

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: January 24, 2023

FROM: Thomas R. Mooney, AICP 
Planning Director

SUBJECT: **PB22-0551. aka PB17-0091 fka File No. 1609. 2000 Collins avenue, including 205-237 20th Street; 221 20th Street; 2008-2038 Collins Avenue.**

An application has been filed requesting a modification to a previously modified conditional use permit. Specifically, the applicants are requesting to change the name of the owner/operator, pursuant to Section 118, Article IV of the City Code.

RECOMMENDATION

Approval with conditions

BACKGROUND/HISTORY

- February 27, 2001* Just Around the Corner, LLC was granted a Conditional Use Permit (CUP), File No. 1493, for a multi-level parking garage with retail on the ground floor.
- April 30, 2003* Just Around the Corner, LLC and POP Development, LLC requested a substantial amendment to the existing CUP (File no. 1493) with a new File No. 1609 which was approved by the Board (File No. 1609 superseded the previous order).
- June 22, 2004* Just Around the Corner, LLC and POP Development, LLC applied for a Modified CUP (MCUP) File No. 1609 and were approved. The modification included the following language: Condition # 3 *"Dance halls, bars or any kind of neighborhood impact establishment shall only be permitted along Collins Avenue. Any entertainment establishment that may be proposed for this property, regardless of occupant load shall be reviewed by the Planning Board for conditional use approval as agreed by the applicant."*
- July 24, 2007* A new applicant, Park Place Development, LLC requested a modification to the MCUP to among other things create two new restaurant spaces, which was approved by the Board.
- February 28, 2012* Park Place Development, LLC requested a modification to the MCUP to add a lounge use on 20th Street. There was a long discussion that included the intensity of the restaurants (number of seats), traffic, parking and the location of the various venues.
- August 28, 2012* Park Place Development, LLC was granted a modification to the MCUP to add

a restaurant and reconfigure the previously approved restaurant spaces. In order to streamline the process, and allow for future reconfigurations without returning to the Planning Board every time there is a change of floor plan.

November 24, 2015 Park Place Development, LLC and Just Around the Corner, LLC are requested modifications to a previously issued Conditional Use Permit. Specifically the applicant requested to modify a condition of the Modified Conditional Use Permit (MCUP) in order to allow entertainment establishments on Liberty Avenue and on 21st Street.

April 23, 2017 The applicant, MC GA Collins Realty, LLC, requested a modification to a previously modified conditional use permit. Specifically, the applicants requested to change the name of the owner.

STAFF ANALYSIS

The applicant is requesting a modification to the existing Modified Conditional Use Permit (MCUP) in order to change the ownership/operator.

Should this request be approved, Condition 2 would be amended as follows:

2. This Conditional Use Permit is issued to ~~MC GA Collins Realty, LLC~~ Regal 2000 Collins Retail Holdings LLC, RDS Boulan LLC, 237 Parking LLC and 237 20th Street Garage LLC, as owners of the property described herein. ~~Any change of ownership, including 50% or greater for each entity, shall require review by the Planning Board as a modification to this Conditional Use Permit.~~

Condition 11 would be amended as follows:

10. Notwithstanding condition No. ~~11~~ 10 above, ~~MC GA Collins Realty, LLC~~ Regal 2000 Collins Retail Holdings LLC, RDS Boulan LLC, 237 Parking LLC and 237 20th Street Garage LLC, shall be enabled to allocate, divide or sub-divide the commercial spaces within the property for different uses and re-allocate parking spaces according to need without having to amend the Permit every time one of these re-allocations, divisions or sub-divisions of spaces takes place, as long as it is not one of the uses specified in the Permit that require Planning Board approval. Any re-allocation, division or subdivision of the commercial spaces shall be limited to the number of parking spaces provided within the garage and shall be submitted to Planning Department staff for review and re-certification that enough parking spaces remain available for all uses within the building. The total number of restaurant seats for the entire property shall not exceed 592.

In order to be consistent with recent CUP approvals, staff is recommending the following additional conditions:

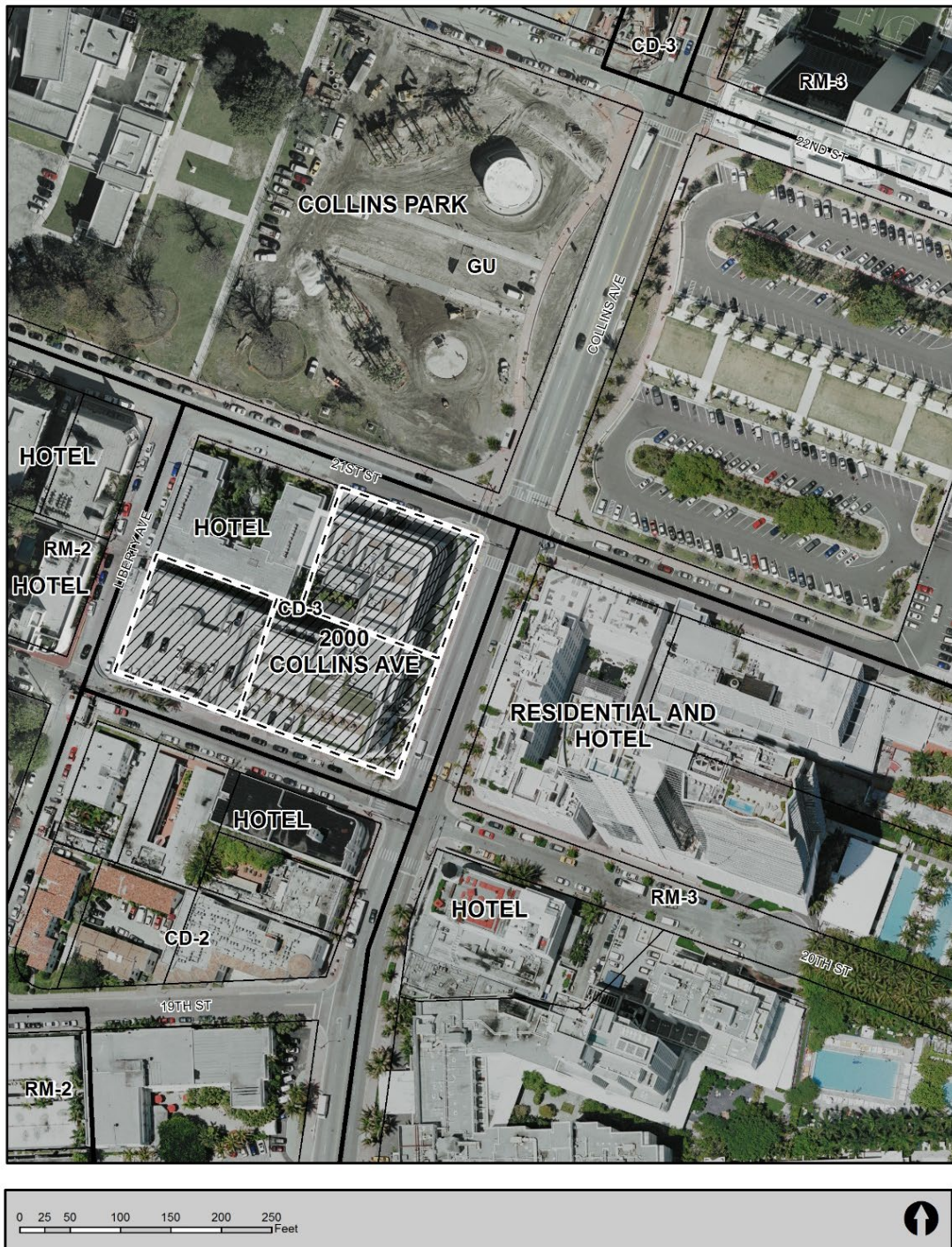
- A. That the requirement for change of ownership be modified to require that *any change of operator or 50% (fifty percent) or more stock ownership shall require the new operator or owner to submit an affidavit, approved by City, to the City of Miami Beach Planning Department, transferring approval to the new operator or owner 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 followed by the submission and acceptance of the affidavit.*
- B. That the applicant agrees and shall be required to provide access to areas subject to this CUP (not including private residences) for inspection by the City (i.e.: Planning, Code Compliance, Building Department, Fire Safety), to ensure compliance with the terms and conditions of this CUP.

Additionally, staff found a scrivener's error in the previously approved Order (PB17-0091 dated April 25, 2017). Some of the conditions were renumbered which affected citations in other conditions. Staff re-numbered the conditions after condition 12 in order to correct those references. These proposed conditions have been incorporated into a revised MCUP (see attached). The rest of the conditions remain the same.

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: 2000 Collins Avenue: including 205-237 20th Street; 221 20th Street; 220 21st Street; 2008-2038 Collins Avenue.

FILE NO. PB22-0551 aka PB17-0091 FKA 1609

IN RE: An application has been filed requesting a modification to a previously modified conditional use permit. Specifically, the applicants are requesting to change the name of the owner/operator, pursuant to Section 118, Article IV of the City Code.

LEGAL DESCRIPTION: Lots 1, 2, 3, 4, 6 and 8 of Block C of Amended map of Ocean Front property of Miami Beach Improvement Company Subdivision as recorded in Plat Book 5, Page 7, of the Public Records of Miami-Dade County, Florida.

MEETING DATE: ~~April 25, 2017,~~ January 24, 2023

MODIFIED CONDITIONAL USE PERMIT

The applicant, Regal 2000 Collins Retail Holdings LLC, RDS Boulan LLC, 237 Parking LLC and 237 20th Street Garage LLC filed an application with the Planning Director pursuant to City Code for a Modification to an existing Conditional Use Permit. 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 staff recommendations, as modified by the Planning Board, that a Substantial Modification to a previously approved Conditional Use Permit as requested and set forth above, be GRANTED

subject to the following conditions to which the applicant has agreed: (~~Strikethrough~~ signifies deletions; Underlining signifies new language)

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. If deemed necessary, at the request of the Planning Director, the applicant shall appear before the Planning Board for a progress report within 90 days from the issuance of the Business Tax Receipts (BTR) for any new alcoholic beverage establishment. 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 ~~MC GA Collins Realty, LLC~~ Regal 2000 Collins Retail Holdings LLC, RDS Boulan LLC, 237 Parking LLC and 237 20th Street Garage LLC, as owners of the property described herein. ~~Any change of ownership, including 50% or greater for each entity, shall require review by the Planning Board as a modification to this Conditional Use Permit. Any change of operator or 50% (fifty percent) or more stock ownership shall require the new operator or owner to submit an affidavit, approved by City, to the City of Miami Beach Planning Department, transferring approval to the new operator or owner 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 followed by the submission and acceptance 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 to modify the previously approved Conditional Use Permit which includes Neighborhood Impact Establishments.
6. An operation plan for each alcoholic beverage establishment shall be submitted to Planning Department staff for review and approval prior to the issuance of a Certificate of Occupancy, Certificate of Completion or Business Tax Receipt, whichever occurs first.
7. Security personnel and other restaurant staff shall take measures to enforce the Patron Age Restriction of the City Code during the hours of operation of all alcoholic beverage establishments.
8. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.
9. 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, prior to the applicant obtaining a building permit, and any other fair share cost before the Certificate of Occupancy for the proposed restaurants.

10. Any additional dance hall, stand-alone bar, or entertainment establishment that may be proposed for this property, regardless of occupant load shall be reviewed by the Planning Board for a separate conditional use approval as agreed by the applicant.
11. Notwithstanding **condition No. 14 10 above**, ~~MC GA Collins Realty, LLC, Regal 2000 Collins Retail Holdings LLC, RDS Boulan LLC, 237 Parking LLC and 237 20th Street Garage LLC~~, shall be enabled to allocate, divide or sub-divide the commercial spaces within the property for different uses and re-allocate parking spaces according to need without having to amend the Permit every time one of these re-allocations, divisions or sub-divisions of spaces takes place, as long as it is not one of the uses specified in the Permit that require Planning Board approval. Any re-allocation, division or subdivision of the commercial spaces shall be limited to the number of parking spaces provided within the garage and shall be submitted to Planning Department staff for review and re-certification that enough parking spaces remain available for all uses within the building. The total number of restaurant seats for the entire property shall not exceed 592.
12. Live or recorded music, whether amplified or non-amplified, which is played at a volume that is defined as entertainment, i.e., louder than ambient background music (defined as a sound level that does not interfere with normal conversation) shall not be permitted in Area #5 (the open courtyard), and shall not be audible in the adjacent properties or in the residential units of the project, and in no instance shall the low-volume background music be permitted past midnight. Area #5 shall in no circumstance operate as a bar, nightclub, discotheque, or dance hall.
44. 13. Sound shall be contained within the courtyard and shall not create a disturbance to the adjacent property.
45. 14. Live or recorded music, whether amplified or non-amplified, which is played at a volume that is defined as entertainment, i.e., louder than ambient background music (defined as a sound level that does not interfere with normal conversation) shall not be permitted in any of Area #4, #5, or #6. The additional requirements in **Condition No. 13 12** shall also apply to Area #5.
46. 15. Should any of the remaining commercial/retail spaces be aggregated to create a larger alcoholic beverage establishment, such establishment shall be limited to the number of parking spaces provided within the garage. In this case, the applicant shall return to the Planning Board to evaluate impact of the larger venue and address issues such as, but not limited to the number of seats, the kind of operation, potential noise, etc. This review shall be a modification to the Conditional Use Permit and shall be properly advertised for a public hearing.
47. 16. The applicant shall resolve outstanding violations and fines, if any, prior to the issuance of a building permit for the parking facility.
48. 17. The applicant shall continue to offer a \$5.00 discounted rate for two hours, for parking tickets validated by any of the cultural venues in the immediate area (Bass Museum, Miami City Ballet, and Public Library) for as long as the existing surplus number of parking spaces do not become required parking for the accessory commercial uses within the building.

19. 18. The required parking spaces for the residential and commercial uses on site shall be reserved in the garage to service such uses and shall not be used by valet operators to service off-site uses.
20. 19. The parking garage approved included in this Conditional Use Permit shall be valet only; self-parking is prohibited. The excess parking spaces generated by this project shall remain available by valet service to the general public on a first-come, first-serve basis for as long as the existing surplus number of parking spaces do not become required parking for the accessory commercial uses within the building.
24. 20. The operator of the parking garage shall be responsible for operating this facility in an orderly, clean and quiet manner so that neighboring residents are not disturbed. The sounding of car alarms, playing of radios or any kind of audio system (including by the valet attendants), automobile horns, and screeching of tires shall be prohibited. Two signs, one addressing City Code provisions regarding car alarms, and one prohibiting the screeching of tires and sounding of horns (see attached examples), shall be posted on the site so they are plainly visible by users of the facility.
22. 21. Without in any manner limiting the general rights of the Planning Director or the Planning Board to recall the owner or operator or to modify this Conditional Use Permit, 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 of the accessory uses proposed for the project should there be valid complaints (as determined by Code Compliance) about loud, excessive, unnecessary, or unusual noise.
23. 22. 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.
24. 23. 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.
25. 24. This modified Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County within a reasonable time after receipt at the expense of the applicant. 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.
26. 25. 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.
27. 26. 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.

27. 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
Development and Resiliency Officer
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.

[NOTARIAL SEAL]

Notary:
Print Name:
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 _____ ()