

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: September 20, 2022

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB22-0518. 818 Lincoln Road. Oro & Elixir restaurant.**

An application has been filed requesting a conditional use permit for a Neighborhood Impact Establishment with entertainment, outdoor entertainment, and open-air entertainment. pursuant to Chapter 118, Article IV and Chapter 142, Article V of the City Code.

RECOMMENDATION

Approval with conditions.

BACKGROUND/HISTORY

January 13, 2015 The Historic Preservation Board (HPB) reviewed and approved a Certificate of Appropriateness (COA) for the demolition of the previously existing Non-Contributing building and the construction of a new 3-story commercial building (HPB File No. 7497).

March 10, 2015 The HPB reviewed and approved modifications to the previously issued CUP, including a variance to waive all off-street loading spaces and a variance to waive the minimum required rear setback (HPB File No. 7497).

August 9, 2016 The HPB granted a one (1) year extension to the previously approved COA and variance (HPB0616-0035).

September 13, 2021 The HPB reviewed and approved a COA for the installation of a retractable canopy structure at the 2nd level roof deck (File No. HPB21-0469).

ZONING/SITE DATA

Legal Description:

Lots 9, Block 49 of "Lincoln Subdivision", according to the plat thereof recorded in Plat Book 9, Page 69 of the public records of Miami Dade County, Florida.

Zoning District:

CD-3, Commercial high intensity

Future Land Use Designation:

CD-3, Commercial high intensity

Surrounding Uses:

North: Retail and restaurant uses

| | |
|--------|--|
| | (Lincoln Road) |
| West: | Retail and restaurant uses |
| South: | Residential and parking lot uses (Lincoln Lane South) |
| East: | Retail and restaurant uses |

(See Zoning/Site map at the end of the report)

THE PROJECT

The applicant, Golden Era Hospitality Group, LLC, has submitted plans entitled “ORO RESTAURANT ELIXIR LOUNGE”, as prepared by Studio Drew Tucker, dated July 25, 2022. The applicant is requesting approval a Neighborhood Impact Establishment (NIE) with entertainment, outdoor entertainment, and open-air entertainment.

Per the submitted plans, the applicant is proposing a 399-seat restaurant/lounge with an occupant content of 592 persons. The establishment will occupy the second and third floors of an existing commercial building located at 818 Lincoln Road. Access to the establishment will be from an entrance lobby fronting Lincoln Road. The second floor will be known as the “Oro Venue” and the third floor will be known as the “Elixir Venue”.

COMPLIANCE WITH CONDITIONAL USE REVIEW GUIDELINES:

Conditional Uses may be approved in accordance with the procedures and standards set forth in the City Code Art. 4, Sec. 118-191 and Sec. 118-192:

- 1. The Use is consistent with the Comprehensive Plan or Neighborhood Plan if one exists for the area in which the property is located.**

Consistent – The request is consistent with the Comprehensive Plan.

- 2. The intended Use or construction would not result in an impact that would exceed the thresholds for the levels of service as set forth in the Comprehensive Plan**

Consistent – The proposal should not result in an impact that would exceed the thresholds for the levels of service as set forth in the Comprehensive Plan.

- 3. Structures and uses associated with the request are consistent with these Land Development Regulations.**

Consistent – Neighborhood Impact Establishments, Outdoor and open-air Entertainment are permitted as conditional uses in the (CD-3) Zoning District. These comments shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Planning Department prior to the issuance of a Business Tax Receipt (BTR).

- 4. Public health, safety, morals and general welfare would not be adversely affected.**

Consistent – The proposed establishment may adversely affect the general welfare of nearby residents if noise and other issues are not controlled. The facility would have to comply with all applicable laws and regulations for licensure.

5. Adequate off-street parking facilities would be provided.

Consistent – The project does not have any off-street parking requirements, but operationally the applicant provides valet parking services through the valet station currently placed on the west side of Meridian Avenue.

6. Necessary safeguards would be provided for the protection of surrounding property, persons, and neighborhood values.

Consistent – Staff is recommending conditions to mitigate any adverse impacts from noise and other issues on the surrounding neighbors.

7. The concentration of similar types of uses would not create a negative impact on the surrounding neighborhood. Geographic concentration of similar types of conditional uses should be discouraged.

Partially Consistent – There are two Neighborhood Impact Establishment (NIE) with entertainment in the area; one at 723 North Lincoln Lane (The Lincoln Eatery) and the other at 800 Lincoln Road (MILA). Staff does not anticipate a negative impact on the surrounding area but is recommending conditions to mitigate any adverse impacts.

NEIGHBORHOOD IMPACT ESTABLISHMENT REVIEW GUIDELINES

In accordance with Sec. 142-1362 of the Miami Beach City Code, in reviewing an application for an outdoor entertainment establishment, open air entertainment establishment or a neighborhood impact establishment, the Planning Board shall apply the following supplemental review guidelines criteria in addition to the standard review guidelines for conditional uses pursuant to chapter 118, article IV:

1. An operational/business plan which addresses hours of operation, number of employees, menu items, goals of business, and other operational characteristics pertinent to the application.

The letter of intent (LOI) and the operations plan submitted with the application details the proposed operation of the venue. Also, see analysis in this report.

2. A parking plan which fully describes where and how the parking is to be provided and utilized, e.g., valet, self-park, shared parking, after-hour metered spaces and the manner in which it is to be managed.

The project is located in Parking District No. 2, it does not have any off-street parking requirements, but operationally the applicant provides valet parking services through the valet station currently placed on the west side of Meridian Avenue. The applicant indicates

that a text-to-order system will be in place to minimize the congregation of patrons outside of the establishment.

- 3. An indoor/outdoor crowd control plan which addresses how large groups of people waiting to gain entry into the establishment, or already on the premises would be controlled.**

The LOI states that the restaurant access will be provided through the main entrance on Lincoln Road only. A security officer will be provided, along with ropes to ensure that queuing does not block the right-of-way. The LOI also indicates that the restaurant will be through reservation only which will further limit crowds. See the LOI for more details.

- 4. A security plan for the establishment and any parking facility, including enforcement of patron age restrictions.**

The LOI states that there will have security personnel. See the LOI and Operations Plan for more details.

- 5. A traffic circulation analysis and plan which details the impact of projected traffic on the immediate neighborhood and how this impact is to be mitigated**

The Applicant submitted a full traffic study prepared by TrafTech Engineering, Inc. that was reviewed by the Transportation Department's Peer Review. The establishment is not expected to significantly impact the area. See the attached Traffic Study and Peer Reviewer response.

- 6. A sanitation plan which addresses on-site facilities as well as off-premises issues resulting from the operation of the establishment.**

The applicant has indicated that all refuse will be wheeled from the air-conditioned, enclosed garbage room at the southwest corner of the Property to freight loading zone on the north side of Lincoln Road along Meridian Avenue as well as on Jefferson Avenue between Lincoln Road and Lincoln Lane South for daily waste collection between the hours of 8:00AM and 5:00PM. Staff has recommended conditions to minimize the potential impacts of trash pickups.

- 7. A noise attenuation plan which addresses how noise would be controlled to meet the requirements of the noise ordinance.**

The applicant submitted a sound study prepared by Brooks Acoustics Corporation, and a peer review was performed by Arpeggio Acoustic Consulting, LLC. That study indicated that all noise will be contained within the Property lines. The Applicant proposed to play recorded music at ambient levels. The applicant only proposes to have musical performance above ambient levels during certain events on the third level, however the terraces will be closed to the public to ensure that noise is fully contained within the Property lines. See the analysis.

8. Proximity of proposed establishment to residential uses.

The proposed venue is primarily surrounded by commercial uses. However, there are residential buildings to the south of the property in the Flamingo Park neighborhood. Due to the proximity to residential uses, staff is recommending conditions to mitigate any potential negative impacts from the operations of this proposed project on surrounding properties.

9. Cumulative effect of proposed establishment and adjacent pre-existing uses.

There are two Neighborhood Impact Establishment (NIE) with entertainment in the area, one at 723 North Lincoln Lane (The Lincoln Eatery) and another at 800 Lincoln Road (MILA). Staff does not anticipate significant impacts from a concentration of such uses along the Lincoln Road corridor; however, staff is recommending conditions to mitigate any potential adverse impacts.

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 133-50(a) of the Land Development establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

1. A recycling or salvage plan for partial or total demolition shall be provided.

Not Applicable. Only interior renovations are proposed.

2. Windows that are proposed to be replaced shall be hurricane proof impact windows.

Not Applicable. Existing structure.

3. Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.

The applicant is proposing sliding doors that will allow for passive cooling in the cooler months.

4. Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.

Not Applicable.

5. Whether adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact, including a study of land elevation and elevation of surrounding properties were considered.

Not Applicable. This is an existing structure.

- 6. The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land.**

Not Applicable.

- 7. Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation.**

Not Applicable. This is an existing structure.

- 8. Existing buildings shall be, where reasonably feasible and appropriate, elevated to the base flood elevation.**

Not Applicable. This is an existing structure.

- 9. When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.**

Not Applicable. This is an existing structure.

- 10. Where feasible and appropriate, water retention systems shall be provided.**

Not Applicable. This is an existing structure.

- 11. Cool pavement materials or porous pavement materials shall be utilized.**

Not Applicable. This is an existing structure.

- 12. The design of each project shall minimize the potential for heat island effects on-site.**

Not Applicable. This is an existing structure.

ANALYSIS

Project Description and Operations

The applicant is requesting approval a Neighborhood Impact Establishment (NIE) with entertainment, outdoor entertainment, and open-air entertainment. The establishment is to be called "ORO RESTAURANT ELIXIR LOUNGE" and is proposed to be located in a three-story building that was constructed in 2018.

The proposal is for a 399-seat restaurant/lounge with an occupant content of 592 persons. The establishment would occupy the second and third floors of the building, with access to the

establishment from an entrance lobby fronting Lincoln Road. An escalator provides access to the second floor, while an elevator provides access to the third floor. The second floor will be known as the "Oro Venue" and the third floor will be known as the "Elixir Venue". The second floor is proposed to have 246 seats with an occupancy of 325 persons, and the third floor is proposed to have 153 seats with an occupancy of 26 seats.

Sound

The applicant submitted a sound study prepared by Brooks Acoustics Corporation, which indicates that all noise will be contained within the property lines. Per the operations plan, the entertainment proposed on the second floor (Oro Venue) of the building is to be played at a level that does not interfere with normal conversation (ambient levels). At the third level, the applicant is proposing to have DJ's playing at ambient levels; however, they would like to the ability to have live music performances that will result in sound played above ambient levels. In those situations, the outdoor terrace will be closed to ensure that all sound is maintained indoors.

The sound study was peer reviewed by the City's consultant, Arpeggio Acoustic Consulting, LLC. The peer review had the following suggestions:

1. Window sound attenuation – consistent with the submitted operations, the outdoor terrace on the third floor will be closed when there are live musical performances that exceed ambient levels.
2. Calculation of C-weighted sound levels (decibels) at the receivers.

In response to the peer review, the applicant indicated that the doors would be closed during live performances exceeding ambient levels and performed additional sound testing and calibration. Staff has incorporated conditions into the draft order to ensure that the doors are closed during any live music performances, regardless of volume.

The applicant is requesting to be open Monday to Sunday from 11:00 AM to 4:00 AM and that the outdoor terraces to be closed at 2:00 AM, with outdoor bar counters closing by midnight. Staff has concerns with noise impacts of patrons congregating outdoors in early morning hours waiting for transportation. In order to minimize impacts to nearby residents to the south, staff recommends that all portions of the establishment close by 2:00 AM, similar to other nearby NIE's.

Sanitation and Deliveries

As previously approved, waste and recycling collection and deliveries would take place from the rear of the building facing Lincoln Lane South. The garbage would be held in an air-conditioned trash room and would be brought out for daily collections. Freight loading will be handled through on-street loading zones that are designated by the City on Meridian and Jefferson Avenues. All loading and trash pickups will take place between 8:00 AM and 5:00 PM.

Security and Crowd Control

The applicant has proposed to only allow access via an entry vestibule facing Lincoln Road. The entry vestibule will have a security officer with velvet ropes to maintain orderly queuing within the property. The applicant indicates that the second floor venue will be through reservation only, so they don't anticipate significant crowds.

Staff has concerns with late-night crowd-control of this venue given the proximity to residential uses. To this end, staff has proposed reduced hours to minimize potential impacts.

SUMMARY

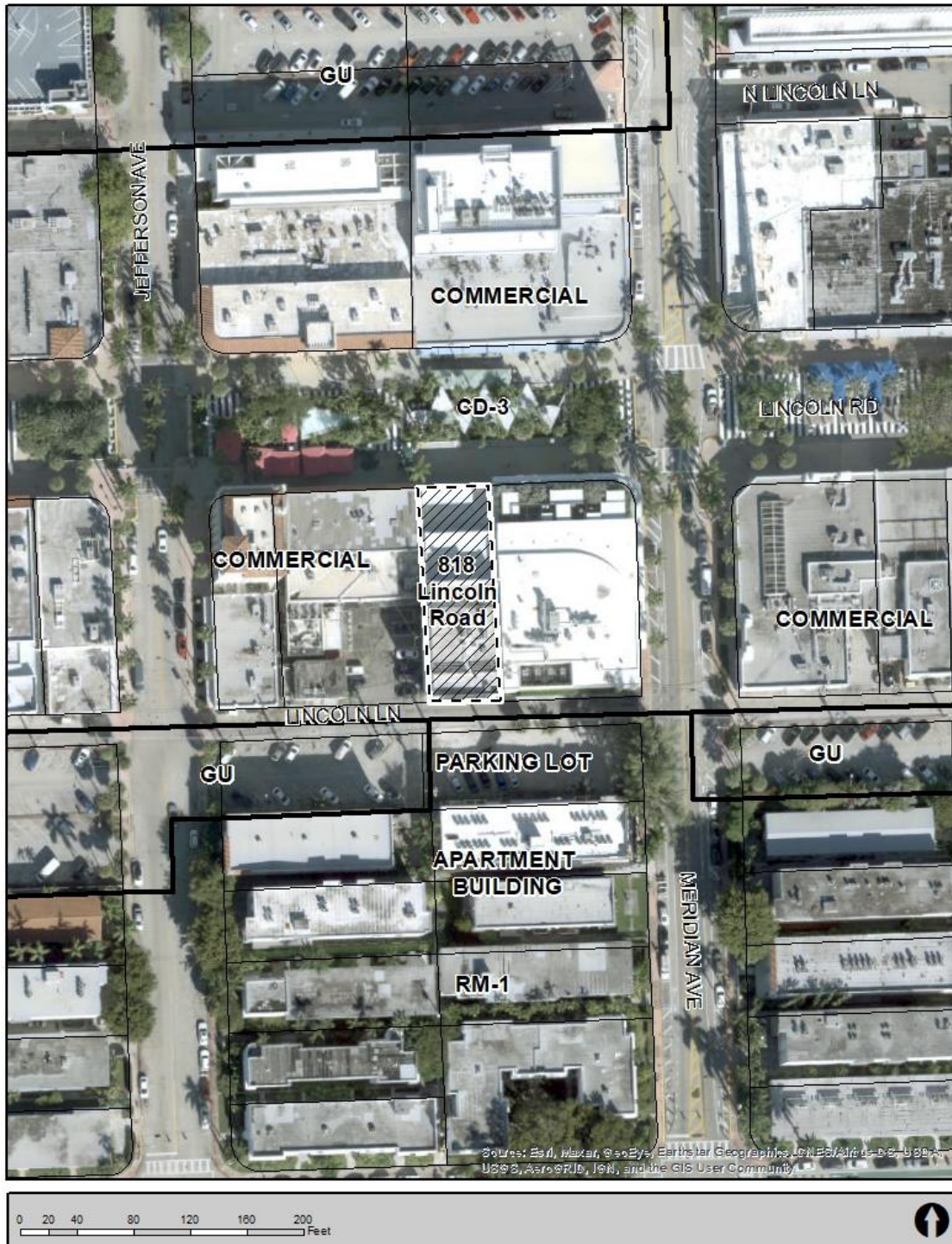
The Flamingo Park residential neighborhood is located directly to the south of the proposed establishment and is only buffered by an alley and a narrow surface parking lot. The residential area is mostly composed of multifamily buildings that are part of the Flamingo Park Historic District. Staff is concerned with potential issues related to the proposed hours for the restaurant expansion with entertainment.

As people will be leaving in the late-night hours, the crowds have the potential to impact the adjacent residential neighborhood with noise and other security issues. To prevent these issues, staff is proposing that the entire establishment close at 2:00 am, as previously approved for the third level of this restaurant. Additionally, staff recommends that any entertainment exceeding a volume above ambient levels cease no later than 1:00 am.

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



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

PROPERTY: 818 Lincoln Road

FILE NO. PB22-0518

IN RE: An application has been filed requesting a conditional use permit for a Neighborhood Impact Establishment with entertainment, outdoor entertainment, and open-air entertainment. pursuant to Chapter 118, Article IV and Chapter 142, Article V of the City Code.

LEGAL

DESCRIPTION: Lots 7 and 8, Block 49 of Lincoln Subdivision, according to the plat thereof recorded in Plat Book 9, Page 69 of the public records of Miami Dade County, Florida.

MEETING DATE: September 20, 2022

CONDITIONAL USE PERMIT

The applicant, Golden Era Hospitality Group, LLC, filed an application with the Planning Director requesting a Conditional Use approval for a Neighborhood Impact Establishment 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 CD-3, Commercial high 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;

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, that the Conditional Use Permit be GRANTED, as provided below:

1. 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. 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 Golden Era Hospitality Group, LLC, as tenants and operators of the Neighborhood Impact Establishment consisting of a restaurant and bar with an accessory outdoor bar on the roof deck. 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 Certificate of Use/Business Tax Receipt. A progress report shall be scheduled within 60 days following the applicant's submission and staff's approval 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. 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.
5. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application.
6. 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 399 seat Neighborhood Impact Establishment, subject to the criteria listed below:
 - i. The restaurant and bar subject to this CUP shall have a maximum occupant content of 592 persons or any lesser such occupant content as determined by the Fire Marshal.
 - ii. The indoor and outdoor portions of the establishment may operate from 11:00 AM until 2:00 AM. The accessory outdoor bar counter shall not be operated or utilized between midnight and 11:00 AM, unless a variance for extended hours is granted by the Historic Preservation Board. These hours shall not supersede any future amendments to the City Code, pertaining to hours of operation for alcoholic beverage and/or entertainment establishments.

- iii. On the second floor, entertainment at ambient volume level (i.e. a volume that does not interfere with normal conversation) shall be permitted indoors and outdoors. The entertainment shall be limited to DJ's.
- iv. On the third floor, entertainment at ambient volume level (i.e. a volume that does not interfere with normal conversation) shall be permitted indoors and outdoors. The entertainment shall be limited to DJ's.
- v. On the third floor, entertainment above ambient levels, including DJ's and live performances, shall be permitted, between 11:00 AM and 1:00 AM subject to the following:
 - a. Entertainment above ambient levels shall only be permitted indoors.
 - b. Doorways to the outdoor terrace shall remain closed while there is above ambient level entertainment indoors.
- vi. All entertainment permitted by this CUP shall be subject to the following:
 - a. Only the Applicant's approved speakers, as approved by this Conditional Use Permit, shall be used. All performers, including, but not limited to, DJ's, shall be required to connect to the Applicant's house sound system. The Applicant shall be required to inform all guest DJ's and performers as to the requirements of this conditional use permit related entertainment.
 - 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 generated from the venue, including, but not limited to, recorded music, patron conversations or entertainment, shall not be plainly audible from or beyond any public rights of way adjacent to the subject property. Public rights of way shall include, but not be limited to, Lincoln Lane South and Lincoln Road.

- e. Before the issuance of a certificate of use is issued for entertainment, a field visit with the applicants and Planning staff shall be required to verify the sound system operations.
 - f. A progress report regarding the outdoor entertainment shall be scheduled 90 days from the issuance of a business tax receipt (BTR) for outdoor entertainment.
- vii. Televisions shall not be located anywhere in the exterior areas of the property.
- B. Delivery trucks shall only be permitted to make deliveries from City authorized and designated commercial loading zones.
- C. Delivery trucks shall not be allowed to idle in the loading zone.
- D. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.
- E. Deliveries and waste collections may occur daily between 8:00 AM and 5:00 PM, or as specified by the City approved loading zones in the vicinity.
- F. All trash containers shall utilize rubber wheels, or the path for the trash containers shall consist of a surface finish that reduces noise, in a manner to be reviewed and approved by staff.
- G. Adequate trash room space, air conditioned and noise baffled, shall be provided, in a manner to be approved by the Planning and Public Works Departments. Sufficient interior space must be provided so that doors can remain closed while trash and trash bags are being deposited in dumpsters. Doors shall remain closed and secured when not in active use.
- I. Trash room(s)/garbage room(s) shall be large enough, or sufficient in number to accommodate enough dumpsters so that more than one pick up of garbage per day will not be necessary. A high-level trash/garbage compacting device shall be located in an air-conditioned trash/garbage holding room within the facility.
- J. Garbage dumpster covers shall be closed at all times except when in active use.
- K. Restaurant and bar personnel shall take measures to enforce the Patron Age Restriction of the City Code during the hours of operation of all alcoholic beverage establishments.
- L. No patrons shall be allowed to queue on public rights-of-way, or anywhere on the exterior premises of the subject property.
- M. The applicant shall provide a security guard at the ground level during operating hours to maintain orderly pedestrian access and queuing and maintaining the exterior clear from queues.

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- N. The owner/operator shall be responsible for maintaining the areas adjacent to the facility, including the sidewalk, and all areas around the perimeter of the property. These areas shall be kept free of trash, debris and odor, and shall be swept and hosed down at the end of each business day
 - O. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
 - P. Special Events may occur on the premises, subject to City ordinances, rules or regulations existing at the time, and may exceed the hours of operation and occupancy loads specified herein, if permitted by the Fire Marshal, subject to the review and approval of staff.
7. 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. The applicant shall coordinate with the Transportation Department to develop an acceptable Transportation Demand Management (TDM) Plan, prior to the issuance of a building permit.
 - c. The applicant shall coordinate with the Parking Department to provide valet parking at existing valet parking ramps. The applicant will provide text-to-order valet parking services to limit crowding on the exterior of the venue.
8. The applicant shall satisfy outstanding liens and past due City bills, if any, to the satisfaction of the City prior to the issuance of an occupational license to operate this entertainment establishment.
9. The applicant shall obtain a full building permit within 18 months from the date of the meeting, and the work shall 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.
10. The Planning Board shall retain the right to call the owner or operator back before them and modify the hours of operation or the occupant load 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.
11. 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.

12. 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.
13. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
14. 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.
15. 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.
16. 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 _____

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: _____

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

STATE OF FLORIDA)

COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this _____ day of _____, _____, 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.

Notary:
Print Name:

[NOTARIAL SEAL]

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 _____ ()



**Peer Review of Sound Study for
Oro & Elixir,
818 Lincoln Road, Miami Beach, Florida
PB 22-0518**

Prepared for:

**Miami Beach Planning Department
1700 Convention Center Drive
Miami Beach, Florida 33139**

Prepared by:

A handwritten signature in black ink, appearing to read "Jesse J. Ehnert", written over a horizontal line.

**Jesse J. Ehnert, INCE Bd. Cert., Principal
Arpeggio
1947 Aspen Drive, NE
Atlanta, Georgia 30345
jehnert@arpeggiollc.com
404-277-6528 (Direct)**

July 21, 2022

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1 Introduction

This report documents a peer review of an acoustic study conducted for the City of Miami Beach related to an application for a Conditional Use Permit (CUP) for a Neighborhood Impact Establishment with Open-Air and Outdoor Entertainment at 818 Lincoln Road. The reviewed report, prepared by Brooks Acoustics Corporation (BAC) and dated July 5, 2022, describes the project and sound propagation modeling performed to predict sound levels at two nearby receptor locations.

2 Project Description

The proposed venue, Oro & Elixir, is to occupy the second and third floors of an existing building on the south side of Lincoln Road between Meridian Avenue to the east and Jefferson Avenue to the west. The venue is located mostly amid restaurants, bars, and retail establishments on Lincoln Road. The Polo Condominium and Neptune Apartments are both located south of the venue, just to the south of Lincoln Lane South and a surface parking lot. These are the two nearest residential properties.

Oro, an upscale restaurant, is to be housed on the second floor of the building. This space will feature music not to be played at a sound level to interfere with normal conversations. The Elixir lounge is to be housed on the third floor of the building. There would be DJ booths within Elixir but, for the most part, they would be used to play recorded music at an ambient level, per the Operations Plan. On occasion, however, there would be live musical performances within this venue with sound exceeding ambient levels. However, at these times, the outdoor terrace on the third floor would be closed, according to page 6 of the Operations Plan.

According to material made available to us, there may also be entertainment provided by aerialists and fire dancers both inside and on the two outdoor terraces overlooking Lincoln Road. However, no musical performances would be allowed on the outdoor terraces. Operating hours for the venue are being proposed as Monday through Sunday 11 am to 4 am and the only patron entrance would be on the north side of the venue along Lincoln Road.

3 Comments and Conclusions

The sound study report prepared by BAC summarizes robust community noise modeling performed using sound system information provided by the audio designer as well as acoustic data related to an EDM show from the BAC database. This modeling predicted sound levels both on the sidewalk to the north of the venue as well as the Neptune Apartments to the south. It is reasonable to assume that levels predicted at the Neptune Apartments would be similar to those at the Polo Condominium.

The modeling assumed an interior sound level within Elixir of 102 dBA. Sound propagation modeling incorporated barrier/shadowing effects from the building itself as well as attenuation due to distance. Using this methodology, sound levels of 64 dBA and 57 dBA were predicted on Lincoln Road and at the apartments, respectively. The report then compares these levels with those of typical speech and other sources.

However, it is very likely that any complaints will arise from low-frequency sound (e.g., bass or “thumping”). Given that, we feel that C-weighted decibels are a better metric to use in gauging community response. Using data provided in the BAC report, we calculated that the sound levels would be 88.3 dBC and 81.5 dBC on Lincoln Road and at the apartments, respectively. While no information was given within the BAC report concerning ambient levels at the site, it is likely that the ambient levels, especially at the residences, is lower than 80 dBC. Thus, such predicted C-weighted levels would be audible and could be problematic.

Having said this, the modeling performed by BAC assumed that the terrace windows and doors would be open such that they would provide no attenuation of interior sound. As previously stated in this report, the Operations Plan makes the claim that the outdoor terrace on the third floor would be closed when there are live musical performances within that exceed ambient levels. Assuming this is true, then the windows and doors could be assumed to be closed and providing additional attenuation.

In conclusion, a clearer understanding of impact could be gleaned if modeling reflected C-weighted decibels, which better reflect loudness of sounds with significant low-frequency energy. Additionally, the modeling should accurately reflect the status of terrace windows and doors while there are live musical performances within that exceed ambient levels. We encourage the applicant to address these points to allow for a better understanding of potential neighborhood impact.

MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

TRANSPORTATION & MOBILITY DEPARTMENT

MEMORANDUM

TO: Rogelio Madan, AICP, Chief of Community Planning & Sustainability

FROM: Jose R. Gonzalez, PE, Director

DATE: September 6, 2022

SUBJECT: 818 Lincoln Road– Traffic Impact Study – DRB# 22-0845

The Transportation and Mobility Department has reviewed the subject Traffic Impact Study (TIS) submitted by the applicant as part of the Planning Board application for the proposed 818 Lincoln Road project. The 818 Lincoln Road development is a 3-story commercial building located at 818 Lincoln Road in Miami Beach, Florida. The project will comprise of a 3-story commercial building with 10,765 square feet of flexible retail space. This space will include a 90-seat café on the ground floor (1,191 square feet), a 300-seat high end restaurant on the second floor (5,724 square feet indoor + 1,707 square feet outdoor).

Trip Generation and Trip Distribution

The results of the trip generation analysis show that the proposed development will generate 355 net daily trips, 6 fewer AM net peak hour trips and 34 PM net peak hour trips. This takes into consideration of the vested number of trips for the existing 10,765 square feet of retail square footage.

The 818 Lincoln Road building is bordered by Lincoln Road to the north, the 800 Lincoln Road building to the east, Lincoln Lane to the south and the 826 Lincoln Road building to the west.

Multimodal Trips

The 818 Lincoln Road project is served by multimodal modes such as pedestrians, bicycles and transit trips. Lincoln Road is a pedestrian only street that borders the site on the north side. There are several Citi Bike stations nearby including one at Jefferson Avenue and Lincoln Road. There are transit options available which includes the 150, 120 and C transit routes and the Miami Beach Trolley.

Valet Operations

Valet parking service is provided to all nearby commercial/restaurant customers. A valet station (carp) is placed on the west side of Meridian Avenue and south of Lincoln Road. There are six (6) on-street parking spaces on the west side of Meridian Avenue (between Lincoln Road and the alleyway located just south of the building). The two (2) southernmost parking spaces are used for valet purposes. Three valet runners are assigned to the valet operation starting at approximately 5:00 PM. The peak valet operation occurred between 5:45 PM and 6:45 PM. A total of 14 valet vehicles were counted. No traffic spillback blocking the southbound lane of Meridian Avenue was recorded.



It is

recommended that up to five (5) valet runners be designated to the proposed café/restaurant/bar lounge. Two (2) additional on street parking spaces may be required to accommodate the expected future valet operation. The maximum length of queue anticipated is three vehicles with up to five (5) valet runners.

Transportation Demand Management (TDM)

The applicant proposes to provide the following strategies to reduce the impacts of the Project traffic on the surrounding roadway network:

- **Pedestrian Access**- the area near the subject project is a high pedestrian traffic area and therefore, many existing and future customers of the 818 Lincoln Road development are expected to be walking trips.
- **Bicycling**- Use of Citi Bike could be supported by providing monthly passes to employees. Monthly passes are \$15.00 for unlimited 30-minute rides and \$25.00

for unlimited 60-minute rides. Within the immediate area of the project, there is one convenient Citi Bike rental station (Station 169) located approximately 500 feet from the 818 Lincoln Road building: 1674 Meridian Avenue. Customers and employees will be informed of the Citi Bike Station 118.

- **Transit**- Offer two free transit passes to restaurant/café/bar lounge employees. Miami Dade Transit provides three methods to provide transit subsidies. The employee uses pre-tax dollars from their salary to purchase monthly transit passes. There is no income tax on the portion of their salary used for transit passes. The pre-tax funds also reduce the employees' taxable salary, reducing the total amount of income tax paid by the employees. The employer pays the total cost of a monthly transit pass using a tax-deductible (to the employer) subsidy. The employer receives a tax deduction equivalent to the value of the transit subsidies provided to the employees. The transit subsidy is a fringe benefit to employees and is not taxable income. Both the employer and employees share the cost of transit passes, paying for them with pre-tax dollars. The employer reduces his/her payroll taxes. Employees do not pay income tax on the money used for transit passes.

Conditions of Approval

1. The applicant shall coordinate with the Transportation & Mobility Department to develop an acceptable Transportation Demand Management (TDM) Implementation Plan per the TDM strategies outlined in the most recent traffic impact study prepared by Traf Tech Engineering, Inc. dated 06/30/22, prior to the issuance of a building permit.
2. The applicant is required to submit a supplemental traffic memorandum including an evaluation of the proposed valet operations by no later than six months from the date the 818 Lincoln Road development is fully operational. The field queuing study should include field data collection for two weekend days including the identified peak periods.

Conclusion

The Transportation and Mobility Department including the Peer Review Consultant has no further comments on the Traffic Impact Study for the 818 Lincoln Road Project.

Please feel free to contact the City of Miami Beach Transportation and Mobility Department if you have any questions on the above.

cc: Milos Majstorovic, M.S.C.E., P.E., Assistant Director, City of Miami Beach Transportation and Mobility Department
Dani Fawaz, P.E., Senior Transportation Engineer, City of Miami Beach Transportation and Mobility Department