



BERCOW RADELL FERNANDEZ LARKIN & TAPANES
ZONING, LAND USE AND ENVIRONMENTAL LAW

Response Narrative

PROJECT: 200 South Pointe Drive

DATE: September 21, 2020

RE: PB20-0392

PB Plan Review

- 1) **Previous BTR states 400 seats and proposed plans shows more than 450. Show requirements and compliance.**

Response: The revised plan for final submittal provides for 395 total seats. Notwithstanding, the only limitation on interior seating is the occupant load of the space. The limitation on rooftop seating is the proposed 250-person patron occupant load for the rooftop terrace. The proposed 199 seats comply with the occupant load of the interior space. The proposed 196 seats on the rooftop with a prohibition on use of the rooftop for standing patrons, and prohibition of bars with direct service to the public ensure that the rooftop will never have more than 250 persons.

- 2) **CIBO Settlement agreement submitted (which staff has not reviewed). Please detail any conditions of the agreement that are otherwise contrary to the typical code requirements and explain why the agreement was submitted.**

Response: The agreement was submitted for historical context as to any applicable limitations on the former operator of the property. The Settlement Agreement is omitted from Final Submittal. The conditions of the Settlement Agreement that differ from the Code are detailed in the letter of intent and are as follows:

Condition	Code Requirement	CIBO Settlement Agreement
Rooftop hours of operation	8 PM	11 PM Monday-Wednesday, 12 AM Thursday-Saturday
Conditional use approval for NIE	Restaurant with alcohol service over 299-person occupancy	Not required for 400-seat restaurant with alcohol service
Entertainment	Prohibited	No apparent limitation.
Special Events Permits	Prohibited	8 per year (3 in December)
Interior Hours of Operation	2 AM	No apparent limitation. Possibly 5 AM.



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3) LOI: respond to 11 and 12 from Sea Level Rise review criteria Sec.133-50.

Response: The LOI has been revised to respond to all twelve (12) Sea Level Rise Criteria in Section 133-50 of the Code.

4) Plans: zoning data missing, use Planning Department zoning data sheet.

Response: Revised plans for final submittal included zoning data legend on Planning Department zoning data sheet.

5) Context location map must comply with checklist 11-d.

Response: The revised Context location map on the coversheet complies with the requirements of checklist item 11-d.

6) Full legal description: Missing, provide this per checklist 11-e.

Response: Pursuant to checklist item 11-e, if the survey included within the plans includes a legal description a separate legal description is not required. The survey with legal description has been included as Sheet A 1.0 in the revised Final Submittal plans.

7) Site Plan/ground floor plan: all the information requested per checklist 11-h and 42 a to f must be provided, for example, valet station, spaces, trash room, loading spaces and closest city loading zone to the site.

Response: The site plan on sheet A 2.1 has been revised to include the information requested per checklist items 11(h) and item 42. Note that the parcel on which the property is located is part of the larger Continuum development site.

8) Plans: provide a chart with the proposed occupancy load and number of seats showing subtotals for each level and areas depicted on the plans and the total for the whole venue. Provide a column with the previously approved venue (Chibo).

Response: A chart detailing the proposed occupancy load as compared to the occupancy load of the previous venue, CIBO Wine Bar, is provided on Sheet 2.1. Further, tables providing the numbers of seats are indicated on Floor Plans. The occupancy of the proposed use is 795 persons, and the occupancy of CIBO was 623 persons. The total number of seats proposed is 395, with 199 seats on the first level, and 196 seats on the rooftop terrace. CIBO was permitted 177 seats on the rooftop terrace. Based on the BTR



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that indicates CIBO was permitted 400 total seats, we estimate the interior seat count was 223 seats.

- 9) **To comply with the Ordinance that was recently reviewed by the Planning Board, the upper level cannot exceed an occupancy load of 250, the occupancy load is different from the amount of seats. The occupancy load is usually higher depending on the layout of the space. Please revise this plan and provide the occupancy load for this level. Without this the application cannot move forward. Please note that the occupancy load is subject to final determination by the Fire Marshall.**

Response: Michael Belush and Michael Larkin met in regards to this comment and how to apply the limitations in the Ordinance to this application. The proposed 250-person patron occupant load condition is unworkable as drafted and a potential modification to the Ordinance is being considered clarify the intent of the Ordinance. Occupancy is determined by the Fire Marshall at the time of permitting and thus a layout that complies with the occupancy limitation cannot be accurately determined at this time. A modification to the proposed Ordinance that further limits the use of the existing rooftop to a maximum number of seats well below the 250 person limit, (e.g., 196 seats) and conditions that prohibit use of the rooftop by standing patrons, as well as prohibit a bar that is accessible by the public. Such conditions make it impossible for the rooftop to be occupied by more than 250 persons at one time. The number of seats proposed in the final submittal is reduced from 250 seats to 196 seats to allow space for potential modifications to reduce the occupancy load, which is estimated to be 388 persons. The Applicant will comply with the Code at the time of permitting.

- 10) **Provide previous occupancy load for Cibo.**

Response: The previous occupancy load for Cibo has been provided on Sheet 2.1 The total occupancy load for Cibo was 623 persons.

- 11) **Plans: provide black ink plans (with architecturally appropriate line weights - not single line weight drawings). Check line weights to ensure that all text is legible. Increase the text size to be clearly legible on 11x17 printing format. Plans need to be clear and legible in accordance with accepted architectural practices. The colored single line weight drawings are not acceptable.**

Response: The line weights in the plans have been modified by the design team, and plans modified such that they are legible on 11 x 17 printing format.

- 12) **Photos: provide a key directional plan.**



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Response: A key directional plan for photos has been provided.

13) Operational plan: Valet operations must be fully detailed.

Response: Valet operations have been fully detailed in the revised operations plan.

14) Operational plan shall include all the operational conditions stated in the Ordinance related to this project.

Response: Operational plan includes all operational conditions stated in the Ordinance related to this project.

15) Neighborhood Impact fee will be applied to this application.

Response: The Applicant will pay all required fees.