MIAMI BEACH
PLANNING DEPARTMENT

Staff Report & Recommendation — PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: January 30, 2024

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: **PB23-0621. 624 Collins Avenue: Isabelle's - Restaurant.**

An application has been filed requesting a conditional use permit for a Neighborhood Impact Establishment (NIE) for a restaurant, pursuant to Chapter 2, Article V, Section 2.5.2 and Chapter 7, Article V, Section 7.5.5.4 of the Miami Beach Resiliency Code.

RECOMMENDATION
Approval with conditions.

BACKGROUND

October 24, 2023 The applicant requested a continuance of this application to incorporate changes to the ownership/applicant and revisions to the floor plans. The Planning Board continued the application to the December 19, 2023 hearing.

December 19, 2023 The December 19, 2023 meeting was cancelled due to a lack of quorum and the item was therefore continued to the January 30, 2024 meeting.

ZONING/SITE DATA

Legal Description: Lot 7, Block 34, "OCEAN BEACH, FLA ADDITION NO 1", according to the plat thereof, as recorded in Plat Book 3, at Page 11, of the Public Records of Miami-Dade County, Florida.

Zoning District: MXE, the Mixed-Use Entertainment District

Future Land Use Designation: Mixed-Use Entertainment (MXE)

Local Historic District: Ocean Drive/Collins Historic District

National Register District: Miami Beach Architectural District

Surrounding Uses:

North:	Commercial
South:	Commercial
West:	Hotel
East:	Commercial and Parking lot

(See Zoning/Site map at the end of the report)

THE PROJECT

The applicant, 624 Collins Ave LLC, has submitted plans entitled "Isabelle's Restaurant," prepared by Beilinson Gomez Architecture dated October 30, 2023. The proposal is for a restaurant, with alcohol service that will occupy the existing two-story commercial building including a proposed open-air rooftop addition with outdoor seating. The total proposed seat count is 318 and the total proposed occupancy load is 493 persons.

No entertainment is proposed; only music played at background level that does not interfere with normal conversation would be allowed. In accordance with Section 1.2.2.4 of the Resiliency Code, an alcoholic beverage establishment or restaurant, with an occupant content of 300 or more persons constitutes a Neighborhood Impact Establishment (NIE).

COMPLIANCE WITH CONDITIONAL USE REVIEW GUIDELINES:

Conditional Uses may be approved in accordance with the procedures and standards set forth in the Miami Beach Resiliency Code Chapter 2, Article V, 2.5.2.2:

1. **The Use shall is consistent with the Comprehensive Plan or Neighborhood Plan if one exists for the area in which the property is located.**

   Consistent – The request is consistent with the permissible uses in the Mixed-Use Entertainment District (MXE) as designated on the Future Land Use Map within the Comprehensive Plan.

2. **The intended Use or construction would not result in an impact that would exceed the thresholds for the levels of service as set forth in the Comprehensive Plan**

   Consistent – The proposal should not result in an impact that would exceed the thresholds for the levels of service as set forth in the Comprehensive Plan.

3. **Structures and uses associated with the request are consistent with these Land Development Regulations.**

   Consistent –Neighborhood Impact Establishments are permitted as conditional uses in this zoning district. This comment shall not be considered final zoning review or approval. This and all zoning matters shall require final review and verification prior to the issuance of a Building Permit.

4. **Public health, safety, morals and general welfare would not be adversely affected.**

   Consistent – The proposed establishment may adversely affect the general welfare of nearby residents if noise and other issues are not controlled. The facility would have to comply with all applicable laws and regulations for licensure.

5. **Adequate off-street parking facilities would be provided.**

   Partially Consistent – Per section 5.2.2, contributing buildings within local historic districts have no parking requirement. However, this exemption does not apply to the open-air restaurant seating. The site is located in parking Tier 1.

   Given the site constraints, the applicant will not be able to provide required parking on-site. Per section 5.4.1 from the Resiliency Code, a fee in lieu of providing parking may be paid to the City when required parking for additions to existing buildings within the architectural district or a local historic district cannot be provided. A fee in lieu will therefore

be required for the seats proposed on the new rooftop addition. A zoning analysis will be performed as part of the building permit review.

For operational parking, the applicant will utilize valet parking services to park vehicles at a nearby storage location. Additionally, there are public parking facilities and street parking adjacent to the site.

See the detailed traffic and parking study prepared by Alfka, LLC.

6. **Necessary safeguards would be provided for the protection of surrounding property, persons, and neighborhood values.**

   Consistent – Staff is recommending conditions to mitigate any adverse impacts from noise and other issues on the surrounding neighborhood.

7. **The concentration of similar types of uses would not create a negative impact on the surrounding neighborhood. Geographic concentration of similar types of conditional uses should be discouraged.**

   Partially Consistent – There are other restaurants and NIE's within the vicinity of the proposed establishment. NIE's are permitted in the MXE Zoning District as a conditional use. If not carefully controlled, such concentration could negatively impact the surrounding neighborhood. Staff has proposed conditions to minimize the potential for negative impacts.

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

   Consistent – As explained in further detail below, the Project complies with the 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.**

   Consistent – This is an existing structure. There is a proposed recessed vestibule/entrance on the south side that will improve the pedestrian traffic on the sidewalk and prevent queuing. There are no existing or proposed driveways which would impede pedestrian flow.

NEIGHBORHOOD IMPACT ESTABLISHMENT REVIEW GUIDELINES

In accordance with Chapter 7, Article 5 Sec. 7.5.5.4 of the Miami Beach Resiliency Code, in reviewing an application for an outdoor entertainment establishment, open air entertainment establishment or a neighborhood impact establishment, the Planning Board shall apply the following supplemental review guidelines criteria in addition to the standard review guidelines for conditional uses pursuant to Chapter 2, Article V:

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.**

Consistent –The operational plan was submitted with the application including details on hours of operation, number of employees, and other procedures.

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

   Consistent –The applicant will utilize valet parking services. The Applicant will lease up to three city-owned parking spaces located along Collins Avenue, in front of the proposed restaurant for the valet ramps. Additionally, there are adequate public parking facilities and street parking adjacent to the site.

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 would be controlled.**

   Consistent – A crowd control plan was included with the application. Staff is proposing conditions to mitigate any potential issues with crowd control and queuing in outdoor areas and on the public sidewalk.

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

   Consistent – Per the letter of intent, the project will have a manager on-site during operating hours 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.

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.**

   Consistent – A Traffic Study was provided. See the attached memorandum from the Transportation Department.

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

   Consistent –The operations plan indicates how garbage collections are intended to take place. Staff has included conditions in the attached draft order to mitigate any potential issues related sanitation operations.

7. **A noise attenuation plan which addresses how noise would be controlled to meet the requirements of the noise ordinance.**

   Consistent –The Applicant's submitted operations plan that outlines the noise mitigation techniques that will be implemented to control noise at the rooftop and ensure compliance with the noise ordinance. Staff has incorporated conditions in the attached draft order to mitigate any potential issues related to noise.

8. **Proximity of proposed establishment to residential uses.**

   Consistent –The nearest residential building, Council Towers, is located approximately

200 feet from the proposed venue. Staff has proposed conditions to ensure that nearby residents are not negatively affected.

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

   Consistent –There are other Neighborhood Impact Establishments within the vicinity of this district. If not carefully controlled, such concentration could negatively impact the surrounding neighborhood. Staff has proposed conditions to minimize potential impacts.

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 7.1.2.4 o of the Land Development establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

1. A recycling or salvage plan for partial demolition of the property's interior shall be provided.

   Satisfied. The applicant shall provide a recycling or salvage plan as part of any building permit.

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

   Satisfied. Windows will be hurricane impact windows.

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

   Satisfied. Per the letter of intent, The applicant will provide, where feasible, passive cooling systems.

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

   Satisfied. Per letter of intent, all landscaping will be Florida friendly and 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.

   Satisfied. This is an existing building.

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.

   Not Applicable.

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

   Satisfied. All critical mechanical and electrical systems will be located above BFE.

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

Partially consistent. The building is existing and was developed in 1922 prior to the adoption of the current BFE standards. Raising the building would not be feasible at this time.

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 in accordance with Chapter of 54 of the City Code.

Satisfied. Per the letter of intent, the applicant will analyze and provide wet or dry flood proofing systems as required in accordance with the Code.

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

Satisfied. Per letter of intent, water retention systems will be provided if feasible during the permit phase.

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

Satisfied. Per letter of intent**,** Cool pavement materials or porous pavement materials will be utilized where possible.

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

Satisfied. Per letter of intent, 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.

ANALYSIS

Project Description and Operations

The proposed project calls for the renovation of an existing commercial building with an open-air rooftop addition. The commercial building was built in 1922 and is classified as a contributing structure in the Ocean Drive/Collins Local Historic District. The applicant is proposing to operate a restaurant serving alcoholic beverages with a total projected occupancy load of 493 persons. Per the plans, letter of intent, and operational plan, the following is a breakdown of the areas of the venue, the occupant content, and the proposed hours:

- Ground Floor: 110 seats/200 occupants
- Second Floor: 107 seats/147 occupants
- Rooftop: 101 seats/146 occupants

- **Total Seats: 318**
- **Total Occupancy Load: 493**

Proposed Hours:

- Interior/Exterior area: Tuesday-Sunday: 12:00 PM to 1:00 AM
- Employees/Personnel: Monday-Sunday: 8:00 AM to 3:00 AM

The main entry point is on the south side of the building fronting Collins Avenue. Patrons will enter via passageway where a vestibule and front desk are located. From this point there is access to the ground floor bar, dining areas, elevators, and stairs. The western portion of the building is dedicated to back of house uses and bathrooms.

The second level will contain a bar, a dining area, an open kitchen, and bathrooms. The proposed open-air rooftop will contain an outdoor bar, covered dining areas, dining areas open to the sky, as well as bathrooms and the back of house uses. The applicant submitted revised plans to increase the enclosed area at this level from 2,353 SF to 2,609 SF from the previous version submitted for back of house operations. There is no change to the number of seats or maximum occupancy. Staff has no objection to this change.

In accordance with the MXE Supplemental Accessory Use regulations in the Resiliency Code (Section 7.2.13.2.c.3), accessory outdoor bar counters are permitted as follows:

> *Accessory outdoor bar counters, pursuant to the regulations set forth in chapter 6 in General Ordinances, provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.*

The outdoor bar counter must therefore close at midnight. Staff recommends that outdoor music also cease at midnight to ensure there are no potential disturbance to the surrounding neighborhood. Additionally, the applicant is required to obtain approval from the Historic Preservation Board (HPB) for the outdoor bar counter. A separate application for a certificate of appropriateness from the HPB has been filed (File No. HPB23-0592). The HPB is expected to consider the application on December 12, 2023.

Sound
There is no entertainment proposed and the applicant is proposing ambient background music, played at a level that does not interfere with normal conversation. Although a sound study was not required, the applicant provided a sound study that focuses on the proposed open-air rooftop.

Staff is proposing conditions to ensure that nearby residents are not impacted by sound from the venue and specially from the new rooftop.

Deliveries and Sanitation
The operations plan indicates that trash collection and deliveries will be made from the Collins Court alley. The plan indicates that sanitation collection will occur during the City's regularly scheduled collection times and that this is consistent with other recently approved Neighborhood Impact Establishments in this area. There is an additional on-street loading zone close to the restaurant on Collins Avenue.

Staff is recommending that this trash room be air conditioned and that it be closed except when sanitation pickups are occurring. Additionally, staff has recommended that deliveries only take during off-peak traffic hours.

Valet Parking & Transportation
Valet attendants will utilize the main restaurant entrance on Collins Avenue. Attendants will park vehicles at the designated city owned parking spaces for restaurant operations located in front of the venue.

The Applicant submitted a traffic study prepared by Alfka, LLC, which concludes that the proposed redevelopment is expected to result in a net increase of 42 weekend peak hour trips when

compared to the previous permitted use. The calculated service time for vehicles parked at the City's Collins/7th Street Parking Garage is 2.9 minutes. The Transportation Department has provided conditions which have been included in the attached draft board order. See the attached memorandum from the Transportation Department.

Site Access
Patron access to the restaurant is through the main entrance on the south side of the property fronting Collins Avenue. As this is an interior lot, there are no other patron access points.

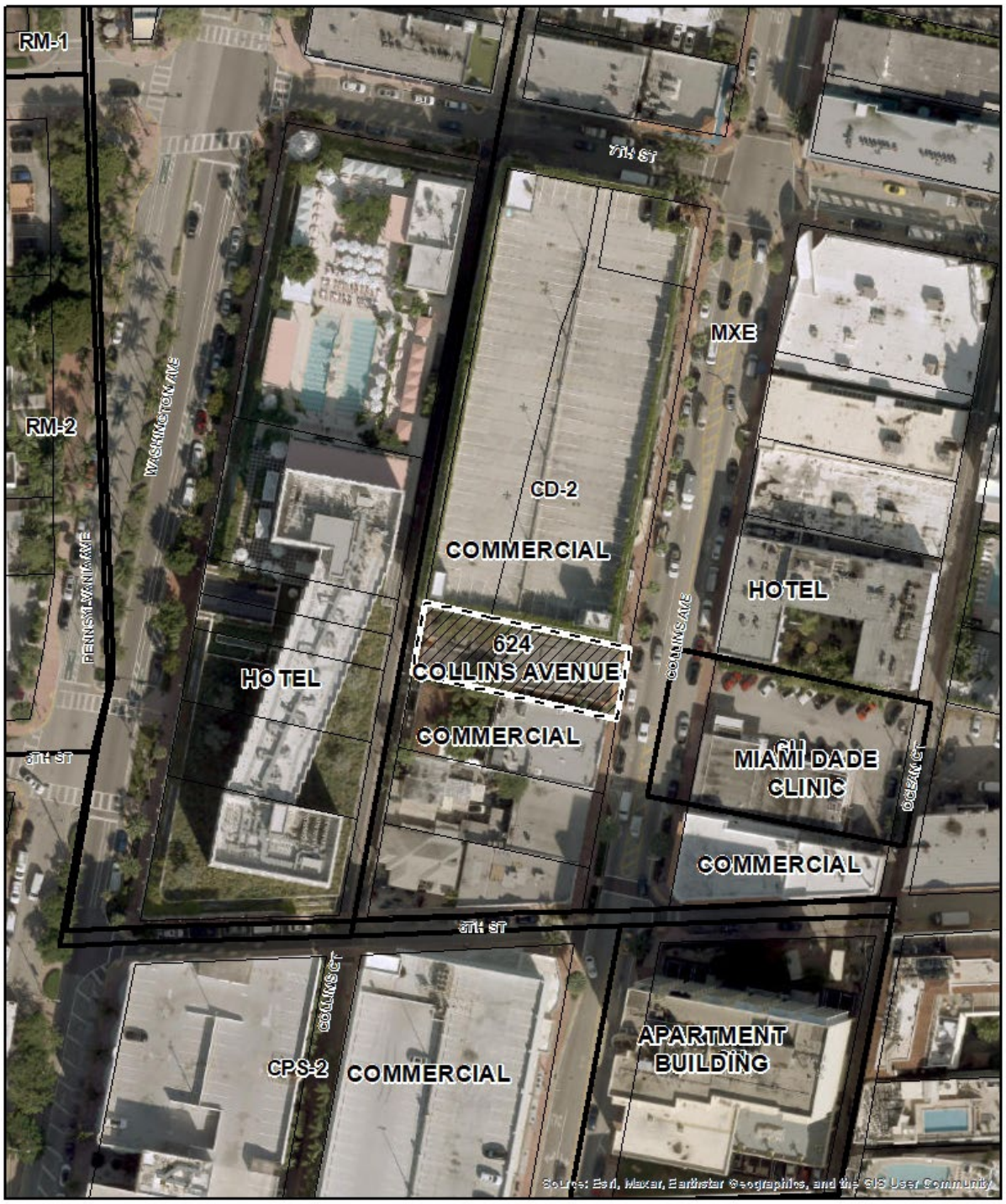
Security and Crowd Control
Pursuant to the operational plan, there will be a manager on-site during operating hours monitoring the number of patrons, patron activity, and supervising and coordinating security staff, as needed. Additionally, all employees will be responsible for enforcing patron age restrictions.

All queuing for Isabelle's will occur on-site within the passageway on the southside of the restaurant just beyond the primary patron entrance.

Staff has recommended conditions in the attached draft order to address security and crowd control.

STAFF RECOMMENDATION
In view of the foregoing, staff recommends the application be approved, subject to the conditions in the attached draft order.

ZONING/SITE MAP



MIAMIBEACH
PLANNING DEPARTMENT
1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139 P 305.673.7550 www.miamibeachfl.gov

0 20 40 80 120 160 200 Feet

PLANNING BOARD
CITY OF MIAMI BEACH, FLORIDA

PROPERTY: 624 Collins Avenue - Isabella's Restaurant.

FILE NO. PB23-0621

IN RE: An application has been filed requesting a conditional use permit for a Neighborhood Impact Establishment (NIE) for a restaurant, pursuant to Chapter 2, Article V, Section 2.5.2 and Chapter 7, Article V, Section 7.5.5.4 of the Miami Beach Resiliency Code.

LEGAL DESCRIPTION: Lot 7, Block 34, "OCEAN BEACH, FLA ADDITION NO 1", according to the plat thereof, as recorded in Plat Book 3, at Page 11, of the Public Records of Miami-Dade County, Florida.

MEETING DATE: January 30, 2024

CONDITIONAL USE PERMIT

The applicant, 624 Collins Ave LLC, filed an application with the Planning Director requesting a Conditional Use approval for a Neighborhood Impact Establishment pursuant to Chapter 2, Article V, Section 2.5.2 and Chapter 7, Article V, Section 7.5.5 of the Miami Beach Resiliency 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 Mixed-Use Entertainment (MXE) 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 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 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 Resiliency Code Sec. 2.5.2.5.

2. This Conditional Use Permit is issued to 624 Collins Ave LLC, as tenant and operator of the Neighborhood Impact Establishment consisting of a restaurant and bar. Any change of operator or fifty percent (50%) or more stock ownership shall require the new owner 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 **318** seat Neighborhood Impact Establishment, subject to the criteria listed below:

      i. The restaurant and bar subject to this CUP shall have a maximum occupant content of **493** persons or any lesser such occupant content as determined by the Fire Marshal.

      ii. The indoor and outdoor portions of the establishment may be open to the public from 11:30 AM until 1:00 AM, 6 days per week. The employees of the establishment may work between 8:00 AM until 3:00 AM on Monday through Sunday. xi. After the aforementioned operating hours, the establishment shall remain closed. These hours shall not supersede any future amendments to the City Code, pertaining to hours of operation for alcoholic beverage establishments.

iii. The bar located at the open-air roof top shall close at 12:00 AM.

iv. Music at the open-air roof top shall cease at 12:00 AM.

v. Entertainment, as defined in City Code 1.2.2.9 shall be strictly prohibited in all indoor and outdoor areas.

vi. Recorded background music, played at a level that does not interfere with normal conversation, may be permitted, provided that a sound system with directional speakers and a digital tamper-resistant sound level limiter is used to minimize impacts to adjacent properties.

vii. Sound generated from the venue, including, but not limited to, recorded music and patron conversations, shall not be plainly audible from residential buildings near the subject property.

viii. Televisions and projectors shall not be located anywhere in the exterior areas of the property.

ix. No new window treatments of any kind, including decorative panels, opaque glass and lighting against the glass, retractable awnings, shall be permitted along Collins Avenue unless approved by the Historic Preservation Board, or staff in accordance with the Certificate of Appropriateness Criteria, as applicable.

x. No dancehall shall be permitted on the site.

B. Deliveries may only occur between 9:00 AM and 4:00 PM each day, or as specified by the City in approved loading zones in the vicinity. Deliveries may only occur through the alley and designated loading zone on Collins Avenue.

C. Deliveries must be conducted via the alley (Collins Court) and designated loading zones or loading areas on Collins Avenue. 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. Waste collections may occur daily between 9:00 AM and 4:00 PM. Waste collection shall occur on Collins Court. Waste may only be taken to the waste collection area through the back of the establishment or through a dedicated service entrance accessible from the Collins Court.

G. 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.

H. 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.

I. Trash room(s)/garbage room(s) shall be large enough, or sufficient in number to accommodate enough dumpsters so that more than one pick up of garbage per day will not be necessary.

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

K. 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.

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

M. 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

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

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.

B. The applicant shall coordinate with the Transportation & Mobility Department to implement an acceptable Transportation Demand Management (TDM) Implementation Plan per the TDM strategies outlined in the most recent traffic assessment prepared by Alfka, LLC dated 8/31/23, prior to the issuance of a building permit

C. The applicant shall commit to provide the minimum number of eight (8) valet runners during the peak demand periods of the restaurant. This number should be adjusted as necessary when higher than normal peak demands are encountered.

D. The applicant must provide a copy of the executed valet parking agreement with the City's Parking Department prior to the issuance of a building permit.

E. The applicant will provide text-to-order valet parking services to limit crowding on the exterior of the venue.

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 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 back before them 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 as described in section 2.5.2.5, Code of the City of Miami Beach, Florida.

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 Chapter 1, Article III, 1.3.8 of said Miami Beach Resiliency 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 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, Development and Resiliency Officer for the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

_____
Notary:
Print Name:
Notary Public, State of Florida
My Commission Expires:
Commission Number:

[NOTARIAL SEAL]

Approved As To Form:
Legal Department _____ ( )

Filed with the Clerk of the Planning Board on _____ ( )