

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

PROPERTY: 924 71st Street – Black Cat Cigar Lounge.

FILE NO. PB23-0588

IN RE: An application has been filed requesting a conditional use permit for an alcoholic beverage establishment for a cigar/hookah bar located in an existing commercial building, pursuant to Chapter 118, Article IV and Chapter 142, Article II of the City Code.

LEGAL DESCRIPTION: See exhibit "A"

MEETING DATE: June 27, 2023

CONDITIONAL USE PERMIT

The applicant, Daniel Matteo, filed an application with the Planning Director requesting a Conditional Use approval for an Alcoholic Beverage Establishment pursuant to Chapter 118, Article IV, and Chapter 142, Article II 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-2 Commercial medium intensity.

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

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- 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 Black Cat Cigar Lounge Inc., as tenant and operator of the Alcoholic Beverage Establishment consisting of a restaurant and bar. 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. The project authorized by this Conditional Use Permit includes the creation and operation of the proposed 45 seat establishment, subject to the criteria listed below:
 - i. The cigar/hookah bar subject to this CUP shall have a maximum occupant content of 83 persons or any lesser such occupant content as determined by the Fire Marshal.
 - ii. The indoor portions of the establishment may operate from 10:00 AM until 2:00 AM.
 - iii. These hours shall not supersede any future amendments to the City Code, pertaining to hours of operation for alcoholic beverage and/or entertainment establishments.
 - iv. Entertainment, as defined in City Code Section 114-1, shall be strictly prohibited in all areas.

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- v. Recorded background music, played at a level that does not interfere with normal conversation is permitted only in the indoor portions of the building, provided that a sound system with directional speakers and a digital tamper-resistant sound level limiter is used to minimize impacts to adjacent properties.
 - vi. Outdoor music and speakers are not permitted.
 - vii. Televisions and projectors shall not be located anywhere in the exterior areas of the property.
 - viii. No dance hall shall be permitted on the site.
 - ix. After normal operating hours, the establishment shall remain closed and no patrons or other persons, other than those employed by the establishment, shall remain therein between the establishment's closing time and 8:00 AM.
- B. Deliveries and waste collections may occur daily between 9:00 AM and 4:00 PM, or as otherwise specified by the City in approved loading zones in the vicinity.
 - C. Deliveries must be conducted via the loading area at the rear of the property on Beatriz Court. No deliveries shall be made from undesignated loading areas on 71st Street. Additionally, at no time shall delivery or service vehicles block any portion of the public right-of-way.
 - D. Delivery trucks shall not be allowed to idle in the loading zone.
 - E. Equipment and supplies shall not be stored in areas visible from streets, alleys or nearby buildings.
 - 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.
 - I. Garbage dumpster covers shall be closed at all times except when in active use.
 - J. 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.
 - K. No patrons shall be allowed to queue on public rights-of-way, or anywhere on the exterior premises of the subject property.
 - L. 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
 - M. Street flyers and handouts shall not be permitted, including handbills from third-party promotions.

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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.
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 before the Board 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 set forth in Section 2.5.2.5 of the land development regulations.
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

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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.

- 17. In accordance with Section 2.5.2.4.b.ii of the Land Development Regulations of the City Code, should the conditional use approved herein cease operation at any point and remain idle or unused in whole or in part for a continuous period of six months or for 18 months during any three-year period whether or not the equipment, fixtures, or structures remain, the applicant shall be required to seek re-approval of the conditional use from the board. Resumption of such use shall not be permitted unless and until the board approval has been granted.

Dated 7/7/2023 | 8:51 PM EDT

PLANNING BOARD OF THE CITY OF MIAMI BEACH, FLORIDA

DocuSigned by:
Rogelio Madan
 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 10 day of July, 2023, 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]

Miriam Herrera
 Notary:
 Print Name: Miriam Herrera
 Notary Public, State of Florida
 My Commission Expires: 12-16-23
 Commission Number: GG 940469

Approved As To Form: Legal Department
 DocuSigned by:
Nick Gallego
8D8CB88CCAB8460 (7/7/2023 | 7:09 PM EDT)

Filed with the Clerk of the Planning Board on 7/10/2023 | 8:22 AM EDT
 DocuSigned by:
Jessica Gonzalez
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EXHIBIT "A"

Legal description

Lot 4, in Block 3, in "OCEAN SIDE SECTION OF ISLE OF NORMANDY", according to the Plat thereof, recorded in Plat Book 27, at Page 06, of the Public Records of Miami-Dade County, Florida, more commonly known as 924 71st Street, Miami Beach, FL 33141.