

# MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, [www.miamibeachfl.gov](http://www.miamibeachfl.gov)

PLANNING DEPARTMENT  
Tel: 305-673-7550 Fax: 305-673-7559

May 25, 2021

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

Washington Squared Owner, LLC,  
601- 685 Washington Avenue  
Miami Beach, FL 33139

Re: PB 06-0075, a.k.a. PB 0616-0031, f.k.a., PB File No. 2320.

Dear Sir/Madam:

A Conditional Use Permit (CUP) to operate was issued to Washington Squared Owner, LLC, on January 24, 2017 (see attached). It has come to the Planning Department's attention that written warnings and violations have been issued by the Code Compliance Department regarding the operation of the venue.

These violations include, but are not limited to, noise violations that are still pending as of the date of this letter:

- 05/22/2021 – **NC2021-20281** Written Warning Issued - Inspection of the above premises this date has revealed that you are in violation of Section 46-152 of the Code of the City of Miami Beach by making, continuing, or causing to be made or continued any unreasonably loud, excessive, unnecessary or unusual noise.
- 05/22/2021 **CUP2021-00031** Violation of the CUP - Sections 142-153, 118-194, 114-8: Failure to operate your business in accordance with your conditional use permit.

*Notes indicate that upon arrival, CCO Ramirez and myself walked over to the eastern edge of the Arcadia Building located at 650 Pennsylvania Avenue and stood underneath the balcony. We could still plainly hear the music being played from the pool deck of the building at 601 Washington Avenue. We met with Nick, one of the managers, at the eastern edge of the Arcadia building and explained the violation. The music was not lowered.*

In addition to the items listed above, there were three other noise complaints made in the same timeframe.

The following conditions of approval contained in the Conditional Use Permit are applicable to the above noted violations and warnings:

2. 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 business tax receipt (BTR) for any of the proposed outdoor entertainment venue.

When BTR's are issued for at least 75% of the building area, but no later than one (1) year from the issuance of the BTR for the proposed hotel use, the applicant shall appear before the Planning Board for a progress report specific to traffic, including providing a full revised traffic study outlining the actual transportation operations on-site and in the surrounding initial study area, and including valet operations and loading/servicing of the building.

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).

4. The Planning Board shall retain the right to call the owner or operator back before them and make modifications to this Conditional Use Permit 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.
  
10. The Applicant agrees to the following operational conditions for all permitted and accessory uses 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 lounge, café, restaurant, café cart, and two (2) outdoor courtyard areas located on the roof of the second floor (3<sup>rd</sup> level) with the criteria listed below:
    - i. The food and beverage areas of the hotel covered in the CUP shall have a maximum occupant content of approximately 1200 persons or any lesser such occupant content as determined by the Fire Marshal.
    - ii. The indoor portions of the project may operate until 5:00 AM and shall be permitted to have a DJ or music, whether live or recorded, whether amplified or non-amplified, which is played at a volume that is louder than ambient background music (defined as a sound level that does not interfere with normal conversation), seven (7) days per week, from 11:00 AM to 5:00 AM.
    - iii. All outdoor areas of the venue(s) may operate until 1:00 AM and shall be permitted to have a DJ or music whether live or recorded, whether amplified or non-amplified, which is played at a volume that is louder than ambient background music (defined as a sound level that does not interfere with normal conversation), as follows seven (7) days per week:

<u>Times</u>	<u>Type of Permitted Music</u>	<u>DJ Permitted</u>
<u>9:00 AM to 11:00 AM</u>	<u>Ambient Only</u>	<u>Yes, Ambient Only</u>
<u>11:00 AM to 8:00 PM</u>	<u>Ambient Or Entertainment</u>	<u>Yes, Ambient Or Entertainment</u>
<u>8:00 PM to 1:00 AM</u>	<u>Ambient Only</u>	<u>Yes, Ambient Only</u>
<u>1:00 AM to 9:00 AM</u>	<u>None</u>	<u>No</u>

- iv. 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 in accordance with the design intent and recommendations of the sound system study submitted as part of this application. 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 the Business Tax Receipt (BTR), the sound system shall be tested under the supervision of a qualified acoustical professional and the City's sound study peer reviewer, to ensure that all aspects of the system's performance comply with the design intent and recommendations of the sound system study submitted as part of this application. This shall include the requirement that noise from the sound system shall not be plainly audible at the western balconies of the Arcadia House Condominium located at the southwest corner of 7th Street and Washington Avenue. A final report issued by such acoustical consultant shall be submitted to staff prior to the issuance of a BTR.
- v. Additionally, 60 days after the issuance of a BTR , 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 demonstrating that the system's performance still complies with the design intent and recommendations of the sound system study submitted as part of this application.

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.

It is important to note that the above noted violations and noise complaints (total of 5) were issued or made over a short period of time (5/22/2021 to 5/23/2021) and occurred the day after a sound test at the site was performed, with both the operator and City staff present. These violations and noise complaints exhibit repeated and intermittent noncompliance with the conditions of this CUP and underscore a serious concern about further repeated or intermittent noncompliance with the conditions of the CUP.

Therefore, in light of the inconsistencies with the aforementioned conditions of approval contained in the CUP, the repeated and intermittent noncompliance with the conditions of this CUP, and the pending code violations, **you are requested to appear at the June 22, 2021 Planning Board hearing** for a verbal progress report. Please be advised that at the time of the progress report, in accordance with the provisions of City Code Section 118-194(3), the Planning Board may consider setting a public hearing for the purpose of examining the noncompliance issues and initiate modification/revocation proceedings.

Should the Planning Board consider setting a public hearing for the purpose of examining the noncompliance issues noted herein, and initiate modification/revocation proceedings, this matter may be placed on the July 27, 2021 agenda meeting of the Board as a modification/revocation hearing. If a future public hearing is set, the board may consider the issue of noncompliance and the possible modification or revocation of the approval. Based on substantial competent evidence, the board may consider revoking the approval, modifying the conditions thereof, or imposing additional or supplemental conditions.

If you have any questions, please do not hesitate to contact Mr. Rogelio Madan at (305) 673-7000 ext. 26131 or via email at [rogeliomadan@miamibeachfl.gov](mailto:rogeliomadan@miamibeachfl.gov).

Sincerely,



Thomas R. Mooney, AICP  
Planning Director

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