

December 6, 2022

Mr. Thomas Mooney  
Planning Director  
City of Miami Beach  
1700 Convention Center Drive, 2<sup>nd</sup> Floor  
Miami Beach, Florida 33139

Re: Revised PB22-0549 Letter of Intent to for a Conditional Use Permit for Outdoor  
Entertainment for the Property Located on the Fourth Floor of 1111 Lincoln Road

Dear Tom:

As you know, this law firm represents Apollo Garden, LLC the operator (the “Applicant”) of the property located on the 4<sup>th</sup> floor of 1111 Lincoln Road (the “Property”) with respect to a Conditional Use Permit (“CUP”) for outdoor entertainment. The Applicant seeks to introduce a new culinary and cultural experience with an occupant load of 197 persons.

The Property. The Property is located in a commercial area zoned CD-3, Commercial High Intensity District, at the northeast corner of Lincoln Road and Alton Road. The area which is the subject of this application is located on the southeast corner of the Property. The overall lot is 48,000 square feet and contains a structure that is approximately 370,836 square feet in size. The area that is the subject of this application encompasses approximately 2,468 square feet of the existing structure. The entire site is identified by the Miami-Dade County Property Appraiser by Folio Number: 02-3234-018-0080. The Property is also located within the Flamingo Park Local Historic District and the Miami Beach Architectural District.

The Property is located in an established commercial corridor of the City. It is surrounded on all sides by commercial uses with the nearest residential use being across 17<sup>th</sup> Street, to the north.

Description of Proposed Development. This proposal provides a unique culinary and cultural experience for the neighborhood. The concept is simple, a place to gather with friends, have great drinks, good food, good ambiance, and an overall great experience. Part of the experience includes providing music. In Miami Beach, DJs or music played above ambient levels, especially in the exterior of a venue are deemed entertainment, thereby requiring a CUP for open-air/outdoor entertainment.

Since a portion of the space includes a terraced seating area, wherein music will be played, consistent with the aforementioned standards, the Applicant is required to request a CUP of an open-air/outdoor entertainment establishment. The Applicant is serious about providing a cultural experience for the neighborhood without any negative impacts to the residents.



Therefore, they are proposing to restrict the hours of as follows<sup>1</sup>:

**Indoor Operating Hours**

Sundays - Wednesdays | 11:00 AM – 2:00 AM

Thursdays – Saturdays | 11:00 AM – 5:00 AM

**Outdoor Music Hours**

Sundays - Wednesdays | 11:00 AM – 12:00 AM

Thursdays – Saturdays | 11:00 AM – 2:00 AM

This proposal will be a social network experience for the area. It will be a great addition to the neighborhood and complies with the requirements set forth in the City's Code.

Satisfaction of Conditional Use Permit Review Criteria. The Applicant's request satisfies the Conditional Use Standards in Section 118-192(a) of the Code of the City of Miami Beach (the "Code") as follows:

- (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** – Restaurants, entertainment and outdoor entertainment establishments are consistent with the comprehensive plan and the CD-3 zoning district permits neighborhood impact establishments through the conditional use process.

- (2) **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.**

**CONSISTENT** – The proposed establishment will not result in an impact that will exceed the threshold levels of service for this commercial corridor. The proposed occupancy is 197 persons with a total 148 patrons indoors and 49 patrons in the outdoor terrace area (refer to the occupant chart attached hereto as Exhibit A).

- (3) **Structures and uses associated with the request are consistent with these land development regulations.**

**CONSISTENT** – The existing structure and proposed establishment are consistent with the commercial corridor and the City's land development regulations (LDRs).

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<sup>1</sup> From time to time, the Applicant may hold an event whereby the facility stays open until 5:00 AM. However, routinely, the Applicant proposes closing consistent with the hours outlined herein.

- (4) The public health, safety, morals, and general welfare will not be adversely affected.**

**CONSISTENT** –The Applicant understands how to operate a successful venue without imposing negative impacts on the surrounding neighborhoods, as is reflected in the proposed operational plan which being provided under separate cover and is made a part hereof by reference. The intended use for the space is appropriate for this commercial corridor of Miami Beach.

- (5) The public health, safety, morals, and general welfare will not be adversely affected.**

**CONSISTENT** – The property is located in the Lincoln Road corridor, which is the heart of Miami Beach. It is also located on the fourth floor of a parking garage structure. There is ample parking within the facility to satisfy the needs of the operator. The Applicant also anticipate that many patrons will walk to the establishment after visiting area businesses or ride their bikes.

- (6) Adequate off-street parking facilities will be provided.**

**CONSISTENT** – The property is located in the Lincoln Road corridor, which is the heart of Miami Beach. It is also located on the fourth floor of a parking garage structure. There is ample parking within the facility to satisfy the needs of the operator. The Applicant also anticipate that many patrons will walk to the establishment after visiting area businesses or ride their bikes.

- (7) Necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values.**

**CONSISTENT** – The Applicant is taking every measure to ensure that all the necessary safeguard are places to protect neighboring properties. From a sound perspective, the Applicant has retained Edward Duggar and Associates, who has prepared a sound study, which is being provided under separate cover. The Applicant has worked with their sound consultant to ensure that any sound spillover is minimal and have restricted their hours of operation to ensure minimal impact on the surrounding neighborhood. To that end the proposed operational hours are quite reasonable, as demonstrated above. Furthermore, the Applicant's staff will maintain patron areas and adjacent rights of way to protect the surrounding areas.

- (8) The concentration of similar types of uses will not create a negative impact on the surrounding neighborhood. Geographic concentration of similar types of conditional uses should be discouraged.**

**CONSISTENT** – While numerous businesses exist in the neighborhood, a shift has occurred over the last few years seeing the loss of many quality restaurants and similar

gathering establishments. The Applicant seeks to rectify that deficit through the introduction of this facility. As such, there will not be any negative impact on the surrounding uses.

Sea Level Rise and Resiliency Criteria. The proposed single-family home will advance the sea level rise and resiliency criteria in Section 133-50(a) as follows:

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

While the Applicant space does not require any additional demolition, the Applicant will provide a recycling or salvage plan during permitting, if applicable.

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

The area subject of this application is part of a larger existing structure, which already possesses hurricane impact windows.

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

Operable windows will be provided.

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

The area subject of this application is located on the fourth floor of a larger existing structure, with existing landscaping which complies with City requirements.

**(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.**

The area subject of this application is located on the fourth floor of a larger 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.**

The area subject of this application is located on the fourth floor of a larger existing structure.

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

The area subject of this application is located on the fourth floor of a larger existing structure. Proper precautions have already been taken to ensure the critical mechanical and electrical systems are located above base flood elevation.

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

The area subject of this application is located on the fourth floor of a larger existing structure, and the request would not be reasonably feasible or appropriate for this applicant.

**(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.**

No wet or dry flood proofing will be necessary as all habitable space will be located above base flood elevation.

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

The area subject of this application is located on the fourth floor of a larger existing structure and a new water retention system would not be reasonably feasible or appropriate for this Applicant.

Conclusion. This establishment will fit the needs of the community. The granting of this CUP for outdoor entertainment in the limited areas of the facility will not have any adverse impact on the surrounding community, but rather provide a benefit. We respectfully request your recommendation of approval of this request. If you have any questions or comments, please give do not hesitate to contact me.

Sincerely,  
MHE LAW PA



Monika H. Entin

MHE  
Attachment

cc: Mr. Alejandro Garavito

# Exhibit A

## OCCUPANCY LOAD CHART

ZONING OCCUPANT LOAD FACTOR TABLE 7.3.1.2 NFPA 2020 EDITION & F.B.C. TABLE 1004.1.1	
GROUP A: ASSEMBLY OCCUPANCY	SUBGROUP: SMALL ASSEMBLY
DINING AREA	1,392 S.F./ 15 = 90
BAR	313 S.F./100 = 4
BAR (STANDING)	339 S.F./ 7 = 49
KITCHEN	424 S.F./100 = 5
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TOTAL PATRONS/OCCUPANTS	148
TERRACE	734 S.F./ 15 = 49
=====	
TOTAL	197

OCCUPANT LOAD FACTOR TABLE 7.3.1.2 NFPA 2020 (7th EDITION)	
GROUP A: ASSEMBLY	SUBGROUP: SMALL ASSEMBLY
INDOORS:	
DINING AREA SEATING	80
BAR	24
OUTDOORS:	
TERRACE AREA SEATING	42
=====	
TOTAL SEATING	146
=====	
NUMBER OF WHEELCHAIRS BASED ON FAC CH. 226: 5% OF 146 = 8	