

October 19, 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 Issued Under Planning Board File No. PB18-0253 for a Neighborhood Impact Establishment Mila Restaurant at 800 Lincoln Road, Miami Beach, Florida ("Restaurant")

Dear Chair and Board Members:

Our Law Firm represents Mila Florida LLC^[1] (the "Applicant"), the tenant of the restaurant space located at 800 Lincoln Road, Miami Beach, Florida ("Property") in this application for a Modification to the existing Conditional Use Permit for a Neighborhood Impact Establishment ("NIE") issued under Planning Board File No. PB18-0253, also adding Outdoor Entertainment as described herein below, pursuant to §142-1361 and §142-1362 of the City Code. Please allow this letter, as well as the enclosed Supplement to the Operations Plan, to serve as the Applicant's Letter of Intent ("LOI") in connection with the foregoing application.

The Property is located on the southwest corner of Lincoln Road and Meridian Avenue and is located in the CD-3 (Commercial High Intensity) zoning district, the Flamingo Park Local Historic District, and the Miami Beach Architectural District in the National Register of Historic Districts. The CD-3 zoning district is designed to accommodate a highly concentrated business core in which activities serving the entire city are located. *Sec. 142-331 City Code*. The main permitted uses in this zoning district are commercial uses, apartments, apartment hotels, hotels, hostels, suite hotels, alcoholic beverage establishments, and religious institutions with occupancy of 199 persons or less. *Sec. 142-332 City Code*.

The Applicant operates a unique Miami-based concept, serving a mix of Japanese and Mediterranean flare delivered by Chef Thierry Marx of two Michelin star restaurants, complemented by world class cocktails and exquisite design and upscale ambiance.

The Applicant previously obtained a Conditional Use Permit on February 26, 2019 under Planning Board File No. PB18-0253 for a NIE to operate the Restaurant, a copy of which is enclosed. The Restaurant is fully licensed and permitted as a two hundred forty seven (247) seat restaurant. A copy of the City of Miami Beach Business Tax Receipt is enclosed with the application materials. The Applicant is not seeking to increase the seat count or the square footage of the Restaurant, but rather is only seeking to add "entertainment" in the form of a small live jazz band (e.g. to provide an atmosphere for brunch) to play

^[1] Mila Florida LLC, a Delaware limited liability company known as Mila Miami, LLC

music indoors and a DJ to play music to patrons dining indoors and outdoors at the Restaurant. However, both the live jazz band and the DJ will play music at a level that does not interfere with normal conversation. Therefore, the Applicant is requesting for Condition No. 7(A)(iii) of the existing order which reads as “Entertainment of any kind shall be prohibited at all times” to be removed in its entirety and also for approval for Outdoor Entertainment (as described above).

In addition to the limit on the volume from the music being played at a level that does not interfere with normal conversation, any amplified instrument to be utilized by the jazz band and equipment to be utilized by the DJ will be hooked up to the house sound system, and the volume will be controlled only by restaurant management.

Edward Dugger + Associates, P.A. (“ED+A”) visited the property to inspect the placements of the existing loudspeakers and system controls and has confirmed that the limits have been set and volume controls are accessible to management and cannot exceed the preset limits that were inspected by ED+A. Further, the existing sound system was designed and installed for a dining environment and not to create an outdoor club atmosphere. Enclosed please find a complete Audio System Memorandum as prepared by ED+A. On September 09, 2020, the City of Miami Beach Planning Staff and Code Compliance Staff also visited the property to inspect the sound system.

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 included with the application materials. The updated operational and business plan addresses the hours of operation for entertainment and details of the entertainment operations and the house sound system.

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

Satisfied. The Property is located in the Lincoln Road corridor and is within walking distance to many parking facilities. 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. Nevertheless, the Applicant provides valet parking services to its patrons as previously approved by the Planning Board.

(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. The indoor/outdoor crowd control plan will remain the same as was originally approved under the Conditional Use Permit obtained on February 26, 2019.

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

Satisfied. The security plan will remain the same as was originally approved under the Conditional Use Permit obtained on February 26, 2019. 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. The Property is located in the Lincoln Road corridor and is within walking distance to many parking facilities. 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. Nevertheless, the Applicant provides valet parking services to its patrons as previously approved by the Planning Board.

(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 will remain the same as was originally approved under the Conditional Use Permit obtained on February 26, 2019. Deliveries and waste collections occur daily between the hours of 8:00 a.m. and 5:00 p.m.

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

Satisfied. Edward Dugger + Associates, P.A. (“ED+A”) visited the property to inspect the placements of the existing loudspeakers and system controls and has confirmed that the limits have been set and volume controls are accessible to management and cannot exceed the preset limits that were inspected by ED+A. Further, the existing sound system was designed and installed for a dining environment and not to create an outdoor club atmosphere. Enclosed please find a complete Audio System Memorandum as prepared by ED+A. On September 09, 2020, the City of Miami Beach Planning Staff and Code Compliance Staff also visited the property to inspect the sound system.

(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. Both the live jazz band and the DJ will play music at a level that does **not** interfere with normal conversation. Edward Dugger + Associates, P.A. (“ED+A”) visited the property to inspect the placements of the existing loudspeakers and system controls and has confirmed that the limits have been set and volume controls are accessible to management and cannot exceed the preset limits that were inspected by ED+A. Further, the existing sound system was designed and installed for a dining environment and not to create an outdoor club atmosphere.

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

Satisfied. The Applicant is not seeking to increase the seat count or the square footage of the Restaurant, but rather is only seeking to add “entertainment” in the form of a small live jazz band (e.g. to provide an atmosphere for brunch) to play music indoors and a DJ to play music to patrons dining indoors and outdoors at the Restaurant 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 a NIE and outdoor entertainment are permitted as a conditional uses, in the CD-3 zoning district. Further, these uses are consistent with the comprehensive plan future land use designation of the Restaurant of CD-3.

(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. The Restaurant does not result in an impact that will exceed the threshold levels of service for this commercial corridor. The Restaurant is fully licensed and permitted as a two hundred forty seven (247) seat restaurant. The Applicant is not seeking to increase the seat count or the square footage of the Restaurant, but is only seeking to add indoor entertainment in the form of a live jazz to play music to patrons dining indoors and a DJ to play music to patrons dining outdoors at the Restaurant.

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

Satisfied. The restaurant is a permitted use, and a neighborhood impact establishment and outdoor entertainment are conditional uses, in the CD-3 zoning district. Further, these uses are consistent with the comprehensive plan future land use designation of the Restaurant within the CD-3.

(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. The Property is located in the Lincoln Road corridor and is within walking distance to many parking facilities. 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. Nevertheless, the Applicant provides valet parking services to its patrons as previously approved by the Planning Board.

(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