

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: March 23, 2021

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB20-0416 - 1501 Collins Avenue. NIE**

An application has been filed requesting a conditional use permit for a Neighborhood Impact Establishment that includes the renovation of the existing historic structure and existing commercial building with commercial uses, and the introduction of office use, pursuant to Chapter 118, Article IV and Chapter 142, Article V of the City Code.

RECOMMENDATION

Approval with conditions

BACKGROUND

- August 2, 1994:* The City's joint Design Review/Historic Preservation Board granted Design Review approval and a Certificate of Appropriateness for the construction of a 116 unit, 196 foot, sixteen (16) story apartment building and a separate retail, office and restaurant complex, which encompassed the partial demolition and renovation of the existing Bancroft Hotel (File No. 5129).
- August 5, 1994:* The Board of Adjustment approved three variances to waive the required setbacks for new construction and the subterranean parking and ramped garage driveway (File No. 2394).
- August 23, 2005:* The Planning Board approved an application by Bancroft Management Group LLC, requesting a Conditional Use Permit for a Neighborhood Impact Establishment (NIE) for a restaurant with entertainment and an occupant load of 300 persons or more on the first and second floors of the historic Bancroft Hotel building (File No. 1722).
- November 28, 2006:* The Planning Board approved an application by Chakra 5, Inc., requesting a Conditional Use approval to operate a NIE with entertainment in the newer portion of the building (File No. 1798).
- April 3, 2013:* The Planning Board approved an application by 1501 Garage, LLC, requesting Conditional Use approval pursuant to Section 130-69.5 of the

City of Miami Beach Code to use the under-utilized parking spaces in the garage after midnight (File No. 2104).

December 15, 2014: The Planning Board approved a Conditional Use Permit for the restaurant, Quality Meats, and continued the traffic analysis portion to the January 28, 2015 meeting.

January 28, 2015: The Planning Board approved an application, requesting a Conditional Use approval to operate a NIE with an occupant content in excess of 300 persons.

ZONING/SITE DATA

Legal Description:	See "Exhibit A".
Zoning District:	MXE (Mixed-Use Entertainment)
Future Land Use Designation:	MXE (Mixed-Use Entertainment)
Surrounding Uses:	North: Hotel South: Multifamily, commercial and vacant lot West: Hotel East: Beach and ocean (See Zoning/Site map at the end of the report)

THE PROJECT

The applicant, Bancroft Ocean Five Holdings, LLC, has submitted plans entitled "Bancroft Office Club". The proposal is for the renovation of the historic Bancroft hotel and adjacent Ocean Steps commercial development. The ground floor is proposed to incorporate office and restaurant uses, while the upper floors will contain offices and amenities for the offices, including alcoholic beverage services. The occupancy load and uses in the proposed project constitute a Neighborhood Impact Establishment (NIE).

Page A2.10 of the plans, prepared by MCG Architecture, provides the enlarged proposed ground floor plan with a restaurant (venue 1). This venue is located at the SW corner of the site inside the historic structure and contains 194 interior seats and 81 outdoor seats for a total of 275 seats and an occupancy load of 448. Page A2.11b of the plans (enlarged proposed ground floor plan), depicts a restaurant (venue 2) located at the Ocean steps portion of the project with 100 interior seats and 88 outdoor seats for a total of 188 seats and an occupancy load of 292.

Page A2.12 of the plans (enlarged proposed ground floor plan), depicts two other restaurants located at the Ocean steps portion of the project. One restaurant is a Coffee bar with 47 interior seats and 40 exterior seats for a total of 87 seats and an occupancy load of 163. The other is a Sushi bar with 54 interior seats and 32 exterior seats for a total of 86 seats and an occupancy load of 145.

All four restaurant venues are located on the ground floor and have their own kitchen, preparation, and back of house areas. They share an enclosed A/C trash room and loading areas that face the driveway on the north side of the property.

The total occupancy load projected for the restaurants is 1,048 with alcohol service. Per the applicants' letter of intent no indoor entertainment or outdoor entertainment is proposed.

Per Section 142-1361 of the Land Development Regulations:

Neighborhood impact establishment means:

(1) An alcoholic beverage establishment or restaurant, not also operating as an entertainment establishment or dance hall (as defined in section 114-1), with an occupant content of 300 or more persons as determined by the chief fire marshal; or

(2) An alcoholic beverage establishment or restaurant, which is also operating as an entertainment establishment or dance hall (as defined in section 114-1), with an occupant content of 200 or more persons as determined by the chief fire marshal.

Venue 1 is an NIE on its own, and all the combination of venues as a whole constitute an NIE as well. As previously mentioned, the upper levels will contain office uses and amenities, including a fitness studio, lounges, a lower roof terrace above the Ocean Steps commercial building and an upper roof terrace with a bar and a swimming pool above the historic structure (Bancroft Hotel).

The total occupancy load projected for the entire project is 2,207.

The proposal is expected to be considered by the Historic Preservation Board on May 11, 2021 (HPB20-0444).

COMPLIANCE WITH CONDITIONAL USE REVIEW GUIDELINES:

Conditional Uses may be approved in accordance with the procedures and standards set forth in the City Code Art. 4, Sec. 118-191 and Sec. 118-192:

- 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 permissible uses in the MXE Future Land Use Category within the Comprehensive Plan.

- 2. The intended Use or construction would not result in an impact that would 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; however, a concurrency review shall be undertaken as part of the building permit process.

- 3. Structures and uses associated with the request are consistent with these Land Development Regulations.**

Consistent – Neighborhood Impact Establishments are permitted as conditional uses in this zoning district. This comment shall not be considered final zoning review or approval.

This and all zoning matters shall require final review and verification prior to the issuance of a Building Permit.

4. Public health, safety, morals and general welfare would not be adversely affected.

Consistent – The proposed establishment may adversely affect the general welfare of nearby residents if noise, delivery, waste removal, and other operations are not controlled. Staff is recommending conditions to mitigate the potential negative impacts. The facility would have to comply with all applicable laws and regulations prior to the issuance of a Business Tax Receipt.

5. Adequate off-street parking facilities would be provided.

Partially Consistent – The building provides parking on-site, the applicant will utilize valet parking services and provide some self-driving parking spaces. Additionally, there are public parking facilities and street parking adjacent to the site. See detailed traffic Assessment prepared by TrafTech, Inc. The parking requirements and amounts being provided for the commercial portion of the project (Ocean Steps) requires clarification. See the parking analysis and staff recommendations.

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

Consistent – Staff is recommending conditions to mitigate any adverse impacts from noise and other issues on the surrounding neighbors.

7. The concentration of similar types of uses would not create a negative impact on the surrounding neighborhood. Geographic concentration of similar types of conditional uses should be discouraged.

Partially Consistent – The proposed uses for the project are permitted in the MXE zoning district. 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 an outdoor entertainment establishment, open air entertainment establishment or a neighborhood impact establishment, the Planning Board shall apply the following supplemental review guidelines 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.

The operational plan was submitted with the application and details hours for deliveries, hours of operation, number of employees, and other procedures.

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.**

The building provides parking on-site the applicant will utilize valet parking services and provide some self-driving parking spaces. Additionally, there are public parking facilities and street parking adjacent to the site. See detailed traffic Assessment prepared by TrafTech, Inc. It seems that the parking requirements for the commercial portion of the project (Ocean Steps) is not fully addressed, see parking analysis and staff recommendations.

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.**

A crowd control plan was not included with the application. Since it is not an entertainment establishment, significant overcrowding issues are not expected. However, staff is proposing conditions to mitigate any potential issues with crowd control and queuing in the outdoor areas and sidewalk.

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

The applicant has indicated that there will be a unified security system which includes a 24/7 monitoring and on-premises security, there is no information about alcohol patron age restrictions, staff is recommending conditions related to this.

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.**

A traffic assessment was provided.

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

Staff has included recommended conditions to mitigate any potential issues related sanitation operations.

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

A sound study was not required, as no outdoor or open-air entertainment is proposed.

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

There is a residential building on the east side of this project.

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

There are other NIE's and restaurants within the vicinity in this commercial district. If not carefully controlled, such concentration could negatively impact the surrounding neighborhood.

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.**

Satisfied. The applicant shall provide a recycling or salvage plan as part of any building permit.

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

Satisfied. New Windows will be impact windows.

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

Satisfied. Some operable windows have been provided.

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

Satisfied.

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.**

Satisfied.

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.**

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 reasonably feasible and appropriate, elevated to the 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 of 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.

ANALYSIS

Staff has determined that the proposal requires a new Conditional Use Permit (CUP), as opposed to amending the previous one that was granted for a restaurant located at the ground floor of the Bancroft Hotel, which has been closed for some time. Since the scope of work of this proposal encompasses the renovation of the historic building (Bancroft Hotel) and the commercial building (Ocean Steps), this new CUP will cover the entire premises and all of the venues. It is important to note that The Bancroft Hotel, Ocean Steps and the 1500 Ocean Drive Condo building to the east are part of a unified development site.

Project Description and Operations

The proposal is for the renovation of the existing buildings to operate four (4) restaurants on the ground floor with no entertainment. The total projected occupancy load of the restaurants is 1,048 with alcohol service, which constitutes an NIE. Portions of the ground floor of the historic structure are proposed to have office uses that will link the upper floors with the same use. The office will have different amenities as proposed by the applicant, including two roof terraces. The total occupancy load of the entire project is 2,207.

There is no indoor entertainment or outdoor entertainment proposed, only ambient background music is proposed (See proposed outdoor speaker system on the operational plan).

The proposed hours of operations are:

- Venue 1 (restaurant located within historic Bancroft hotel): to close at 11:00 PM
- Venue 2 (Located in Ocean Steps): to close at 2:00 AM.

- There were no proposed hours of operation for the other 2 venues (coffee bar and sushi bar).
- Office Space and amenity areas: 24/7
 - Food and drink service will terminate by 2:00 AM
 - Roof top service to terminate by 2:00 AM

Due to the proximity to the residential condominium building on the east side, staff is recommending that the exterior portions of the restaurants close by midnight and that ambient background music cease by 11:00 PM nightly. For the roof top terraces, staff recommends that they should close by 11:00 PM and that ambient background music cease by 10:00 PM nightly.

The operations plan indicates that all deliveries will utilize the buildings unified loading service areas. Per the letter of Intent the applicant will ensure the proper operation of the shared private alley that also serves both 1500 Collins and the adjacent Royal Palm Hotel site. Staff has recommended conditions in the attached draft order to ensure that the impacts of the operations are minimized.

Sound

A sound study was not required for this proposal, as no outdoor or open/air entertainment is proposed. Even though pre-recorded ambient music (played at a level that does not interfere with normal conversation) is permitted, staff recommends that music not be played after 11:00 PM on the ground floor and after 10:00 PM on rooftop terraces.

Security and Crowd Control

The applicant is proposing to have a unified security system, which includes a 24/7 monitoring and on premises security patrols. Any queuing will take place internally and there is adequate room to accommodate this within the building or on open space within the private property.

The roof terraces are amenities that are for the proposed office use. Staff is incorporating conditions to ensure that they are not open to the general public.

Parking

Page A2.01 of the plans depicts the parking area in the basement levels of the project (Bancroft hotel and Ocean Steps). The information shown on this page is inconsistent with the zoning data. The page indicates that there are 216 spaces while the zoning data sheet on page A0.01 indicates that there are 89 existing spaces and 225 proposed spaces. On page A2.01A, staff counted 70 tandem spaces (for valet parking), 18 regular self-parking spaces, and 6 handicap parking spaces for a total of 94 spaces. Page A2.01B depicts an additional 118 spaces; however, those are located under the residential portion of the building, and it is unclear if those are intended for the office use or if they were previously allocated to residential building.

The required parking for the portion of the project that is not part of the contributing historic structure per the zoning data (page A0.01) is 149 spaces. Any deficiency in spaces will require a parking impact fee. The applicant can also consider utilizing the alternative parking incentives provided for in section 130-40, to encourage alternative modes of transportation and reduce potential traffic impacts. The final parking calculation will need to be revised before issuance of a building permit, and in doing so, the applicant should clarify the ownership of the parking spaces

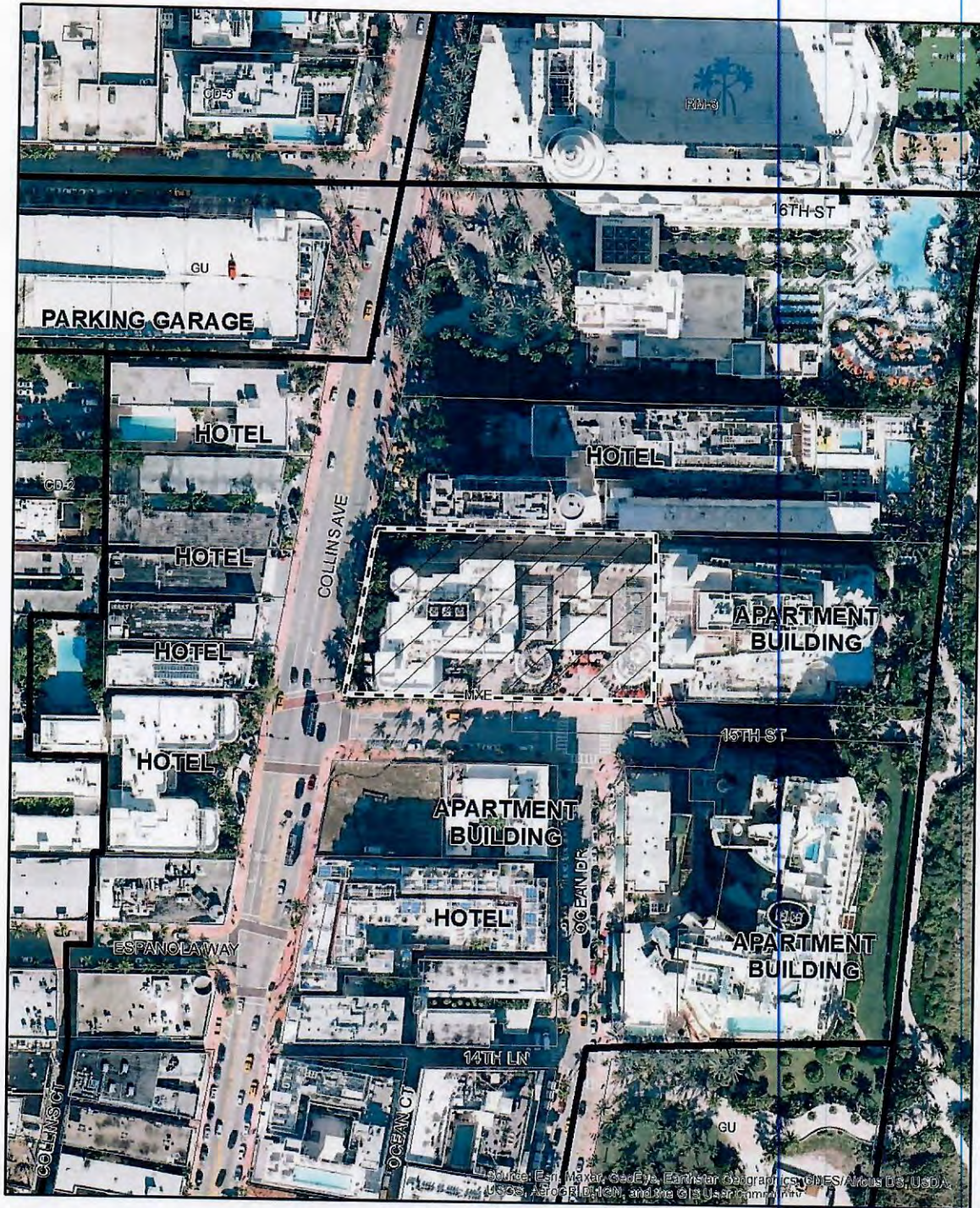
on the parking garage level, clarify the amount of parking spaces being provided, and the use allocation for these parking spaces. Staff has recommended the following condition in the attached draft order to address this concern:

A revised garage level plan, zoning data, revised parking calculation and parking allocation for all the uses must be submitted before the issuance of a building permit, subject to the review and approval of the Planning Department.

STAFF RECOMMENDATION

In view of the foregoing analysis, staff recommends that the application be approved subject to the conditions enumerated in the attached Draft Order.

ZONING/SITE MAP



Source: Esri, Maxar, GeoEye, Earthstar, GeoGraphics, IGN, Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

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

PROPERTY: 1501 Collins Avenue - NIE

FILE NO. PB20-0416

IN RE: A conditional use permit for a Neighborhood Impact Establishment that includes the renovation of the existing historic structure and existing commercial building with commercial uses, and the introduction of office use, pursuant to Chapter 118, Article IV and Chapter 142, Article V of the City Code.

LEGAL DESCRIPTION: See "Exhibit A".

MEETING DATE: March 23, 2021

DRAFT CONDITIONAL USE PERMIT

The applicant, Bancroft Ocean Five Holdings, LLC, requested a Conditional Use approval for a , a Neighborhood Impact Establishment (NIE) 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 MXE, Mixed Use Entertainment zoning district; and

That the use is consistent with the Comprehensive Plan for the area in which the property is located; and

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; and

That structures and uses associated with the request are consistent with the Land Development Regulations; and

That the public health, safety, morals, and general welfare will not be adversely affected; and

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, as approved by the Planning Board, and accepted by the applicant, that a Conditional Use Permit as requested and set forth above be GRANTED, subject to the following conditions:

1. This Conditional Use Permit is issued to Bancroft Ocean Five Holdings, LLC, as owner/operator of the subject Neighborhood Impact Establishment, with an occupancy load exceeding 199. Any change of operator or fifty percent (50%) or more stock ownership shall Any change of operator or 50% (fifty percent) or more stock ownership, partnership interest or equivalent, shall require review and approval by the Planning Board as a modification to this Conditional Use Permit. Subsequent owners and operators shall be required to appear before the Board to affirm their understanding of the conditions listed herein.
2. The Board hereby imposes and the Applicant agrees to the following operational conditions for all permitted and accessory uses, and the Applicant shall bind itself and its lessees, permittees, concessionaires, renters, guests, users, and successors and assigns and all successors in interest in whole or in part to comply with the following operational and noise attenuation requirements and/or limitations. The applicant shall ensure through appropriate contracts, assignments and management rules that these restrictions are enforced and the applicant agrees to include the rules and regulations set forth in these conditions in any contract or assignment:
 - a. The project authorized by this Conditional Use Permit includes the operation of the restaurants proposed in the Applicant's application, subject to the conditions set forth below:
 - i. The restaurant identified as 'Venue 1' shall be limited to the following hours of operation:
 - a. Monday – Sunday: 9:00 AM to 11:00 PM
 - ii. The restaurant identified as 'Venue 2' shall be limited to the following hours of operation:
 - a. Monday – Sunday: 9:00 AM to 2:00 AM
 - iii. The restaurant identified as 'Venue 3 – Coffee Bar' shall be limited to the following hours of operation:
 - a. Monday – Sunday: 9:00 AM to 2:00 AM
 - iv. The restaurant identified as 'Venue 4 – Sushi Bar' shall be limited to the following hours of operation:
 - a. Monday – Sunday: 9:00 AM to 2:00 AM
 - v. All outdoor areas of the restaurants shall be closed by 12:00 AM each night, and any allowable background music (i.e. music that is exempt from the definition of "entertainment") shall cease by 11:00 PM each night. The

- outdoor areas shall not be permitted to open prior to 8:00 AM, and allowable background music shall not commence prior to 9:00 AM. Background music shall at all times comply with the provisions of Chapter 46, Article IV of the City Code, as may be amended (the "Noise Ordinance").
- vi. The maximum number of indoor restaurant seats for all venues, in the aggregate, shall not exceed 395 seats.
 - vii. The maximum number of outdoor restaurant seats for all venues on private property, in the aggregate, shall not exceed 241 seats.
 - viii. The maximum occupancy load of the restaurants, in the aggregate, shall not exceed 1,048, or such lesser number as approved by the Fire Marshall.
 - ix. Entertainment, as defined in City Code Section 114-1, shall be strictly prohibited in all outdoor areas.
 - x. A full menu (including food) shall be made available for each restaurant during all hours of operation.
 - xi. The house sound system shall be installed and set in such a manner as to limit the acoustical output of the system to ambient levels (i.e. at a volume that does not interfere with normal conversation), and shall have password protected security on all controls at all times. 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 prior to the issuance of the Certificate of Use.
 - xii. Televisions and projectors shall not be located anywhere in the exterior areas of the property.
 - xiii. After the hours of operation as permitted in this Order, the establishment shall remain closed and no patrons or other persons, other than those employed by the establishment, shall remain therein between the establishment's closing time and 8:00 AM.
 - xiv. Outdoor bar counters shall be closed by 8:00 PM each night, and shall open no earlier than 8:00 AM.
 - xv. No alcohol shall be offered for sale or consumed on the premises between the hours of 5:00 AM and 8:00 AM.
 - xvi. Dance floors and dedicated dance areas for patrons shall be prohibited, and a Business Tax Receipt including dancing shall not be issued.
- b. Rooftop terraces shall be closed by 11:00 PM each night. Allowable background music (i.e. music that is exempt from the definition of "entertainment") shall cease by 10:00 PM each night. The terraces shall not open and allowable background music (i.e. music that is exempt from the definition of "entertainment") shall not commence prior to 9:00 AM.

- c. Use of the rooftop terraces shall be limited to tenants, members, lessees, and their invited guests.
- d. Scheduled commercial deliveries may only occur between 9:00 AM and 4:00 PM, each day.
- e. Delivery trucks shall only be permitted to load and unload within the designated loading areas or other City-designated freight loading zones.
- f. Delivery trucks shall not be allowed to idle in loading zones, including the shared driveway.
- g. Delivery trucks shall not block other vehicles from fully traversing through the abutting driveway at any time.
- h. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.
- i. Trash collections may occur daily between 9:00 AM and 4:00 PM only.
- j. 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.
- k. Trash room(s)/garbage room(s) shall be large enough, or sufficient in number to accommodate enough dumpsters so that more than one pick-up of garbage per day will not be necessary.
- l. Garbage dumpster covers shall be closed at all times except when in active use.
- m. Outdoor cooking anywhere on the premises is prohibited. Kitchen and other cooking odors shall be contained within the premises. Owner agrees to install an exhaust system, if required by the applicable code, for the kitchens on the premises that will substantially reduce any grease and/or smoke that would otherwise escape to the surrounding area. This may include the installation of a fan in connection with kitchen exhaust systems within the footprint of the building in order to reduce noise levels at the exhaust outlet substantially in compliance with the plans as approved.
- n. Exterior speakers may only be permitted for fire or life safety purposes, and/or for background music played at a volume that does not interfere with normal conversation (i.e. at an ambient volume level).
- o. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
- p. As proposed by the applicant, security staff shall be onsite 24 hours a day, 7 days a week. Each venue's staff shall monitor patron circulation and occupancy levels in order to adjust or redirect crowds according to occupant loads.

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- q. Patrons shall not be allowed to queue on any public rights-of-way or on the exterior of the premises. Each venue's staff (including security staff) shall monitor crowds to ensure that they do not interfere with the free-flow of pedestrians on the public street or sidewalk.
 - r. Alcohol patron age restrictions shall be enforced by each venue's staff.
 - s. The Operators shall be responsible for maintaining the areas adjacent to the facility, such as the sidewalks, curb and gutter and around the perimeter of the property in excellent condition, keeping these areas in a clean condition, free of all refuse, at all times.
- 3. The number of valet runners shall be sufficient to ensure that there is no double-parking of vehicles or any other queuing of vehicles in the right of way on 15th Street. This operation will be further evaluated at the time of the 90-day progress report.
 - 4. A revised garage level plan, zoning data, revised parking calculation and parking allocation for all uses must be submitted prior the issuance of a building permit, subject to the review and approval of the Planning Department.
 - 5. The Applicant shall assign personnel to manage loading operations to reduce potential conflicts with pedestrians on sidewalks and in crosswalks and ensure that blocking of the shared driveway for the passage of vehicles does not occur at any time.
 - 6. The Planning Board shall retain the right to call the owner or operator, both now and in the future, back before the Board and modify this Conditional Use Permit, including the hours of operation and/or the occupant load of the restaurant, as well as modifications to the parking operations, should there be valid complaints or violations (as determined by Code Compliance) about valet operations and loud, excessive, unnecessary, or unusual noise.
 - 7. The applicant shall address the following Transportation, Mobility, Concurrency and Parking requirements, as applicable:
 - a. 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.
 - b. A Method of Transportation (MOT) shall be submitted to Public Works Department staff for review and approval prior to the issuance of a building permit. The MOT shall address any traffic flow disruption due to construction activity on the site.
 - c. The developer shall coordinate with the Transportation Department to develop an acceptable Transportation Demand Management (TDM) Plan, prior to the issuance of a building permit.
 - d. A final concurrency determination shall be conducted prior to the issuance of a Building Permit. Mitigation fees and concurrency administrative costs, if required, shall be paid prior to the issuance of any Building Permit.

- e. Prior to the issuance of a Building Permit, calculations for required parking for the project shall be determined by the Planning Department. A final determination for the required parking shall be conducted prior to the issuance of a Certificate of Occupancy or Business Tax Receipt, whichever comes first. If required, a one-time fee in lieu of providing the required parking on site, as determined by staff, shall be paid prior to the issuance of the Certificate of Occupancy.
8. A violation of Chapter 46, Article IV, "Noise," of the Code of the City of Miami Beach, Florida (the "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 of the City Code, and any other penalties or enforcement proceedings under applicable law.
9. 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 for the first restaurant to obtain a BTR. Details of the loading operations, including size and frequency of vehicles, as well as full utilization details of the valet operation, shall be submitted for review as part of this progress report. The Board reserves the right to modify this Conditional Use Permit at the time of a progress report in a non-substantive manner, to impose additional conditions to address possible inconsistencies with the conditional use criteria, the conditions of this Order, or any other operational conflicts, 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).
10. 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.
11. 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.
12. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application.
13. 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.
14. The executed Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County, Florida, at the expense of the applicant and returned to the Planning Department. No building permit, certificate of occupancy, or certificate of completion shall be issued until this requirement has been satisfied.
15. 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 and Section 118-194 of the City Code and such enforcement

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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 Permit.

16. 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.
17. The applicant agrees and shall be required to provide access to areas subject to this Conditional Use Permit (not private residences or hotel rooms) for inspection by the City (i.e. Planning Department, Code Compliance Department, Building Department, and Fire Department staff), to ensure compliance with the terms and conditions of this Conditional Use Permit. Failure to provide access may result in revocation of the Conditional Use Permit.

Dated _____

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: _____
Rogelio Madan, AICP
Chief of Chief of Community Planning & Sustainability
FOR THE CHAIRMAN

STATE OF FLORIDA)

COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this _____ day of _____, _____, by Rogelio Madan, Chief of Community Planning & Sustainability for the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

[NOTARIAL SEAL]

Notary: _____
Print Name:
Notary Public, State of Florida
My Commission Expires:
Commission Number:

Approved As To Form:
Legal Department _____ ()

Filed with the Clerk of the Planning Board on _____ ()

March 23, 2021.

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EXHIBIT "A"

1501 OCEAN STEPS CONDO, ALTON BEACH 1ST SUB PB 2-77, LOTS 18 THRU 20 & S1/2 OF LOT 17, & S1/2 OF LOT 4 & LOTS 1 THRU 3, LESS PORT DESC INOR 18368-1130, AS DESC IN DEC OR 22895-2861.

Units CU-100, CU-201 and CU-202 as described in that certain Declaration of Condominium of 1501 Ocean Steps Condominium, recorded on December 10, 2004 in Official Records Book 22895 at Page 2861, as amended.