

# **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

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 \_\_\_\_\_ ( )

DRAFT



**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.