



BERCOW
RADELL
FERNANDEZ
LARKIN +
TAPANES

ZONING, LAND USE AND ENVIRONMENTAL LAW

200 S. Biscayne Boulevard
Suite 300, Miami, FL 33131

www.brzoninglaw.com

305.377.6236 office

305.377.6222 fax

mlarkin@brzoninglaw.com

VIA ELECTRONIC & HAND DELIVERY

August 28, 2023

Rogelio A. Madan, AICP
Chief of Community Planning & Sustainability
City of Miami Beach
1700 Convention Center Drive, 2nd Floor
Miami Beach, Florida 33139

Re: **PB23-0621** – **Conditional Use Permit for
Neighborhood Impact Establishment at 624 Collins
Avenue, Miami Beach**

Dear Mr. Madan:

This law firm represents Palm Avenue Hialeah Trust (the "Applicant") with regards to the proposed development located at 624 Collins Avenue (the "Property") in the City of Miami Beach, Florida ("City"). Please allow this letter to serve as the required letter of intent in support of the Applicant's request for conditional use approval for a new Neighborhood Impact Establishment ("NIE") at the Property. Specifically, a quality, fine-dining restaurant with alcohol service, no entertainment, and an occupant load of over 300 persons. The Applicant proposes to redevelop the currently vacant structure with an upscale restaurant that will serve British cuisine to 318 seated patrons ("Project"). The Applicant has filed a concurrent application to the Historic Preservation Board for a Certificate of Appropriateness for interior and exterior renovations for the new use, HPB23-0592.

Property Description. The Property is located on a single lot approximately 7,000 square feet (0.16 acres) in size and is located along Collins Avenue between 6th Street and 7th Street. See Figure 1, below. The Property consists of one (1) parcel identified by Miami-Dade County Folio No. 02-4203-004-0770. The Property is

platted and is comprises Lot 7 of Block 34 of the Ocean Beach Florida Addition No. 1 plat recorded in Plat Book 3, Page 11 of the Public Records of Miami-Dade County. Additionally, the Property is located in the Ocean Drive/Collins Avenue local historic district. The existing building is classified as a contributing structure, built in 1922. The Property is currently vacant.



Figure 1

The Property is zoned MXE, the Mixed-Use Entertainment District ("MXE"). The MXE allows a range of commercial and retail use. Pursuant to City Code Section 7.2.13.2.f.6., buildings that are located in the MXE district and that front Collins Avenue from 6th Street to 16th Street are allowed uses as offices, retail, food service establishments, personal service, food service establishments serving alcohol, and residential uses or any combination thereof.

Proposed Development. The proposed restaurant, will introduce a British-themed menu, featuring renditions of classic London working-class dishes. The Project proposes to redevelop the currently-vacant contributing building into a sit-down fine-dining restaurant with alcohol service. The commercial space was previously permitted as a retail use with a total of 7,900 square feet of retail space. **The proposed fine dining restaurant will offer 318 seats with a total occupancy load of 493.** The Project will offer a combination of booth, table, and bar seating on each of three floors, and an elevator that will provide

vertical access to patrons. The Project's third floor will require the addition of an open-air rooftop that will be partially covered and contain both seating and standing space.

Transportation Department. On July 10, 2023, the Applicant met with the City's Transportation Department. The Applicant's traffic engineer has responded to Transportation's comments and provided the Department with an updated traffic study. A copy of the updated traffic study is included in the application materials.

Parking Department. On July 19 2023, the Applicant met with the City's Parking , Department. The Parking Department reviewed the proposed use of on-street loading spaces and approved the use of up to three (3) city-owned on-street parking spaces. Prior to Certificate of Occupancy the Applicant will meet again with the Parking Department to obtain the appropriate signage required for the use of the spaces.

Property History. The two-story, contributing structure on the Property was constructed the Atlantic Apartments, a multi-family apartment building in 1922 and designed by architect A. L. Sammons in the Mediterranean Revival architectural style. The structure's architectural features include an asymmetrical tripartite facade design, clay barrel tile roof, and rough stucco walls. Additionally, the building contains a recessed second floor level terrace with framing arch and pierced masonry balustrade. Interestingly, the building detailed early residential construction which is atypical of most buildings of the same period on this lower end of Collins avenue.

In 1938, the home was remodeled into four apartment units with additional bathroom space. In the 1940's it functioned as a hotel before it was redeveloped again into an apartment building containing sixteen (16) units. Most recently, the Property was used as a retail merchandise store for the menswear brand Club Monaco which operated from approximately 2015 to 2019. The Property has sat vacant since Club Monaco terminated its operations at this location.

General Standards for Approval of Conditional Uses. Pursuant to Resiliency Code Section 2.5.2.2.a, an application for a conditional use may be approved if the Planning Board finds that it meets the below-listed general standards for approval. The Project complies with all nine (9) standards.

(1) The use is consistent with the comprehensive plan or neighborhood plan if one exists for the area in which the property is located.

Policy RLU 1.1.13 of the City's 2040 Comprehensive Plan ("Comprehensive Plan") provides that the purpose of the Mixed-Use Entertainment, MXE, Future Land Use Designation is to provide development opportunities to enhance the desirability of new mixed-use areas which accommodate residential, hotel and commercial development. To that end, the Comprehensive Plan permits various types of commercial uses including eating and drinking establishments and conditional uses approved at public hearings as permitted by the Land Development Regulations. The proposed use is consistent with Policy RLU 1.1.13 because the proposed a restaurant with alcohol service it is a permitted use within the MXE Future Land Use Designation will be permitted as a conditional use subject to approval of the Planning Board at a public hearing.

(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.

The Property is located within the Mixed Use Entertainment future land use designation, as provided in the Comprehensive Plan, that was designed to provide variety of mixed use commercial areas to accommodate for residential, hotel, and commercial development. This land designation envisions restaurant and drinking establishments, such as the Project, that will enhance the desirability and quality of the area while maintaining an operational impact that will not exceed the threshold levels as set forth in the Comprehensive Plan.

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

The structure and use associated with the request are consistent with the City's land development regulations (LDRs) for the MXE zoning district. As stated above, Section 7.2.13.2.f.6., allows buildings fronting Collins Avenue from 6th Street to 16th Street the uses of offices, retail, food service establishments, personal service, food service establishments serving alcohol, and residential uses or any combination thereof. Additionally, the MXE District permits neighborhood impact establishments as a conditional use. The Property is within the MXE zoning district, which allows food service establishments with alcohol service as a main permitted use and neighborhood impact establishments as conditional uses. Consequently, the uses associated with the request are consistent with the land development regulations.

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

The public health, safety, morals, and general welfare will not be adversely affected. The Project will be a dining experience fully in line with public health, safety, morals. The Applicant proposes to renovate and redevelop the existing historic, contributing structure which has sat vacant since mid-2019 and construct an elegant sit-down, fine-dining restaurant with renowned culinary and management team. The Project will be an enhance the desirability of the area by providing an upscale food-service option for nearby residential, hotel and commercial residents and future development. Rather than allow the Site to continue being vacant, the Project will bring a venue to the Property and provide a neighborhood amenity for the surrounding residential community. Moreover, the Project will provide additional business tax revenue to the City, generate jobs and increase the tax base, thereby stimulating the local economy and encouraging consumer activity.

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

The Project will be fully serviced by a valet service operation. The Applicant will lease up to three city-owned parking spaces located along Collins Avenue, in front of the proposed restaurant. The Applicant intends to use the adjacent City-owned parking garage to accommodate the Project's employees and patrons. An automated system will be used with patrons to help them order the vehicle in advance via a mobile app or mobile phone call/text message. This will allow the valet operator to schedule pick-ups and reduce congestion at the valet area. The Applicant is in the process of creating its own valet operation service and applying for a City license as a valet parking service provider. The Applicant will obtain this license prior to beginning its food service operations. The Applicant further anticipates that many patrons will arrive by foot, ride-share services, or taxi.

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

The Project will have a manager on-site at all times monitoring the number of patrons, patron activity, and supervising and coordinating security staff, as needed. Additionally, the Applicant will provide additional safeguards for the protection of the area community, within its final submittal package, and as needed.

(7) 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.

The Project will not negatively impact the neighborhood. The Project proposes a restaurant use in a location that is meant for high-intensity, mixed use development and entertainment. The addition of the proposed restaurant use will bring much

needed diversity to the block of Collins Avenue located between 6th Street and 7th Street. As it exists, this block contains almost entirely retail uses, with twelve retail locations, largely clothes merchandisers, on the block. Additionally, is one hotel, hair salon, and yoga studio, each, on the block. However, there is only one other food service establishment, Tavern, on the east side of Collins Avenue. None of the surrounding uses are conditional uses within this portion of the MXE zoning district. As such, the Project will not lead to a geographic concentration of similar types of uses, or conditional uses

(8) The structure and site comply with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.

As explained in further detail below, the Project complies with all sea level rise and resiliency review criteria provided in Code Section 7.1.2.4.

(9) Appropriate consideration is given to the safety of and friendliness to pedestrian traffic, passageways through alleys is encouraged where feasible and driveways shall be minimized to the extent possible.

The Project's design team considered the impact on pedestrian traffic and carefully created an innovative passageway in the alleyway to the left of the front restaurant door that will serve as the primary entrance for patrons. This alleyway is approximately nine (9) feet wide and forty (40) feet long, allowing more than sufficient room for patron queuing. Additionally, the Project proposes the construction of an interior vestibule that will allow venue personnel to process all patrons on-site and inside of the restaurant, and away from any pedestrian traffic. The Project does not propose any driveways.

Neighborhood Impact Establishment Supplemental Review Standards. In addition to the standards set forth in Code Section 2.5.2.2.a, in Section 7.5.5.4.a. the Code provides supplemental review guidelines and criteria for neighborhood impact establishments.

(1) An operational/business plan which addresses hours of operation, number of employees, menu items, goals of business, and other operational characteristics pertinent to the application.

The Applicant has provided a business operation plan along with this application that details its management team, goals, hours of operation, menu items, employee demand, security, loading and refuse collection, traffic and parking noise attenuation and general operational characteristics.

(2) A parking plan which fully describes where and how the parking is to be provided and utilized, e.g., valet, selfpark, shared parking, after-hour metered spaces and the manner in which it is to be managed.

The Project will be fully serviced by a valet service operation. The Applicant will lease up to three city-owned parking spaces located along Collins Avenue, in front of the proposed restaurant. The Applicant intends to use the adjacent City-owned parking garage to accommodate the Project's employees and patrons. An automated system will be used with patrons to help them order the vehicle in advance via a mobile app or mobile phone call/text message. This will allow the valet operator to schedule pick-ups and reduce congestion at the valet area. The Applicant is in the process of creating its own valet operation service and applying for a City license as a valet parking service provider. The Applicant will obtain this license prior to beginning its food service operations. The Applicant further anticipates that many patrons will arrive by foot, ride-share services, or taxi.

(3) An indoor/outdoor crowd control plan which addresses how large groups of people waiting to gain entry into the establishment, or already on the premises will be controlled.

While the restaurant provides for seating for 318 persons, all patrons will be processed on site, and no queuing will occur outside. The Project's design team considered the impact on pedestrian traffic and carefully created an innovative alleyway in the alleyway to the left of the front restaurant door that will serve as the primary entrance for patrons. This alleyway is approximately nine (9) feet wide and forty (40) feet long, allowing more than sufficient room for patron queuing. Additionally, to avoid further noise concerns and potential outdoor queuing, the Project proposes the construction of an interior vestibule that will allow venue personnel to process patrons inside of the premises, and away from any external foot traffic.

(4) A security plan for the establishment and any parking facility, including enforcement of patron age restrictions.

The Applicant will carefully control and monitor restaurant operations and patron behavior, ensuring security concerns are promptly and sufficiently handled. The Project will have a manager on-site at all times monitoring the number of patrons, patron activity, and supervising and coordinating security staff, as needed. Additionally, all employees will be responsible for enforcing patron age restrictions. The Applicant will provide a more detailed security plan, as needed.

(5) A traffic circulation analysis and plan which details the impact of projected traffic on the immediate neighborhood and how this impact is to be mitigated.

The Applicant submitted a draft traffic study prepared by Alfredo Cely of Alfka engineering firm along with this application. Based on the Fine-Dining Restaurant use for 624 Collins Avenue

(6) A sanitation plan which addresses on-site facilities as well as off-premises issues resulting from the operation of the establishment.

A deliveries and sanitation plan is included within the Operations Plans that addresses commercial delivery loading and waste operations. Waste pickup and surplus commercial loading will be performed within Collins Court (one-way street) which is also currently utilized by the other commercial venues on Collins Avenue. The previous use of the Property also handled garbage pick-up along Collins Court. Additional commercial loading and unloading operations can be completed within the on-street loading zone available 15 feet away from the property within Collins Avenue. All waste and trash will be collected and stored in an enclosed room in the rear first floor of the restaurant. The restaurant will include a service entrance in the rear that will allow for trash removal and supplemental service deliveries. Primary commercial loading will utilize the front entrance, during non-operating hours.

(7) A noise attenuation plan which addresses how noise will be controlled to meet the requirements of the noise ordinance.

The Applicant has submitted a draft acoustics memorandum prepared by David Kotch and Andy Swerdlow of Criterion Acoustics. The Applicant will submit a final sound study along with its final submittal package. The Project will ensure all noise volumes remain inaudible from the street level and surrounding properties and that it will not affect the pedestrian use of Collins Avenue street or neighboring properties. To this end, the Project has proposed a number of precautionary measures. The Applicant shall only play background, ambient-level music playback on the rooftop; sound will be directed away from the closest neighbor, 616 Collins Ave., adjacent to the south. Moreover, Applicant's sound consultant will model the proposed AV system and advise on loudspeaker placement, overall sound levels, and other potential noise mitigation strategies such as noise barrier walls in certain areas. Finally, a digital tamper-resistant sound level input limiter will be installed and configured after on-site sound level calibration to ensure the calibrated level cannot be exceeded. No

operational staff will have access to audio calibration devices, which will be controlled solely by corporate management.

(8) Proximity of proposed establishment to residential uses.

The Property is surrounded by commercial uses on all sides. The nearest residential uses exist over a block away to the west, and over two (2) blocks away to the south. Existing commercial structures and roads to the east and south, including highly traffic roads like 5th Street and Washington Avenue, provide sufficient buffering from the Project to impact these residential uses. Nevertheless, and the Applicant has carefully considered how the Project's operations could be designed to enhance the quality of life for residents in the area. Specific concerns with respect to potential noise concerns, valet operations and garbage collection have been addressed through the operations plan.

(9) Cumulative effect of proposed establishment and adjacent pre-existing uses.

The Project will create a positive cumulative effect on the adjacent pre-existing uses. As mentioned above, the proposed restaurant would be one of only two food service establishments on the block. The immediately surrounding properties contain two hotels with an estimated 200+ hotel units, combined. The Project will provide a dining option for patrons of these nearby hotels that is located within walking distance. Additionally, the Project will open for lunch 6 days, allowing it to also service the patrons of surrounding retail locations that are open during the afternoon hours. Thus, the project would enhance adjacent, pre-existing uses by providing a much-needed restaurant use on this stretch of Collins Avenue, which otherwise lacks a mixture of food service uses, much less varied types of food.

Sea Level Rise and Resiliency Criteria. The Project complies with all sea level rise and resiliency review criteria provided in Resiliency Code Section 7.1.2.4., as follows:

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

CONSISTENT – The Applicant has provided plans for the partial demolition of the Property's interior and will provide a recycling or salvage plan during the permitting phase of the project.

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

CONSISTENT – The Applicant’s project will include hurricane impact windows.

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

CONSISTENT – Where feasible, the Applicant will include operable windows for passive cooling.

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

CONSISTENT – Where applicable, the Applicant will provide landscaping on the Property, particularly, along the front entrance and the open-air rooftop floor, which will be resilient.

(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.

CONSISTENT – The Applicant has considered the adopted sea level rise projections and the land elevations of the subject property and surrounding properties. The Project has been designed to accommodate the raising of the roads, both now and in the future (see response to item (6) below), and complies with the minimum elevation requirements of the Florida Building Code.

(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.

CONSISTENT – The Project’s ground floor shall be adaptable to the raising of public rights-of-ways and adjacent land, and will provide sufficient height and space to ensure that entry ways and exits can be modified.

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

CONSISTENT – All critical mechanical and electrical systems will be located above base flood elevation.

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

CONSISTENT – The existing building was constructed in 1922, prior to today's standards. The Applicant has considered the adopted sea level rise projections and the land elevations of the subject property and surrounding properties. At this time, the Applicant does not propose to elevate any portion of the structure, however, the Applicant will consider it if required. Final design and architectural elements of the Project will be considered by the Historic Preservation Board when it hears an application for approval of a special certificate of appropriateness for the Project.

(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.

CONSISTENT – The Applicant will analyze and provide wet or dry flood proofing systems as required. Final design and architectural elements of the Project will be considered by the Historic Preservation Board when it hears an application for approval of a special certificate of appropriateness for the Project.

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

CONSISTENT – The Applicant will analyze and provide a water retention system, if feasible, during the permitting phase. Final design and architectural elements of the Project will be considered by the Historic Preservation Board when it hears an application for approval of a special certificate of appropriateness for the Project.

(11) Cool pavement materials or porous pavement materials shall be utilized.

CONSISTENT – The Applicant will utilize pavement materials or porous pavement materials where possible, including, but not limited to, the pathway along the main entrance on the ground floor, the outdoor stairwell, and the rooftop. Final design and architectural elements of the Project will be considered by the Historic Preservation Board when it hears an application for approval of a special certificate of appropriateness for the Project.

(12) The design of each project shall minimize the potential for heat island effects on-site.

CONSISTENT – The proposed design has considered the potential for heat island effects on-site and the Applicant will minimize this risk through the use of cool pavement materials on the rooftop floor, awnings, and energy-efficient stairwell glass-railing panels, building paint treatments, windows and doors. Final design and architectural elements of the Project will be considered by the Historic Preservation Board when it hears an application for approval of a special certificate of appropriateness for the Project.

Conclusion. We respectfully request your recommendation of approval of the Applicant's request. Please contact me on my direct line at (305) 377-6236 should you have any questions or concerns.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael W. Larkin".

Michael W. Larkin

Attachments

cc: Alejandro J. Moreno, Esq.
Emily K. Balter, Esq.