

PLANNING BOARD CITY OF MIAMI BEACH, FLORIDA

PROPERTY: 1600 Alton Road -- Outdoor theater

FILE NO. PB20-0377

IN RE: A conditional use permit for an Open Air Entertainment Establishment, an Outdoor Entertainment Establishment and a Neighborhood Impact Establishment, with an aggregate occupant content in excess of 200 persons, pursuant to Chapter 118, Article IV and Chapter 142, Article V of the City Code.

LEGAL DESCRIPTION: Parcel 1: LOTS 1 AND 2, BLOCK 45, OF COMMERCIAL SUBDIVISION, ALTON BEACH REALTY COMPANY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 6, PAGE 5, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY FLORIDA.

Parcel 2: LOTS 3, 4, 5, AND 7, BLOCK 45, OF COMMERCIAL SUBDIVISION, ALTON BEACH REALTY COMPANY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 6, PAGE 5, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY FLORIDA.

Parcel 3: LOT 6, BLOCK 45, OF COMMERCIAL SUBDIVISION, ALTON BEACH REALTY COMPANY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 6, PAGE 5, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY FLORIDA.

MEETING DATE: December 14, 2020

CONDITIONAL USE PERMIT

The applicant, ARRP 1600 Alton, LLC and 1212 Lincoln, LLC, requested approval for a Conditional Use Permit, pursuant to Chapter 118, Articles IV and V, and an Open Air Entertainment Establishment, an Outdoor Entertainment Establishment and a Neighborhood Impact Establishment, with an aggregate occupant content in excess of 200 persons, pursuant to Chapter 118, Article IV and Chapter 142, Article V. 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 of the record for this matter:

That the property in question is located in the CD-2 Commercial, Medium Intensity District zoning district; and

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

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; and

That structures and uses associated with the request are consistent with the Land Development Regulations; and

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

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 recommendations, as approved by the Planning Board, and accepted by the applicant, that a Conditional Use Permit as requested and set forth above be GRANTED, subject to the following conditions:

1. This Conditional Use Permit is issued to ARRP 1600 Alton, LLC and 1212 Lincoln, LLC, as owner/operator of the subject Outdoor Motion Picture Theater with an Open Air Entertainment Establishment, an Outdoor Entertainment Establishment and a Neighborhood Impact Establishment, with an aggregate occupant content in excess of 200 persons. Any change of operator or fifty percent (50%) or more stock ownership shall require the new owners or operators to submit an affidavit, approved by City, to the City of Miami Beach Planning Department transferring approval to the new owners and/or operators and acknowledging acceptance of all conditions established herein, prior to the issuance of a new Business Tax Receipt.
2. The Board hereby imposes and the Applicant agrees to the following operational conditions for all permitted and accessory uses, and the applicant 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. The outdoor motion picture theater use shall front on Alton Road.
 - b. No television, radio, and/or recorded background music may exceed an ambient volume level (i.e. a volume that does not interfere with normal conversation).
 - c. Audio from motion picture presentations shall only be delivered to patrons through individually worn headphones.
 - d. Movie projectors and related equipment, as well as all theater screens or displays, shall be oriented away from immediately neighboring residential areas, and

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- projections may not be substantially visible from the right-of-way. The projection system shall be designed so as not to negatively impact adjacent residential areas.
- e. Outdoor motion picture theaters shall be limited to no more than one (1) screen or display per establishment.
 - f. Outdoor motion picture theater operations shall commence no earlier than 4:30 p.m. and shall cease operations no later than 12:00 a.m. on Sunday through Thursday, and no later than 1:00 a.m. on Friday and Saturday.
 - g. The accessory bar counter shall commence operations no earlier than 4:30 p.m., and shall cease operations no later than 11:00 p.m. on Sunday through Thursday, and no later than 12:00 a.m. on Friday and Saturday.
 - h. The accessory bar counter may be open and operational only during times when the theater use is operational.
 - i. The outdoor motion picture theater shall have no more than three (3) movie showings per night.
 - j. Any outdoor bar counter shall be located away from immediately neighboring residential areas and shall not be substantially visible from the right-of-way.
 - k. The area surrounding any bar counter in which alcoholic beverages may be served shall be segregated to comply with the applicable requirements of chapter 6 of this Code.
 - l. A four-foot (4') glass parapet extension shall be provided on the western edge of the use, in a manner to be reviewed and approved by the Planning Department.
 - m. Theater seats shall be required at all times and shall not be removed from the movie viewing areas during all times the business is open. This shall not preclude the temporary removal of seats for cleaning and maintenance purposes.
 - n. Patrons shall not be allowed to queue on any public rights-of-way or on the exterior of the premises. Staff shall monitor any crowds to ensure that they do not interfere with the free flow of pedestrians on the public sidewalk.
3. The Planning Board shall retain the right to call the owner or operator, both now and in the future, back before the Board and modify this Conditional Use Permit, including the hours of operation and/or the occupant load of the restaurant, as well as modifications to the parking operations, should there be valid complaints or violations (as determined by Code Compliance) about valet operations and loud, excessive, unnecessary, or unusual noise.
4. The applicant shall address the following Transportation, Mobility, Concurrency and Parking requirements, as applicable:
- a. A Method of Transportation (MOT) shall be submitted to Public Works Department staff for review and approval prior to the issuance of a building permit. The MOT shall address any traffic flow disruption due to construction activity on the site.

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- b. The applicant shall pay all impact, mobility, and concurrency fees due prior to obtaining a Building Permit, Certificate of Occupancy, or Business Tax Receipt, whichever may occur first, and any other fair share cost that may be due and owing.
 - c. Prior to the issuance of a Building Permit, calculations for required parking for the project shall be determined by the Planning Department. A final determination for the required parking shall be conducted prior to the issuance of a Certificate of Occupancy or Business Tax Receipt, whichever comes first. If required, a one-time fee in lieu of providing the required parking on site, as determined by staff, shall be paid prior to the issuance of the Certificate of Occupancy.
5. 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.
6. 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 for outdoor theater. Details of noise, light, and other impacts shall be submitted for review as part of this progress report. 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).
7. 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.
8. 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.
9. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application.
10. 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.
11. 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.
12. 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

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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.

13. 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.
14. The applicant agrees and shall be required to provide access to areas subject to this Conditional Use Permit (not private residences or hotel rooms) for inspection by the City (i.e. Planning Department, Code Compliance Department, Building Department, and Fire Department staff), to ensure compliance with the terms and conditions of this Conditional Use Permit. Failure to provide access may result in revocation of the Conditional Use Permit.

Dated

4/5/2021

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY:

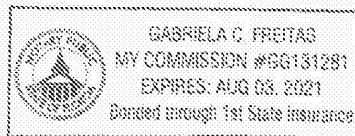
Rogelio A. Madan, AICP
Chief of Planning and Zoning
for Chairman

STATE OF FLORIDA)

COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 5th day of April, 2021, by Rogelio A. 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: Aug. 3, 2021Commission Number: 99131281

Approved As To Form:
Legal Department

Digitally signed by:

[Signature]
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(4/5/21)

Filed with the Clerk of the Planning Board on Joan Julia (4/5/21)