such a manner as to limit the acoustical output of the system and have password protected security on all controls at all times. Only venue management shall have access to raise the volume. The equipment and installation plan for the sound system, including the location of all speakers and sound level controls shall be submitted for the review and approval of the Planning Department. Within 60 days of this approval, the sound system in the facility shall be tested by a qualified acoustic professional, and a report shall be submitted to the Planning Department for review, to verify that it is operating as designed. A sound field test shall be performed with staff present to demonstrate that the sound system will comply with the requirements of this CUP.
5. All amplified entertainment shall only utilize the house sound system.
6. Audio from the subject property, including low-frequency vibrations, shall not be plainly audible or felt, within the interior of the apartment units (with the windows and doors closed) of the residential buildings to the west of the site, at any time.

Additionally, staff is recommending a condition requiring that a parapet wall be built on the north and west sides of the rooftop, with a minimum height of seven (7) feet to minimize the impact of noise on residential buildings to the west of the site.



See the attached sound study and peer review.

### **Valet Parking and Access**

Residents, guests and retail patrons will access the site via 13th Street. Egress is to Drexel Avenue. The Project provides a total of 16 parking spaces arranged in 8 tandem spaces. The applicant's traffic engineer was requested to perform a valet queueing analysis based on the methodology outlined in ITE's Transportation and Land Development manual. Since the applicant is yet to determine a secondary parking storage location, for a conservative analysis, an eight (8) minute service time was assumed in the valet calculations. The results of this analysis demonstrate that, with 95% confidence and ten (10) valet attendants, the queue will not exceed one (1) vehicle. The porte-cochere area provides queueing for up to five (5) vehicles.

Staff is recommending a condition that a valet analysis be performed within 60 days of the project becoming operational. See the attached memorandum from the Transportation and Mobility Department.

Additionally, staff recommends that ten (10) short-term and ten (10) long-term bicycle parking spaces be provided to encourage the use of alternative modes of transportation.

### **Deliveries and Sanitation**

The applicant has indicated that refuse collection and loading will take place during daytime hours only, but not before 8:00 AM. Staff would recommend that loading not occur prior to 9:00 AM on Saturday and Sunday due to noise concerns in the adjacent residential areas, and no later than 4:00 PM to limit impacts on the evening rush hour.

The loading of refuse will take place in one of the open-air loading spaces located on the west side of the property space is accessed from 13<sup>th</sup> Street with egress is to Drexel Avenue. The on-site loading would be limited to 30-foot trucks. Loading for larger trucks would be accommodated on the loading zone at 13<sup>th</sup> Street.

The applicant has indicated that cleaning and maintenance staff will maintain the property and adjacent rights-of-way clean and free from debris.

### **Code Compliance**

There are no code cases related to noise at the time of the writing of this report.

### **February 25, 2020 UPDATE**

At the January 28, 2020 Planning Board meeting concerns were raised by several nearby residents regarding the potential noise impacts from the outdoor entertainment uses. In order to address these concerns, which were also shared by the Board members, staff has proposed additional restrictions to mitigate the impact generated from the entertainment uses.

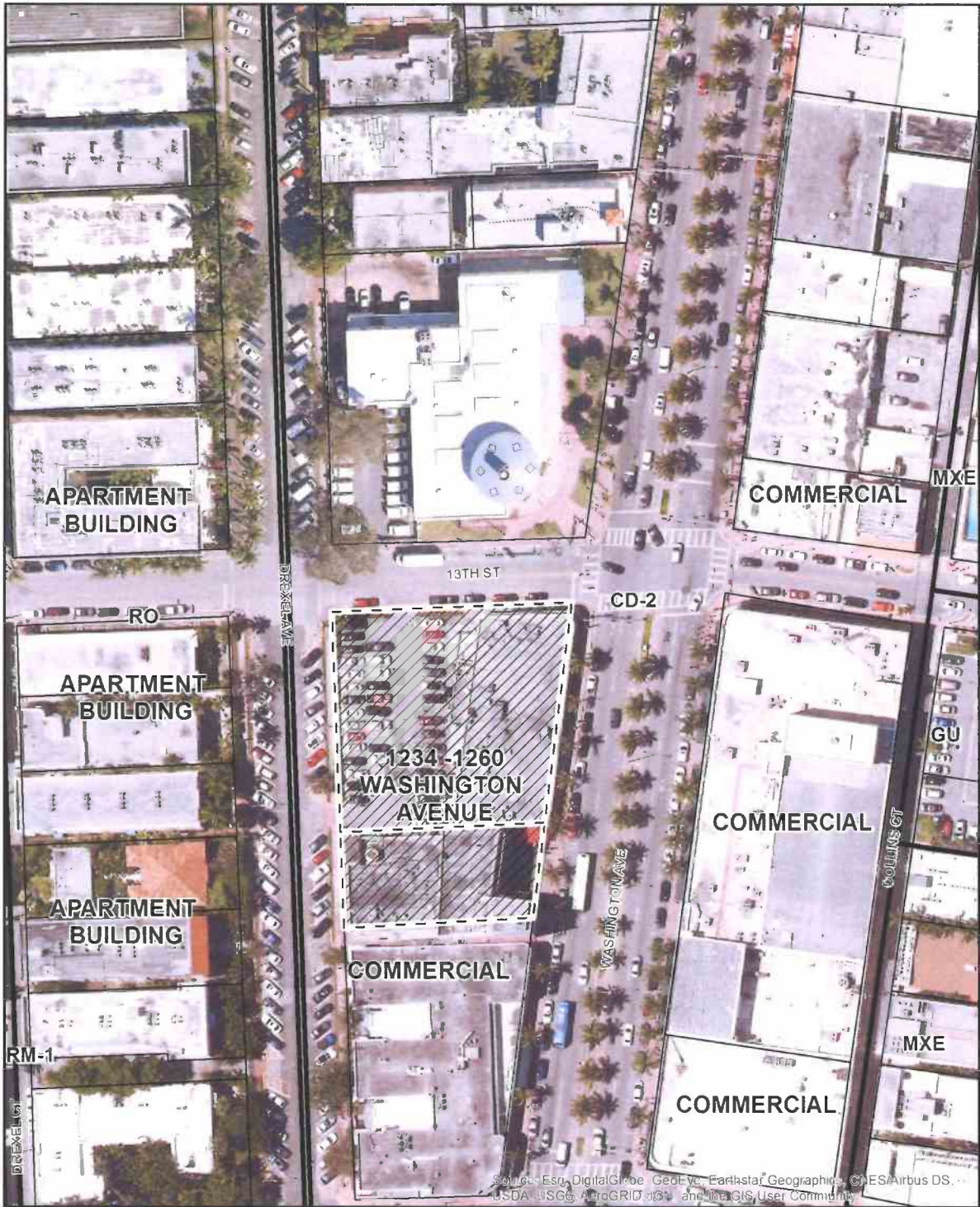
The first is to require that entertainment in the rooftop areas only be generated at ambient levels (a volume that would not interfere with normal conversation) during the hours in which entertainment is allowed. The second is to require a solid roll down door in the open corridor that connects the front of the building and the rear of the building. This is intended to limit noise transmission to the residential areas located to the rear (west) of the property. The doors shall be required to be closed after 11 pm if there is entertainment taking place along Washington Avenue. Lastly, staff is also recommending that special events not be authorized at the roof-level at any time.

Additionally, it became apparent since the prior meeting, that the building also requires conditional use approval for a structure over 50,000 square feet. While the FAR is under 50,000 square feet, the gross square footage exceeds that number. As a result, a separate application has been filed and noticed for the March 24<sup>th</sup> Planning Board meeting.

**RECOMMENDATION**

In view of the foregoing analysis, staff recommends that the application for a Conditional Use Permit be approved, subject to the conditions enumerated in the attached draft order, which address the inconsistencies noted in the aforementioned Conditional Use review criteria.

ZONING/SITE PLAN



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

**PROPERTY:** 1234-1260 Washington Avenue

**FILE NO.** PB 19-0325

**IN RE:** A conditional use permit for an Open Air Entertainment Establishment, an Outdoor Entertainment Establishment and a Neighborhood Impact Establishment, with an aggregate occupant content in excess of 200 persons, pursuant to Chapter 118, Article IV and Chapter 142, Article V of the City Code.

**LEGAL DESCRIPTION:** LOTS 1, 2, 3, 4 AND THE NORTH ½ OF LOT 5, IN BLOCK 22 OF OCEAN BEACH ADDITION NO. THREE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 81, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

**MEETING DATE:** February 25, 2020

**CONDITIONAL USE PERMIT**

The applicant, Urbin Miami Beach Partners, LLC, filed an application with the Planning Director requesting a Conditional Use approval for an Open Air Entertainment Establishment, an Outdoor Entertainment Establishment and a Neighborhood Impact Establishment, with an aggregate occupant content in excess of 200 persons, pursuant to Chapter 118, Article IV and Chapter 142, Article V 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:

That the property in question is located in the CD-2 Commercial, Medium Intensity 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;

The applicant has submitted a hold-harmless letter, acknowledging the non-compliance with the Land Development Regulations and the need for amendments to the City Code, in order to construct the project as submitted;

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 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 applicant shall appear before the Planning Board for a progress report within 90 days from the issuance of the BTR. The Board reserves the right to modify the Conditional Use approval at the time of a progress report in a non-substantive manner, including modification 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).
2. This Conditional Use Permit is issued to Urbin Miami Beach Partners, LLC, any changes in ownership or 50% (fifty percent) or more stock ownership, or the equivalent, 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 Business Tax Receipt.
3. 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.
4. 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.
5. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application.
6. The Applicant agrees to the following operational conditions for the entire facility:
  - a. The Conditional Use Permit (CUP) shall have a maximum occupant content for the following venues: ground floor open-air entertainment establishment (ground floor bar), rooftop outdoor entertainment establishment (pool area), and outdoor entertainment establishment/neighborhood impact establishment (rooftop bar) of less than 453 persons or any lesser such occupant content as determined by the Fire Marshal.
  - b. The ground floor open-air entertainment establishment (which includes the ground floor bar) may remain open:  
Monday through Sunday from 11:00 a.m. to 5:00 a.m. (with the exception of the bar which shall close by 12am nightly).  
After 11:00 pm, entertainment shall only be permitted at a volume that does not exceed normal conversation.



- c. The rooftop outdoor entertainment establishment (pool area) may remain open:  
Monday through Wednesday from 7:00 a.m. to 9:00 p.m.  
Thursday to Saturday from 7:00 a.m. to 11:00 p.m.  
Entertainment shall not commence prior to 11 a.m. on Monday through Sunday.  
Entertainment shall only be permitted at a volume that does not exceed normal conversation at any time.
- d. The outdoor entertainment establishment/neighborhood impact establishment (rooftop bar) may remain open:  
Sunday to Wednesday 11 a.m. to 9 p.m.  
Thursday to Saturday 11 a.m. to 11 p.m.  
Entertainment shall only be permitted at a volume that does not exceed normal conversation.
- e. The house sound system shall be installed and set in such a manner as to limit the acoustical output of the system and have password protected security on all controls at all times. Only venue management shall have access to raise the volume. The equipment and installation plan for the sound system, including the location of all speakers and sound level controls shall be submitted for the review and approval of the Planning Department. Within 60 days of this approval, the sound system in the facility shall be tested by a qualified acoustic professional, and a report shall be submitted to the Planning Department for review, to verify that it is operating as designed. A sound field test shall be performed with staff present to demonstrate that the sound system will comply with the requirements of this CUP.
- f. All amplified entertainment shall only utilize the house sound system.
- g. Audio from the subject property, including low-frequency vibrations, shall not be plainly audible or felt, within the interior of the apartment units (with the windows and doors closed) of the residential buildings to the west of the site, at any time.
- h. Televisions shall not be located anywhere in the courtyard and exterior areas of the property.
- i. Delivery trucks shall only be permitted to make deliveries from city authorized and designated commercial loading zones.
- j. Delivery trucks shall not be allowed to idle in the loading zone.
- k. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.
- l. Deliveries and waste collections may occur daily between 8:00 AM and 4:00 PM Monday to Friday and 9:00 AM and 4:00 PM Saturday and Sunday.
- m. 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.
- n. 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.

- o. An air-conditioned trash room(s)/garbage room(s) shall be large enough, or sufficient in number to accommodate enough dumpsters so that no more than one garbage pickup of per day will be necessary.
- p. Garbage dumpster covers shall be closed at all times except when in active use.
- q. Restaurant, bar, and building security personnel shall take measures to enforce the Patron Age Restriction of the City Code during the hours of operation of all alcoholic beverage establishments.
- r. No patrons shall be allowed to queue on public rights-of-way, or anywhere on the exterior premises of the subject property. Security staff shall monitor the crowds to ensure that they do not obstruct the sidewalk.
- s. 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.
- t. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
- u. Special Events may occur in the interior of the building or the exterior of the ground floor of the premises only, 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.

Special Events shall not be permitted on the roof-top at any time.

- v. The host/hostess stand, podium and menu board shall be prohibited in the public right of way and shall be placed on private property.
  - w. The applicant shall not request sidewalk café permits from the Public Works Department.
7. The building's rooftop shall incorporate a parapet wall on the north and western exposures with a minimum height of seven (7) feet to minimize the impact of sound on residents to west.
8. The ground floor open corridor that connects the front of the building with the rear of the building shall have a solid roll down door. The door shall be closed after 11 pm if there is entertainment taking place.



9. The applicant shall provide on-site bicycle parking facilities to accommodate ten (10) short-term and ten (10) long-term bicycle parking spaces, subject to the review and approval of staff.
10. 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.
11. A Traffic Demand Management (TDM) plan shall be submitted, reviewed and approved by the Transportation Department within 90 days, prior to the issuance of a BTR for the addition of entertainment and include the following:
  - a. The applicant shall identify locations, acceptable to the Transportation Department, for bicycle racks to be installed in the public right-of-way and within the proposed development. The applicant shall furnish and install the bicycle racks in accordance with the standards outlined in the City of Miami Beach Public Works Manual.
  - b. The applicant shall coordinate with the South Florida Commuter Services in participating in the transit subsidy program.
  - c. The applicant shall provide an analysis proposing for a drop-off and pick-up area shared with the valet drop-off and pick-up spaces.
  - d. The Developer shall conduct an updated valet utilization study incorporating the rideshare demand 60 days after opening of the proposed development. The updated analysis shall include weekday peak hour and weekend peak hour analysis. Prior to commencement of the post-opening valet/ride-share analysis, the Developers' Traffic Engineer shall coordinate with the Transportation Department.
12. 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 with entertainment.
13. The applicant shall obtain a full building permit within 18 months from the date of the meeting, 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.
14. The Planning Board shall retain the right to call the owner or operator back before the Board and modify the hours of operation or the occupant load 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.
15. 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.
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

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. The applicant agrees and shall be required to provide access to areas subject to this CUP (not including private residences) for inspection by the City (i.e.: Planning, Code Compliance, Building Department, Fire Safety), to ensure compliance with the terms and conditions of this CUP.
20. 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 \_\_\_\_\_ day of \_\_\_\_\_, 2020.

PLANNING BOARD OF THE  
CITY OF MIAMI BEACH, FLORIDA

BY: \_\_\_\_\_  
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 \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, 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  
Notary Public, State of Florida

{NOTARIAL SEAL}

My Commission Expires:  
Commission Number:

Approved As To Form:  
Legal Department \_\_\_\_\_ ( )

Filed with the Clerk of the Planning Board on \_\_\_\_\_ ( )