

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

PROPERTY: 743 Washington Avenue

FILE NO: 2053 (f.k.a. 1906)

IN RE: The application by 743 Washington Entertainment, LLC, requesting a Modification to an existing Conditional Use Permit, pursuant to Section 118-195 of the City Code for a Neighborhood Impact Establishment, to change the name of the operator, as required by Condition 2 of the CUP.

LEGAL

DESCRIPTION: Lot 14 Block 33 of OCEAN BEACH ADDITION #1, according to the plat thereof, recorded in Plat Book 3, Page 11 of the public records of Miami-Dade County, Florida.

MEETING DATE: February 28, 2012

MODIFIED CONDITIONAL USE PERMIT

The applicant, ~~Washington Entertainment, LLC~~, 743 Washington Entertainment, LLC, filed an application with the Planning Director to modify the Conditional Use Permit pursuant to Section 118-193 of the Land Development Regulations of the Code of the City of Miami Beach, Florida. Notice of the proposed modification 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 CD-2 Commercial, Medium Intensity Zoning District;

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

That the majority of surrounding uses are commercial and residential uses;

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 when the conditions of approval are in compliance;

That necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values if the following conditions are met.

IT IS THEREFORE ORDERED, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which is adopted herein, including the staff recommendations, that the modifications to the Conditional Use Permit be GRANTED, as provided below: Underlining = new language; ~~Strikethrough = deleted language~~.

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The applicant shall provide a progress report to the Board in 90 days after the Business Tax Receipt has been issued. 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 ~~Washington Entertainment, LLC~~ 743 Washington Entertainment, LLC as operator of this entertainment establishment. Subsequent owners and operators shall be required to appear before the Board to affirm their understanding of the conditions listed herein.
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. Security personnel shall take measures to enforce the Patron Age Restriction of the City Code during the hours of operation.
5. The hours of operation for this entertainment establishment ~~the restaurant/lounge~~ shall be as follows:
 - Monday - Wednesday: 10:30 AM to 5:00 AM
 - Thursday - Sunday: 5:00 PM to 5:00 AM
6. As shown on the plans, the existing double door vestibules shall be maintained at the main entrance of the establishment.
7. A revised floor plan that shows the seating arrangement shall be submitted to staff for review and approval prior to obtaining a building permit or Certificate of Completion, Certificate of Occupancy or Business Tax Receipt. In addition, as proffered by the applicant, security personnel shall be posted in close proximity to all doors, including the rear exit door.
8. The garbage holding room opening towards the alley shall be enclosed and air conditioned in order to contain malodorous garbage and to avoid any garbage escaping to the alley.

9. Prior to the issuance of a building permit, 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. A final concurrency determination shall be conducted prior to the issuance of a Certificate of Occupancy or Certificate of Completion. Mitigation fees and concurrency administrative costs shall be paid prior to the project receiving the Business Tax Receipt.
10. The applicant shall coordinate with the Parking Department and the Transportation Manager the location of valet drop-off/pick up and sufficient spaces for the queuing of vehicles waiting to be serviced by the valet operator.
11. Once the applicant enters into a contract with the valet operator, a valet staffing plan and a vehicle storage plan shall be submitted to staff for review and approval.
12. The applicant shall submit for staff review and approval specific noise attenuation measures inclusive of interior proofing prior to the issuance of a Business Tax Receipt.
13. Any window treatment that may be proposed shall be such that there is a clear view from the sidewalk in order to activate the area. Such treatments shall be included in the building permit plans and shall be reviewed and approved by staff.
14. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
15. Queuing of persons on the sidewalk shall be prohibited. Queuing shall take place within the premises, as shown in the plans submitted, and controlled by The Gates security personnel so that there is no spillover that could conflict with pedestrian flow in front of the subject establishment.
16. The applicant shall be responsible for maintaining the frontage and exterior of the building and the property in excellent condition, including keeping the sidewalk, curb and gutter in front and side of the building in a clean and sanitary condition, free of all refuse, at all times. When sweeping the sidewalk in front of the establishment, the personnel doing the sweeping shall ensure that they do not merely push the refuse in front of another building, but pick up all trash and dispose of it appropriately. In addition, at the end of business each day sidewalks shall be swept and hosed down.
17. The Planning Board shall retain the right to call the operators back before them and modify the hours of operation or the occupant load should there be issuance of written warnings and/or notices of violation about loud, excessive, unnecessary, or unusual late night noise.
18. A violation of Chapter 46, Article IV, "Noise," of the Code of the City of Miami Beach, Florida (a/k/a "noise ordinance"), as amended, 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.
19. The applicant shall resolve outstanding violations and fines, if any, prior to the issuance of a building permit.

20. ~~This Modified Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County at the expense of the applicant, prior to the issuance of a building permit, certificate of use or Business Tax Receipt, whichever occurs first. Within a reasonable time after applicant's receipt of this Modified Conditional Use Permit as signed and issued by the Planning Director, the applicant shall record it in the Public Records of Miami-Dade County at applicant's expense and then return the recorded instrument to the Planning Department. No building permit or certificate of completion shall be issued until this requirement has been satisfied.~~
21. 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.
22. 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 the 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.
23. 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 5th day of March, 2012

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: 

Richard G. Lorber, AICP, LEED AP
Acting Planning Director
FOR THE CHAIRMAN

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 5th day of MARCH, 2012, by Richard G. Lorber, AICP, LEED AP, Planning Director of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.



TERESA MARIA
MY COMMISSION # DD 928148
EXPIRES: December 2, 2013
Bonded Thru Budget Notary Services

Teresa Maria

Notary: _____
Print Name TERESA MARIA
Notary Public, State of Florida
My Commission Expires: 12-2-13
Commission Number: DD928148

{NOTARIAL SEAL}

Approved As To Form:
Legal Department *(g/leed/3-2-12)*