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CFN: 20240203756 BOOK 34137 PAGE 3844
DATE:03/15/2024 02:59:09 PM
JUAN FERNANDEZ-BARQUIN
CLERK OF THE COURT & COMPTROLLER
MIAMI-DADE COUNTY, FL

PLANNING BOARD
CITY OF MIAMI BEACH, FLORIDA

PROPERTY: 3921-3925 Collins Avenue

FILE NO. PB23-0632 f.k.a. PB 17-0144

IN RE: An application has been filed requesting a modification to a previously Conditional Use Permit for a Neighborhood Impact Establishment. Specifically, the applicants are requesting to change the name of the owner/operator, pursuant to Chapter 2, Article V, Section 2.5.2 of the Miami Beach Resiliency Code.

LEGAL DESCRIPTION: LOTS 1 THROUGH 8 INCLUSIVE, AND THE 16.00 FOOT ALLEY BOUNDED ON THE WEST BY THE EASTERLY LINES OF LOTS 5 THROUGH 8; BOUNDED ON THE EAST BY THE WESTERLY LINES OF LOTS 1 THROUGH 4; BOUNDED ON THE NORTH BY THE SOUTHERLY LINE OF 40TH STREET, AND BOUNDED ON THE SOUTH BY THE NORTHERLY LINE OF 39TH STREET, ALL IN BLOCK 31, AMENDED PLAT OCEAN FRONT PROPERTY OF THE MIAMI BEACH IMPROVEMENT COMPANY, A SUBDIVISION RECORDED IN PLAT BOOK 5, PAGES 7 & 8, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

MEETING DATE: February 27, 2024, October 24, 2017

CONDITIONAL USE PERMIT

The applicants, HHLP Miami Beach Associates, LLC, HHLP Miami Beach Lessee, LLC, and 3921 Collins Avenue LLC, filed an application with the Planning Director requesting a modification to a previously Conditional Use Permit for a Neighborhood Impact Establishment. Specifically, the applicants are requesting to change the name of the owner/operator, pursuant to Chapter 2, Article V, Section 2.5.2 of the Miami Beach Resiliency Code.

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 RM-3, Residential multifamily high intensity zoning 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.

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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 City Code Sec. 118-194 (c).

2. This Conditional Use Permit is issued to HHLP Miami Beach Associates, LLC, HHLP Miami Beach Lessee, LLC, and 3921 Collins Avenue LLC, as owner/tenants/operators, of the Neighborhood Impact Establishment consisting of a restaurant, and various food and beverage operations. Any change of operator or 50% (fifty percent) or more stock ownership shall require ~~review and approval by the Planning Board as a modification to this Conditional Use Permit~~. the new operator or owner to submit an affidavit, approved by City, to the City of Miami Beach Planning Department, transferring approval to the new operator or owner 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 followed by the submission and acceptance 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. As proposed by the applicant, the project authorized by this Conditional Use Permit shall not exceed 241 seats for the restaurant and 436 seats for the Hotel and other food and beverage venues with the criteria listed below:

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B. The food and beverage areas of the hotel covered in the CUP shall have a maximum occupant content of 306 persons for the restaurant and 999 persons for the hotel, or any lesser such occupant content as determined by the Fire Marshal.

C. The Hours of operations shall be as proposed by the applicant:

- The Restaurant hours: 7:00 a.m. to 11:30 a.m. and from 6:00 p.m. to 12:00 a.m. seven days a week.
- The Tiki bar hours: 11:00 a.m. to 10:00 p.m. seven days a week.
- The Lobby bar hours: 6:00 a.m. to 2:00 a.m. seven days a week.
- The Pool Bar hours: 10:00 a.m. to 12:00 a.m. seven days a week

D. Entertainment of any kind shall be prohibited. Only ambient background music at a level that does not interfere with normal conversation shall be permitted.

E. Delivery trucks shall only be permitted to make deliveries from city authorized and designated commercial loading zones.

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

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

H. Deliveries and waste collections may occur daily between 8:00 AM and 5:00 PM.

I. 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.

J. 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. A high-level trash/garbage compacting device may be located in an air-conditioned trash/garbage holding room within the facility.

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

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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.

O. Special Events may occur on the premises, subject to City ordinances, rules or regulations existing at the time, and may exceed the hours of operation and occupancy loads specified herein, if permitted by the Fire Marshal, subject to the review and approval of staff.

7. The applicant shall participate in a Transportation Concurrency Management Area Plan (TCMA Plan), if deemed necessary, by paying its fair share cost, as determined by the Transportation/Concurrency Management Division, prior to obtaining a Certificate of Occupancy or Business Tax Receipt, whichever may occur first, and any other fair share cost that may be due and owing. Without exception, all concurrency fees, mitigation fees and concurrency administrative costs shall be paid prior to the issuance of a Certificate of Occupancy or Business Tax Receipt.

8. A bicycle parking plan shall be submitted for staff review and approval prior to the issuance of a Business Tax Receipt.

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

10. 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.

11. 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.

12. 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.

13. 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 118-194, Code of the City of Miami Beach, Florida.

14. This order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for

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approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.

15. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.

16. 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.

17. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

18. That the applicant agrees and shall be required to provide access to areas subject to this CUP (not including private residences) for inspection by the City (i.e.: Planning, Code Compliance, Building Department, Fire Safety), to ensure compliance with the terms and conditions of this CUP.

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Dated this 14.00 day of March, 2024.

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

DocuSigned by:
BY: Rogelio Madan
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 15 day of March, 2024, by Rogelio A. Madan, Development and Resiliency Officer for the Chairman 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 Miriam Herrera
Notary Public, State of Florida
My Commission Expires: 12-16-27
Commission Number: HH470768

{NOTARIAL SEAL} MIRIAM HERRERA
Notary Public - State of Florida
Commission # HH 470768
My Comm. Expires Dec 16, 2027
Bonded through National Notary Assn.

Approved As To Form:
Legal Department (DocuSigned by: Nick Kallegos 8D8CB88CCAB8460) 3/14/2024 | 6:11 PM EDT

Filed with the Clerk of the Planning Board on DocuSigned by: Jessica Gonzalez 3/14/2024 | 7:06 PM EDT

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