

**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: **PB21-0442 , a.k.a. PB File No. 2053, a.k.a. PB File No. 1906. 743 Washington Avenue.**

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**

- December 16, 2008* Approval of a Conditional Use Permit (CUP) for Buddha Lounge d/b/a The Gates for a neighborhood impact establishment consisting of a restaurant and a bar/lounge with a double door vestibule and a retail component at the front entrance.
- May 26, 2009* Approval of a Modification to the previously approved CUP eliminating Buddha Lounge d/b/a The Gates, and replacing Scott Robins as President of 8<sup>th</sup> Street Washington Holdings, Inc. as the operator of the neighborhood impact establishment as previously approved.
- August 23, 2011* Approval of a Modification to the previously approved CUP to operate only as an entertainment establishment without food service, rather than as a restaurant and bar/lounge; and to change the name of the operator from Washington Holdings Inc. to Washington Entertainment, LLC.
- February 28, 2012* Approval of a Modification to the previously approved CUP (attached with the application) to change the name of the operator from "Washington Entertainment, LLC 743" to "Washington Entertainment, LLC."

**STAFF ANALYSIS**

The applicant is requesting a modification to the existing Conditional Use Permit (CUP) in order to change the name of the operator. The business will now be owned and operated by Mansourandco, LLC. The current owner and operator is 743 Washington Entertainment, LLC. Besides the name change, there is no anticipated change in operation. A similar request was recently approved by the Board of Adjustment (BOA) for a change of operator. Specifically, this was for a variance to reduce

the distance separation requirement between dance hall/entertainment establishments licensed to sell alcoholic beverages not operating as a restaurant (ZBA21-0128).

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

2. This Conditional Use Permit is issued to ~~743 Washington Entertainment, LLC~~ Mansourandco, 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.

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

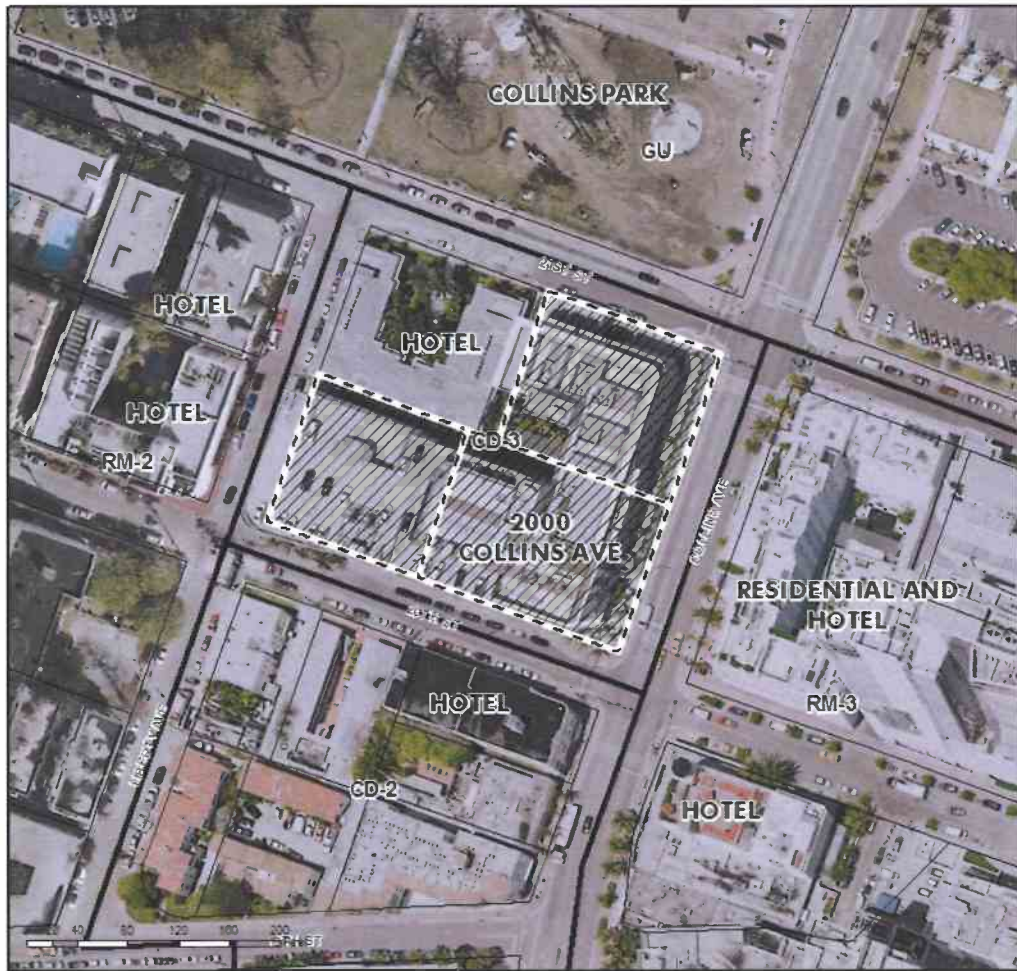
- A. That the requirement for change of ownership be modified to require that *any change of operator or 50% (fifty percent) or more stock ownership shall require the new operator or owner to submit an affidavit, approved by City, to the City of Miami Beach Planning Department, transferring approval 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:** 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~~ July 27, 2021

**MODIFIED CONDITIONAL USE PERMIT**

The applicant, 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 ~~743 Washington Entertainment, LLC~~ Mansourandco, 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. 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 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 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. 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.
24. 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 \_\_\_\_\_

PLANNING BOARD OF THE  
CITY OF MIAMI BEACH, FLORIDA

BY: \_\_\_\_\_  
Rogelio Madan, AICP  
Chief of Chief of Community Planning & Sustainability  
FOR THE CHAIRMAN

STATE OF FLORIDA        )

COUNTY OF MIAMI-DADE )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by Rogelio Madan, Chief of Community Planning & Sustainability for the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

[NOTARIAL SEAL]

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

Approved As To Form:  
Legal Department \_\_\_\_\_ ( )

Filed with the Clerk of the Planning Board on \_\_\_\_\_ ( )