

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

PROPERTY: 1234-1260 Washington Avenue

FILE NO. PB 19-0325, PB 20-0343

IN RE: A conditional use permit for an open-air 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, and including a conditional use permit for a new 7-story mixed-use development exceeding 50,000 gross square feet, pursuant to Chapter 118, Article IV and Chapter 142, Article II and Chapter 118, Article II, Division 5 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, June 29, 2020

CONSOLIDATED CONDITIONAL USE PERMIT

The applicant, Urbin Miami Beach Partners, LLC, filed an application with the Planning Director 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, and including a conditional use permit for a new 7-story mixed-use development exceeding 50,000 gross square feet, pursuant to Chapter 118, Article IV and Chapter 142, Article II and Chapter 118, Article II, Division 5 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;

[Handwritten signature]

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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 establishment (pool area), and 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 12:00 a.m. nightly).

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After 11:00 p.m., entertainment shall only be permitted at a volume that does not interfere with normal conversation.

- c. The rooftop establishment (pool area) may remain open:

Sunday 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 be permitted at any time.

- d. The outdoor rooftop bar may remain open:

Sunday to Wednesday 11:00 a.m. to 9:00 p.m.

Thursday to Saturday 11:00 a.m. to 11:00 p.m.

Entertainment shall not be permitted at any time.

- 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. Any televisions, if allowed by the City Code, shall not be visible from any point along a right of way.

- 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.

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- 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, and shall include sound attenuating materials to minimize the impact of sound on residents to the west, subject to the review and approval of staff, in consultation with the City's acoustic peer reviewer.
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, including sound attenuating materials, in a

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manner to be reviewed and approved by staff, in consultation with the City's acoustic peer reviewer. 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 February 25, 2020 meeting date, 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.

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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.

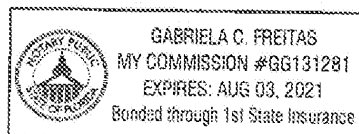
Dated this 7/17/2020 day of 2:29 PM EDT, 2020.

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 17 day of July, 2020, 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}

Gabriela Freitas
Notary:
Print Name Gabriela Freitas
Notary Public, State of Florida
My Commission Expires: Aug. 3, 2021
Commission Number: gg 131281

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Approved As To Form:

Legal Department

M. K. Bell

(7/13/2020 | 2:27 PM EDT

Filed with the Clerk of the Planning Board on

James G. Kelly 7/20/20

Underline denotes new language

~~Strikethrough~~ denotes stricken language