

MIAMI BEACH
PLANNING DEPARTMENT
Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: June 22, 2021

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB21-0432, a.k.a. PB1606-0037. 1669 Collins Avenue, 1 Lincoln Road. Bagatelle**

An application has been filed requesting modifications to a previously issued conditional use permit for a Neighborhood Impact Establishment with Entertainment. Specifically, the applicant is requesting modifications to the ownership/operator, pursuant to Chapter 118, Article IV and Chapter 142, Article V of the City Code.

RECOMMENDATION

Approval with conditions

BACKGROUND/HISTORY

August 23, 2016 The Planning Board approved a Conditional Use Permit for a Neighborhood Impact Establishment with entertainment.

STAFF ANALYSIS

The applicant is requesting a modification to the existing Conditional Use Permit (CUP) in order to change the name of the ownership and management.

Should this request be approved, Condition 2 would be amended as follows:

This Modified Conditional Use Permit is issued to Bagatelle Miami, LLC, ~~Tatel Miami, LLC,~~ as operator of a Neighborhood Impact Establishment consisting of a restaurant with entertainment. ~~Any change of operator or ownership shall require review and approval by the Planning Board as a modification to this Conditional Use Permit~~

In order to be consistent with recent CUP approvals, staff is recommending the following additional conditions:

- A. That the requirement for change of ownership be modified to allow any future change of ownership to take place with the submittal of an affidavit to the Planning Department where the applicant acknowledges and accepts all of the conditions in the MCUP. A progress report shall be scheduled within 60 days of the submission of the affidavit.
- B. That the applicant agrees and shall be required to provide access to areas subject to this CUP (not including private residences) for inspection by the City (i.e.: Planning, Code

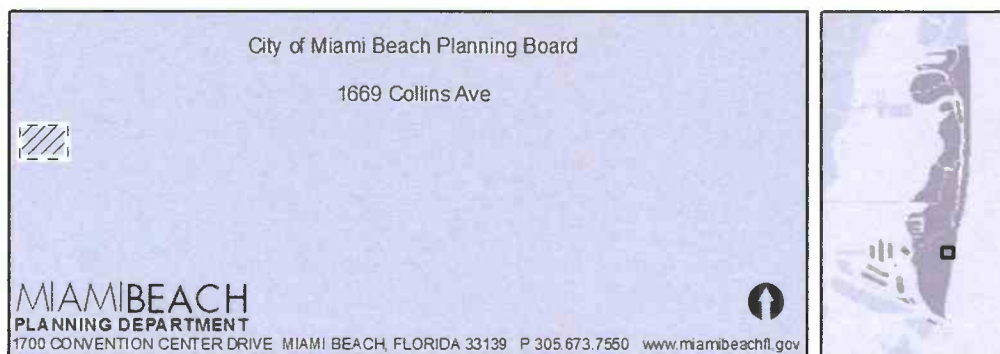
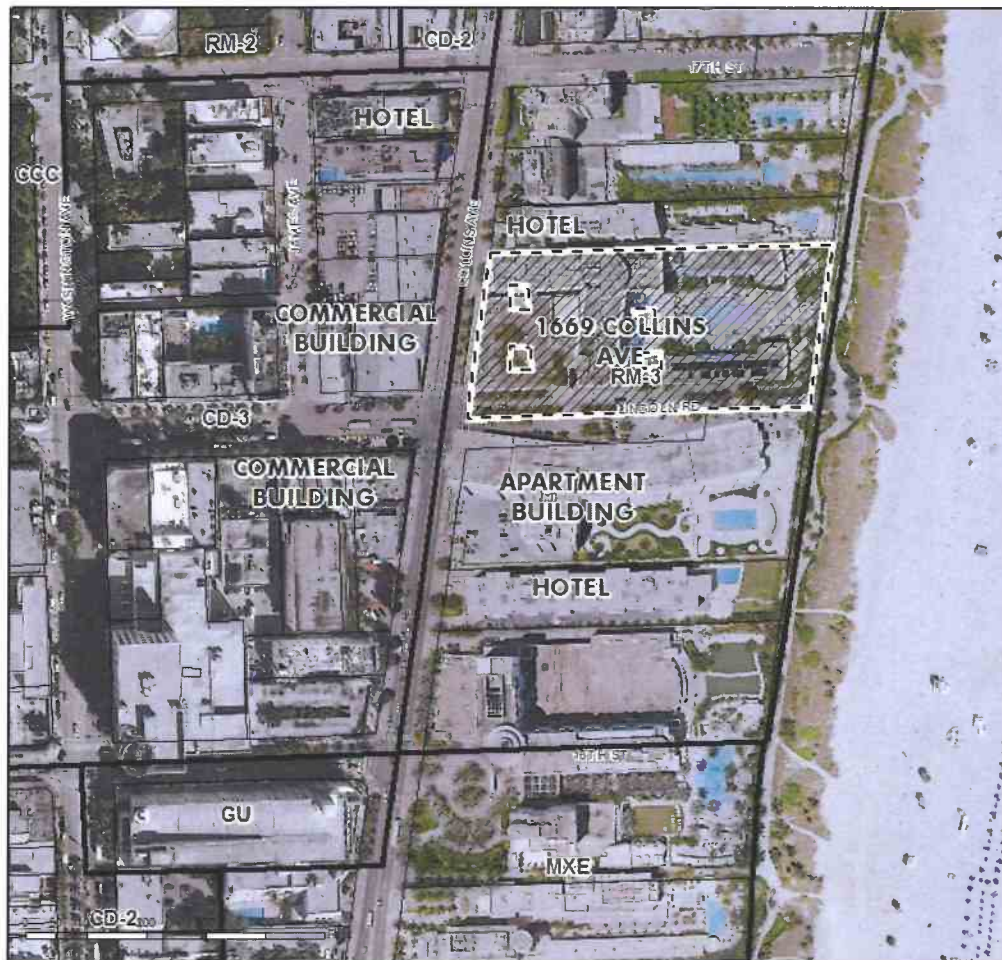
Compliance, Building Department, Fire Safety), to ensure compliance with the terms and conditions of this CUP.

The rest of the conditions in the MCUP (see attached) would remain the same.

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



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

PROPERTY: 1669 Collins Avenue aka 1 Lincoln Road ~~Tatel Restaurant~~

FILE NO. PB21-0432 a.k.a. PB0616-0037

IN RE: An application has been filed requesting modifications to a previously issued conditional use permit for a Neighborhood Impact Establishment with Entertainment. Specifically, the applicant is requesting modifications to the ownership/operator, pursuant to Chapter 118, Article IV and Chapter 142, Article V of the City Code.

LEGAL DESCRIPTION: DiLido Condo Alton Beach 1st Sub PB 2-77 Lots 1 thru 4 Lot 17 & ½ of Lots 5 & 16 Blk 29 & Strip of Land Desc in DB 3781-543 & lots 18-19 & 20 Blk 29

MEETING DATE: August 23, 2016, June 22, 2021

MODIFIED CONDITIONAL USE PERMIT

The applicant, Bagatelle Miami, LLC, ~~Tatel Miami, LLC~~, requested a Conditional Use Permit pursuant Chapter 118, Article IV, "Conditional Use Procedure," of the Land Development Regulations of the Code of the City of Miami Beach, Florida. Notice of the request for a Conditional Use Permit 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 RM-3, Residential Multi-family, High Intensity zoning district;

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

That the intended Use or construction will not result in an impact that will exceed the thresholds for the levels of service as set forth in the Comprehensive Plan;

That structures and Uses associated with the request are consistent with the Ordinance;

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

That necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values.

IT IS THEREFORE ORDERED, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which is adopted herein, including the staff recommendation, that a Conditional Use Permit as requested and set forth above be GRANTED, subject to the conditions below, which have been accepted by the applicants:

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The applicant shall appear before the Planning Board for a progress report within 90 days from the issuance of the BTR. The Board reserves the right to modify the Conditional Use approval at the time of a progress report in a non-substantive manner, to impose additional conditions to address possible problems and to determine the timing and need for future progress reports. This Conditional Use is also subject to modification or revocation under City Code Sec. 118-194 (c).
2. This Conditional Use Permit is issued to Bagatelle Miami, LLC, Tatel Miami, LLC, as operator of a Neighborhood Impact Establishment consisting of a restaurant with entertainment. Any change of operator or ownership shall require the new owner to submit an affidavit, approved by City, to the City of Miami Beach Planning Department, transferring approval to the new owner and acknowledging acceptance of all conditions established herein prior to the issuance of a new Certificate of Use/Business Tax Receipt. A progress report shall be scheduled within 60 days followed by the submission of the affidavit. review and approval by the Planning Board as a modification to this Conditional Use Permit.
3. The conditions of approval for this Conditional Use Permit are binding on the applicant, the property owners, operators, and all successors in interest and assigns.
4. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval.
5. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application.
6. The Applicant agrees to the following operational conditions for the Restaurant and shall bind itself, 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. As proposed by the applicant, the project authorized by this Conditional Use Permit includes the creation and operation of the proposed 200 seat restaurant with entertainment with the criteria listed below:

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- i. The Restaurant shall have an approximate maximum occupant content of 258 persons or any lesser such occupant content as determined by the Fire Marshal.
 - ii. The restaurant with entertainment may operate until 5:00 AM.
 - iii. The house sound system shall be installed and set in such a manner as to limit the acoustical output of the system and have password protected security on all controls at all times. 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. Additionally, the sound system will be adjusted and limited prior to Tatel's opening to ensure that no noise will penetrate these portions of the restaurant's perimeter. 30 day after opening, the sound systems in the facility shall be tested by a qualified acoustic professional, and a report shall be submitted to the Planning Department for review.
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- b. Delivery trucks shall only be permitted to park in the loading area inside the building located at the front of the building facing Lincoln Road. Delivery trucks shall not be permitted to block pedestrians on the sidewalk or vehicular traffic.
 - c. Delivery trucks shall not be allowed to idle in the loading dock.
 - d. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.
 - e. The applicant will utilize the hotel's existing hydraulic powered trash compactor system for both wet and dry trash.
 - f. The trash compactor system shall remain sealed while on-site with only one opening, and shall remain closed at all times except when in active use.
 - g. The trash compactor system shall be serviced at least twice per week.
 - h. All trash collection and deliveries shall only occur between 6:00 AM and 5:00 PM.
 - i. All dumpsters shall utilize rubber wheels, or the path for the trash containers shall consist of a surface finish that reduces noise, in a manner to be reviewed and approved by staff.
 - j. If the trash compactor is no longer utilized, 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. If the trash compactor is no longer utilized, 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. A high-level

trash/garbage compacting device shall be located in an air-conditioned trash/garbage holding room within the facility.

- l. If the trash compactor is no longer utilized, garbage dumpster covers shall be closed at all times except when in active use.
 - m. Restaurant personnel shall take measures to enforce the patron age restriction of the City Code during the hours of operation of all alcoholic beverage establishments.
 - n. No patrons shall be allowed to queue on public rights-of-way, or anywhere on the exterior premises of the subject property.
 - o. The owner/operator shall be responsible for maintaining the areas adjacent to the facility, including the sidewalk, and all areas around the perimeter of the property. These areas shall be kept free of trash, debris and odor, and shall be swept and hosed down at the end of each business day.
 - p. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
 - q. Special Events may occur on the premises, subject to City ordinances, rules or regulations existing at the time, and may exceed the hours of operation and occupancy loads specified herein, if permitted by the Fire Marshal, subject to the review and approval of staff.
7. The applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), if deemed necessary, by paying its fair share cost, as determined by the Transportation/Concurrency Management Division, prior to obtaining a Certificate of Occupancy or Business Tax Receipt, whichever may occur first, and any other fair share cost that may be due and owing. Without exception, all concurrency fees, mitigation fees and concurrency administrative costs shall be paid prior to the issuance of a Certificate of Occupancy or Business Tax Receipt.
8. The valet station on Collins Avenue shall provide parking for at least four (4) vehicles and sufficient valet runners shall be assigned to this facility in order to ensure that no queuing on Collins Avenue occurs at any time. Applicant shall present to the Board at the 90 Day progress report the numbers regarding the valet operation and staffing so the Board can determine the number of valet attendants required.
9. The applicant shall satisfy outstanding liens and past due City bills, if any, to the satisfaction of the City prior to the issuance of an occupational license to operate this entertainment establishment.
10. The applicant shall obtain a full building permit within 18 months from the date of the meeting, and the work shall proceed in accordance with the Florida Building Code. Extensions of time for good cause, not to exceed a total of one year for all extensions, may be granted by the Planning Board.

11. The Planning Board shall retain the right to call the owner or operator back before them and modify the hours of operation or the occupant load should there be valid complaints about loud, excessive, unnecessary, or unusual noise. Nothing in this provision shall be deemed to limit the right of the Planning Board to call back the owner or operator for other reasons and for other modifications of this Conditional Use Permit.
12. A violation of Chapter 46, Article IV, "Noise," of the Code of the City of Miami Beach, Florida (a/k/a "noise ordinance"), as may be amended from time to time, shall be deemed a violation of this Conditional Use Permit and subject to the remedies as described in section 118-194, Code of the City of Miami Beach, Florida.
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 applicant agrees and shall be required to provide access to areas subject to this CUP (not including private residences) for inspection by the City (i.e.: Planning, Code Compliance, Building Department, Fire Safety), to ensure compliance with the terms and conditions of this CUP.
16. The establishment and operation of this Conditional Use shall comply with all the aforementioned conditions of approval; non-compliance shall constitute a violation of the Code of the City of Miami Beach, Florida, and shall be subject to enforcement procedures set forth in Section 114-8 of said Code and such enforcement procedures as are otherwise available. Any failure by the applicant to comply with the conditions of this Order shall also constitute a basis for consideration by the Planning Board for a revocation of this Conditional Use.

Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code

Dated this _____ day of _____, 2021

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: _____

Rogelio Madan, AICP
Chief of Community Planning and Sustainability

STATE OF FLORIDA)

COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this _____ day of _____, _____, by Rogelio Madan, Chief of Community Planning and Sustainability of 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 _____, 2021