

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

**PROPERTY:** 1671 Collins Avenue

**FILE NO.** PB21-0457

**IN RE:** An application for a Conditional Use Permit for a Neighborhood Impact Establishment with entertainment, including open air entertainment and outdoor entertainment, and an occupant content exceeding 300 persons. Specifically, the applicant is requesting the introduction of Entertainment on the interior and exterior of the hotel, pursuant to Chapter 118, Article IV and Chapter 142, Article V of the City Code.

**LEGAL DESCRIPTION:** All of Lot 6 and Lot 15 and the North 25.00 feet of Lot 5 and Lot 16, Block 29, FISHER'S FIRST SUBDIVISION OF ALTON BEACH, according to the plat thereof, as recorded in Plat Book 2 at Page 77 of the Public Records of Miami-Dade County, Florida.

**MEETING DATE:** January 25, 2022

### **CONDITIONAL USE PERMIT**

The applicant, EBJ Sagamore LLC, requested a Conditional Use Permit for a Neighborhood Impact Establishment with entertainment, including open air entertainment and outdoor entertainment, and an occupant content exceeding 300 persons. Specifically, the applicant is requesting the introduction of Entertainment on the interior and exterior of the hotel, pursuant to Chapter 118, Article IV and Chapter 142, Article V of the City Code. 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 RM-3 Residential Multifamily, High Intensity District zoning district; and

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

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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 EBJ Sagamore LLC, as owner/operator of the Sagamore Hotel for a Neighborhood Impact Establishment with entertainment, including open air entertainment and outdoor entertainment, and an occupant content exceeding 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 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 operation of a Neighborhood Impact Establishment with Indoor, Outdoor, and Open Air Entertainment subject to the criteria listed below:
    - i. Entertainment shall cease by 2:00 AM each night on Thursday through Sunday and legal holidays; otherwise, entertainment shall cease by midnight. Entertainment shall commence no earlier than 10:00 AM.
    - ii. Up to 12 seats may be located in the indoor lounge, as proposed. The occupancy load for the indoor lounge shall not exceed 56 persons, as identified by the applicant, or such lesser number as determined by the Fire Marshal.
    - iii. Up to 100 seats may be located in the indoor restaurant, as proposed. The occupancy load for the indoor restaurant shall not exceed 108 persons, as identified by the applicant, or such lesser number as determined by the Fire Marshal.
    - iv. Up to 30 seats may be located in the outdoor restaurant, as proposed. The occupancy load of the outdoor restaurant shall not exceed 37 persons, as

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proposed by the applicant or such lesser number as determined by the Fire Marshal.

- v. Up to 292 seats may be located in the “new exterior venue,” as proposed. The occupancy load of the outdoor restaurant shall not exceed 582 persons, as proposed by the applicant or such lesser number as determined by the Fire Marshal.
- vi. Entertainment shall be permitted in the outdoor areas subject to the following regulations:
  - a) Only the Applicant's speakers approved under this Conditional Use Permit shall be used. All performers, including, but not limited to, DJs, shall be required to connect to the Applicant's house sound system. The Applicant shall be required to inform all guest DJs and performers as to the requirements of this Conditional Use Permit.
  - b) 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 and the conclusions of the City's peer review.
  - c) At all times when any operations approved under this Conditional Use Permit are open, the Applicant shall continuously maintain a Manager on Duty (or equivalent) (“Manager on Duty”), on premises, to oversee the operations. Passwords for sound systems shall be provided only to the Manager on Duty. Only the Manager on Duty shall have access to house sound system maximum audio level controls. Only the Manager on Duty is authorized to allow access by verified installers, programmers, and repair personnel to the full complement of the Outdoor Speaker System's controls and adjustments, ensuring compliance with the sound and noise requirements, restrictions, and limitations in this Conditional Use Permit.
  - d) Sound from the entertainment establishment shall not be plainly audible from the western right of way line of Collins Avenue and from the northern right of way line of Lincoln Road.
  - e) Before the issuance of a certificate of use, a field visit with the Applicant and Planning staff shall be required to verify the sound system operations. The Applicant shall use its best efforts to coordinate the participation of the Decoplage Condominium Association in the field visit.
  - f) A progress report regarding the outdoor entertainment shall be scheduled 60 days from the issuance of a business tax receipt (BTR) for outdoor entertainment.
- vii. Full meals shall be available during all hours that entertainment is occurring.
- viii. Speakers may not be installed within twenty (20) feet of the main entrance,

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within the interior of the building.

- ix. 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. 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. Before entertainment is approved and added to the Business Tax Receipt (BTR), a field visit with the applicant's sound engineer and Planning staff shall verify that the volume limits on the sound system are set at a level that is not audible from the edges of the property that abut residential properties.
  - b. Deliveries may only occur between 8:00 AM and 4:00 PM each day.
  - c. Delivery trucks shall not be allowed to idle in the loading zones.
  - d. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.
  - e. Trash collections may occur daily between 8:00 AM and 4:00 PM.
  - f. Garbage dumpster covers shall be closed at all times except when in active use.
  - g. Exterior speakers for fire and life safety purposes, and for background music played at a volume that does not interfere with normal conversation (i.e. at an "ambient" volume level) may be permitted.
  - h. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
  - i. As proposed by the applicant, three (3) security guards shall be posted onsite during hours in which entertainment is taking place. Security staff shall monitor patron circulation and occupancy levels in order to control crowds according to occupant loads.
  - j. Patrons shall not be allowed to queue on any public rights-of-way or the exterior premises. Security staff shall monitor the crowds to ensure that they do not interfere with the free-flow of pedestrians on the public sidewalk.
  - k. The Operator shall be responsible for maintaining the areas adjacent to the facility, such as the sidewalks, curb and gutter, and around the perimeter of the property in excellent condition, keeping these areas in a clean condition, free of all refuse, at all times.
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.

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4. The applicant shall address the following Transportation, Mobility, Concurrency and Parking requirements, as applicable:
  - a. 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.
  - b. 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.
  - c. The developer shall coordinate with the Transportation Department to develop an acceptable Transportation Demand Management (TDM) Plan, prior to the issuance of a building permit.
  - d. A final concurrency determination shall be conducted prior to the issuance of a Building Permit. Mitigation fees and concurrency administrative costs, if required, shall be paid prior to the issuance of any Building Permit.
  - e. 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.
  - f. An updated Traffic Plan shall be submitted to the Planning Department and Transportation Department for review and approval prior to the issuance of a certificate of use (CU).
  - g. A progress report regarding valet operations shall be scheduled 60 days from the commencement of operations.
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 the expanded use of the rooftop. 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.

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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 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.

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3/29/2022 | 5:54 PM EDT

Dated \_\_\_\_\_

PLANNING BOARD OF THE  
CITY OF MIAMI BEACH, FLORIDA

DocuSigned by:  
Rogelio Madan  
BY: \_\_\_\_\_  
Rogelio A. Madan, AICP  
Chief of Community Planning and Sustainability  
for Chairman

STATE

OF

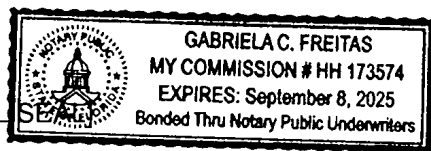
FLORIDA

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COUNTY OF MIAMI-DADE )

The foregoing instrument was acknowledged before me this 29<sup>th</sup> day of March, 2022, by Rogelio A. Madan, Chief of Community Planning and Sustainability for the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

[NOTARIAL



Notary:

Print Name: Gabriela C. Freitas  
Notary Public, State of FloridaMy Commission Expires: Sept. 8, 2025  
Commission Number: HH 173574Approved As To Form:  
Legal Department \_\_\_\_\_

( 3/29/2022 | 5:52 PM EDT

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

DocuSigned by:

Jessica Gonzalez

( 3/30/2022 | 9:18 AM EDT

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