

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: May 25, 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 (CUP) 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.

March 23, 2021: The Planning Board discussed the item and continued it to the April 27, 2021 meeting.

April 27, 2021: The Planning Board discussed the item and continued it to the May 25, 2021 meeting. Additionally, the applicant was instructed to meet with affected neighbors in an expedited way to allow staff time to review updated conditions.

May 11, 2021 The Historic Preservation Board (HPB) approved a Certificate of Appropriateness (vote 6-0, 1 absent) for the partial demolition, renovation, and restoration of the existing building, including the reconstruction of original interior floor plates and a variance to reduce the required side facing a street setback (File No. HPB20-0444).

Additionally, the HPB transmitted the following recommendation to the Planning Board relative to the Conditional Use Permit application for 1501 Collins Avenue (vote 6-0, 1 absent): *The HPB has a concern that the overuse, or over intensive use of the site, could and would adversely affect the residential character of the immediate neighborhood and recommends that the Planning Board consider that and consider also the impact that would have on the historic residential neighborhood in the immediate area.*

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 persons 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 the combination of the remaining venues 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 persons.

The certificate of appropriateness portion of the proposal was approved 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 in 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 persons 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 component will have different amenities as proposed by the applicant, including two roof terraces. The total occupancy load of the entire project is 2,207 persons.

There is no indoor entertainment or outdoor entertainment proposed; only recorded 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 office 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 of the venues to the residential condominium building on the east side of the site, 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 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 was unclear if those were intended for the office use or if they were previously allocated to residential building.

The applicant has since provided information with regards to the concerns that staff had with off-street parking. The applicant has demonstrated that they own the parking underneath the residential portion of the building and that those spaces are not allocated to the residential units. The applicant has also clarified that the number of parking spaces in the garage is 215 spaces. Pursuant to the requirements of Chapter 130 of the LDRs, the development requires 149 spaces. The development therefore complies with the parking requirements of the LDRs.

UPDATE

Since the item was discussed in April, staff has met with the applicant and residents of the adjacent building, and a modified draft order is attached. The revised draft order contains additional clarifications to the conditions and greater protection against potential nuisances for the surrounding area. The most significant changes are to the hours of operation, which now are as follows:

- Venue 1 (Bancroft Hotel Lobby Restaurant)
 - Interior – 9:00 AM to 12:00 AM
 - Exterior – 9:00 AM to 12:00 AM
- Venue 2 (Ocean Steps Area)
 - Interior – 9:00 AM to 1:00 AM
 - Exterior – 9:00 AM to 11:00 PM
- Coffee Bar (Ocean Steps Area)
 - Interior – 7:00 AM to 12:00 AM
 - Exterior – 7:00 AM to 11:00 PM
- Sushi Bar (Ocean Steps Area)
 - Interior – 7:00 AM to 12:00 AM
 - Exterior – 7:00 AM to 11:00 PM

- Office use of rooftop above Ocean Steps
 - 9:00 AM to 11:00 PM
- Office use of rooftop above Bancroft Hotel building
 - 9:00 AM to 12:00 AM
- Allowable outdoor background music – 9:00 AM to 1 hour before the closing time
- Sale and consumption of alcohol – 11:00 AM to close

The proposed draft order contains specific occupancy loads and seats limits for each of the venues. It also provides that unused capacity in one venue cannot be used in another venue. The limits are as follows:

Restaurant	Maximum Number Interior Seats	Maximum Number of Outdoor Seats	Occupancy Load
Bancroft Lobby Restaurant	194	97	448*
Ocean Steps Central	100	88	292*
Coffee Bar	47	30	163*
Sushi Bar	54	32	145*

*Or such lesser number as the Fire Marshal may determine.

Occupancy loads and seat limits are also provided for the Executive Office Suites facilities offering food and drink services for tenants, which are as follows:

Facility	Maximum Number Interior Seats	Maximum Number of Outdoor Seats	Occupancy Load
Second Floor Terrace	0	6	13*
Third Floor Lounge and Rooftop	80	161	488*
Interior Fourth Floor Dining and Bar	40	0	80*
Bancroft Roof	11	139	284*

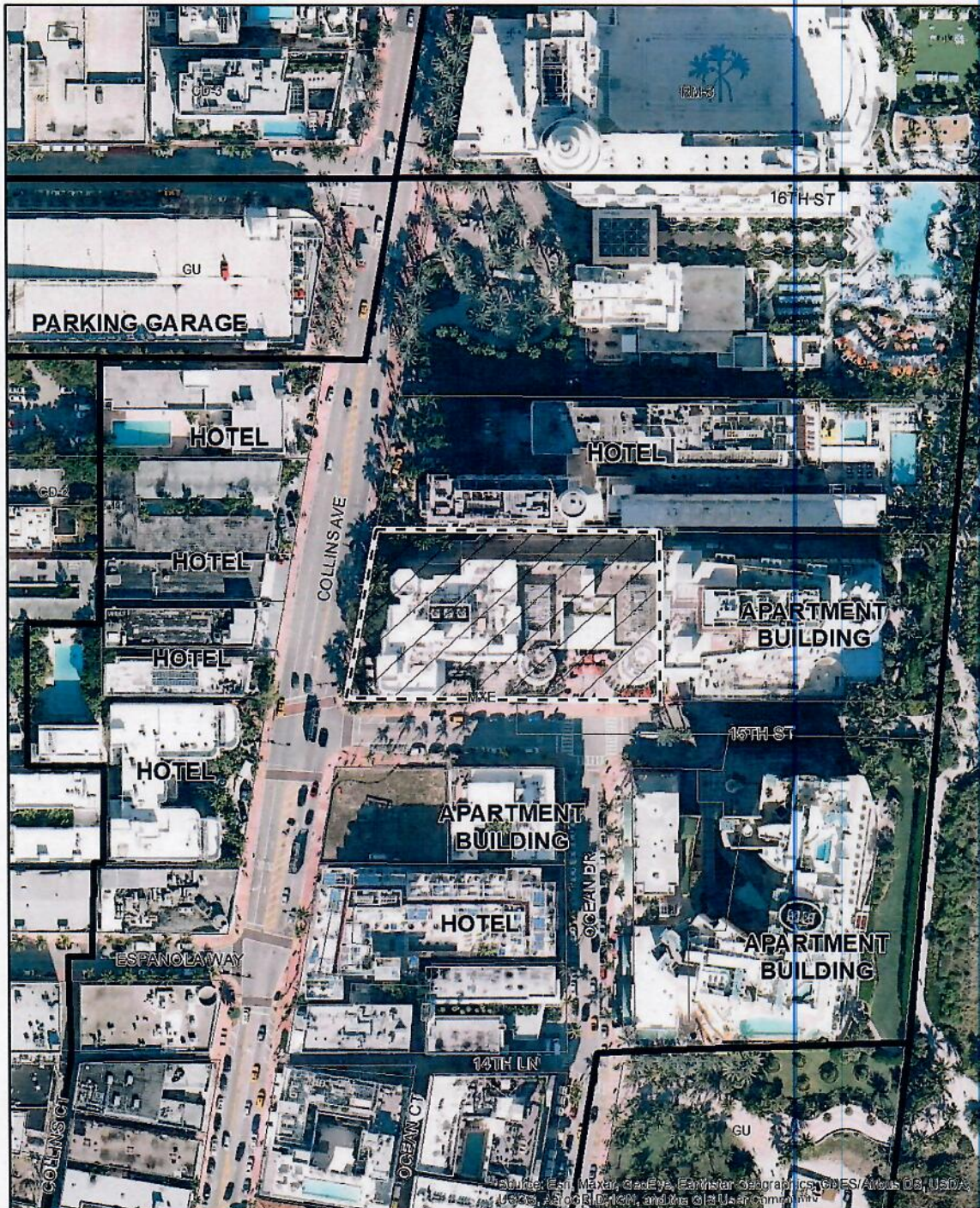
*Or such lesser number as the Fire Marshal may determine.

Additionally, the draft order contains limits on the sizes of outdoor speakers to prevent low frequency sound (bass) from traveling, in addition to the requirement that the sound be in a distributed sound system. It also places a limit of nine (9) special events utilizing exterior areas of the property per year, with a maximum of two (2) such special events occurring in a given month. No more than three (3) of the above special events may occur on more than one consecutive day and multi-day events may only be requested during Citywide special event periods. This is in addition to existing restrictions for special events adopted by the City.

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



0 30 60 120 180 240 300
Feet



**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: May 22, 2021

DRAFT CONDITIONAL USE PERMIT

The applicant, Bancroft Oceans Five Holdings, LLC, requested a Conditional Use approval for 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 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 Oceans Five Holdings, LLC, as owner/operator of the subject Neighborhood Impact Establishment, with an occupancy load exceeding 199. 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, and to express their consent and agreement to comply with, the conditions listed herein.
2. The Board hereby imposes and the Applicant agrees to the following conditions for all permitted and accessory uses, and the Applicant binds itself and its lessees, permittees, concessionaires, renters users, members, suppliers, consultants, Applicant's owners, and all other persons or entities that are permitted by the applicant to enter the Property, and their respective successors and assigns and all successors in interest in whole or in part, to comply with the following requirements and/or limitations. The applicant shall ensure through appropriate contracts, assignments and management rules that these requirements and/or limitations are enforced and the Applicant agrees to include in every contract, lease, management agreement, concession agreement, membership agreement, terms and conditions, letter agreement, assignment, agreement with each of the four restaurants approved herein and any new or successor restaurants, or any other document evidencing or governing the relationship between the Applicant and any of the foregoing individuals and entities:
 - a copy of this Conditional Use Permit, as fully signed and recorded, as an attachment to each such document; and
 - in the body of each such document, a covenant by the individual or entity to comply with the Conditions of the Conditional Use Permit;

Provided, however, that Applicant shall bear the ultimate responsibility to comply with this Conditional Use Permit.

- a. The project authorized by this Conditional Use Permit includes the operation of all four of the following restaurants proposed in the Applicant's application, all four of which shall be open to the public, subject to the conditions set forth below. This Conditional Use Permit shall also govern each restaurant's respective usage of the Collins Avenue terrace, the 15th Street terrace, the smaller plaza just above the sidewalk in front of the Bancroft Hotel building, and the larger plaza just above the sidewalk in front of the Ocean Steps building (references below to the "Plans" refer to drawings and plans submitted as part of this Application by MCG Architecture dated January 25, 2021), :
 - i. The restaurant to be located at the southwest corner of the historic Bancroft

Hotel, in the interiors of the first and second floors and on the outside terraces along 15th Street and Collins Avenue, all of which were formerly occupied by the Quality Meats restaurant (identified as **"Concept: To be determined"** in Applicant's "Venue Details" filed as part of its Application, and further identified as 'Enlarged Restaurant Venue 1 / Floor Plan 1 & 2' on Page A2.10 of the Plans) shall be limited to the following hours of operation:

Interior: Monday – Sunday	9:00 AM to 12:00 AM
Exterior: Monday – Sunday	9:00 AM to 12:00 AM

- ii. The restaurant to be located on the open-air plaza and the surrounding interior areas on the first floor of the Ocean Steps portion of the site, located east of the historic Bancroft Hotel ("Ocean Steps"), parts of which were formerly occupied by the Tequila Chica's restaurant (identified as **"High End Mexican"** in Applicant's "Venue Details" filed as part of its Application, and further identified as 'Enlarged Restaurant Venue 2 Floor Plan' on Page A2.11A and Page A2.11b of the Plans), shall be limited to the following hours of operation:

Interior: Monday – Sunday	9:00 AM to 1:00 AM
Exterior: Monday – Sunday	9:00 AM to 11:00 PM

- iii. The restaurant to be located on the open-air plaza and in the interior of the round tower located at the west end of the open-air plaza on the first floor of Ocean Steps (identified as **"Coffee Bar"** on Page A2.12 of the Plans), shall be limited to the following hours of operation:

Interior: Monday – Sunday	7:00 AM to 12:00 AM
Exterior: Monday – Sunday	7:00 AM to 11:00 PM

- iv. The restaurant to be located on the open-air plaza and in the interior of the round tower located at the east end of the open-air plaza on the first floor of Ocean Steps, formerly occupied by the Tequila Chica's restaurant (identified as **"Sushi Bar"** on Page A2.12 of the Plans), shall be limited to the following hours of operation:

Interior: Monday – Sunday	7:00 AM to 12:00 AM
Exterior: Monday – Sunday	7:00 AM to 11:00 PM

Restaurant staff shall be allowed one additional hour for clean-up, re-setting of tables, and other closing tasks for exterior areas.:

- v. Any allowable background music in outdoor areas (i.e. music that is both exempt from the definition of "entertainment" as defined in City Code Section 114-1 and does not interfere with normal conversation) shall cease each night not later than one hour before the outdoor restaurant area closing time specified in Condition No. 2(a), or the access periods for the rooftop areas specified in Condition No. No. 2(b), whichever is earlier. No music may be played in outdoor areas before 9:00 AM each day. Allowable

background music shall at all times comply with the provisions of this Conditional Use Permit and Chapter 46, Article IV of the City Code, as may be amended (the "Noise Ordinance"). In the event of any conflict or inconsistency between a provision of this Conditional Use Permit and a provision of the Noise Ordinance, the more restrictive provision shall govern.

- vi. The maximum number of seats and occupancy loads for each of the four public restaurants are as follows (*note: the unused capacity of one restaurant cannot be applied to another restaurant*).

Restaurant	Maximum Number of Interior Seats	Maximum Number of Outdoor Seats	Occupancy Load
Bancroft Lobby Restaurant (Concept to be Determined - Former Quality Meats Space)	194	97	448*
Ocean Steps Central (High End Mexican Concept / Former Tequila Chica's)	100	88	292*
Coffee Bar (West Round Tower)	47	30	163*
Sushi Bar (East Round Tower)	54	32	145*

*Or such lesser number as the Fire Marshal may determine.

- vii. The maximum number of seats and occupancy loads for each of the Executive Office Suites facilities offering food and drink service for tenants are as follows (*note: the unused capacity of one facility cannot be applied to another facility*):

Facility	Maximum Number of Interior Seats	Maximum Number of Outdoor Seats	Occupancy Load
Second Floor Terrace (West Round Tower)	0	6	13*
Third Floor Lounge and Rooftop	80	161	488*
Interior Fourth Floor Dining and Bar (No Exterior Access)	40	0	80*
Bancroft Roof	11	139	284*

*Or such lesser number as the Fire Marshal may determine.

- viii. Entertainment, as defined in City Code Section 114-1, shall be strictly prohibited in all indoor and outdoor areas.
- ix. A full menu (including the restaurant's normal offerings of hot and cold food) shall be made available for each restaurant during all hours of operation.
- x. The following requirements apply to the Applicant's Outdoor Speaker System:
 - A. The house sound system shall be installed and set in such a manner as to limit the acoustical output of the system to an ambient volume level (i.e. a volume that does not interfere with normal conversation), and shall have password protected security on all controls at all times. No outside sound system or outside sound equipment of any kind shall be used; only the Applicant's Outdoor Sound System, as approved by this Conditional Use Permit, shall be used. 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 a Certificate of Use. At all times when any operations approved under this Conditional Use Permit are open, the Applicant shall continuously maintain a Manager on Duty (or equivalent) ("Manager on Duty"), on premises, to oversee the operations (including the Executive Office Suites, all the associated facilities, the four restaurants, and all interior and exterior areas). Passwords for sound systems shall be provided only to the Manager on Duty for the entire project. Only the Manager on Duty shall have access to sound system controls.
 - B. The Outdoor Speaker System shall require the deployment of multiple small, closely spaced speakers driven at low individual volumes. The system design is intended to physically distribute sound uniformly within the listening area in such a manner as not to exceed a volume that would interfere with normal conversation (i.e. an "ambient" volume level). The Outdoor Speaker System will be configured in a manner such that the Manager on Duty shall only be permitted to select program material and adjust volume levels; provided, however, that volume levels shall never exceed an "ambient" volume level. Only the Manager on Duty is authorized to allow access by verified installers, programmers, and repair personnel to the full complement of the Outdoor Speaker System's controls and adjustments, ensuring compliance with the sound and noise requirements, restrictions, and limitations in this Conditional Use Permit.
 - C. Size of speakers shall be limited to small woofers (not to exceed 8" nominal) that, according to the specifications for the speakers, are incapable of producing appreciable levels of low frequency energy, as lower frequencies (longer wavelengths) can travel greater distances

than higher frequencies (shorter wavelengths). The lowest frequencies are to be significantly attenuated by electronic means.

- D. All outdoor speakers shall be oriented in such a way as to minimize sound propagation towards adjacent properties. Volume levels will be automated so as not to exceed the specified maximum, predetermined level. Once final adjustments have been made to the system, all controls are to be locked to prevent intentional or inadvertent adjustments.
- E. The controls of the Outside Speaker System shall make possible the turning off, or the lowering of the volume of:
 - 1. all the speakers in the outdoor area of each venue, including each of the four restaurants and including each of the outdoor facilities of the Executive Office Suites; and
 - 2. each individual speaker in each of such venues.
- xi. Televisions, projectors, monitors, movie screens, or any other means of video projection shall not be located anywhere in the exterior areas of the property.
- xii. After the hours of operation as permitted in this Conditional Use Permit, each restaurant 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 opening time.
- xiii. Outdoor bar counters shall be:
 - A. Prohibited on the Ocean Steps rooftop area;
 - B. Closed by 8:00 PM each night; and
 - C. Open no earlier than 11:00 AM each day.
- xiv. No alcohol shall be offered for sale or consumed on the premises between the hours of each establishment's closing time, as set forth herein, and 11:00 AM each day.
- xv. Dance floors and dedicated dance areas are prohibited, and a Business Tax Receipt for a dance hall shall not be issued.
- b. Usage of the roof-top area of the Ocean Steps building shall be limited to 9:00 AM – 11:00 PM and the rooftop area of the Bancroft Hotel building shall be limited to 9:00 AM – 12:00 AM. All food and beverage service to roof-top areas shall terminate one hour prior to the closing time.
- c. All roof-top areas, including, but not limited to the roof-top pool, cabanas, meeting spaces, and open-air meeting areas shall be part of the office component. The use of, and access to, the roof-top area shall be limited to the office tenants and their invited

guests. The roof-top area shall not constitute, nor be licensed as a separate commercial establishment.

- d. Deliveries and pick-ups, including trash, garbage, and recycling pick-ups may only occur between 9:00 AM and 4:00 PM, each day.
- e. No loading or unloading of vehicles engaged in deliveries and/or pick-ups, including trash, garbage, and recycling pick-ups shall be conducted from 15th Street or Collins Avenue or other public rights of way. As proffered by Applicant, there is adequate room within the existing building to allow for loading and unloading to be conducted completely within the structure, which is accessed through the driveway currently shared by and among Applicant, the Royal Palm Hotel, and the 1500 Ocean Drive Condominium Association. No loading or unloading of vehicles engaged in deliveries and/or pick-ups, including trash, garbage, and recycling pick-ups shall be conducted in or from the shared driveway.
- f. Delivery vehicles, and pick-up vehicles, including trash, garbage, and recycling pick-up vehicles shall not be allowed to idle or park in loading zones, including the driveway shared by and among the Applicant, the Royal Palm Hotel, and the 1500 Ocean Drive Condominium Association.
- g. Delivery vehicles and pick-up vehicles, including trash, garbage, and recycling pick-ups vehicles shall not block other vehicles from fully traversing through the shared driveway at any time. The Applicant will ensure the proper operation of the shared private driveway that also serves both 1500 Ocean Drive and the adjacent Royal Palm Hotel site. The Applicant shall assign a dock master to manage all delivery and pick-up operations to reduce potential conflicts with pedestrians on the east Collins Avenue crosswalk where it intersects the shared driveway, and ensure that blocking of the shared driveway for the passage of vehicles does not occur at any time.
- h. Equipment and supplies shall not be stored in areas visible from streets, alleys, the shared driveway, or nearby buildings.
- i. Adequate trash, recycling, and garbage room space, air conditioned and noise baffled, shall be provided within the building, in a manner to be approved by the Planning and Public Works Departments. Sufficient interior space must be provided so that the exterior doors can and do remain fully closed and secured while garbage, recycling, trash, and trash bags are being deposited in dumpsters and at all other times when garbage, recycling, and trash are not actively being picked up. As proffered by the Applicant, the project's users, suppliers, and others will utilize the building's unified interior loading and service areas.
- j. Trash room(s)/garbage room(s)/recycling rooms shall be large enough, or sufficient in number to accommodate enough dumpsters so that more than one pick-up of trash, garbage and/or recycling per day will not be necessary.
- k. Garbage, trash, and recycling dumpster and other container covers shall be kept fully closed at all times except when in active use.
- l. Outdoor cooking anywhere on the premises is prohibited. Kitchen and other cooking odors shall be contained within the premises. Applicant agrees to install:(1) an exhaust

- system for each kitchen on the premises that will substantially reduce any grease and/or smoke that would otherwise escape to the surrounding area; and (2) a fan in connection with each kitchen's exhaust systems within the footprint of the building in order to reduce noise levels at the exhaust outlet substantially.
- m. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
 - n. Applicant's security staff shall be onsite 24 hours a day, 7 days a week. Each venue's staff shall monitor patron circulation and occupancy levels, and shall take such action as may reasonably be necessary in order to achieve compliance with the requirements of this Conditional Use Permit. Both the Applicant and the operator of each individual venue shall be required to comply with the Conditions of this Conditional Use Permit. Applicant shall give written notice to the Property Manager (or equivalent) of each of 1500 Ocean Drive Condominium Association, The Drake Condominium Association, and Il Villaggio Condominium Association of the names and cellular telephone numbers of Applicant's personnel who are available 24/7 to receive complaints concerning Applicant's operations. Applicant shall give timely written notice to each such Property Manager of changes in such Applicant's personnel and/or cellular telephone numbers. Applicant will direct all such personnel to answer telephone calls and to take appropriate action during the periods that such personnel are on duty.
 - o. Each venue's staff (including security staff), and Applicant's security staff shall monitor patrons, and shall take such action as may reasonably be necessary to ensure that they do not: (1) interfere with the free-flow of vehicles on the public streets or pedestrians on the public street or sidewalk; (2) congregate in large groups in or near any of the project's outdoor areas; (3) queue on any public rights-of-way or on the exterior of the premises; (4) stand or sit on any part of the 1500 Ocean Drive property; or (5) create any disturbance in or near any of the project's outdoor areas.
 - p. Alcohol patron age restrictions shall be enforced by each venue's staff.
 - q. The Applicant shall be responsible for maintaining the areas adjacent to the project, such as the sidewalks, curb and gutter and around the perimeter of the project in excellent condition, keeping these areas in a clean condition, free of all refuse, at all times.
3. A maximum of nine (9) special events utilizing exterior areas of the property may be requested and/or approved each year, with a maximum of two (2) such special events occurring in a given month. No more than three (3) of the above special events may occur on more than one consecutive day (each, a "multi-day event"), and multi-day events may only be requested or approved during Citywide special event periods. No special events may include the open areas of the Ocean Steps building or the Bancroft ground floor terrace area along 15th Street without written notice by the Applicant to the 1500 Ocean Drive Condominium Association, the Drake Condominium Association, and the Il Villaggio Condominium Association. Within 10 business days of the filing of any special event application seeking to utilize the open areas of the Ocean Steps building or the Bancroft ground floor terrace area along 15th Street, the applicant shall hand-deliver to the property manager of the Drake Condominium, the Il Villaggio Condominium, and the 1500 Ocean

Drive Condominium a complete set of copies of the application and all attachments and exhibits in the same form and to the same extent as filed with the City. No special event permit application that includes the open areas of the Ocean Steps building or the Bancroft ground floor terrace area shall request an exemption under City Code Sec. 12-5(8) from Chapter 46 of the City Code.

4. Valet operations shall not begin until Applicant has secured, and delivered a copy to the Planning Department of, an approved permit issued by the Parking Department of the City of Miami Beach to designate a valet ramp at the west end of the north side of 15th Street at its intersection with Collins Avenue. The number of existing parking spaces in such permit dedicated exclusively to use by Applicant for valet operations, the number of valet attendants, and 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. Valets returning cars to the project valet ramp on 15th Street from the garage (located under the Bancroft Hotel-Ocean Steps property and under the 1500 Ocean Drive Condominium) must exit the garage via the shared driveway and then travel northbound along Collins Avenue and only access 15th Street from the south. A second valet ramp shall be located in the garage in order to reduce demand on the 15th Street valet ramp.
5. The Applicant recognizes the obligation of the Royal Palm Hotel to install and maintain an arm gate or two arm gates at the top of the ramp of the shared driveway (The Royal Palm Hotel – Planning Board File No. PB 17-0108, Modified Conditional Use Permit dated April 30, 2019, Page 8, Condition No. 27(A) - recorded May 23, 2019 in Book 31454 Page 1033 of the Public Records of Miami-Dade County). If, at any time, the present single gate is to be replaced by two arm gates, the Applicant hereby consents to the installation and maintenance on its property of one arm gate and all associated equipment and wiring, and agrees to provide all reasonably necessary access to its Property for such installation and maintenance, but all without cost to Applicant.
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 all Code Compliance cases, traffic impacts, the loading and unloading 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:

May 22, 2021.

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Approved As To Form:
Legal Department _____ ()

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

DRAFT

May 22, 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-001, 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.

DRAFT