MIAMI BEACH
PLANNING DEPARTMENT

Staff Report & Recommendation — PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: February 27, 2024

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: **PB23-0642. 400 Alton Road: La Terrazza Restaurant at Murano Grande Condominium.**

An application has been filed requesting a Conditional Use for a Neighborhood Impact Establishment approval for an alcoholic beverage establishment or restaurant located on the top floor of a building, whether fully enclosed, partially open, or open to the sky, including all open-air portions above the roof-top, which is located on a property that is within 200 feet of a property containing a residential unit, pursuant to Chapter 1, Article II, Section 1.2.2.4; 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.

ZONING/SITE DATA

Legal Description:	Ocean Beach Addition No 3, according to the plat thereof, as recorded in Plat Book 2, at Page 81, of the Public Records of Miami-Dade County, Florida. Portion of Lots 32 thru 42 Block 111 as described in Condominium Declaration official record 21134-3930.
Zoning District:	C-PS4 Commercial Performance Standard District
Future Land Use Designation:	C-PS4 Commercial Performance Standard District
Local Historic District:	N/A
National Register District:	N/A
Surrounding Uses:	North: Multifamily Residential South: Commercial West: School East: Biscayne Bay

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

THE PROJECT
The applicant, La Terrazza LLC, has submitted plans entitled “La Terrazza Restaurant at Murano Grande Condominium,” prepared by Jose S Pelayo Architect dated December 29, 2023. The proposal is for a restaurant, with 48 seats and alcohol service, located on the 5th level of the

Condominium. The proposed establishment contains an existing enclosed space for the kitchen, as well as an outdoor area near the pool deck where tables, chairs and a bar are located.

This restaurant is an amenity for residents and their invited guest only, and music played at background level that does not interfere with normal conversation would be allowed. An amenity restaurant previously existed at this location but was closed due to the renovation of the pool deck.

As the pool renovation is now complete, the building seeks to reopen the restaurant space. In accordance with Section 1.2.2.4 of the Resiliency Code, an alcoholic beverage establishment or restaurant located on the top floor of a building, whether fully enclosed, partially open, or open to the sky, including all open-air portions above the roof-top, which is located on a property that is within 200 feet of a property containing a residential unit constitutes a Neighborhood Impact Establishment (NIE) and requires conditional use approval.

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 be 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 C-PS4 Commercial Performance Standard District 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 shall be 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. **The public health, safety, morals and general welfare shall 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. Staff has recommended conditions to ensure that the general welfare is maintained. Additionally, the use would have to comply with all applicable laws and regulations for licensure.

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

   Consistent – This is an existing residential building that have the required parking on-site for the residents and guests. This restaurant is not open to the public, as a result,

additional parking is not required. A zoning analysis will be performed as part of the building permit review.

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

   Consistent – There are other restaurants and NIE's within the vicinity of the proposed establishment. NIE's are permitted in the C-PS4 Zoning District as a conditional use. As the use is not open to the public, negative impacts from a concentration of this type of use is not expected. 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 and the restaurant will be utilized by the resident of the property and their guest.

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 Property is a residential building, which contains an on-site parking garage, where the residents park their car either through self-park or valet. An invited

guest of a resident is required to valet their car, which will be parked in the on-site parking garage. 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 – The restaurant space at the Property is located on the 5th floor pool deck is only open to residents and their invited guests. it is not anticipated that there will be large groups of people waiting to gain entry into the restaurant.

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

   Consistent – Per the letter of intent, the restaurant space at the Property is only open to residents and their invited guests. The condominium staff/management company along with La Terrazza's employees will monitor the restaurant space during all hours of operation. Additionally, The Applicant's staff will specifically enforce 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 not required. The Property has been in existence since 2003 and the restaurant space that is the subject of this application has previously operated in the past. As the restaurant space is only open to the residents of the Property along with their invited guests, there will not be an impact of projected traffic on the immediate neighborhood.

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 that the applicant will comply with the Noise Ordinance. the restaurant space is only open to the residents and their guest. There is no entertainment being proposed. 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 restaurant space is an amenity for this residential tower and per recent City Code amendment any venue that is located on a property that is within 200 feet of a property containing a residential units is considered a Neighborhood Impact Establishments and requires the approval from the Planning Board. 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 – This venue previously existed but was closed due to a renovation of the pool deck. Staff is not aware of any negative impacts of the prior restaurant. As regulations have changed, it is now considered an NIE that requires approval from the Planning Board. There are other NIEs within the vicinity of this district. As this use is not open to the public, significant impacts from a concentration of such uses are not expected on the surrounding neighborhood. However, 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 or total demolition shall be provided.

   Not Applicable.

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

   Not Applicable.

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

   Not Applicable.

4. Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 4 in Land Development Regulations.

   Not Applicable.

5. The project applicant shall consider the 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. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.

   Not Applicable.

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 and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to 3 additional feet in height.

   Not Applicable.

7. As applicable to all new construction, all critical mechanical and electrical systems shall be located above base flood elevation. All redevelopment projects shall, whenever

practicable and economically reasonable, include the relocation of all critical mechanical and electrical systems to a location above base flood.

Not Applicable.

8. Existing buildings shall, wherever reasonably feasible and economically appropriate, be elevated up to base flood elevation.

Not Applicable.

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 in General Ordinances.

Not Applicable.

10. As applicable to all new construction, stormwater retention systems shall be provided.

Not Applicable.

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

Not Applicable. .

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

Not Applicable.

ANALYSIS

Project Description and Operations

The request is to allow for the operation of a restaurant with alcoholic beverage service located on a pool deck at the 5th level of the Murano Grande Condominium. The restaurant will utilize an existing enclosed space for the kitchen and all tables and chairs, as well as a bar, are located in an outdoor area near the pool deck. Per the plans, letter of intent, and operational plan, the following is a description of the proposed use:

- Total Seats: **48**
- Proposed Hours: **Wednesday through Monday: 11:00 AM to 6:00 PM**

The specific occupancy load was not provided, but the plans indicate that the occupancy will be per the existing pool assessment. The restaurant will also serve the pool deck area.

The main access to the restaurant and pool deck is from the two hallways and elevators located on the north side of the main tower. The pool deck is only open to residents and their invited guests.

Sound

There is no entertainment proposed and staff is proposing conditions to ensure that nearby residents are not impacted by sound generated from the restaurant.

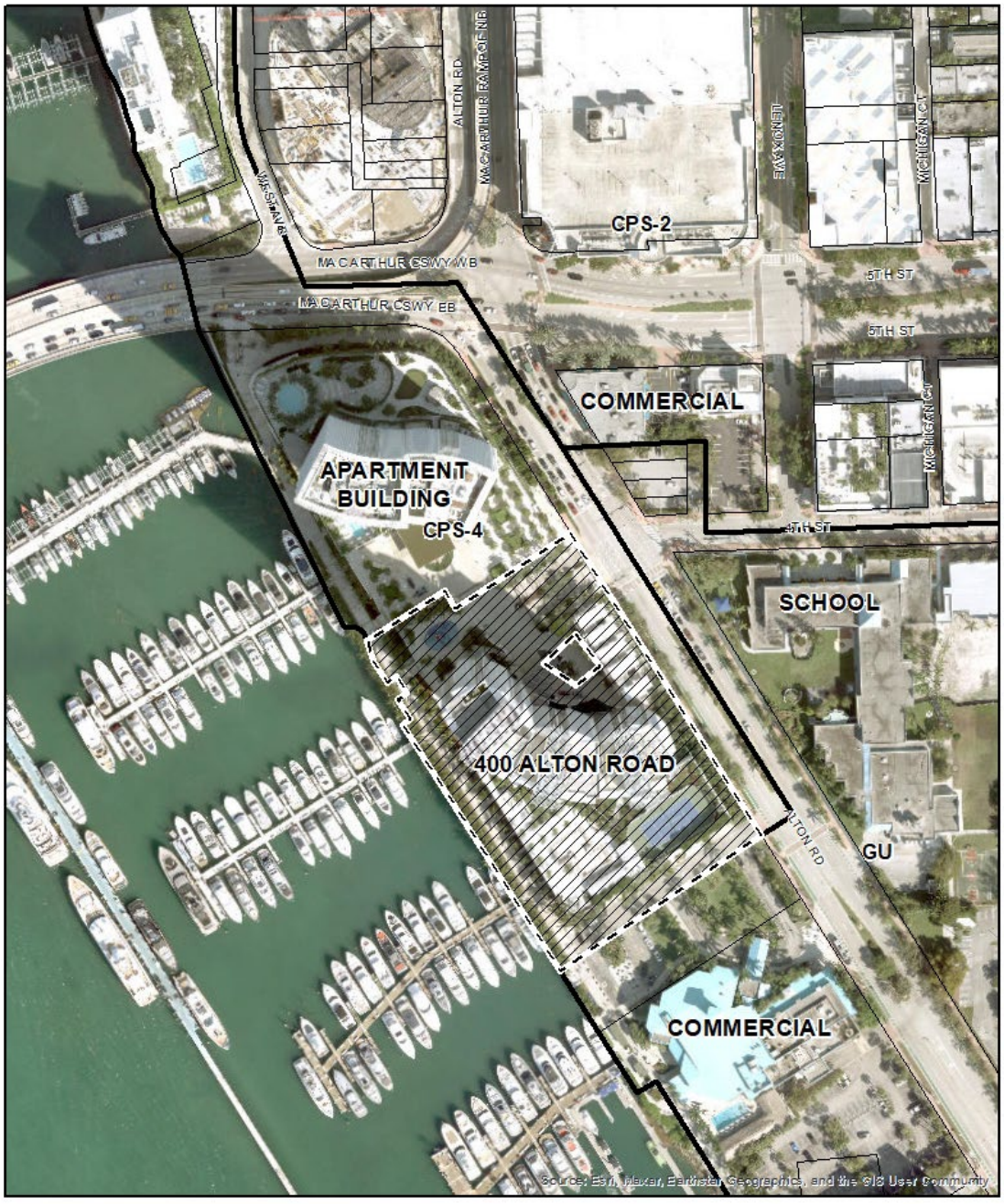
Deliveries and Sanitation
The operations plan indicates that trash collection and deliveries will be made from the service level of the property where the trash room is located. The plan indicates that sanitation collection will occur (3) days a week (Monday, Wednesday and Friday) around 12:00 Noon. Deliveries are normally made Monday through Friday from 8:00 AM through 4:00 PM.

Valet Parking & Transportation
The Property is a residential building, which contains an on-site parking garage, where the residents park their car either through self-park or valet. An invited guest of a resident is required to valet their car, which will be parked in the on-site parking garage. Additionally, there are public parking garages in close proximity to the site. Since the proposed restaurant is not open to the general public, a traffic study was not required.

Security and Crowd Control
Pursuant to the operational plan, the restaurant space at the property is only open to residents and their invited guests. The condominium staff/management company, along with La Terrazza's employees, will monitor the restaurant space during all hours of operation. The Applicant's staff will specifically enforce patron age restrictions. Staff does not anticipate any issues with crowd control on the right of way.

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 40 80 160 240 320 400 Feet

PLANNING BOARD
CITY OF MIAMI BEACH, FLORIDA

PROPERTY: 400 Alton Road - La Terrazza Restaurant at Murano Grande Condominium

FILE NO. PB23-0642

IN RE: An application has been filed requesting a Conditional Use for a Neighborhood Impact Establishment approval for an alcoholic beverage establishment or restaurant located on the top floor of a building, whether fully enclosed, partially open, or open to the sky, including all open-air portions above the roof-top, which is located on a property that is within 200 feet of a property containing a residential unit, pursuant to Chapter 1, Article II, Section 1.2.2.4; 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: Ocean Beach Addition No 3, according to the plat thereof, as recorded in Plat Book 2, at Page 81, of the Public Records of Miami-Dade County, Florida. Portion of Lots 32 thru 42 Block 111 as described in Condominium Declaration official record 21134-3930.

MEETING DATE: February 27, 2024

CONDITIONAL USE PERMIT

The applicant, La Terrazza LLC, filed an application with the Planning Director requesting a Conditional Use approval for a Neighborhood Impact Establishment approval for an alcoholic beverage establishment or restaurant located on the top floor of a building, whether fully enclosed, partially open, or open to the sky, including all open-air portions above the roof-top, which is located on a property that is within 200 feet of a property containing a residential unit pursuant to Chapter 1, Article II, Section 1.2.2.4 Chapter 2, Article V, Section 2.5.2 and Chapter 7, Article V, Section 7.5.5.4 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 C-PS4 Commercial Performance Standard 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 La Terrazza LLC, as tenant and operator of the Neighborhood Impact Establishment consisting of a restaurant. 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.

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 **48** seat Neighborhood Impact Establishment, subject to the criteria listed below:

        i. The indoor and outdoor portions of the establishment may be open to the public from 11:00 AM until 6:00 PM, 6 days per week. The employees of the establishment may work between 10:00 AM until 7:00 PM. 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.

ii. The bar located in the restaurant space shall close by 6:00PM.

iii. Music at the restaurant space shall cease by 6:00 PM.

iv. Entertainment, as defined in City Code 1.2.2.9 shall be strictly prohibited in all indoor and outdoor areas of the restaurant.

v. Recorded background music, played at a level that does not interfere with normal conversation, may be permitted.

vi. 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.

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 existing building service area and designated loading zone on the vicinity. At no time shall delivery or service vehicles block any portion of the public right-of-way.

C. Delivery trucks shall not be allowed to idle in the loading zone.

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

E. Waste collections may only take place on weekdays between 10 AM and 3 PM. Waste collection shall occur at the service level of the property

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.

G. 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.

7. The applicant shall address the following Transportation, Mobility, Concurrency and Parking requirements, as applicable:

   A. The applicant shall pay all applicable 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 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 _____ ( )