

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

PROPERTY: 1908 Collins Avenue

FILE NO. 1988

IN RE: The application by 1906 Collins LLC requesting a modification to a Conditional Use Permit pursuant to Sections 142-1362 of the Land Development Regulations of the City Code, to operate Baoli, a dinner restaurant and evening entertainment establishment, with an occupant content of approximately 343 persons to replace the existing Baoli Vita.

LEGAL DESCRIPTION: The north 57.5 feet of the south 62.50 feet of lots 1, 2 and 3, Block D of "Miami Beach Improvements Co. Ocean Front property amended" according to the plat thereof, as recorded in Plat Book 5, page 7 of the Public Records of Miami-Dade County, Florida

MEETING DATE: May 22, 2012

MODIFIED CONDITIONAL USE PERMIT

The applicant, 1906 Collins LLC, filed an application with the Planning Director for a modification to a Conditional Use Permit pursuant to Sections 142-1362 of the Land Development Regulations of the City Code, to operate Baoli, a dinner restaurant and evening entertainment establishment, with an occupant content of approximately 343 persons to replace the existing Baoli Vita.

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 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 recommendation, that a Conditional Use Permit as requested and set forth above be GRANTED, subject to the following conditions to which the applicant has agreed:

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. 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 ~~Baoli Miami, LLC~~ 1906 Collins LLC as tenant/operator of the property where the venues constituting a Neighborhood Impact Establishment are is located. Any change of operator or ownership or 50% (fifty percent) or more stock ownership shall require review and approval by the Planning Board as a modification to this Conditional Use Permit. Subsequent owners and operators shall be required to appear before the Board, within 90 days of change of ownership or operator to affirm their understanding of the conditions listed herein.
3. The conditions of approval for this Conditional Use Permit are binding on the applicant, the property's owners, and all successors in interest and assigns.
4. The applicant, now and in the future, shall abide by all the documents and statements submitted with this application for a Neighborhood Impact Establishment Modified Conditional Use Permit.
5. ~~The applicant shall comply with all the conditions of the Historic Preservation Board Final Order under File No. 7204 issued on November 9, 2010, which is hereby adopted and incorporated into this order by reference.~~
6. The hours of operations shall be as proposed by the applicant:
 - a. Dining Hours: 7:00 p.m. until 4:00 a.m. 2:00 a.m., seven days a week, inside and outside.
 - b. Entertainment and dancing: 12:00 a.m. until 5:00 a.m., seven days a week, inside only, after the Nana wall is closed.
7. Prior to the issuance of a building permit, the applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), if deemed necessary, by paying its fair share cost, as determined by the Transportation/Concurrency Management Division.
8. ~~The Applicant shall close the retractable skylight by 12:00 a.m. seven days a week. Applicant shall install an automatic timer that ensures closure of the retractable skylight at 12:00 a.m. seven days a week. Applicant agrees that no employee will have access to the timer, except the manager.~~
9. ~~In the event that the retractable skylight temporarily or permanently breaks, the Applicant shall place it in the closed position as soon as possible and keep it closed through the duration of any repairs, except as necessary to conduct such repairs.~~

- ~~10. Within sixty (60) days of the issuance of the TCO or CO for the project, the Applicant shall complete an additional sound study. The purpose of this sound study will be to measure the volume of noise emanating from the entertainment establishment once the improvements approved as a part of this application has been constructed. Once the sound study is completed, the applicant shall make a progress report to the Planning Board. Applicant agrees to make further modifications to the sound system if the study demonstrates that the noise from the entertainment establishment violates the noise ordinance when the skylight is closed.~~
11. Any queuing of patrons shall occur ~~within the subject property line~~ inside the building, as proffered by applicant.
12. Applicant shall not play music, whether amplified or live, at a volume that constitutes entertainment under the Code of the City of Miami Beach before 12:00 AM ~~inside and outside~~ and anytime the ~~skylight is open~~ Nana wall is open. Music constituting entertainment shall only be played inside after 12:00 AM, only after the Nana wall is closed.
13. Commercial use of any rooftop throughout the property shall be prohibited, as proffered by applicant.
- ~~14. The catwalk along the southern elevation of the second story from the mezzanine area to the restrooms located in the rear of the property shall only be for handicapped access and no other use.~~
15. All exits, except emergency only exits, to Collins Avenue shall be equipped with a double door vestibule.
16. The ground floor windows facing Collins Avenue shall be sufficiently transparent to afford views of the interior of the facility.
- ~~17. Except as may be required for fire or building code/Life Safety Code purposes, no loudspeakers shall be affixed to or otherwise located on the exterior of the premises.~~
18. The occupant load shall be limited to no more than ~~358~~ 343 patrons, as proposed by the applicant, or as determined by the Fire Marshal. The Fire Department staff shall validate the patron occupant load, for all the areas in the venue prior to the approval of any Certificate of Occupancy, Certificate of Completion or Certificate of Use Business Tax Receipt, whichever occurs first.
19. The installation plan for the sound system, both outside and inside, including the location of all the speakers and sound system controls shall be submitted to staff for review and approval prior to obtaining a building permit.
- ~~20. When the sound system is completely installed, but before the Business Tax Receipt has been issued, it shall be tested under the supervision of a qualified acoustical consultant acceptable to Planning staff, 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. A final report issued by such acoustical consultant shall be submitted to staff.~~

21. Baoli employees or security personnel shall be stationed in front of the venue to direct patrons to the sole entrance. Security cameras shall monitor the entrance and exit during operating hours. Security personnel shall take measures to enforce the Patron Age Restriction of the City Code during the hours of operation of all the venues serving alcohol. A violation of this condition shall be deemed a violation of this Conditional Use Permit and subject to the remedies as described in Section 118-194 of the City Code.
22. Refuse shall be collected on 20th Street via a private alley owned by the Greystone Hotel where the trash room, which is located at the rear of the property, can be accessed. The applicant shall contract with a waste collection company to pick up 6 days a week, or as necessary, between the hours of 8:00 AM and 9:00 AM.
23. Prior to the issuance of a Certificate of Occupancy, the applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), if deemed necessary, by paying its fair share cost, as may be determined. A final concurrency determination shall be conducted prior to the issuance of a Certificate of Occupancy. Mitigation fees and concurrency administrative costs shall be paid prior to the project receiving the Business Tax Receipt.
24. Final calculations shall be made to determine the parking requirement for the project and any deficiency in the requirement and the parking spaces provided. The payment of the fee in lieu of providing all the required parking shall be determined at this time and payment of the required fee shall be made prior to the issuance of the Certificate of Occupancy.
25. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
26. The applicant shall be responsible for maintaining the areas adjacent to the facility, such as the sidewalks, curb and gutter on Collins Avenue and around the perimeter of the property in excellent condition, keeping these areas in a clean condition, free of all refuse, at all times.
27. The Planning Board shall retain the right to call the operators back before them and modify the hours of operation or the occupant should there be complaints or issuance of written warnings and/or notices of violation about loud, excessive, unnecessary, or unusual noise.
28. 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.
29. The applicant shall resolve outstanding violations and fines, if any, prior to the issuance of a building permit.
30. ~~This Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County, Florida at the expense of the applicant. Within a reasonable time after applicant's receipt of this Conditional Use Permit, as signed and issued by the Planning Director, the applicant shall record it in the Public Records of Miami-Dade County at applicant's expense and then return the recorded instrument to the Planning Department. No building permit, certificate of use, certificate of occupancy, certificate of completion or business tax receipt shall be issued until this requirement has been satisfied.~~

31. Non-compliance with any of the conditions specified herein shall be deemed a violation of this Conditional Use Permit and subject to the remedies as described in Section 118-194 of the City Code, including but not limited to revocation of this Permit.
32. 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.
33. 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 114-7 of the 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 permit.
34. 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.

Dated this 6th day of June, 2012.

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: [Signature]
Richard G. Lorber, Acting Planning Director, AICP,
LEED AP
For Chairman

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 6th day of June, 2012, by Richard G. Lorber, Acting Planning Director of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.



TERESA MARIA
MY COMMISSION # DD 928148
EXPIRES: December 2, 2013
Bonded Through Budget Notary Services

[Signature]
Notary:
Print Name: Teresa Maria
Notary Public, State of Florida

[NOTARIAL SEAL]

#1988 - 1908 Collins Ave. - Baoli

My Commission Expires: 12-2-13
Commission Number: DD928148

Approved As To Form:
Legal Department (filed 6-6-12)

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