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CFN: 20240235194 BOOK 34154 PAGE 827
DATE:03/27/2024 04:03:47 PM
JUAN FERNANDEZ-BARQUIN
CLERK OF THE COURT & COMPTROLLER
MIAMI-DADE COUNTY, FL

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

CORRECTED 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;

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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~~ residents and their invited guests 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.

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The hours of operation set forth herein shall not be construed to supersede any future amendments to the City Code, pertaining to hours of sale/operation for alcoholic beverage establishments.

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

iii. Music in 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 within the notice radius of the subject property.

B. Deliveries may only occur between 9:00 AM and 4:00 PM each day. Deliveries may only occur through the existing building service area. 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.

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

   A. The applicant shall pay all 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

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Department staff), to ensure compliance with the terms and conditions of this Conditional Use Permit. Failure to provide access may result in revocation of the Conditional Use Permit.

Dated 3/25/2024 | 3:47 PM EDT

PLANNING BOARD OF THE
CITY OF MIAMI BEACH, FLORIDA

DocuSigned by:
BY: Rogelio Madan
CB1FD35D134F4AE
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 27 day of March, 2024, 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:
[NOTARIAL SEAL] MIRIAM HERRERA
Notary Public - State of Florida
Commission # HH 470768
My Comm. Expires Dec 16, 2027
Bonded through National Notary Assn.
Print Name: Miriam Herrera
Notary Public, State of Florida
My Commission Expires: 12-16-27
Commission Number: HH 470768

Approved As To Form:
Legal Department DocuSigned by: Nick Kallergis BL8C388CCAB8460 (3/25/2024 | 2:55 PM EDT)

Filed with the Clerk of the Planning Board on DocuSigned by: Jessica Gonzalez CF03F3E9C634A8 (3/25/2024 | 9:07 PM EDT)

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