# MIAMI BEACH
## PLANNING DEPARTMENT

## Staff Report & Recommendation — PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: March 28, 2023

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: **PB20-0339, a.k.a. PB File No. 1947. 550 Washington Avenue – Paris Theater.**
Progress Report.

**BACKGROUND**

*December 15, 2009:* The Paris Theater, LLC, was granted a Conditional Use Permit (CUP) approval for a Neighborhood Impact Establishment (NIE) to operate this facility as a performing art theater and lounge serving alcoholic beverages during weekends and holidays.

*August 23, 2011:* Bamboo Group, Inc obtained a Modification to the CUP in order to change the name of the owner and operator from Paris Theater, LLC to Bamboo Group, Inc.

*April 3, 2012:* Big Time Production, LLC/Bamboo Group, Inc. was sent a cure letter due to several Notices of Violation that had been issued, which rendered the applicant in violation of the conditions of the MCUP.

*April 24, 2012:* The operator was before the Board because several Notices of Violation had been issued for loud music emanating from the establishment in contradiction to the conditions of approval of the existing CUP. The Board discussed the violations and heard from the contractor working on the project as to what was being proposed to mitigate the noise impact of the venue on the nearby residents. The Board also heard from the nearby residents that had attended the meeting and their complaints about noise. The contractor explained that special sound-proof doors had been ordered, which were to be installed at the Euclid Avenue side of the venue. The doors were a special-order item and were expected to be delivered in approximately 45 days. The Board directed the applicant to come back to the May 22 meeting for another progress report and continued the modification hearing.

*May 22, 2012:* The contractor gave an update of the work in progress and the Board directed the applicant to come back to the June 26, meeting for another Progress Report and continued the modification/revocation hearing to the August 28, 2012 meeting.

*June 26, 2012:* The contractor gave an update on the work that had been completed, including the installation of the sound proof doors at the rear of the property. He asserted that they continue to work to find noise leaks and that they had addressed 85 – 90% of the noise issues. He stated that the establishment is operating under a Temporary Certificate of Occupancy (TCO) and that he expected a Certificate of Occupancy (CO) within 30 to 45 days. The Board directed the applicant to come back to the August 28 meeting for another progress report and continued the modification/revocation hearing.

*August 28, 2012:* The contractor gave an update on the status of the work being done. He stated that the skylight soundproofing work was completed and that the elevator shaft work was done, except for the installation of equipment and elevator doors. He said that the work should be completed within 35 days contingent upon the City's final inspection. Legal counsel was asked why there were still 2 unpaid fines. He stated that he was in talks with the City attorney's office regarding those fines. The Board directed the applicant to come back to the October 30 meeting for another progress report and continued the modification hearing.

*October 30, 2012:* A seventh noise violation was issued for loud music on October 13, 2012. At the board meeting the contractor and counsel explained that an elevator shaft was inadvertently left open that night allowing noise to escape into the immediate neighborhood. According to the applicant the shaft was sealed immediately, which addressed the noise issue. The Board voted to suspend the entertainment provision of the CUP for 24 hours beginning November 1, 2012 at 12:01 PM and directed the applicant to come back at the November 28 meeting for another progress report.

*November 28, 2012:* A settlement agreement was reached between the applicant and the City Attorney's office through the Special Master for seven valid noise cases. The agreement stipulates that in conjunction with the monetary penalties a 30-day suspension of the BTR must be imposed if there is another adjudicated violation. Furthermore, the establishment was deemed a "Habitual Offender" and financial penalties were imposed. Counsel for the applicant stated that the applicant has complied with everything the Board has asked it to do. The Board directed the applicant to come back to the December 18 meeting for another progress report and the continuation of the modification/revocation hearing.

*December 18, 2012:* The applicant at the time and counsel stated that they were expecting final approval of the plans for the elevator shaft from the Building Department. No additional violations had been issued. The Board directed the applicant to come back to the February 26, 2013 meeting for another progress report and the continuation of the modification/revocation hearing.

*February 26, 2013:* The applicant at the time went before the Board to request a change of name from Bamboo Group, Inc to Paris Theater, LLC, which was approved. The applicant was also before the Board for a progress report and the

continuation of a modification/revocation hearing. The Board directed the applicant to come back for another progress report and the continuation of the modification/revocation hearing at the May 28, 2013 meeting.

*May 28, 2013:* The applicant at the time went before the Board for a progress report and the continuation of the modification/revocation hearing. The Board directed the applicant to cure all outstanding violations and come back to the August 27, 2013 meeting for a Progress Report and the continuation of the modification/revocation hearing.

*August 27, 2013:* The progress report and revocation/modification hearing were concluded.

*December 15, 2014:* The applicant at the time appeared before the Board to modify the previously issued Modified CUP in order to change the name of the owner and operator from from The Paris Theater, LLC, to Variety Paris, LLC.

*June 23, 2020* The Planning Board approved modifications to the previously approved Conditional Use Permit for a neighborhood impact establishment with entertainment to provide for substantial changes to the operations, including the addition of dance floors, as well as a change to the ownership and operator.

**PROGRESS REPORT**

As mentioned in the background section of this report, on June 23, 2020, the Planning Board approved a modification to the Conditional Use Permit for the Paris Theater, located at 550 Washington Avenue. The approved CUP contains the following condition:

1. *The Planning Board shall maintain jurisdiction of this Modified Conditional Use Permit. The applicant shall be required to appear before the Planning Board for a progress report within 90 days following 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).*

On January 23, 2023, sound testing took place at the establishment with Planning Staff present. On January 26, 2023, a Certificate of Use (CU22-3864) was issued to the establishment and on January 31, 2023, the establishment was issued a Business Tax Receipt (BTR 013440-01-2023) for the operation of a restaurant serving alcohol with dance and entertainment, until 5:00 a.m.

This progress report is for compliance with condition 1 of the approved CUP, which requires that there be a progress report within 90 days following the issuance of a BTR.

**STAFF ANALYSIS**

There are no open violations as of the writing of this progress report. Since the establishment was issued a BTR, there were four noise complaints made due to loud music between February 10th and February 19th, however no violations were observed by the Code Compliance officers.

Additionally, the applicant has indicated that they would like to replace the ownership entity – 550 LANDLORD, LLC with the operator entity 550 WASHINGTON, LLC. The applicant has indicated that the ownership is the same for both entities so there is no substantive difference. Since condition 1 indicates that "*The Board reserves the right to modify the Conditional Use approval at the time of a Progress Report in a non-substantive manner*," staff has no objection to the proposed modification.

Given that there have been no violations or recent code complaints, staff recommends that the Planning Board approve the modification of the ownership entity and that the progress report be concluded. Staff will continue to monitor the operation and should issues arise in the future, staff can issue a cure letter and call the applicant back to the Planning Board for a progress report.

**STAFF RECOMMENDATION**

Staff recommends that the Planning Board discuss the conditions of the CUP, approve the modification of the ownership entity from 550 LANDLORD, LLC with the operator entity 550 WAHSINGTON, LLC, and conclude the progress report.

CFN: 20200434134 BOOK 32041 PAGE 1684
DATE:08/07/2020 12:21:51 PM
HARVEY RUVIN, CLERK OF COURT, MIA-DADE CTY

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

**PROPERTY:** 550 Washington Avenue

**FILE NO:** PB20-0339, a.k.a. PB File No. 1947

**IN RE:** An application for modifications to a previously approved Conditional Use Permit for a neighborhood impact establishment with entertainment. Specifically the applicant is requesting substantial changes to the operations, including the addition of a dance floor(s), as well as a change to the ownership and operator, pursuant to Chapter 118, Article IV, Chapter 142, Article II, and Chapter 142, Article V, Division 6 of the City Code.

**LEGAL DESCRIPTION:** See Exhibit "A"

**MEETING DATE:** June 29, 2020

## MODIFIED CONDITIONAL USE PERMIT

The applicant, 550 Landlord LLC, filed an application with the Planning Director to modify a previously approved Conditional Use Permit to change the name of the operator from Variety Paris LLC, to 550 Landlord LLC, pursuant to Section 118 Article IV. of the Land Development Regulations of the Code of the City of Miami Beach, Florida. Notice of the request for Conditional Use 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 record for this matter:

That the property in question is located in the C-PS2, Commercial General Mixed Use zoning district;

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 City Code;

That the public health, safety, morals, and general welfare will not be adversely affected when the conditions stated below are in compliance;

That necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values if the following conditions are met.

**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, and accepted by the applicant, that the Modification to the previously approved Conditional Use Permit as requested and set forth above be GRANTED, subject to the following conditions:

1. The Planning Board shall maintain jurisdiction of this Modified Conditional Use Permit. The applicant shall ~~come back to~~ be required to appear before the Planning Board ~~as may be deemed necessary by the Planning Director and provide a Progress Report.~~ for a progress report within 90 days following 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 Modified Conditional Use Permit is issued to ~~Variety Paris LLC~~ 550 Landlord LLC, as operator of this Neighborhood Impact Establishment. ~~the theater/lounge.~~ Any change of operator or 50% (fifty percent) or more stock ownership shall require review and approval ~~in advance~~ by the Planning Board as a modification to this Conditional Use Permit. ~~Subsequent owners and operators shall be required to appear before the Board, in advance, to affirm their understanding of the conditions listed herein.~~

3. The conditions of approval for this Modified 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 in support of this application.

6. The Applicant agrees to and shall be required to comply with the following operational conditions, which shall apply to the entire property:

    a. The maximum occupant content shall not exceed 1,005 persons, or any lesser such occupant content as determined by the Fire Marshal.

    b. Hours of operation shall not exceed the ofllowing:
    Monday through Sunday from 8:00 a.m. to 5:00 a.m.

    c. Any uses permitted pursuant to this MCUP shall be prohibited in all outdoor areas of the property, unless expressly authorized by the Planning Board as a modification to this conditional use permit. This provision shall not be construed to prohibit the approval of a sidewalk café on Washington Avenue, subject to the review and approval of the Public Works Department.

    d. The Euclid Avenue entrance shall only be used as emergency egress. Access by ~~theater performers~~ staff and security personnel shall be permitted.

    e. 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. Within 60 days of this approval, the sound system in the venue shall be tested by a qualified acoustic

professional, and a report shall be submitted to the Planning Department for review, to verify that it is operating as designed. A sound field test shall be performed with Planning Deparment staff present to demonstrate that the sound system will comply with the requirements of this CUP, and that all sound is fully contained within the site at all times.

f. Exterior speakers, with the exception of those required for life-safety purposes, shall be prohibited on the exterior of the premesis.

g. Delivery trucks shall only be permitted to make deliveries from City-authorized and designated commercial loading zones.

h. Delivery trucks shall not be allowed to idle in loading zones.

i. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.

j. Deliveries and waste collections may occur daily during the hours applicable to on-street loading zones.

k. 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.

l. 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.

m. An air conditioned trash room(s)/garbage room(s) shall be large enough, or sufficient in number, to accommodate enough dumpsters so that no more than one garbage pick-up per day is necessary.

n. Garbage dumpster covers shall be closed at all times except when in active use.

o. Security personnel shall take measures to enforce the Patron Age Restriction of the City Code during the hours of operation.

p. No patrons shall be allowed to queue on public rights-of-way, or anywhere on the exterior premises of the subject property.

q. Any window treatment that may be proposed shall be such that there is a clear view from the sidewalk in order to activate the area. Such treatments shall be included in the building permit plans and shall be reviewed and approved by staff.

r. The ~~applicant~~ operator shall be responsible for maintaining the frontage and exterior of the building and the property in excellent condition, including keeping the sidewalk, curb and gutter in front and side of the building in a clean and sanitary condition, free of all refuse, at all times. When sweeping the sidewalk in front of the establishment, the personnel doing the sweeping shall ensure that they do not

merely push the refuse in front of another building, but pick up all trash and dispose of it appropriately. In addition, at the end of business each day sidewalks shall be swept and hosed down.

s. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.

t. Special Events may occur on the premises, subject to all applicable provisions of the City Code, the City's Special Event Guidelines, and any other applicable ordinances, rules or regulations in effect at the time, and may be permitted to exceed the hours of operation and occupancy loads specified herein, if permitted by the Fire Marshal, subject to the review and approval of staff.

u. Host/hostess stands, podiums and menu boards shall be prohibited in the public right of way, and may instead be placed on private property, except as may be permitted under the Sidewalk Café Ordinance (set forth in Chapter 82, Article IV, Division 5 of the City Code), subject to the review and approved of the Public Works Department.

v. This establishment shall not become an Adult Entertainment Establishment as defined by City Code Section 142-1271; partial nudity shall also be strictly prohibited.

w. A Traffic Demand Management (TDM) plan shall be submitted, reviewed and approved by the Transportation Department prior to the issuance of a BTR.

x. All doors to the venue shall remain closed, except when in active use. Propping doors open shall not be permitted at any time the venue is in operation.

y. The operator shall be required to coordinate with the City to provide an off-duty police officer on-site (subject to availability), to monitor the operations during "high impact weekends," as defined in the City Code and as may be designated by the City Manager and/or City Commission.

z. The City of Miami Beach Police Operations Division Captain shall be provided with a twenty-four (24) hour contact phone number at which the applicant/operator can be reached.

~~7. As proposed, the applicant will initially start with evening shows and once a following is created, the hours may be extended to matinee and possibly daytime children shows. The hours of operation as proposed are from 9:00 p.m. to 5:00 a.m. Monday through Wednesday, and Thursday through Sunday from 11:00 a.m. to 4:00 p.m. and again from 6:00 p.m. to 5:00 a.m. From time to time the operators may hold private events and provide catered meals.~~

7. Business identification signs shall be limited to sign copy indicating the name of the establishment only and shall be subject to the review and approval of historic preservation and design review staff.

~~8. All performances shall be limited to the interior of the theater/lounge. Any noise shall be contained within the building and the doors both on Washington Avenue and Euclid~~

~~Avenue. No outdoor speakers shall be permitted.~~

~~9. Queuing shall take place within the premises, as proposed by applicant, and contained by Variety Paris LLC, 550 Landlord LLC, security personnel so that there is no spillover that could conflict with pedestrian flow in front of the subject establishment. In the event that queuing of people is necessary, stanchions shall be placed to control crowds and allow for the free flow of pedestrians on public sidewalks. The placement of the stanchions shall be shown on a site plan that shall be submitted to staff for review and approval.~~

~~10. A dance floor or dedicated dance area for patrons shall be strictly prohibited.~~

~~11. The facility shall be cleaned regularly and after each performance and the garbage shall be removed each time. No garbage dumps with perishables shall be stored outside the property.~~

8. 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. A final concurrency determination shall be conducted prior to the issuance of a Certificate of Occupancy or Certificate of Completion. Mitigation fees and concurrency administrative costs shall be paid prior to the project receiving the Business Tax Receipt.

~~12. Staff shall review and approve specific noise attenuation controls in place or to be implemented, as well as the technical specification list submitted by the applicant prior to the issuance of a Business Tax Receipt.~~

9. The applicant shall obtain a full building permit within 18 months from the date of the meeting, and 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 jurisdiction over this MCUP to call the owner or operator(s) ~~back before them~~ to appear before the Board, as provided in Section 118-194, and impose new conditions, modify the hours of operation, occupant load, or other conditions of this Permit, ~~or the occupant load~~ should there be valid complaints ~~issuance of written warnings and/or notices of violation (as determined by Code Compliance)~~ about loud, excessive, unnecessary, or unusual noise.

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 amended, shall be deemed a violation of this Modified Conditional Use Permit and subject to the remedies as described in section 118-194, Code of the City of Miami Beach, Florida.

12. The applicant shall resolve outstanding violations and fines, if any, prior to the issuance of a Business Tax Receipt.

~~13. The applicant shall obtain a final occupant load from the City before the issuance of a Business Tax Receipt.~~

13. The executed Modified Conditional Use Permit shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit. ~~Miami-Dade County,~~

~~Florida at the expense of the applicant and returned 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.~~

14. 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.

15. The applicant agrees and shall be required to provide access to areas subject to this Modified Conditional Use Permit (not including private residences or hotel rooms) for inspection by the City (including without limitation Planning Department, Code Compliance Department, Building Department, or Fire Safety personnel), to ensure compliance with the terms and conditions of this Modified Conditional Use Permit. Failure to provide access may result in revocation of the Modified Conditional Use Permit.

16. The establishment and operation of this Modified 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 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.

17. 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 7/31/2020 | 10:03 AM EDT.

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

BY: _____
Michael Belush, AICP
Chief of Planning and Zoning
For Chairman

STATE OF FLORIDA )
COUNTY OF MIAMI-DADE )

The foregoing instrument was acknowledged before me this 31 day of July, 2020, by Thomas R. Mooney, Planning Director of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

{NOTARIAL SEAL}

GABRIELA C. FREITAS
MY COMMISSION #GG131281
EXPIRES AUG 03, 2021
Bonded through 1st State Insurance

Notary:
Print Name Gabriela Freitas
Notary Public, State of Florida
My Commission Expires: Aug. 3, 2021
Commission Number: GG131281

Approved As To Form:
Legal Department on ( 7/31/2020 | 9:45 AM EDT )

Filed with the Clerk of the Planning Board on Jessica Grady (8/3/20 )

Underline denotes new languge
~~Strikethru~~ denotes stricken language
Conditions renumbered and reorganized for clarity

CFN: 20200434134 BOOK 32041 PAGE 1691


# EXHIBIT "A"
# LEGAL DESCRIPTION (From Survey)

LEGAL DESCRIPTION:

ALL OF LOT 2, BLOCK 48, OF OCEAN BEACH, FLORIDA, ADDITION NO. 3, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, AT PAGE 81, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, LESS THE PORTION MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NE CORNER OF SAID LOT 2; THENCE RUN SOUTHWESTERLY ALONG THE EAST LINE OF SAID LOT 2, A DISTANCE OF 31.22 FEET MORE OR LESS TO THE POINT OF INTERSECTION WITH THE EASTERLY EXTENSION OF THE NORTH FACE OF A C.B.S. BUILDING; THENCE RUN WESTWARDLY ALONG THE NORTH FACE OF SAID C.B.S. BUILDING AND ITS WESTERLY EXTENSION, A DISTANCE OF 21.75 FEET, MORE OR LESS TO A BREAK IN SAID C.B.S. BUILDING; THENCE RUN SOUTH ALONG A FACE OF SAID C.B.S. BUILDING A DISTANCE OF 0.2 FEET, MORE OR LESS TO THE FACE OF A NORTH WALL OF SAID C.B.S. BUILDING; THENCE RUN WESTWARDLY ALONG THE FACE OF THE NORTH WALL OF SAID C.B.S. BUILDING, A DISTANCE OF 86.75 FEET, MORE OR LESS, TO A POINT; THENCE RUN NORTHWARDLY ALONG AN EAST FACE OF SAID C.B.S. BUILDING AND ITS NORTHERLY EXTENSION A DISTANCE OF 23.68 FEET, MORE OR LESS, TO A POINT; THENCE RUN WESTWARDLY ALONG A LINE PARALLEL TO THE NORTH LINE OF SAID LOT 2, FOR A DISTANCE OF 5.0 FEET TO A POINT; THENCE RUN NORTHWARDLY ALONG A LINE PARALLEL TO THE NORTHERLY EXTENSION OF SAID EAST FACE OF SAID C.B.S. BUILDING FOR A DISTANCE OF 7.0 FEET, MORE OR LESS, TO A POINT ON THE NORTH LINE OF SAID LOT 2; THENCE RUN EASTWARDLY ALONG THE NORTH LINE OF SAID LOT 2, A DISTANCE OF 119.66 FEET, MORE OR LESS TO THE POINT OF BEGINNING.

AND

THE WEST 135 FEET OF LOT 3 AND THE EAST 9.0 FEET OF THE WEST 144.0 FEET OF THE NORTH 8.0 FEET OF LOT 3, BLOCK 48, OF OCEAN BEACH, FLORIDA, ADDITION NO. 3, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, AT PAGE 81, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

A/K/A 550 WASHINGTON AVE., MIAMI BEACH, FL 33139