

MIAMI BEACH  
PLANNING DEPARTMENT  
Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: July 27, 2021

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: **PB21-0443, a.k.a. PB File No. 2035. 1211 Marseille Drive.**

An application has been filed requesting modifications to a previously issued conditional use permit for a day care center. Specifically, the applicant is requesting modifications to the ownership/operator, pursuant to Chapter 118, Article IV and Chapter 142, Article II of the City Code.

**RECOMMENDATION**

Approval with conditions.

**BACKGROUND/HISTORY**

- April 24, 2007* Approval of a Conditional Use Permit (CUP) to operate a Charter Middle School.
- September 23, 2008* Approval of a Modification to the previously approved CUP to authorize River Cities Schools to sublease space in the facilities of the charter school for 2008-2009 academic years.
- April 27, 2010* Approval of a Modification to the previously approved CUP to operate a charter school from kindergarten to 5<sup>th</sup> Grade.
- October 25, 2011* Approval of a new Conditional Use Permit (CUP) to operate a day care center for approximately 214 children on the site of a previously approved Charter School, which is no longer operating.

**STAFF ANALYSIS**

The applicant is requesting a modification to the existing Conditional Use Permit (CUP) in order to change the name of the owner/operator. The business will now be owned and operated by Miami Hebrew Activity Center, LLC. The current owner and operator is Kids Choice Learning Center. Besides the name change, there is no anticipated change in operation.

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

3. This Modified Conditional Use Permit is issued to ~~Kids Choice Learning Center~~ Miami Hebrew Activity Center, LLC. Any change of management or ownership shall require review 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 and to obtain a Modification to this Conditional Use Permit.

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

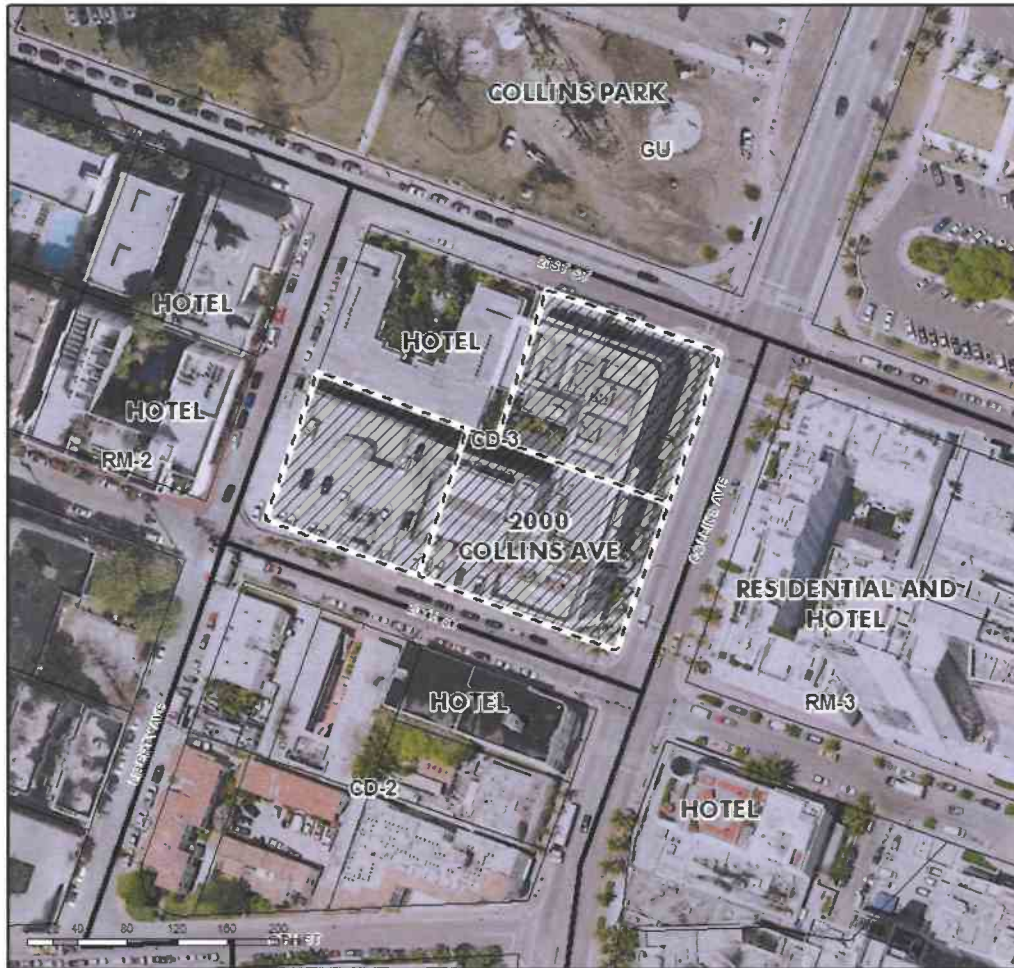
- A. That the requirement for change of ownership be modified to require that *any change of operator or 50% (fifty percent) or more stock ownership shall require the new operator or owner to submit an affidavit, approved by City, to the City of Miami Beach Planning Department, transferring approval to the new operator or 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 and acceptance 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.

These proposed new conditions have been incorporated into a revised MCUP (see attached). The rest of the conditions 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



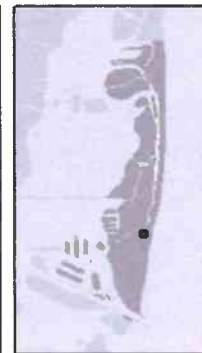
City of Miami Beach Planning Board  
File No. 2277  
2038 Collins Avenue (202-218 21st Street)



The applicant, Bagatelle Miami, LLC, is requesting Conditional Use approval for an entertainment establishment, pursuant to the requirements of the Master Conditional Use Permit for the property (PB File No. 1609) which requires that any additional entertainment establishment be reviewed by the Planning Board, regardless of occupant load, and pursuant Section 118, Article IV and Section 142, Article V.

**MIAMI BEACH**  
PLANNING DEPARTMENT

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

**PROPERTY:** 1211 Marseille Drive

**FILE NO.** 2035

**IN RE:** The Application by Kids Choice Learning Center requesting Conditional Use approval to operate a day care center approximately 214 children, on the site of a previously approved Charter School which is no longer operating.

**LEGAL DESCRIPTION:** Lots 7b and 7c Block 8 of "Second Revised Plat of Portions of Ocean Side Section and Trouville Section of Isle of Normandy", according to the plat thereof, as recorded in PB 40, page 35 of the public records of Miami-Dade County, Florida

**MEETING DATE:** ~~October 25, 2014~~ July 27, 2021

**CONDITIONAL USE PERMIT**

The applicant, Kids Choice Learning Center, is requesting a 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 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 RM-1 Residential Multifamily Low 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 Land Development Regulations;

That the public health, safety, morals, and general welfare will not be adversely affected if the applicant complies with the conditions stated herein;

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 the modification to the previously approved 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 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 Modified Conditional Use Permit is issued to ~~Kids Choice Learning Center~~ Miami Hebrew Activity Center, LLC. Any change of management or ownership shall require review 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 and to obtain a Modification to this Conditional Use Permit. Any change of operator or 50% (fifty percent) or more stock ownership shall require the new operator or owner to submit an affidavit, approved by City, to the City of Miami Beach Planning Department, transferring approval to the new operator or 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 and acceptance of the affidavit.~~
3. The applicant shall receive all necessary approvals and licenses from all pertinent local, regional and state government agencies for this facility prior to the issuance of a Modified Certificate of Use or Business Tax Receipt whichever may apply.
4. The applicant shall comply with all the licensing requirements of the State of Florida, Miami-Dade County, and the City of Miami Beach including approval by the Miami Beach Fire Department prior to the issuance of a Modified Certificate of Use or Business Tax Receipt, whichever occurs first may apply.
5. The maximum number of students in the facility shall be limited to 214 or any lesser number that may be approved as an occupant load by the Chief Fire Marshall or by DCF, whichever is less. A request for a substantial increase in the number of students shall be subject to approval by the Planning Board as a modification of this Conditional Permit. For the purpose of this condition, the term "substantial increase" shall be deemed to be 10 or more additional children.
6. The hours of operation of the day care facility shall be as requested by the applicant, from 6:30 AM to 6:30 PM, except for the administrative staff who may work later as needed, and in cases of emergency.
7. Any exterior business identification signs shall be submitted to staff for review and approval prior to approval of a Certificate of Use/Business Tax Receipt.

8. Any exterior modifications shall be submitted for design review and approval by staff under separate application.
9. The front yard shall not be used for recreational use; rather, it should remain as green space.
10. The applicant shall obtain a full building permit, if applicable, within 18 months from the date of the meeting, and work 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, provided a request in writing is submitted to the Planning Director in advance of the expiration of the original approval. In the event a proposed Code amendment renders a project with a Conditional Use approval non-conforming, as more specifically set forth in sections 118-168 and 118-169 of the City Code, then such a project shall not be eligible to receive an extension of time for any reason.
11. The existing parking spaces on site shall be clearly marked "Staff Only." Access to the "Staff Only" parking spaces in front of the facility shall only be before 8:00 AM and after 6:30 PM to avoid conflict with arrival and departure times.
12. The applicant shall ensure that staff supervision shall be provided particularly at the beginning and the end of the school day to control traffic congestion. The drop-off/pick-up area shall be parallel to the front of the school. Administrative staff shall ensure that vehicles dropping off or picking up students do not try to access the staff parking spaces as a precaution for the general safety and welfare of the students.
13. School staff shall also ensure that children and parent behavior (noise or loitering) does not become a nuisance to residents in the area.
14. The applicant shall be responsible for maintaining the areas adjacent to the facility, such as the sidewalk and the areas of the street adjacent to and around the property on Marseille Drive and in the rear of the property along the canal.
15. The applicant shall install and maintain a plant hedge and ground cover materials along the existing five foot fence vertical picket fence in the rear of the property, as proffered, to provide an additional physical buffer for the additional safety and security of the children.
16. 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.
17. The applicant shall satisfy outstanding liens and past due City bills, if any, to the satisfaction of the City prior to the issuance of a Certificate of Use.
18. Within a reasonable time after receipt of this Modified Conditional Use Permit, as signed and issued by the Planning Director, it shall be recorded in the Public Records of Miami-Dade County at the expense of the applicant and return it to the Planning Department. No building permit, certificate of use, certificate of occupancy, certificate of completion or business tax



receipt, as applicable, shall be issued until this requirement has been satisfied.

- 19. 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.
- 20. 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.
- 21. 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.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

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 \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by Richard G Lorber, AICP, LEED AP Acting Planning Director of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

\_\_\_\_\_  
Notary:  
Print Name  
Notary Public, State of Florida  
My Commission Expires:

{NOTARIAL SEAL}

Commission Number:

Approved As To Form:  
Legal Department ( )

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