

September 21, 2020

Via Online Submission

Honorable Chair and Members of the Planning Board
Planning & Zoning Department
City of Miami Beach
1700 Convention Center Drive, Second Floor
Miami Beach, Florida 33139

Re: Letter of Intent for a Modification to the Conditional Use Permit Previously Approved Under Planning Board File No. PB17-0171 for a Neighborhood Impact Establishment and Open Air/Outdoor Entertainment Establishment for Palace at 1052 Ocean Drive, Miami Beach, Florida (“Restaurant”)

Dear Chair and Board Members:

Our Law Firm represents Palace Bar LLC (the “Applicant”) in this application for a Modification to a previously approved Conditional Use Permit for a Neighborhood Impact Establishment (“NIE”) and an Open Air/Outdoor Entertainment Establishment (“OEE”) issued under Planning Board File No. PB17-0171 (the “CUP”) to include existing Food & Beverage service areas within the same Building in the operation of the Palace.

By way of background, before beginning operations at 1052 Ocean Drive (the “Building”), the Applicant operated the Palace at 1200 Ocean Drive with a Conditional Use Permit (under Planning Board File No. 1901) for **over twenty years**, during which time Palace provided friendly and personal Food & Beverage service, as well as its iconic “drag shows,” to local patrons and many tourists who visited Miami Beach. Following the relocation to the current Building, the Applicant obtained a Conditional Use Permit (on February 27, 2018) under Planning Board File No. PB17-0171 for the currently operating NIE and an OEE to operate Palace within the ground floor restaurant space.

Inasmuch as (i) the adjacent (north) restaurant space within the same Building, which was formerly known as La Baguette and fully licensed and permitted for operation, has recently been included within the Applicant’s leased premises, and (ii) the Applicant currently operates the existing rooftop Food & Beverage services within the same Building for condo-hotel guests, please allow this letter to serve as the Applicant’s Letter of Intent (“LOI”) to modify the CUP to include those other existing venues within the same Building.

The Applicant is not seeking to materially modify the existing approved operations for the Palace as previously approved under the CUP, nor is it seeking to increase the intensity of the operations in that space. The updated operations plan is substantially similar to the operations plan as previously approved under the CUP. The adjacent (north) restaurant space will provide an additional Food & Beverage service area, as it is currently permitted for today, and also the “drag shows,” which have been a mainstay on Ocean Drive for over twenty years, will be performed within the outdoor area on private property. That adjacent space will also have indoor entertainment, similar to the indoor area approved under the original CUP, and

under the same conditions, but there is no entertainment-level music being added for the shows beyond that previously approved. Enclosed please find an updated Entertainment Noise Study by Edward Dugger + Associates, P.A., which concludes that no changes are being proposed to the newly acquired restaurant space that would increase the sound levels at the venue or in public areas.

The rooftop Food & Beverage service area, is currently operated by the Applicant for condo-hotel guests and will continue to close by midnight. As part of the updated Entertainment Noise Study by Edward Dugger + Associates, P.A., sound measurements were taken on the rooftop, which determined that these levels as measured are consistent with outdoor entertainment and are not anticipated to have an impact on the nearest residential property, Council Towers. In addition to the DJ, the Applicant would also like to host some “drag shows” for certain occasions, such as a guest’s birthday party. These shows would only take place during the hours which have already been previously approved for shows under the CUP.

Neighborhood Impact Establishment Criteria. In addition to the other materials submitted with this application, the following supplemental information relating to this request is provided pursuant to §142-1362(a) of the City Code’s Land Development Regulations:

(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:

Satisfied. The Applicant has provided a detailed updated operational and business plan, which is substantially similar to the operations plan as previously approved by the Planning Board (included in the Operations Plans with the application materials), which addresses the hours of operation, number of employees required to effectively operate the food and beverage operations, menu items, goals of the business, and other operational characteristics pertinent to the application.

(2) A parking plan which fully describes where and how the parking is to be provided and utilized:

Satisfied. Parking for the patrons of the restaurant shall be by self-park. There are ample meters along Collins Avenue and Washington Avenue as well as the cross roads to accommodate restaurant patrons. Further, there is a parking garage located within the site that provides parking for patrons of the commercial uses.

In addition to the neighboring metered parking, there are surface parking-lots and other parking garages located within the immediate area for use by restaurant patrons. However, even considering those parking accommodations, the venue is located within an area of the City where patrons can easily walk instead of drive and the applicant anticipates many patrons will walk or take an Uber.

(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 will be controlled:

Satisfied. This venue provides Palace with a substantial performance area for the shows to occur on private property. Further, the Applicant’s staff will be posted during performances at the north and south ends of the property to ensure the free flow of pedestrian traffic along Ocean Drive.

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

Satisfied. Enclosed with the application materials, please find a detailed security plan entitled Palace Individual Security Position Procedures. The Applicant’s staff will specifically enforce patron age restrictions.

(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:

Satisfied. Parking for the patrons of the restaurant shall be by self-park. There are ample meters along Collins Avenue and Washington Avenue as well as the cross roads to accommodate restaurant patrons. Further, there is a parking garage located within the site that provides parking for patrons of the commercial uses.

In addition to the neighboring metered parking, there are surface parking-lots and other parking garages located within the immediate area for use by restaurant patrons. However, even considering those parking accommodations, the venue is located within an area of the City where patrons can easily walk instead of drive and the applicant anticipates many patrons will walk or take an Uber.

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

Satisfied. The Sanitation Plan (included in the Operations Plans with the application materials) explains that the Applicant will utilize the buildings enclosed trash room, which is located on the west side of the building as indicated on the architectural plans submitted with the enclosed application. The existing trash room has sufficient capacity to accommodate the proposed operations. Trash is picked up seven (7) days a week from approximately 7:00 a.m. to 12:00 p.m.

(7) A noise attenuation plan which addresses how noise will be controlled to meet the requirements of the noise ordinance:

Satisfied. As part of the updated Entertainment Noise Study by Edward Dugger + Associates, P.A., sound measurements were taken on the rooftop, which determined that these levels as measured are consistent with outdoor entertainment and are not anticipated to have an impact on the nearest residential property, Council Towers. In addition to the DJ, the Applicant would also like to host some “drag shows” for certain occasions, such as a guest’s birthday party. These shows would only take place during the hours which have already been previously approved for shows under the CUP. The Applicant is not seeking to modify the entertainment operations previously approved for the existing Palace space previously approved under the CUP.

(8) Proximity of proposed establishment to residential uses:

Satisfied. The Applicant’s operations are not anticipated to have any adverse effect on the surrounding residential uses. Based on the updated Entertainment Noise Study prepared by Edward Dugger + Associates, P.A., the sound levels as measured are not anticipated to have an impact on the nearest residential property, Council Towers.

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

Satisfied. The areas being included in Palace’s operations through this modification are existing and previously operated as the same use and therefore, the Applicant’s operations are not anticipated to have any adverse effect when the pre-existing uses are considered.

Standard Conditional Use Criteria. In addition to the other materials submitted with this application, the following information is submitted in accordance with the conditional use review guidelines under §118-192 of the City’s Code’s Land Development Regulations.

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

Satisfied. A restaurant is a permitted use, and the NIE and OEE components are permitted as a conditional use, in the MXE zoning district. Further, these uses are consistent with the comprehensive plan future land use designation of the Restaurant of MXE.

(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.

Satisfied. Parking for the patrons of the restaurant shall be by self-park. There are ample meters along Collins Avenue and Washington Avenue as well as the cross roads to accommodate restaurant patrons. Further, there is a parking garage located within the site that provides parking for patrons of the commercial uses.

In addition to the neighboring metered parking, there are surface parking-lots and other parking garages located within the immediate area for use by restaurant patrons. However, even considering those parking accommodations, the venue is located within an area of the City where patrons can easily walk instead of drive and the applicant anticipates many patrons will walk or take an Uber.

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

Satisfied. The restaurant is a permitted use, and the NIE and OEE components are permitted as a conditional use, in the MXE zoning district. Further, these uses are consistent with the comprehensive plan future land use designation of the Restaurant within the MXE.

(4) The public health, safety, morals, and general welfare will not be adversely affected.

Satisfied. As set forth in the cumulative application materials, the proposed use and controlled operation of the venue will not adversely affect the public health, safety, morals, and general welfare.

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

Satisfied. Parking for the patrons of the restaurant shall be by self-park. There are ample meters along Collins Avenue and Washington Avenue as well as the cross roads to accommodate restaurant patrons. Further, there is a parking garage located within the site that provides parking for patrons of the commercial uses.

In addition to the neighboring metered parking, there are surface parking-lots and other parking garages located within the immediate area for use by restaurant patrons. However, even considering those parking accommodations, the venue is located within an area of the City where patrons can easily walk instead of drive and the applicant anticipates many patrons will walk or take an Uber.

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

Satisfied. As set forth in the cumulative application materials, the proposed use and controlled operation of the venue will not adversely affect the public health, safety, morals, and general welfare. In

addition, the Applicant has provided for necessary safeguards in its approved Operations Plans attached hereto, providing for the protection of surrounding the properties, persons and neighborhood values.

(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.

Satisfied. The safeguards included in the approved Operations Plans attached hereto will ensure there is no negative impact on the surrounding neighborhood. The Applicant's proposed use is unique and should serve to improve the surrounding neighborhood.

Below please find the Applicant's responses to each of the Sea Level Rise and Resiliency Review Criteria pursuant to §133-50 of the City Code's Land Development Regulations.

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

Not Applicable.

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

Not Applicable.

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

Not Applicable.

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

Not Applicable.

(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.

Not Applicable.

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

Not Applicable.

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

Not Applicable.

(8) Existing buildings shall be, where reasonable feasible and appropriate, elevated to base flood elevation.

Not Applicable.

(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 54 of the City Code.

Not Applicable.

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

Not Applicable.

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

Not Applicable.

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

Not Applicable.

Conclusion. In light of the foregoing, and the application materials submitted herewith, we respectfully request the Planning Board's approval of this application.

Very Respectfully Submitted,

/s/ James E. Rauh

James E. Rauh, Esq.
For the Firm

Enclosures

LEGAL DESCRIPTION OF PROPERTY

CONDOMINIUM UNIT CU-C100 OF THE STRAND ON OCEAN DRIVE CONDOMINIUM, TOGETHER WITH AN UNDIVIDED INTEREST IN THE COMMON ELEMENTS APPURTENANT THERETO, ACCORDING TO THE DECLARATION OF CONDOMINIUM THEREOF, RECORDED IN OFFICIAL RECORDS BOOK 23668, PAGE 2131 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY FLORIDA, AS AMENDED FROM TIME TO TIME;

ALONG WITH THE RIGHT TO OPERATE THE ROOF COMMON ELEMENT AT 1052 OCEAN DRIVE